LFC Requestor: Jennifer Faubion

2024 LEGISLATIVE SESSION
AGENCY BILL ANALYSIS

Section I: General

Chamber: House
Category: Bill
Number: 218
Type: Introduced
Date (of **THIS** analysis)**:** 1/25/24
Sponsor(s): Jason C. Harper, Jenifer Jones
Short Title: Rural Health Care Tax Credit Definitions

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Section II: Fiscal Impact

APPROPRIATION (dollars in thousands)

Appropriation Contained		Recurring or Nonrecurring	Fund Affected
FY 24	**FY 25**		
$0	$0	N/A	N/A

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY 24	**FY 25**	**FY 26**		
$0	$0	$	N/A	N/A

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY 24	FY 25	FY 26	3 Year Total Cost	Recurring or Non-recurring	Fund Affected
Total	$0	$0	$0	$0	N/A	N/A

Section III: Relationship to other legislation

Duplicates: None

Conflicts with: None

Companion to: None

Relates to: House Bill (HB 163)

Duplicates/Relates to an Appropriation in the General Appropriation Act: None

Section IV: Narrative

1. BILL SUMMARY

a) Synopsis

House Bill 218 (HB218) would modify Section 7-2-18.22 NMSA 1978, the statute authorizing the Rural Health Care Practitioner Tax Credit to amend full-time and part-time hours eligibility and the definition of rural to mean a rural county of an unincorporated area of a partially rural county, as designated by the Health Resources and Services Administration (HRSA) of the United States Department of Human Services (HHS).

Is this an amendment or substitution? ☐ Yes ☒ No

Is there an emergency clause? ☐ Yes ☒ No

b) Significant Issues

Currently, to qualify for the rural health care practitioner tax credit, a **full-time** eligible practitioner shall have provided health care services for at least two thousand eighty (2,080) hours at a practice site location in an approved, rural health care underserved area. HB218 proposes to change the standard work week hours of 40 hours, a full-time employee, to one thousand five hundred eighty-four (1,584).

For **part-time**, an eligible rural health care practitioner shall have provided health care services for at least one thousand forty (1,040) hours but less than 2,080 hours at a practice site location in an approved, rural health care underserved area. HB218 proposes to change part-time eligibility to seven hundred ninety-two (792) hours but less than one thousand five hundred eighty-four (1,584) hours at a practice site located in an approved rural health care underserved area during a taxable year are eligible for one-half of the tax credit amount.

According to the Fair Labor Standards Act (FLSA), full-time employment or part-time employment is generally to be determined by the employer. (US Department of Labor, *How Many Hours is Full-Time Employment*). It is uncertain if modifying full-time and part-time hours will effect any laws or regulations set by the New Mexico Department of Workforce Solutions or by the New Mexico Taxation and Revenue Department.

Currently, rural health care practitioner tax credit's "rural" definition means, "an area or location identified by the Department of Health (DOH) as falling outside of an urban area". HB218 proposes to change the definition to "rural county or an unincorporated area of a partially rural county, as designated by the HRSA.

Under DOH's Rural Health Care Practitioner Tax Credit Program, DOH uses the Rural Health Information (RHI) Hub Tool called "Am I Rural?". RHI is supported by the HRSA under the Rural Assistance Center for Federal Office of Rural Health Policy. By using RHI's Am I Rural? Tool, helps determine whether a specific location is considered rural based on various definitions of rural, including definitions that are used as eligibility criteria for federal programs. The information provided by this service addresses only the rural aspect of a program's requirements.

Numerous federal and state-level definitions of rural have been created over the years for various program and regulatory needs. There are three federal government agencies whose definitions of what rural are widest used:

- The US Census Bureau
- The Office of Management and Budget (OMB)
- The Economic Research Service of the US Department of Agriculture (USDA-ERS)

U.S. Census Bureau
Initially defines specific urban entities. Areas that are not defined as urban are considered rural.

- In March 2022, the U.S. Census Bureau published updated criteria informing how it will define urban areas based on the results of the 2020 Decennial Census. For the 2020 Census, an urban area must meet minimum housing unit density and/or population density requirements. An initial urban area core must have 425 housing units per square mile. An urban area must have at least 2,000 housing units or a population of at least 5,000. In addition, the Census Bureau no longer distinguishes between an urbanized area and an urban cluster.

- The Census Bureau's classification of "rural" consists of all territory, population, and housing units located outside urban areas. The Bureau's definition is the only federal definition that applies the term "rural" in an official, statistical capacity, allowing it to be viewed as the official or default definition of rural.

https://www.census.gov/programs-surveys/geography/guidance/geo-areas/urban-rural.html

Office of Management and Budget (OMB)
Defines metropolitan statistical areas, or metro areas, as central or core counties with one or more urbanized areas as defined by the Census Bureau, and outlying counties that are economically tied to the core counties as measured by work commuting. Outlying counties are included in a metropolitan statistical area if 25 percent of workers living in the county commute to the central counties, or if 25 percent of the employment in the

county consists of workers coming out from the central counties — the so-called "reverse" commuting pattern.

- Nonmetropolitan (nonmetro) counties are outside the boundaries of metro areas and are further subdivided into two types:

- Micropolitan statistical areas, or micro areas, are any nonmetro counties with an urban cluster of at least 10,000 persons. It is further defined as the central county of a micro area and adjacent outlying counties. As with metro areas, outlying counties are included if commuting to the central county is 25 percent or higher, or if 25 percent of the employment in the outlying county is made up of commuters from the central county.

- **Noncore counties** are nonmetro counties that do not meet the requirements to be a micropolitan statistical area.

Economic Research Service, U.S. Department of Agriculture (USDA-ERS)
USDA-ERS and the Federal Office of Rural Health Policy collaborated to develop the Rural-Urban Commuting Area (RUCA) system. This method is gaining in popularity at several government agencies, particularly for use in identifying rural areas within metro counties. The Federal Office of Rural Health Policy (FORHP) uses the RUCA methodology in determining rural eligibility for their programs.

Another classification method created and used by USDA-ERS is Rural Urban Continuum Codes, which distinguish metropolitan counties by size and nonmetropolitan counties by their degree of urbanization and proximity to metropolitan areas. https://www.ers.usda.gov/topics/rural-economy-population/rural-classifications/what-is-rural.aspx

Whereas HRSA has defined the following areas as rural:

- All non-metro counties
- All metro census tracts with RUCA codes 4-10 and
- Large area Metro census tracts of at least 400 sq. miles in area with population density of 35 or less per sq. mile with RUCA codes 2-3.

https://www.hrsa.gov/rural-health/about-us/what-is-rural

Lastly, **should SB218 rely only on one (1) definition of rural HRSA, it will limit and/or lower the number of eligible providers in areas that the DOH identifies as rural**, which also includes tribal lands. One example is Canoncito Health Center. Should HRSA only be used, Canoncito Health Center is not considered rural, according to HRSA's Data Warehouse (Find Shortage Areas (hrsa.gov). Currently, DOH identifies Canoncito Health Center as rural. HRSA's designation is based on whole county, whereas DOH, is by practice site address, not by county

2. PERFORMANCE IMPLICATIONS

- Does this bill impact the current delivery of NMDOH services or operations?

☐ Yes ☒ No

- Is this proposal related to the NMDOH Strategic Plan? ☒ Yes ☐ No

☒ **Goal 1**: We expand equitable access to services for all New Mexicans
☐ **Goal 2**: We ensure safety in New Mexico healthcare environments
☐ **Goal 3**: We improve health status for all New Mexicans
☐ **Goal 4**: We support each other by promoting an environment of mutual respect, trust, open communication, and needed resources for staff to serve New Mexicans and to grow and reach their professional goals

3. FISCAL IMPLICATIONS

- If there is an appropriation, is it included in the Executive Budget Request?

☐ Yes ☐ No ☒ N/A

- If there is an appropriation, is it included in the LFC Budget Request?

☐ Yes ☐ No ☒ N/A

- Does this bill have a fiscal impact on NMDOH? ☐ Yes ☒ No

4. ADMINISTRATIVE IMPLICATIONS

Will this bill have an administrative impact on NMDOH? ☐ Yes ☒ No

5. DUPLICATION, CONFLICT, COMPANIONSHIP OR RELATIONSHIP

Relates to HB 163, adding certain Pharmacists, Registered Nurses, Social Workers, Behavioral Health Counselors and Therapists and Physical Therapists to the Rural Health Care Practitioner Tax Credit.

6. TECHNICAL ISSUES

Are there technical issues with the bill? ☐ Yes ☒ No

7. **LEGAL/REGULATORY ISSUES (OTHER SUBSTANTIVE ISSUES)**

- Will administrative rules need to be updated or new rules written? ☐ Yes ☒ No
- Have there been changes in federal/state/local laws and regulations that make this legislation necessary (or unnecessary)? ☐ Yes ☒ No
- Does this bill conflict with federal grant requirements or associated regulations?

☐ Yes ☒ No

- Are there any legal problems or conflicts with existing laws, regulations, policies, or programs? ☐ Yes ☒ No

8. DISPARITIES ISSUES

Rural definitions present significant measurement challenges. The Census definition does not follow city or county boundaries, making it difficult to determine if an area is urban or rural. Many classifications include suburban areas as rural. OMB definitions includes some rural areas in metropolitan counties. Using RUCA definitions cannot be used alone, as they do not account for distance to service and low number of populations. These definitions do not include Federally recognized tribes and sovereign entities. Should SB 218 rely only on one (1) definition of rural, it will limit and/or lower the number of eligible providers in areas that the DOH

identifies as rural, which also includes tribal lands. One example is Canoncito Health Center. According to HRSA's Data Warehouse (Find Shortage Areas (hrsa.gov), Canoncito Health Center is not considered rural. Currently, DOH identifies Canoncito Health Center as rural. HRSA's designation is based on whole county, whereas NMDOH, is by practice site address, not by county.

9. HEALTH IMPACT(S)

SB218 could limit or lower the number of health care providers that provide needed health care services in rural areas of the state. Since the Rural Health Care Practitioner Tax Credit Program's inception in 2007, an average of 2,000 rural health care providers have participated each year. In the most recent tax year 2022, 2,058 rural health care providers participated (retrieved from the NM Rural Health Care Practitioner Tax Credit Program database). The proposed rural definition change in SB218 could reduce the number of health care providers.

Since the demands and challenges for health care services and providers continues to increase, providing incentives, such as the Rural Health Care Practitioner Tax Credit, to rural health care providers who work in rural areas help stabilizes and improve health care services, page 12: (https://www.nmhealth.org/publication/view/plan/5311/).

10. ALTERNATIVES

None

11. WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL?

If SB 218 is not enacted, Section 7-2-18.22 NMSA 1978, the statute authorizing the Rural Health Care Practitioner Tax Credit, would not be modified to amend the eligibility requirements and the definition of rural to mean, a rural county or an unincorporated area of a partially rural county, as designated by the Health Resources and Services Administration of the United States Department of Health and Human Services.

12. **AMENDMENTS**

None