FISCAL IMPACT REPORT

SPONSOR Garcia, M./Jaramillo **LAST UPDATED** 1/31/2023 **ORIGINAL DATE** 1/20/2023

SHORT TITLE Rural Health Care Practitioner Additions **BILL NUMBER** House Bill 38

ANALYST Faubion

REVENUE*
(dollars in thousands)

Estimated Revenue					Recurring or Nonrecurring	Fund Affected
FY23	FY24	FY25	FY26	FY27		
--	($9,700)	($9,700)	($9,700)	($9,700)	Recurring	General Fund

Parenthesis ( ) indicate revenue decreases
*Amounts reflect most recent analysis of this legislation.

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT*
(dollars in thousands)

	FY23	FY24	FY25	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
	--	$80.0	$80.0	$160.0	Recurring	General Fund – TRD
	--	$10.0	--	$10.0	Nonrecurring	General Fund - TRD
Total	**--**	**$90.0**	**$80.0**	**$170.0**		

Parentheses ( ) indicate expenditure decreases.
*Amounts reflect most recent analysis of this legislation.

Sources of Information

LFC Files
2022 New Mexico Tax Expenditure Report
2022 New Mexico Health Care Workforce Committee Report

Responses Received From
Office of Superintendent of Insurance (OSI)
Regulation and Licensing Department (RLD)
Human Services Department (HSD)
Department of Health (DOH)
Taxation and Revenue Department (TRD)

SUMMARY

Synopsis of House Bill 38

House Bill 38 (HB38) amends the rural healthcare practitioner tax credit against income tax to add several categories of health workers to the list of approved practitioners eligible to receive

the credit. HB38 adds pharmacists, registered nurses, clinical social workers, independent social workers, professional mental health counselors, professional clinical mental health counselors, marriage and family therapists, professional art therapists, alcohol and drug abuse counselors, and physical therapists to be eligible for a $3,000 annual credit.

This bill does not contain an effective date, and as a result, would go into effect June 16, 2023, (90 days after the Legislature adjourns) if signed. The provisions in this bill apply to taxable years beginning on or after January 1, 2023.

FISCAL IMPLICATIONS

The Taxation and Revenue Department (TRD) provided the following fiscal analysis:

> To compute the fiscal impact of the proposed amendments, TRD used the information provided in the New Mexico Health Care Workforce Committee (HCWC) annual report for 2022[1]. The largest component of the fiscal impact is from the inclusion of RNs [registered nurses] among the healthcare professionals eligible for the credit. Per the 2022 HCWC report's Table 5.6, there were 16,466 practicing RNs and Certified Nurse Specialists (CNS) in New Mexico. CNSs are advanced practice RNs that are already eligible for the credit. TRD assumed that 90 percent of the 16,466 were RNs. Of these, 21 percent are practicing in non-metropolitan areas, given the report's geographic distribution, and are assumed eligible for this credit. Based on these calculations, approximately 3,060 RNs would be newly eligible for the credit.
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> The next largest component of the fiscal impact is from the inclusion of various types of behavioral healthcare providers to the list of eligible healthcare practitioners. According to the 2022 HCWC report, there were approximately 8,434 classified behavioral healthcare providers. Of these, based on Table 6.2, which details the workforce by provider type in the 2022 HCWC report, 87 percent of providers are assumed to be classified as one of the newly added categories of eligible behavioral healthcare providers in this bill (clinical social workers, independent social workers, professional mental health counselors, professional clinical mental health counselors, marriage and family therapists, professional art therapists, alcohol and drug abuse counselors). TRD assumes approximately 25 percent of these providers are practicing in non-metropolitan areas. Based on these calculations, approximately 1,677 healthcare professionals would be newly eligible for the credit.
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> The remaining components of the fiscal impact come from the addition of pharmacists and PTs to the list of eligible healthcare practitioners. Based on the 2022 HCWC report, there were approximately 1,890 pharmacists and 1,536 PTs working in the state of New Mexico. Of these, 24 percent of pharmacists and 25 percent of PTs are practicing in non-metropolitan areas, given the report's geographic distribution, and are assumed eligible for this credit. Based on these calculations, approximately 460 pharmacists and 380 PTs would become eligible for the credit.
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> In total, 5,577 healthcare practitioners are estimated to become newly eligible for the

[1] New Mexico Health Care Workforce Committee. 2022 Annual Report. Albuquerque NM: University of New Mexico Health Sciences Center, 2022.

credit under the provisions of this bill. Some of the providers in the newly eligible categories in metropolitan areas may qualify for part-time credits if they perform some of their practice in rural qualified areas; but such metropolitan providers are not assumed in this estimate.

Using a sample of taxpayers that have claimed the credit between 2016 and 2020, TRD assumed the distribution of the new population of practitioners claiming the credit between full-time and part-time credits to be 60:40. TRD also assumed a percentage share of the credit that these newly eligible taxpayers may apply to their annual tax year liability, given the associated average salaries for the new categories of practitioners eligible for the $3,000 maximum credit. The average salary for each respective practitioner category was taken from the Department of Workforce Solutions' occupation and wage data[2]. For pharmacists and PTs, the tax liability based on their average salary is assumed to reach the $3,000 credit amount. But for the other categories of newly eligible practitioners, it was assumed that, based on their average salaries, only 68% of the credit amount will be claimed.

Based on the foregoing figures and assumptions, the expansions outlined in this bill are estimated to reduce PIT revenue by $9.7 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 healthcare, this credit could see growth as more professionals provide services in qualified rural areas.

The LFC fiscal analysis also uses the 2022 New Mexico Health Care Workforce Committee annual report[3] county-level estimates of almost all types of practitioners in medical and behavioral health fields—including independently licensed psychologists, social workers, counselors, and marriage and family therapists—practicing in New Mexico. This data indicates, in 2021, 16,466 registered nurses and clinical nurse specialists, 1,833 certified nurse practitioners, 181 certified nurse-midwives, 1,853 pharmacists, 1,536 physical therapists, and 889 occupational therapists were practicing. The report indicates 20 percent to 30 percent of these are practicing in rural areas. Data in the same report show there are 1,948 active licensed independent social workers and 2,204 licensed counselors, of whom between 20 percent and 30 percent are practicing in nonmetropolitan areas according to data from the report. Therefore, LFC staff estimate between 5,380 and 8,073 additional practitioners in rural areas would be eligible to receive the $3,000 tax credit, similar to TRD's estimate, resulting in an estimated reduction in tax revenue of between $16.2 million and $24.2 million annually if all those newly eligible were able to claim the full amount of the credit. Because TRD has more information on the uptake of the current credits and tax liability of those taking the credit, their analysis is included in the table on page one, although it should be noted the fiscal impact could be higher.

The eligibility expansion proposed in HB38 would increase the number of applications submitted to the Department of Health (DOH) for the rural healthcare practitioner tax credit program without adequate staff to process the increased number of applications. A full-time equivalent would be needed to process the anticipated increase in tax credit applications. DOH does not

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

[3] New Mexico Health Care Workforce Committee. 2022 Annual Report. Albuquerque NM: University of New Mexico Health Sciences Center, 2022. https://digitalrepository.unm.edu/nmhc_workforce/10/

receive specific funding to process rural healthcare practitioner tax credit applications. Funding is taken out of the current Public Health Division budget.

HB38 does not have any fiscal impact on the Regulation and Licensing Department (RLD) because there is no cost with respect to the Board of Pharmacy, Board of Social Work Examiners, Counseling and Therapy Practice Board, or Physical Therapy Board.

This bill creates or expands a tax expenditure with a cost that is difficult to determine but likely significant. LFC has serious concerns about the significant risk to state revenues from tax expenditures and the increase in revenue volatility from erosion of the revenue base. The committee recommends the bill adhere to the LFC tax expenditure policy principles for vetting, targeting, and reporting or action be postponed until the implications can be more fully studied. 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.

SIGNIFICANT ISSUES

Since the rural healthcare practitioner tax credit program inception in 2007, an average of 2,000 rural healthcare providers have participated each year, according to DOH. In FY22, approximately 2,000 rural healthcare providers claimed the credit, costing approximately $7.1 million, according to the 2022 *New Mexico Tax Expenditure Report*.

The Office of Superintendent of Insurance (OSI) notes the federal government's Health Resources and Services Administration (HRSA) designates 22 of New Mexico's rural counties as health professional shortage areas (HPSAs) for mental health providers, 17 rural counties are HPSAs for primary care, and six rural counties are dental health HPSAs.

The Human Services Department (HSD) notes improving access to healthcare especially in rural areas is a key priority for HSD. HB38 aligns with HSD's efforts to support, increase, and expand the healthcare provider workforce in rural New Mexico.

HSD notes provider taxes are considered part of the calculation when determining Medicaid reimbursement rates, so reducing or removing tax obligations may result in slightly lower Medicaid payments. However, lower payments could be offset by higher service utilization among Medicaid individuals as providers are recruited and retained in parts of the state with limited access to care. Tax credits may encourage more licensed providers to practice in rural areas of New Mexico. As a result, HB38 could help address healthcare workforce shortages, which would ultimately improve access to care for Medicaid-enrolled members and all New Mexicans.

NMDOH notes the following:

> Under current healthcare reimbursement systems, communities with a large proportion of low-income residents and rural communities may not generate sufficient paying demand to

assure that providers will practice in these locations[4]. The rural to urban migration of health professionals inevitably leaves poor, rural, and remote areas underserved and disadvantaged. Skilled health professionals are increasingly taking job opportunities in labor markets in high-income areas as the demand for their expertise rises.

Since the demand for healthcare services and providers continues to increase, providing incentives to healthcare providers who work in rural areas may help stabilize and improve healthcare services. HB38 could encourage more healthcare providers to provide services in rural areas of the state.

TRD notes the following:

The New Mexico Health Care Workforce Committee has routinely recommended for the expansion of the rural health practitioner tax credit, including listing it as Recommendation 5 from the New Mexico Health Care Workforce Committee, 2021 Annual Report. The 2022 Annual Report though has deferred the recommendation.

While the reasons for deferring this recommendation are unclear, the annual report continues to note that pharmacists and physical therapists who are included in the expansion of this credit are particularly needed in many areas of the state. Including social workers and counselors in the expansion of this credit is supported by the fact that these professionals made up over half of the state's behavioral health workforce in 2021. By expanding the population of eligible practitioners, this credit could further incentivize the recruitment and retention of professionals to work in rural areas of the state, where residents are currently medically underserved.

PIT revenue represents a 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 42 states along with the District of Columbia that impose a broad-based personal income tax. The personal income tax is seen as both horizontally equitable, meaning that the same statutes apply to all taxpayers, and vertically equitable, due to the progressive design of the personal income tax. Progressive, in this context, means taxes where the average tax rate increases as the taxable amount of income increases.

The expansion of the rural healthcare practitioner tax credit will continue to erode horizontal equity in 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 social workers 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 of subsidizing medical professional employment in rural areas for the betterment of New Mexico residents' quality of life in those areas. There are health, social, and environmental benefits gained 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 current credit does not include a sunset date. TRD supports sunset dates for

[4] 2020-2022 New Mexico State Health Improvement Plan. https://www.nmhealth.org/publication/view/plan/5311

policymakers to review the impact of a credit before extending it, 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.

PERFORMANCE IMPLICATIONS

The LFC tax policy of accountability is met with the bill's requirement 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.

ADMINISTRATIVE IMPLICATIONS

RLD notes inclusion of the identified professions may require licensure verification by the impacted boards.

The bill adds a requirement for those practitioners who claim the rural healthcare practitioner tax credit to report the credit to the Department of Health, which is then required to report the information it collects to the Legislative Finance Committee and the Revenue Stabilization and Tax Policy Committee. The information is to include the number of taxpayers who were approved for the credit and the total value of the credits received.

TRD will need to make information system changes and update forms and publications. These changes will be incorporated into annual tax year implementation. Currently, all certifications must be entered manually, so increasing the number of claims with an expanded population of practitioners would increase the administrative workload for TRD. TRD is currently in discussion with DOH to share certification information electronically, but there are technical and legal issues. TRD assumes electronic transfer of credit information will not occur before the effective date of the bill and, thus, one additional full-time employee (FTE) will be required to process additional credit claims. The recurring budget estimate for the Revenue Processing Division (RPD) is based on an Account Auditor-A.

TRD expects to be able to absorb the impact of these changes, as outlined in this standalone bill, with 1 additional FTE. However, if several bills with similar effective dates become law there will be a greater impact to TRD and additional FTE or contract resources may be needed to complete the changes specified by the effective date of each bill.

OTHER SUBSTANTIVE ISSUES

TRD notes the following:

Section G of the bill requires TRD to compile data for credits that have been approved by the Department of Health (DOH) and present an annual report to the revenue stabilization and tax policy committee and the legislative finance committee with an analysis of the cost of the tax credit. TRD's ability to increase efficiency and accuracy of credit claims would be greatly enhanced by a requirement for the DOH to upload certified taxpayer applications to TRD, and include the full taxpayer social security number for taxpayer identification, the credit amount awarded, and the first year that the credit can be claimed.

Currently, TRD is working on memoranda of understanding (MOUs) with different agencies that issue certificates for business credits. However, many times the information that can be shared between state agencies concerning the credits is brought into question. If agencies that issue credits are permitted to share the certificate data electronically with TRD, then the agency will have complete data that can quickly be verified with information provided by taxpayers, which in turn will allow faster processing and verification of credits awarded by other state agencies and in a more accurate evaluation of the credits' effectiveness.

To add in the efficiency concerns raised above, TRD recommends the following additions, on page 3, line 16 after "practitioner": "*The certification must include the taxpayer identification number, first eligible tax year, and shall be numbered for identification and declare its date of issuance and the amount of the tax credit allowed."* Page 3, line 19, after the worked "issued", TRD recommends this addition, "*in a secure manner on regular intervals agreed upon by both the Taxation and Revenue Department and the Department of Health."*

The expansion of the rural healthcare practitioner tax credit will erode horizontal equity of state income taxes. By basing the credit on profession and location of work, taxpayers in similar economic circumstances are no longer treated equally. For example, two social workers who earn the same salary may have different tax liability given where they work.

POSSIBLE QUESTIONS

1. How will the department determine the definition of "rural"?
2. Should similar practitioners, such as occupational therapists, speech and language pathologists, chiropractors, and naturopathic physicians be included?

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, 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	?	This bill was not vetted through an interim legislative committee, but it has been introduced and debated in the past.
Targeted		
Clearly stated purpose	✘	No stated purpose.
Long-term goals	✘	No stated long-term goals.
Measurable targets	✘	No measurable targets.
Transparent	✓	This bill does require annual reporting by HSD to interim legislative committees. It is also included in TRD's tax expenditure report.
Accountable		
Public analysis	?	As there are no states annual targets or goals, there is nothing from which to determine progress, effectiveness, or efficiency.
Expiration date	✘	There is no expiration date.
Effective		
Fulfills stated purpose	?	As there are no stated annual targets or goals, there is nothing from which to determine effectiveness or passing of the "but for" test.
Passes "but for" test	?	
Efficient	✘	No desired results.
Key: ✓ Met ✘ Not Met ? Unclear		

JF/mg/hg/al