F I S C A L   I M P A C T   R E P O R T

SPONSOR	Akhil /Chandler/ Sanchez/Harper	**ORIGINAL DATE** **LAST UPDATED**	1/30/2020 3/04/2020	**HB**	255/aHCEDC/aSFC
SHORT TITLE	Technology Readiness Gross Receipts Credit			**SB**	
				ANALYST	Torres

REVENUE (dollars in thousands)

Estimated Revenue				Recurring or Nonrecurring	Fund Affected
FY20	**FY21**	**FY22**	**FY23**		
$0.0	($1,500.0)	($1,500.0)	($1,500.0)	Recurring for 3 years	General Fund (GRT)

(Parenthesis ( ) Indicate Revenue Decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY20	FY21	FY22	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total	Minimal	Minimal	Minimal	Minimal	Recurring	General Fund

(Parenthesis ( ) Indicate Expenditure Decreases)

SOURCES OF INFORMATION
LFC Files

Responses Received From
Economic Development Department (EDD)
Taxation and Revenue Department (TRD)

SUMMARY

Synopsis of SFC Amendment

The Senate Finance Committee amendment to HB255 repeals HCEDC amendments to the distribution of Gross Receipts Tax (GRT) and replaces the one time distribution with a monthly distribution over three years. The amendment restructuring the distribution totals the same $4.5 million in total, as in previous versions.

The SFC amendments also add the GRT distribution to the delayed repeal date of July 1, 2024.

Synopsis of HCEDC Amendment

The House Commerce and Economic Development Committee amendment to House Bill 255 reduces the distribution to fund the gross receipts tax (GRT) credit for Los Alamos National Laboratory and Sandia National Laboratory from $9.5 million to $4.5 million. The tax credit would repeal on July 1, 2024 and any unused funds would revert to the general fund in 2024.

The amendment also changed the applicable tax years for the credit to those beginning July 1, 2020 and before July 1, 2023. The new credit per laboratory similarly changed to the following:

Gross Receipt Tax credit available per national laboratory:

July 1, 2020-July 1, 2021	$500,000
July 1, 2021-July 1, 2022	$750,000
July 1, 2022-July 1, 2024	$1,000,000

Synopsis of Original Bill

House Bill 255 creates the Technology Readiness Gross Receipts Tax Credit and the Technology Readiness Gross Receipts Tax Credit Fund. HB255 also creates a one-time $9.5 million diversion of gross receipts tax revenue to the created fund for the administration of the credit. The remaining balance of the fund at the end of FY26 will revert to the general fund.

The created tax credit applies to national laboratories' (Los Alamos National Laboratory and Sandia National Laboratory) qualified expenditures in assisting businesses to license laboratory technology or participate in research development. Qualified expenditures include salaries, wages, benefits, and employer payroll taxes. The annual amount of credits per business total $150 thousand with annual credits per national laboratory as follows:

July 1, 2020-July 1, 2021	$500,000
July 1, 2021-July 1, 2022	$750,000
July 1, 2022-July 1, 2024	$1,000,000
July 1, 2024-July 1, 2025	$1,500,000

The national laboratories are eligible to claim both a technology readiness gross receipts tax credit and a credit from the existing Small Business Tax Credit Act (NMSBA) in the same taxable period, but are not eligible to claim both for the same business supported. The same business is allowed to use the technology readiness gross receipt tax credit one year and the small business tax credit act the following year.

An annual report would summarize a description of the assistance the business received, a survey of the assistance provided, and an economic impact study, all to be submitted to EDD, TRD, and an appropriate legislative committee.

The effective date of this bill is not specified, and is assumed to be 90 days following adjournment of the Legislature. The diversion of gross receipts is specified to occur in FY20 and the credit will be applicable for tax years beginning July 1, 2020 to July 1, 2025.

FISCAL IMPLICATIONS

As the Economic Development Department (EDD) points out, there is an existing credit called the Laboratory Partnership with Small Business Tax Credit, which brings technology and expertise from New Mexico national laboratories to small businesses. The existing tax credit applies against GRT and is equal to the qualified expenditure incurred by the national laboratory to provide small business assistance not to exceed $20 thousand per small business or $40 thousand if the small business is located in a rural area. The current credit is capped at $2.4 million per national laboratory. According to TRD's *Tax Expenditure Report,* the average annual cost of the credit to the state is $4.6 million.

The Taxation and Revenue Department would be tasked with managing the newly created fund and credit, which includes the approval of an application and annual review of credit performance. The Economic Development Department will also assist in the review of performance and is tasked with providing written instructions to identify improvements in the readiness assistance provided by laboratories. These additional activities may be a cost burden to both departments.

The tax credit created in HB255 creates a new strategy for administering tax credits, where funding for the credit is made in one-time increments. Although this bill contains only one diversion of funds for this purpose, it is likely that laboratories may come to expect the credit regardless of the funding available in the newly created fund. This may result in additional appropriations to the fund to meet expectations resulting in tax credit costs that otherwise would have resulted from a typically structured credit. Yet, this structure gives the Legislature greater authority and discretion in the administration of the credit by requiring appropriation when additional funds are needed.

SIGNIFICANT ISSUES

The Economic Development Department identified the following issues:

The Economic Development Department (EDD) suggests that the bill include language that the laboratories ensure they have the technical expertise to assist the small business and have oversight and accountability via the Technology Research Collaborative Board, an 11-member statutory board approved by the senate and overseen by EDD. The board includes representatives from all the major stakeholders.

TRC Board Members include:

- Los Alamos National Laboratory, Deputy Director, Science, Technology, and Engineering
- Sandia National Laboratory, Associate Director
- New Mexico Economic Development Department, Deputy Secretary
- New Mexico Angels, President
- University of New Mexico, Chief Economic Development Officer
- New Mexico State University, President
- New Mexico Tech, Director of Innovation & Commercialization
- (appointed positions) Two small business CEO's in the technology sector
- (appointed) Chair

Each business would receive up to $150 thousand per fiscal year to pay for a scientist's time, per diem, administrative costs, etc. on a given project. It is unknown how much of the funding would support the progression of a technology from a concept to a prototype and how much would be used to cover administrative costs of the program and the salaries and overhead for laboratory employees.

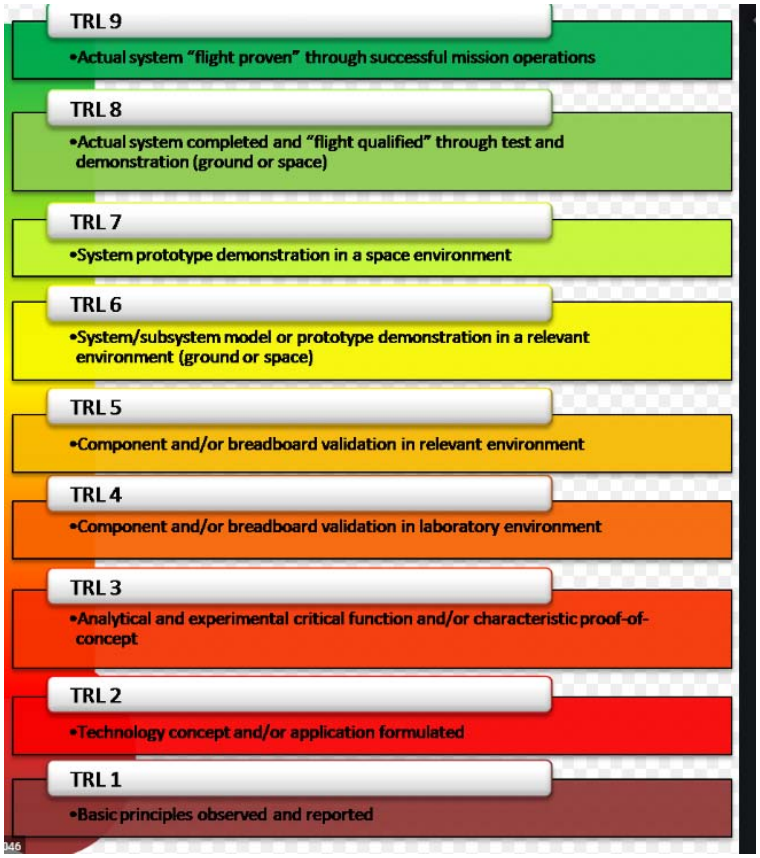
The bill does not require enough accountability on the business receiving assistance. The bill should require the business to register with the Secretary of State, be headquartered in New Mexico, and provide a certificate of compliance from the Taxation and Revenue Department and the Secretary of State's office. The bill should provide assistance to out-of-state companies.

This bill does not indicate which kind of businesses would be assisted, whether they would be small, medium, or large businesses. The economic benefit of assisting a small business versus a large business are not defined. This bill would be most beneficial if it specifically assisted small businesses as it would contribute to the economy by brining growth and innovation. Moreover, many small businesses are unable to afford the overhead costs and consultation fees of hiring a scientist from a National Laboratory.

This bill would not exclude the possibility of the laboratories using leveraged projects, which are currently implemented in the Small Business Tax Credit Act and allows a small business to receive assistance twice; once as an individual company and secondly as a business among a group of several businesses applying as one entity.

The performance measures in the bill are not well defined and allow the laboratories the opportunity to generate measures without input or oversight from the state or an independent third party. The performance measures would be defined by the laboratory and would include self-distributed surveys, which could be biased if not conducted by a third-party.

The bill would benefit from defining technology maturation based on universally defined maturation of technologies termed "Technology Readiness levels" (TRL) shown in the chart to the right.



ALTERNATIVES

Increase technical assistance provided to a small businesses through the Laboratory Partnership with Small Business Tax Credit Act.

Require the supported business to find a private capital match.

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	**Met?**	**Comments**
Vetted	✓	The issue was discussed at the Revenue Stabilization and Tax Policy Committee prior to the Legislative Session.
Targeted		
Clearly stated purpose	✓	No purpose, targets or goals established.
Long-term goals	✗	
Measurable targets	✗	
Transparent	✓	Laboratories claiming the credit are required to report annually to the appropriate legislative interim committees.
Accountable		
Public analysis	✓	The bill contains provisions for reporting.
Expiration date	✓	The bill does not include an expiration date.
Effective		
Fulfills stated purpose	?	It is unclear if existing or alternative economic development initiatives are more effective.
Passes "but for" test	?	
Efficient	?	It is unclear if alternative initiatives are more efficient.
Key: ✓ Met ✗ Not Met ? Unclear		

IT/al/sb