# FISCAL IMPACT REPORT

| | | | | | |
|---|---|---|---|---|---|
| | | **ORIGINAL DATE** | 03/02/21 | | |
| **SPONSOR** | HCEDC | **LAST UPDATED** | 03/03/21 | **HB** | 274/HCEDCS |

**SHORT TITLE** Return & Relocation Act **SB**

**ANALYST** Martinez

## APPROPRIATION (dollars in thousands)

| Appropriation | | Recurring or Nonrecurring | Fund Affected |
|---|---|---|---|
| **FY21** | **FY22** | | |
| | $400.0 | Recurring | General Fund |

(Parenthesis ( ) Indicate Expenditure Decreases)

## ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

| | FY21 | FY22 | FY23 | 3 Year Total Cost | Recurring or Nonrecurring | Fund Affected |
|---|---|---|---|---|---|---|
| **Total** | | $352.5 | $352.5 | $705.0 | Recurring | General Fund |

(Parenthesis ( ) Indicate Expenditure Decreases)

**SOURCES OF INFORMATION**
LFC Files

Responses Received From
Economic Development Department (EDD) – on original bill

**SUMMARY**

Synopsis of Bill

The House Commerce and Economic Development Committee substitute for House Bill 274 enacts the Return and Relocation Act. The Return and Relocation Act creates a pilot program administered by the Economic Development Department to award employers with funds to repay loans for their employee's educational expenses. These loans would be granted to employees that moved to the state in the last year. Section 1 through 10 of HB274/HCEDCS are repealed July 1, 2024.

House Bill 274/HCEDCS appropriates $400 thousand from the general fund to the Economic Development Department for the relocation loan repayment fund.

There is no effective date of this bill. It is assumed that the effective date is 90 days following adjournment of the Legislature.

**FISCAL IMPLICATIONS**

The appropriation of $400 thousand contained in this bill is a recurring expense to the general fund. Any unexpended or unencumbered balance remaining at the end of fiscal year FY22 shall not revert to the general fund.

Section 8 states that no more than $250 thousand shall be used for awards pursuant to the Return and Relocation Act. This leaves $150 thousand remaining in the fund that will not be used for awards.

Section 3 (D) states that the "department shall be allowed up to three percent of expenditures in each fiscal year for administration of the loan repayment pilot program."

Expenditures only include the $250 thousand used for awards. The department is allotted $7.5 thousand for administration of the loan repayment pilot program. After the award distributions, and administration fees are deducted from the total, the remaining amount of $142.5 thousand would not have a specific purpose identified in the bill and therefore would be reverted to the general fund.

HB274/HCEDCS would have a significant impact on the Economic Development Department. The additional work mandated in HB274/HCEDCS could not be done by current staff at the department. This would require the department to hire 3 new FTE, at a total cost of $360 thousand. If the administration fee of $7.5 thousand is subtracted from EDD's total cost of $360 thousand, EDD would still incur a cost of $352.5 thousand annually for new FTE.

This bill creates a new fund and provides for continuing appropriations. The LFC has concerns with including continuing appropriation language in the statutory provisions for newly created funds, as earmarking reduces the ability of the legislature to establish spending priorities.

The Economic Development Department provided the following on the original bill:

> This bill does not address the additional staff necessary to implement this loan program and only provides $7.5 thousand for administrative costs. Providing staff to not only implement a loan program, but it would be critical to employ additional persons with the skill sets necessary to under right and vet the applicants for these types of loans to fully implement a loan program.
>
> This bill requires a significant amount of administrative work to develop the criteria for eligible organizations, requires verification of diplomas and transcripts for eligibility, and contracts that must be prepared, approved, and signed by the office of Attorney General, it would take a minimum of 3 additional FTE's with an annual cost to the Economic Development Department Budget of $360 thousand to cover salaries, benefits, equipment, licensing and travel cost.

**SIGNIFICANT ISSUES**

HB274/HCEDCS could potentially be in violation of the anti-donation clause contained in the New Mexico Constitution. HB274/HCEDCS appropriates general fund revenue to EDD, which then awards grants to private entities, with no repayment plan built in to the pilot program. Therefore, awarding state funds to private entities.

The Anti-donation Clause of the New Mexico Constitution forbids, with a few specific and limited exceptions,

> "all state and local government subsidies: Neither the state, nor any county, school district, or municipality ... shall directly or indirectly lend or pledge its credit, or make any donation to or in aid of any person, association, or public or private corporation ...."

HB274/HCEDCS Section 2 does not clarify if an "employer in the state" means an employer with a physical address in New Mexico or an employer who may be located outside of New Mexico who has hired a New Mexican to work remotely.

HB274/HCEDCS Section 12 repeals Sections 1 through 10 of the bill on July 1, 2024. This leaves Section 11, which contains the appropriation of $250 thousand to the relocation loan repayment fund for expenditure in fiscal year 2022 and subsequent fiscal years to carry out the purpose of the Return and Relocation Act. However, after July 1, 2024 there will not be a purpose for the funds.

The Economic Development Department provided the following on the original bill:

> This bill needs more defined criteria for a qualifying entity. This bill makes all businesses currently in New Mexico eligible, which is approximately 120 thousand entities.
>
> If 5 percent of those business hire one person from outside of New Mexico on an annual basis and each of those persons have an average $15 thousand (which is well below the national average of $34.7 thousand) the minimum needed for these loans would be $90 million.
>
> If these loans are 10 years in length and if there is a 1 percent default rate, again well below the national average of 15 percent, the repayment into the fund would only be $8.91 million, meaning there would need to be an additional appropriation of $81.1million annually for ten years to maintain the funds liquidity.

**PERFORMANCE IMPLICATIONS**

The Economic Development Department provided the following on the original bill:

> The bill does not include any economic impact criteria or performance measures that would indicate a successful or failing program. Moreover, there are no provisions in the legislation that requires the employer or the employee to be held accountable if an employee has their loans repaid and then decides to leave the state.

JM/rl/al/sb/rl