FISCAL IMPACT REPORT

		ORIGINAL DATE	01/31/21		
SPONSOR	Allison	**LAST UPDATED**	02/25/21	**HB**	104
SHORT TITLE	Expand Rural Health Tax Credit for Pandemic			**SB**	
				ANALYST	Iglesias

REVENUE (dollars in thousands)

Estimated Revenue					Recurring or Nonrecurring	Fund Affected
FY21	**FY22**	**FY23**	**FY24**	**FY25**		
	(negative, possibly more than $5 million)				Recurring	General Fund

Parenthesis ( ) indicate revenue decreases

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

FY21	FY22	FY23	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
-	$58.5	$58.5	$117.0	Recurring	Taxation and Revenue Department
-	$117.6	$117.6	$235.3	Recurring	Department of Health

Parenthesis ( ) indicate expenditure decreases

Conflicts with HB45

SOURCES OF INFORMATION
LFC Files

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

SUMMARY

Synopsis of Bill

House Bill 104 amends the rural health care practitioner tax credit (Section 7-2-18.22 NMSA 1978) to change the eligibility of the $3,000 portion of the credit to include registered nurses and essential healthcare workers who provided assistance to other healthcare professionals during the coronavirus disease 2019 pandemic. This bill also amends the definition of an "eligible health care practitioner" to include "essential health care worker" – defined as "an individual who conducts operations or services that are typically essential to continue critical infrastructure operations, including custodial and security staff."

There is no effective date of this bill; however, the provisions apply to taxable years beginning on or after January 1, 2021. There is no delayed repeal date but LFC recommends adding one.

FISCAL IMPLICATIONS

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 be held for future consideration.

This bill may be counter to the LFC tax policy principles 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.

The proposed amendment to the rural health care practitioner tax credit expands the eligibility of the credit to all licensed midwives and registered nurses. It also expands eligibility to all essential healthcare workers who helped other healthcare professionals during the 2019 coronavirus pandemic. The Taxation and Revenue Department (TRD) states the actual impact of this expansion on the general fund is unknown.

To claim the credit, the taxpayer has to acquire an eligibility certificate from the Department of Health. Such certification will be provided not only to the eligible healthcare professionals but also to essential workers in the healthcare industry that supported those professionals during the pandemic. While the bill defines "essential health care worker," the definition is very broad, including "an individual who conducts operations or services that are typically essential … including custodial and security staff."

The bill will therefore include all workers in the healthcare industry, such as those in the administrative support services, facilities support services, and janitorial support services. An accounting of such workers specifically serving the rural healthcare underserved areas is currently unavailable. The annual report from the New Mexico Health Care Workforce Committee only provides the workforce and demographics of healthcare providers and not the support staff[1]. Consequently, TRD determines a revenue impact is not quantifiable at present. However, there would potentially be thousands of new taxpayers eligible to claim this credit.

Under current law, TRD's 2020-2019 Tax Expenditure Report states the current cost of the Rural Health Care Practioner Credit is $6 million to $7 million annually, with about 2,000 claimants each year.

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[1] New Mexico Health Care Workforce Committee. 2020 Annual Report. Albuquerque NM: University of New Mexico Health Sciences Center, 2020; https://digitalrepository.unm.edu/nmhc_workforce/8/

Credit, Rural Healthcare Practitioner	Tax Year (Calendar)	2015	2016	2017	2018	2019
	Claims	2,059	2,095	2,191	2,204	1,818
	Expenditure (thousands)	$6,776	$7,006	$7,274	$7,471	$6,150

Source: TRD, 2020 and 2019 New Mexico Tax Expenditure Report

SIGNIFICANT ISSUES

This bill reduces personal income tax revenue to the general fund. TRD states personal income tax (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 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 the same statutes apply to all taxpayers, and vertically equitable, due to its progressive. Progressive, in this context, means taxes where the average tax rate increase as the taxable amount increases.

TRD further states 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 "essential health care workers" who earn the same salary may have different tax liability given where they work. TRD also points out 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 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 or a cap on the total amount of credit that can be claimed in a taxable year. TRD supports sunset dates for 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. A cap for the credit might also be considered for budgetary reasons. It is worth noting that this credit can currently be carried forward for three consecutive years if the credit amount exceeds the taxpayer's tax liability.

PERFORMANCE IMPLICATIONS

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.

ADMINISTRATIVE IMPLICATIONS

TRD states the department will need to make changes to GenTax and the Taxpayer Access Point (TAP) to reflect the updates. Updates will need to be made to personal income tax (PIT) forms, PIT instructions, and publications to reflect the changes.

TRD estimates the department will require 1 additional FTE, a tax examiner-A. Currently, all rural health practitioner tax credit certifications must be entered manually; increasing the number of claims with an expanded population of claimants would increase the administrative workload for TRD. TRD is currently in discussion with DOH to share certification information electronically, but technical and legal issues must still to address (see "Other Substantive Issues"). 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 to process additional credit claims.

DOH states the eligibility expansion proposed in this bill would increase the number of applications submitted to the department for the Rural Health Care Practitioner Tax Credit Program without adequate staff to process the increased applications. DOH indicates 1 additional FTE would be needed to process the anticipated increase in tax credit applications. The proposed legislation contains no appropriation for administrative support needed to carry out the requirements of the bill. DOH does not receive specific funding to process Rural Health Care Practitioner Tax Credit applications; funding is taken out of the current Public Health Division budget.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

House Bill 45 also amends the rural health care practitioner tax credit against income tax to (a) remove the lower tier $3,000 annual credit for some practitioners and instead use the higher tier $5,000 annual credit for all eligible practitioners, and (b) add licensed pharmacists, independent social workers, clinical mental health practitioners, marriage and family therapists, and professional art therapists to the list of practitioners eligible to receive the $5,000 credit.

TECHNICAL ISSUES

This bill does not contain a delayed repeal date. LFC recommends adding a delayed repeal date.

TRD identifies the following technical issues:

> Section 1.F (page 5, starting on line 11) of the bill defines an essential health care worker as an individual who conducts operations that are "typically" essential for the continued operations of critical infrastructure. Such verbiage leaves the classification of essential health care workers open to interpretation. As a result, certification by DOH and administration by TRD will be challenging, if not impossible.
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> Further, the bill does not specify if the credit provided to the essential health care workers who helped other health care professionals during the 2019 coronavirus pandemic will be a one-time credit or if they will be eligible for the credit every year in the future long after the pandemic is over, as long as they remain otherwise eligible for the credit. If it is the latter, then the list of eligible health care practitioners as proposed will exclude workers that might enter the workforce in an essential healthcare worker capacity after the pandemic from receiving the credit simply because they did not provide their services during the pandemic. This will exacerbate horizontal equity considerations associated with location/profession based PIT credits. Furthermore, the pandemic began in January 2020 in the United States; the language is therefore misleading, and potentially excludes those who helped during 2020. Finally, "health care professionals" is not defined. TRD recommends instead using the defined term, "eligible health care practitioners", or defining "health care professionals".

OTHER SUBSTANTIVE ISSUES

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 electronically and include the full taxpayer social security number for taxpayer identification. 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 TRD 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.

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	✘	Although various amendments to this credit have been introduced multiples times in the last few years, the bill has not been vetted by 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 on this credit from TRD to interim committees is

		required.
Accountable Public analysis Expiration date	 ✘ ✘	 No annual reporting required. There is no delayed repeal date (see Technical Issues)
Effective Fulfills stated purpose Passes "but for" test	 ? ?	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 rural practioners and health care workers would move to or remain in rural areas "but for" the credit.
Efficient	?	
Key: ✓ Met ✘ Not Met ? Unclear		

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