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

SPONSOR Martinez/Thomson/ Roybal Caballero **ORIGINAL DATE** 1/31/2020 **LAST UPDATED** 2/11/2020 **HB** 228

SHORT TITLE Rural Health Care Tax Credit Eligibility **SB**

ANALYST Iglesias

REVENUE (dollars in thousands)

Estimated Revenue					Recurring or Nonrecurring	Fund Affected
FY20	**FY21**	**FY22**	**FY23**	**FY24**		
-	($1,000.0)	($1,000.0)	($1,000.0)	($1,000.0)	Recurring	General Fund

Parenthesis ( ) indicate revenue decreases

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

FY20	FY21	FY22	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
$29.3	$58.5	$58.5	$146.3	Recurring	TRD Operating Budget
-	$68.0	$68.0	$136.0	Recurring	DOH Operating Budget

Parenthesis ( ) indicate expenditure decreases

Duplicates, Relates to, and/or Conflicts with HB74, HB270, HB275, and SB203

SOURCES OF INFORMATION
LFC Files

Responses Received From
Taxation and Revenue Department (TRD)
Department of Health (DOH)
Human Services Department (HSD)

SUMMARY

Synopsis of Bill

House Bill 228 amends the rural health care practitioner tax credit against income tax to add occupational therapists and physical therapists to the list of practitioners eligible to receive the $5,000 credit. There is no effective date of this bill, but the provisions apply to taxable years beginning on or after January 1, 2020. There is no delayed repeal date but LFC recommends adding one.

FISCAL IMPLICATIONS

To estimate the cost of adding certain occupations to the credit eligibility, TRD used the New Mexico Health Care Workforce Committee, 2019 Annual Report[1], TRD started with information in Table E.1 to view the number of licensed occupational and physical therapists in the state. Distribution by geography for these practitioners was not in the scope of the report, but TRD assumed 10 percent are practicing in rural areas. Occupational and physical therapists often provide in-home services. Given the qualification criteria that practitioners must provide service at a practice site located in approved areas, TRD assumes these therapists would need to be on staff part-time or full-time at such rural designated sites. Some practitioners from metropolitan clinics may see clients in rural areas but due to the location of their practice, TRD assumes they are not eligible. Based on the nature of their mobile profession, TRD assumes a lower rural employment rate than other practitioners, assuming approximately 312 therapists would be newly eligible for the credit.

Based on the average salary for occupational and physical therapists from the Department of Workforce Solution's occupation and wage data, [2] these professionals would not have a personal income tax (PIT) liability amount that reaches the maximum $5,000 credit amount. Credit amounts are also based on the number of hours worked in a rural practice site such that there are full-time credits and part-time credits, which are half the maximum amount. Based on a sample of current taxpayer credits, TRD assumed the same distribution of part-time and full-time credits for the new practitioners. TRD calculated a full-time maximum amount per therapist type based on the state-wide average salary. The expansion population is estimated to cost an additional $1 million per year. TRD assumes no growth in the number of professionals eligible for the credit each year. Given the presumed intent to improve access to health care, this credit could see growth as more professionals provide services in qualified rural areas.

The analysis assumes the credit is an incentive for these practitioners to remain in rural areas rather than an incentive to migrate to rural areas. However, if the credit did incentivize practitioners to migrate to rural areas, it would increase the cost of the credit over time.

This bill may be counter to the LFC tax policy principle of adequacy, efficiency, and equity. Due to the increasing cost of tax expenditures, revenues may be insufficient to cover growing recurring appropriations.

Estimating the cost of tax expenditures is difficult. Confidentiality requirements surrounding certain taxpayer information create uncertainty, and analysts must frequently interpret third-party data sources. The statutory criteria for a tax expenditure may be ambiguous, further complicating the initial cost estimate of the expenditure's fiscal impact. Once a tax expenditure has been approved, information constraints continue to create challenges in tracking the real costs (and benefits) of tax expenditures.

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[1] Farnbach Pearson AW, Reno JR, New Mexico Health Care Workforce Committee. *2019 Annual Report.* Albuquerque NM: University of New Mexico Health Sciences Center, 2019.

[2] https://www.dws.state.nm.us/en-us/Researchers/Data/Occupations-Wages

SIGNIFICANT ISSUES

The proposed changes in this bill would increase the number of participating health care practitioners eligible for the tax credit. The existing statute allows health care practitioners who have worked at least 2,080 hours at a practice located in an approved rural health care underserved area during a taxable year to claim the credit. Under the current law, physicians, osteopathic physicians, dentists, clinical psychologists, podiatrists and optometrists are eligible for a $5,000 tax credit. Dental hygienists, physician assistants, certified nurse midwives, certified registered nurse anesthetists, certified nurse practitioners and clinical nurse specialists are eligible for a $3,000 tax credit. Practitioners working part-time at rural practice sites may claim half the amount of the credit.

The chart below from TRD's 2018 Tax Expenditure Report shows a five-year history of the claims for the existing credit.

Credit, Rural Healthcare Practitioner	Tax Year (Calendar)	2013	2014	2015	2016	2017
	Claims	1748	2042	1976	1971	1707
	Expenditure (thousands)	$6,572	$6,683	$6,500	$6,596	$5,597

The New Mexico Health Care Workforce Committee's 2019 annual report recommended TRD and the NM Department of Health to examine the effectiveness of the rural health tax credit in recruiting and retaining providers in rural areas.

TRD provided the following policy discussion regarding this credit:

> The expansion of the rural health care practitioner tax credit is listed as Recommendation 12 from the New Mexico Health Care Workforce Committee, 2019 Annual Report. The recommended expansion only includes pharmacists, social workers and counselors. Expanding the practitioners to include occupational and physical therapists would be outside of the scope of their recommendation. In addition, this bill places occupational and physical therapists within the group of practitioners eligible for the higher credit amount of $5,000. The Committee's recommendation is their assessment of the utmost health care needs in rural areas and in conjunction with Recommendation 13 to study the costs-benefits of this credit, the committee is sensitive to the over-all cost to the state of this credit.
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> PIT revenue represents a fairly consistent source of revenue for many states. PIT revenue is susceptible to economic downturns but also positively responsive to economic expansion. New Mexico is one of forty-two states along with the District of Columbia which impose a broad-based personal income tax. The personal income tax is seen as both horizontally equitable, the same statutes apply to all taxpayers and vertically equitable, due to the progressive design of the personal income tax. Progressive, in this context, meaning taxes where the average tax rate increase as the taxable amount increases.
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> Thus, the expansion of the rural health care practitioner tax credit will continue to erode horizontal equity in the state income taxes. By basing the credit on profession and location of work, taxpayers in similar economic circumstances are no longer treated equally. Thus, two physical therapists who earn the same salary may have different tax liability given where

they work. The other side of this credit is the broader public-good to subsidize medical professional employment in rural areas for the betterment of New Mexico resident's quality of life in those areas. There are health, social and environmental benefits by serving residents in their home communities versus those residents incurring travel costs, time commitment and other burdens to travel long distances or not receive care at all. The New Mexico Chapter of the American Physical Therapy Association states physical and occupational therapy care is a key area of preventive care helping to improve long-term health.[3]

PERFORMANCE IMPLICATIONS

Credits are separately reported to TRD, which makes it easy for the department to determine the annual cost. However, the LFC tax policy of accountability is <u>not</u> met since TRD is <u>not</u> required in the bill to report annually to an interim legislative committee regarding the data compiled from the reports from taxpayers taking the credit and other information to determine whether the credit is meeting its purpose.

TRD states the department's ability to increase efficiency and accuracy of credit claims would be greatly enhanced by a requirement for the Department of Health (DOH) to upload certified taxpayer applications to TRD and include the full taxpayer social security number for taxpayer identification.

ADMINISTRATIVE IMPLICATIONS

The eligibility expansion of this credit would increase the number of applications submitted to DOH. The department states an FTE (approximately $68,000/year) would be needed to process the anticipated increase in tax credit applications.

TRD will need to make information system changes and update forms and publications. Audit procedures will need to be updated in order to verify the eligibility of the credit with an extended population of practitioners. TRD states these changes will be incorporated into annual tax year implementation.

TRD points out that currently, all certifications must be entered manually and thus increasing the number of claims with an expanded population of practitioners would increase the administration workload for TRD. TRD is currently in discussion with DOH to share certification information electronically but there are technical and legal issues to address. TRD assumes that electronic transfer of credit information will not occur before the effective date of the bill and thus an additional FTE will be required. The recurring budget estimate for TRD is based on a Tax Examiner-A.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

House Bill 78 adds social workers, counselors, and pharmacists to the rural health care practitioner tax credit and removes the tiered credit system such that all eligible practitioners can receive up to a $5,000 credit.

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[3] https://www.nmapta.org/home

House Bill 270 removes the nursing specialties currently eligible for the $3,000 rural health care practitioner tax credit and instead adds all registered nurses to the $3,000 credit.

House Bill 275 expands the rural health care practitioner tax credit to new occupations, requires all credit claimants to be licensed, and adds annual reporting requirements for TRD and a delayed repeal date.

Senate Bill 203 adds chiropractic physicians to the $5,000 rural health care practitioner tax credit.

TECHNICAL ISSUES

This bill does not contain a delayed repeal date. LFC recommends adding a delayed repeal date. Additionally, TRD adds the following:

> "The current credit does not include a sunset date. TRD supports sunset dates in order for policymakers to review the impact of a credit before extending them, if a sufficient timeframe is allotted for tax incentives to be measured. Given the expansion of this credit and the additional cost to the state, a sunset date would force an examination of the benefit of this credit versus the cost."

OTHER SUBSTANTIVE ISSUES

DOH is responsible for determining eligibility and issuing a certificate to a qualifying health care practitioner. The New Mexico Administrative Code may need to be updated to correspond to the new eligibility standards, and consideration should be made to determine how eligibility may be approved and revoked.

Does the bill meet the Legislative Finance Committee tax policy principles?

1. **Adequacy**: Revenue should be adequate to fund needed government services.
2. **Efficiency**: Tax base should be as broad as possible and avoid excess reliance on one tax.
3. **Equity**: Different taxpayers should be treated fairly.
4. **Simplicity**: Collection should be simple and easily understood.
5. **Accountability**: Preferences should be easy to monitor and evaluate

Does the bill meet the Legislative Finance Committee tax expenditure policy principles?

1. **Vetted**: The proposed new or expanded tax expenditure was vetted through interim legislative committees, such as LFC and the Revenue Stabilization and Tax Policy Committee (RSTP), to review fiscal, legal, and general policy parameters.
2. **Targeted**: The tax expenditure has a clearly stated purpose, long-term goals, and measurable annual targets designed to mark progress toward the goals.
3. **Transparent**: The tax expenditure requires at least annual reporting by the recipients, the Taxation and Revenue Department, and other relevant agencies.
4. **Accountable**: The required reporting allows for analysis by members of the public to determine progress toward annual targets and determination of effectiveness and efficiency. The tax expenditure is set to expire unless legislative action is taken to review

the tax expenditure and extend the expiration date.

5. **Effective**: The tax expenditure fulfills the stated purpose. If the tax expenditure is designed to alter behavior – for example, economic development incentives intended to increase economic growth – there are indicators the recipients would not have performed the desired actions "but for" the existence of the tax expenditure.
6. **Efficient:** The tax expenditure is the most cost-effective way to achieve the desired results.

LFC Tax Expenditure Policy Principle	**Met?**	**Comments**
Vetted	✘	Although variations of this bill have been introduced multiple times in the last few years, the bill has not been vetted through LFC or RSTP.
Targeted		
Clearly stated purpose	✓	No, but seems evident.
Long-term goals	✘	None.
Measurable targets	✘	None.
Transparent	✘	Credits are separately reported to TRD; however, no annual reporting from TRD to interim committees is required .
Accountable		
Public analysis	✘	No annual reporting required.
Expiration date	✘	There is no delayed repeal date.
Effective		Current data from TRD's tax expenditure report only indicates the number of claimants and cost of the credit, making it difficult to determine whether practitioners would not move to or remain in rural areas "but for" the credit.
Fulfills stated purpose	?	
Passes "but for" test	?	
Efficient	?	
Key: ✓ Met ✘ Not Met ? Unclear		

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