

**FORTY-EIGHTH LEGISLATURE
FIRST SESSION, 2007**

HB 638/a

March 15, 2007

Madam President:

Your **FINANCE COMMITTEE**, to whom has been referred

HOUSE BILL 638, as amended

has had it under consideration and reports same with recommendation that it **DO PASS**, amended as follows:

1. On page 1, line 12, before the period insert:

" ; PROVIDING AN INCOME TAX CREDIT FOR RURAL HEALTH CARE PRACTITIONERS; PROVIDING A GROSS RECEIPTS AND GOVERNMENTAL GROSS RECEIPTS TAX DEDUCTION FOR RECEIPTS FROM THE SALE OF OXYGEN AND OXYGEN SERVICES; PROVIDING A GROSS RECEIPTS TAX DEDUCTION FOR INDIAN HEALTH SERVICE PAYMENTS FOR CERTAIN MEDICAL AND HEALTH SERVICES; ADDING CERTAIN CLINICAL LABORATORIES TO HEALTH CARE PRACTITIONERS ELIGIBLE FOR A GROSS RECEIPTS TAX DEDUCTION; PROVIDING A GROSS RECEIPTS TAX DEDUCTION FOR RECEIPTS RELATED TO FITTING AND DISPENSING HEARING AIDS AND VISION AIDS; PROVIDING A PHASED-IN CREDIT FOR THE STATE PORTION OF THE GROSS RECEIPTS TAX FOR CERTAIN HOSPITALS; PROVIDING A GROSS RECEIPTS TAX CREDIT FOR UNPAID SERVICES OF A PHYSICIAN WHILE ON CALL; REVISING TAX INCENTIVES FOR HEALTH INSURERS THAT ARE ASSESSED PURSUANT TO THE MEDICAL INSURANCE POOL."

2. On page 1, between lines 14 and 15, insert the following new sections:

"Section 1. A new section of the Tax Administration Act is enacted to read:

"[NEW MATERIAL] DISTRIBUTION ADJUSTMENT--TAX ADMINISTRATION SUSPENSE FUND--CREDIT FOR RECEIPTS OF HOSPITALS.--Distributions from the tax administration suspense fund to the general fund of net receipts attributable to the gross receipts tax shall be adjusted for the full cost of credits issued pursuant to the Gross Receipts and Compensating Tax Act for receipts of hospitals licensed by the department of health."

**FORTY-EIGHTH LEGISLATURE
FIRST SESSION, 2007**

SFC/HB 638

Page 2

Section 2. A new section of the Income Tax Act is enacted to read:

"[NEW MATERIAL] TAX CREDIT--RURAL HEALTH CARE PRACTITIONER TAX CREDIT.--

A. A taxpayer who files an individual New Mexico tax return, who is not a dependent of another individual, who is an eligible health care practitioner and who has provided health care services in New Mexico in a rural health care underserved area in a taxable year, may claim a credit against the tax liability imposed by the Income Tax Act. The credit provided in this section may be referred to as the "rural health care practitioner tax credit".

B. The rural health care practitioner tax credit may be claimed and allowed in an amount that shall not exceed five thousand dollars (\$5,000) for all eligible physicians, osteopathic physicians, dentists, clinical psychologists, podiatrists and optometrists who qualify pursuant to the provisions of this section, except the credit shall not exceed three thousand dollars (\$3,000) for all eligible dental hygienists, physician assistants, certified nurse-midwives, certified registered nurse anesthetists, certified nurse practitioners and clinical nurse specialists.

C. To qualify for the rural health care practitioner tax credit, an eligible health care practitioner shall have provided health care during a taxable year for at least two thousand eighty hours at a practice site located in an approved, rural health care underserved area. An eligible rural health care practitioner who provided health care services for at least one thousand forty hours but less than two thousand eighty hours at a practice site located in an approved rural health care underserved area during a taxable year is eligible for one-half of the credit amount.

D. Before an eligible health care practitioner may claim the rural health care practitioner tax credit, the practitioner shall submit an application to the department of health that

**FORTY-EIGHTH LEGISLATURE
FIRST SESSION, 2007**

SFC/HB 638

Page 3

describes the practitioner's clinical practice and contains additional information that the department of health may require. The department of health shall determine whether an eligible health care practitioner qualifies for the rural health care practitioner tax credit, and shall issue a certificate to each qualifying eligible health care practitioner. The department of health shall provide the taxation and revenue department appropriate information for all eligible health care practitioners to whom certificates are issued.

E. A taxpayer claiming the credit provided by this section shall submit a copy of the certificate issued by the department of health with the taxpayer's New Mexico income tax return for the taxable year. If the amount of the credit claimed exceeds a taxpayer's tax liability for the taxable year in which the credit is being claimed, the excess may be carried forward for three consecutive taxable years.

F. As used in this section:

(1) "eligible health care practitioner" means:

(a) a certified nurse-midwife licensed by the board of nursing as a registered nurse and licensed by the public health division of the department of health to practice nurse-midwifery as a certified nurse-midwife;

(b) a dentist or dental hygienist licensed pursuant to the Dental Health Care Act;

(c) an optometrist licensed pursuant to the provisions of the Optometry Act;

(d) an osteopathic physician licensed pursuant to the provisions of Chapter 61, Article 10 NMSA 1978 or an osteopathic physician assistant licensed pursuant to the provisions of the Osteopathic Physicians' Assistants Act;

**FORTY-EIGHTH LEGISLATURE
FIRST SESSION, 2007**

SFC/HB 638

Page 4

(e) a physician or physician assistant licensed pursuant to the provisions of Chapter 61, Article 6 NMSA 1978;

(f) a podiatrist licensed pursuant to the provisions of the Podiatry Act;

(g) a clinical psychologist licensed pursuant to the provisions of the Professional Psychologist Act; and

(h) a registered nurse in advanced practice who has been prepared through additional formal education as provided in Sections 61-3-23.2 through 61-3-23.4 NMSA 1978 to function beyond the scope of practice of professional registered nursing, including certified nurse practitioners, certified registered nurse anesthetists and clinical nurse specialists;

(2) "health care underserved area" means a geographic area or practice location in which it has been determined by the department of health, through the use of indices and other standards set by the department of health, that sufficient health care services are not being provided;

(3) "practice site" means a private practice, public health clinic, hospital, public or private nonprofit primary care clinic or other health care service location in a health care underserved area; and

(4) "rural" means an area or location identified by the department of health as falling outside of an urban area."

Section 3. Section 7-9-73.2 NMSA 1978 (being Laws 1998, Chapter 95, Section 2 and Laws 1998, Chapter 99, Section 4, as amended) is amended to read:

"7-9-73.2. DEDUCTION--GROSS RECEIPTS TAX AND GOVERNMENTAL GROSS RECEIPTS TAX--PRESCRIPTION DRUGS--OXYGEN.--"

**FORTY-EIGHTH LEGISLATURE
FIRST SESSION, 2007**

SFC/HB 638

Page 5

A. Receipts from the sale of prescription drugs and oxygen and oxygen services provided by a licensed medicare durable medical equipment provider may be deducted from gross receipts and governmental gross receipts.

B. For the purposes of this section, "prescription drugs" means insulin and substances that are:

(1) dispensed by or under the supervision of a licensed pharmacist or by a physician or other person authorized under state law to do so;

(2) prescribed for a specified person by a person authorized under state law to prescribe the substance; and

(3) subject to the restrictions on sale contained in Subparagraph 1 of Subsection (b) of 21 USCA 353."".

3. Renumber the succeeding sections accordingly.

4. On page 2, between lines 12 and 13, insert the following new subsection:

"C. Receipts from payments by or on behalf of the Indian health service of the United States department of health and human services for provision of medical and other health services by medical doctors and osteopathic physicians to covered beneficiaries may be deducted from gross receipts.".

5. Reletter the succeeding subsections.

6. On page 10, strike lines 24 and 25 and insert in lieu thereof:

"Section 6. A new section of the Gross Receipts and Compensating Tax Act is enacted to read:

**FORTY-EIGHTH LEGISLATURE
FIRST SESSION, 2007**

SFC/HB 638

Page 6

"[NEW MATERIAL] DEDUCTION--GROSS RECEIPTS--HEARING AIDS AND
VISION AIDS AND RELATED SERVICES.--

A. Receipts that are not exempt from gross receipts taxation and are not deductible pursuant to another provision of the Gross Receipts and Compensating Tax Act that are from the sale of vision aids or hearing aids or related services may be deducted from gross receipts.

B. As used in this section:

(1) "hearing aid" means a small electronic prescription device that amplifies sound and is usually worn in or behind the ear of a person that compensates for impaired hearing, including cochlear implants, amplification systems or other devices that are:

(a) specifically designed for use by and marketed to persons with hearing loss; and

(b) not normally used by a person who does not have a hearing loss;

(2) "low vision" means impaired vision with a significant reduction in visual function that cannot be corrected with conventional glasses or contact lenses;

(3) "related services" means services required to fit or dispense hearing aids or vision aids;

(4) "vision aid" means closed circuit television systems, monoculars, magnification systems, speech output devices or other systems that are:

(a) specifically designed for use by and marketed to persons with low vision or visual impairments; and

**FORTY-EIGHTH LEGISLATURE
FIRST SESSION, 2007**

SFC/HB 638

Page 7

(b) not normally used by a person who does not have low vision or a visual impairment; and

(5) "visual impairment" means a central visual acuity of 20/200 or less in the better eye with the use of a correcting lens or a limitation in the fields of vision so that the widest diameter of the visual field subtends an angle of twenty degrees or less."

Section 7. A new section of the Gross Receipts and Compensating Tax Act is enacted to read:

"[NEW MATERIAL] CREDIT--GROSS RECEIPTS TAX--RECEIPTS OF CERTAIN HOSPITALS.--

A. A hospital licensed by the department of health may claim a credit for each reporting period against the gross receipts tax due for that reporting period as follows:

(1) for a hospital located in a municipality:

(a) on or after July 1, 2007 but before July 1, 2008, in an amount equal to seven hundred fifty-five thousandths percent of the hospital's taxable gross receipts for that reporting period after all applicable deductions have been taken;

(b) on or after July 1, 2008 but before July 1, 2009, in an amount equal to one and fifty-one hundredths percent of the hospital's taxable gross receipts for that reporting period after all applicable deductions have been taken;

(c) on or after July 1, 2009 but before July 1, 2010, in an amount equal to two and two hundred sixty-five thousandths percent of the hospital's taxable gross receipts for that reporting period after all applicable deductions have been taken;

**FORTY-EIGHTH LEGISLATURE
FIRST SESSION, 2007**

SFC/HB 638

Page 8

(d) on or after July 1, 2010 but before July 1, 2011, in an amount equal to three and two hundredths percent of the hospital's taxable gross receipts for that reporting period after all applicable deductions have been taken; and

(e) on or after July 1, 2011, in an amount equal to three and seven hundred seventy-five thousandths percent of the hospital's taxable gross receipts for that reporting period after all applicable deductions have been taken; and

(2) for a hospital located in the unincorporated area of a county:

(a) on or after July 1, 2007 but before July 1, 2008, in an amount equal to one percent of the hospital's taxable gross receipts for that reporting period after all applicable deductions have been taken;

(b) on or after July 1, 2008, but before July 1, 2009, in an amount equal to two percent of the hospital's taxable gross receipts for that reporting period after all applicable deductions have been taken;

(c) on or after July 1, 2009 but before July 1, 2010, in an amount equal to three percent of the hospital's taxable gross receipts for that reporting period after all applicable deductions have been taken;

(d) on or after July 1, 2010 but before July 1, 2011, in an amount equal to four percent of the hospital's taxable gross receipts for that reporting period after all applicable deductions have been taken; and

(e) on or after July 1, 2011, in an amount equal to five percent of the hospital's taxable gross receipts for that reporting period after all applicable deductions have been taken.

**FORTY-EIGHTH LEGISLATURE
FIRST SESSION, 2007**

SFC/HB 638

Page 9

B. For the purposes of this section, "hospital" means a facility providing emergency or urgent care, inpatient medical care and nursing care for acute illness, injury, surgery or obstetrics and includes a facility licensed by the department of health as a critical access hospital, general hospital, long-term acute care hospital, psychiatric hospital, rehabilitation hospital, limited services hospital and special hospital."

Section 8. A new section of the Gross Receipts and Compensating Tax Act is enacted to read:

"[NEW MATERIAL] CREDIT--GROSS RECEIPTS TAX--UNPAID CHARGES FOR SERVICES PROVIDED IN A HOSPITAL.--

A. A licensed medical doctor or licensed osteopathic physician may claim a credit against gross receipts taxes due in the following amounts:

(1) from July 1, 2007 through June 30, 2008, thirty-three percent of the value of unpaid qualified health care services;

(2) from July 1, 2008 through June 30, 2009, sixty-seven percent of the value of unpaid qualified health care services; and

(3) on and after July 1, 2009, one hundred percent of the value of unpaid qualified health care services.

B. As used in this section:

(1) "qualified health care services" means medical care services provided by a licensed medical doctor or licensed osteopathic physician while on call to a hospital; and

(2) "value of unpaid qualified health care services" means the amount that is charged for qualified health care services, not to exceed one hundred thirty percent of the reimbursement rate

**FORTY-EIGHTH LEGISLATURE
FIRST SESSION, 2007**

SFC/HB 638

Page 10

for the services under the medicaid program administered by the human services department, that remains unpaid one year after the date of billing and that the licensed medical doctor or licensed osteopathic physician has reason to believe will not be paid because:

(a) at the time the services were provided, the person receiving the services had no health insurance or had health insurance that did not cover the services provided;

(b) at the time the services were provided, the person receiving the services was not eligible for medicaid; and

(c) the charges are not reimbursable under a program established pursuant to the Indigent Hospital and County Health Care Act."

Section 9. Section 59A-54-10 NMSA 1978 (being Laws 1989, Chapter 154, Section 10, as amended by Laws 2005, Chapter 301, Section 5 and by Laws 2005, Chapter 305, Section 5) is amended to read:

"59A-54-10. ASSESSMENTS.--

A. Following the close of each fiscal year, the pool administrator shall determine the net premium, being premiums less administrative expense allowances, the pool expenses and claim expense losses for the year, taking into account investment income and other appropriate gains and losses. The assessment for each insurer shall be determined by multiplying the total cost of pool operation by a fraction, the numerator of which equals that insurer's premium and subscriber contract charges or their equivalent for health insurance written in the state during the preceding calendar year and the denominator of which equals the total of all premiums and subscriber contract charges written in the state; provided that premium income shall include receipts of medicaid managed care premiums but shall not include any payments by

FORTY-EIGHTH LEGISLATURE
FIRST SESSION, 2007

SFC/HB 638

Page 11

the secretary of health and human services pursuant to a contract issued under Section 1876 of the Social Security Act, as amended. The board may adopt other or additional methods of adjusting the formula to achieve equity of assessments among pool members, including assessment of health insurers and reinsurers based upon the number of persons they cover through primary, excess and stop-loss insurance in the state.

B. If assessments exceed actual losses and administrative expenses of the pool, the excess shall be held at interest and used by the board to offset future losses or to reduce pool premiums. As used in this subsection, "future losses" includes reserves for incurred but not reported claims.

C. The proportion of participation of each member in the pool shall be determined annually by the board based on annual statements and other reports deemed necessary by the board and filed with it by the member. Any deficit incurred by the pool shall be recouped by assessments apportioned among the members of the pool pursuant to the assessment formula provided by Subsection A of this section; provided that the assessment for any pool member shall be allowed as a [~~thirty-percent~~] fifty-percent credit on the premium tax return for that member and a [~~fifty-percent~~] seventy-five-percent credit on the premium tax return for [~~a~~] that member [~~on the low-income premium schedule pursuant to Subsection B of Section 59A-54-19 NMSA 1978~~] for the assessments attributable to pool policy holders that receive premiums, in whole or in part, through the federal Ryan White CARE Act, the Ted R. Montoya hemophilia program at the university of New Mexico health sciences center, the children's medical services bureau of the public health division of the department of health or other program receiving state funding or assistance.

D. The board may abate or defer, in whole or in part, the assessment of a member of the pool if, in the opinion of the board, payment of the assessment would endanger the ability of the member to fulfill its contractual obligation. In the event an assessment

**FORTY-EIGHTH LEGISLATURE
FIRST SESSION, 2007**

SFC/HB 638

Page 12

against a member of the pool is abated or deferred in whole or in part, the amount by which such assessment is abated or deferred may be assessed against the other members in a manner consistent with the basis for assessments set forth in Subsection A of this section. The member receiving the abatement or deferment shall remain liable to the pool for the deficiency for four years."

Section 10. APPLICABILITY.--

A. The provisions of Section 2 of this act apply to taxable years beginning on or after January 1, 2007.

B. The provisions of Section 7 of this act apply to reporting periods beginning on or after July 1, 2007.

C. The premium tax credit in Section 9 of this act shall apply to assessments made pursuant to the Medical Insurance Pool Act beginning on or after July 1, 2007.

Section 11. EFFECTIVE DATE.--The effective date of the provisions of Sections 3 through 6 and 8 of this act is July 1, 2007."

FORTY-EIGHTH LEGISLATURE
FIRST SESSION, 2007

SFC/HB 638

Page 13

Respectfully submitted,

John Arthur Smith, Co-Chair
Timothy Z. Jennings, Co-Chair

Adopted _____ Not Adopted _____
(Chief Clerk) (Chief Clerk)

Date _____

The roll call vote was 8 For 0 Against
Yes: 8
No: 0
Excused: Campos, Carraro
Absent: None

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