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FISCAL IMPACT REPORT

ORIGINAL DATE 2/9/07

SPONSOR Lujan, B LAST UPDATED 2/15/07 HB 797

SHORT TITLE Health Care Clinical Lab Gross Receipts SB _____

ANALYST Schardin

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Non-Rec	Fund Affected
FY07	FY08	FY09		
	(\$668.3)		Recurring	General Fund

(Parenthesis () Indicate Revenue Decreases)

Duplicates SB 684; Conflicts with HB 638, SB 893

SOURCES OF INFORMATION

LFC Files

Responses Received From

Taxation and Revenue Department (TRD)

Department of Health (DOH)

SUMMARY

Synopsis of Bill

House Bill 797 expands the list of health practitioners who receive a gross receipts tax deduction for receipts from managed care providers, commercial health insurers and Medicare part C to include accredited clinical laboratories that are not located in a physician's office or hospital. Clinical laboratories were not included in 2004 legislation that made many other health provider receipts deductible from gross receipts tax.

The effective date of the provisions in this bill is July 1, 2007.

FISCAL IMPLICATIONS

Based on the Report 80, "Analysis of Gross Receipts by North American Industry Classification System." TRD believes taxable gross receipts for clinical labs not located in a physician's office or a hospital will be \$54 million in FY08. Based on information from the federal Centers for Medicaid and Medicare Services (CMS) and from industry representatives, about 75 percent of that total comes from facilities not associated with physicians' offices or hospitals, and about 25 percent of these receipts come from managed care insurers. Therefore, the bill's general fund fiscal impact is estimated to be \$668.3 thousand in FY08 (\$54 million X 75 percent X 25 percent

eligible receipts X 6.6 percent statewide tax rate). This impact includes the direct impact of making these clinical laboratory receipts deductible, as well as the impact of holding local governments harmless from the new deductions.

SIGNIFICANT ISSUES

Proponents of this legislation note that recruitment and retention of health providers has been difficult in New Mexico because of the gross receipts tax. Although much of this problem was addressed in 2004 when Section 7-9-93 was enacted, some healthcare practitioners in New Mexico still pay gross receipts tax, while their counterparts in most other states do not. Unlike many businesses that are subject to gross receipts tax but pass the tax on to consumers, many health providers cannot pass the tax on because managed care organizations and Medicare refuse to pay the tax.

LFC notes that while individual deductions from the gross receipts tax may have small fiscal impacts, their cumulative effect significantly narrows the gross receipts tax base. Narrowing the gross receipts tax base increases revenue volatility and requires a higher tax rate to generate the same amount of revenue.

LFC notes that receipts of health practitioners have historically grown faster than receipts of other industries. Removing receipts from high-growth sectors from the gross receipts tax base makes it more difficult for tax revenue to keep pace with inflation.

ADMINISTRATIVE IMPLICATIONS

Administrative impacts to TRD can be handled with existing resources.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

House Bill 797 duplicates Senate Bill 684.

House Bill 797 conflicts with House Bill 638, which contains the same provisions as Senate Bill 684 regarding clinical labs but also expands a gross receipts deduction for receipts from payments by the federal government for the provision of medical services to include doctors of oriental medicine, athletic trainers, chiropractic physicians, counselors and therapists, dentists, massage therapists, naprapaths, nurses, nutritionists, dietitians, occupational therapists, optometrists, pharmacists, physical therapists, psychologists, radio logic technicians, respiratory care physicians, audiologists, and speech-language pathologists.

House Bill 797 conflicts with Senate Bill 893, which contains the same provisions as Senate Bill 684 regarding clinical labs but also allows receipts from co-payments or deductibles to be deducted from gross receipts taxes.

TECHNICAL ISSUES

TRD notes that Section 7-9-93 might not be the right location for the deduction proposed in this bill because it adds clinical laboratories to the list of health *practitioners*. However, clinical laboratories are defined as health *facilities* under 42 U.S.C. Section 263a.

SS/nt