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FISCAL IMPACT REPORT

SPONSOR: SFC DATE TYPED: 3/21/03 HB

SHORT TITLE: Clinical Laboratories Gross Receipts SB 213 & 702/SFCS

ANALYST: Smith

REVENUE

Estimated Revenue				Recurring or Non-Rec	Fund Affected
FY04	FY05	FY06	FY07		
(320.0)	(665.0)	(1,100.0)		Recurring	General Fund
(250.0)	(520.0)	(860.0)		Recurring	Local Governments

SOURCES OF INFORMATION

Responses Received From

TRD

SUMMARY

Synopsis of Bill

Senate Finance Committee Substitute for Senate Bills 213 and 702 amends Section 7-9-77.1 NMSA 1978 to provide a gross receipts tax deduction for Medicare receipts of clinical laboratories accredited pursuant to the federal Clinical Laboratory Improvement Act (42 USCA 263a) and home health agencies licensed by the Department of Health and certified by the federal Centers for Medicare and Medicaid Services (CMMS). The deduction is phased-in over three years with the full deduction scheduled for fiscal year 2006.

The section is further amended to specify that medical doctors licensed pursuant to Section 66-6-13 (Licensure by Endorsement) and osteopaths licensed pursuant to Section 66-10-12 (Licensure without Examination) qualify for the current Medicare deduction.

A minor change in terminology from “osteopaths” to “osteopathic physicians” is also made.

FISCAL IMPLICATIONS

TRD relied on data from the 1997 Census of Healthcare Services in New Mexico, the Department's "Analysis of Gross Receipts by Standard Industrial Classification" (Report-80), "Combined Reporting System-Warrant Distribution Summary" (Report 490B), state Medicare and Medicaid expenditure data from the Centers for Medicare and Medicaid Services (CMMS), the Federal Clinical Laboratory Improvement Act, and healthcare industry sources.

Qualified clinical laboratories are expected to generate revenues in excess of \$110 million and pay approximately \$6.7 million in state and local gross receipts taxes in fiscal year 2004. This estimate assumes approximately 15% of qualified laboratories' receipts are derived from Medicare payments.

Data from the CMMS show that Medicare payments to New Mexico home health agencies are somewhat volatile. In 1997, total payments reached \$82 million, but fell to less than \$33 million in 1999. The latest numbers show that Medicare payments to home health agencies totaled \$40 million in 2001. Industry sources report that roughly 35% of Medicare reimbursements are received by for-profit agencies. Hence, the fiscal impact is based on \$14 million (\$40 million multiplied by 35%) of Medicare reimbursements that would no longer be subject to tax in fiscal year 2004.

There are no fiscal implications associated with the licensing provisions.

OTHER SUBSTANTIVE ISSUES

TRD makes a variety of tax policy arguments:

1. Targeting preferential tax treatment to specific industries is not necessarily good tax policy. It raises questions of equity and increases the pressure to extend relief to others by setting a precedent that they may use to justify similar tax breaks.
2. This bill proposes a tax deduction for a "merit good". However, the Gross Receipts and Compensating Tax Act taxes many otherwise meritorious goods and services, and exempts other meritorious goods and services. The Gross Receipts and Compensating Tax Act treats some medical services as meritorious, and certainly provides extensive tax relief for most charitable organizations. The state has traditionally had a very broad transaction tax base with a fairly low tax rate. Narrowing the base eventually leads to increasing rates in order to maintain revenue, or results in reduced public services.
3. This continues a trend over the last decade of removing medical and hospital services from the gross receipts base. A broad base helps to limit the tax rate, thus cutting the tax base may shift a noticeable amount of tax burden to remaining taxpayers.
4. The proposal provides a deduction for payments received for *medical* services provided by a clinical laboratory to Medicare beneficiaries. It is probably more accurate to say that a clinical laboratory provides 'laboratory' services, rather than medical services, as the term 'medical services' implies the direct provision of patient care. If the drafters want to retain

the term 'medical services' then it is probably more accurate to say "ancillary medical services provided by a clinical laboratory to Medicare beneficiaries."

SS/njw:yr