F I S C A L   I M P A C T   R E P O R T

SPONSOR Jennings
ORIGINAL DATE 1/28/08
LAST UPDATED 1/31/08
HB

SHORT TITLE Clinical Lab Services Gross Receipts Credit
SB 347

ANALYST Schardin

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Non-Rec	Fund Affected
FY08	**FY09**	**FY10**		
	(475.1)	(1,032.1)	Recurring	General Fund

(Parenthesis ( ) Indicate Revenue Decreases)

SOURCES OF INFORMATION
LFC Files
TriCore Reference Laboratories

Responses Received From
Taxation and Revenue Department (TRD)
Health Policy Commission (HPC)

SUMMARY

Synopsis of Bill

Senate Bill 347 creates a new phased-in gross receipts tax credit against the state gross receipts tax for receipts from services provided by a not-for-profit clinical laboratory for which payment is not received. In FY09, the credit will be equal to 33 percent of the value of unpaid services. In FY10 the credit will increase to 67 percent and in FY11 and beyond the credit will equal the entire value of unpaid services.

The value of unpaid services will be the amount charged for the services but limited to 130 percent of the reimbursement rate for services under the Medicaid program. To qualify for the credit, clinical laboratory services must remain unpaid after one year from the date of billing and must meet the following criteria: the services must have been provided to a person without health insurance or whose health insurance would not cover the services, and who was not eligible for Medicaid. The services must also not be reimbursable under a program established in the Indigent Hospital and County Health Care Act.

The effective date of these provisions will be July 1, 2008.

FISCAL IMPLICATIONS

TriCore Reference Laboratories estimates uncompensated care that would be eligible for the proposed credit totaled $1.3 million in calendar year 2006. That figure is expected to grow by about 7 percent per year for a total of $1,540.5 thousand in FY09 and $1,648.3 thousand in FY10. The table below illustrates that the fiscal impact of the proposed credit will grow rapidly over the next few years as the credit is phased in to 100 percent of the value of unpaid services. The entire fiscal impact will impact the general fund.

SB347: Estimated Fiscal Impact of Clinical Labs Unpaid Services Credit

	Value of unpaid Services	% Credit	Total Credit
CY06	1300.0		
FY07	1345.5		
FY08	1439.7		
FY09	1540.5	33%	$ 475.1
FY10	1648.3	67%	$ 1,032.1
FY11	1763.7	100%	$ 1,648.3
FY12	1887.1	100%	$ 1,763.7

Source: LFC Files

SIGNIFICANT ISSUES

The proposal would bring tax relief to certain clinical labs for the value of uncompensated services they provide. However, the proposal also reduces the incentive for these businesses to undertake collection efforts, since amounts they do not collect will increase their credit.

LFC research found only one taxpayer, TriCore Reference Laboratories, operating in New Mexico on a not-for-profit basis. TriCore's business is split into two branches. One branch services inpatient needs in hospitals so would not be eligible for the proposed credit. The other branch services the commercial market. TriCore's commercial labs are not located in hospitals or physician offices, so they would be eligible for the proposed credit.

Representatives of TriCore report that services are often provided without compensation in the following types of scenarios:

- If a specimen is collected at physician's office or nursing home and submitted to the lab without correct or complete insurance information;
- If a test is ordered without the proper diagnosis code or ordering code;
- If a test is ordered that is not reimbursed by Medicaid or Medicare;
- If a patient does not inform the lab that they have insurance until after the date by which insurance must be billed has passed.

LFC notes that while individual credits, deductions and exemptions 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

It is expected that TRD will be required to process credit claims manually. Instructions and publications will require revision and taxpayers and employees will require education. Determining the allowable credit will require a high level of audit and compliance efforts. TRD auditors will need to determine maximum reimbursement rates, whether services were performed in a hospital or in a physician's office, whether the service recipient was eligible for Medicaid, and whether one year has passed since billing.

TECHNICAL ISSUES

The bill does not define "not-for-profit." The bill should be amended to reference federal tax code.

As written, the uncompensated receipts of a for-profit clinical laboratory or a not-for-profit laboratory located within a physician's office or in a hospital will not qualify for the proposed credit. Amendment would be required if this is not the intent of the bill.

The bill does not explicitly state whether the proposed credit will be refundable. TRD generally assumes that credits are not refundable if statute does not explicitly dictate that they are, but the fiscal impact of the bill could be much larger if the credit is interpreted to be refundable.

POSSIBLE QUESTIONS

Is there a tax policy argument why the small subset of clinical laboratories that are not-for-profit and are not located in a physician's office or hospital should receive preferential tax treatment?

SS/mt:bb