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

		ORIGINAL DATE	01/06/14		
SPONSOR	Keller	**LAST UPDATED**	01/29/14	**HB**	
SHORT TITLE	State Graduate Employment Tax Credit and Report			**SB**	36
				ANALYST	Dorbecker

REVENUE (dollars in thousands)

Estimated Revenue					Recurring or Nonrecurring	Fund Affected
FY14	**FY15**	**FY16**	**FY17**	**FY18**		
	($2,000.0)	($2,000.0)	($2,000.0)	($2,000.0)	Recurring	General Fund*

(Parenthesis ( ) Indicate Revenue Decreases)
*See “Fiscal Implications” Below

SOURCES OF INFORMATION
LFC Files

Responses Received From
Higher Education Department (HED)
Taxation and Revenue Department (TRD)

SUMMARY

Synopsis of Bill

Senate Bill 36 enacts new sections of the Income Tax Act and the Corporate Income and Franchise Tax Act to create a nonrefundable and nontransferable “state graduate employment income tax credit” and “state graduate employment corporate income tax credit”. HB 36 also amends Section 7-1-8.8 of the Tax Administration to Act to authorize the Taxation and Revenue Department (TRD) to reveal aggregate tax credit or deduction information to the appropriate finance committees. Specifically, a TRD employee may reveal to the Revenue Stabilization and Tax Policy committee (RSTP) and the Legislative Finance Committee (LFC), return information necessary to facilitate the compilation of a report to those committees on the effectiveness of the tax credit that is required pursuant to law; provided that the return information will not include a taxpayer's name, address or government-issued identification number.

The bill would allow a tax payer who files an individual or corporate New Mexico income tax return to claim a credit equal to $5 thousand of the gross wages paid to each “qualified state graduate” who is employed full time in New Mexico by the tax payer.

Senate Bill 36 defines a "qualified state graduate" as a New Mexico resident who files an individual New Mexico tax return, is hired prior to June, 1 2019 and within 18 months of graduation from one of the state educational institutions. The qualified graduate must have completed a post-baccalaureate graduate master's or professional degree within three years or, if part-time, within the credit equivalent, or a doctoral degree within six years or, if part-time, within the credit equivalent, in the disciplines of physical or life sciences, technology, engineering, mathematics or a health-related field (STEHM).

The bill provides that the credit is available for each qualified state graduate who receives benefits and works in New Mexico at least forty hours per week for at least seven months during the first taxable year and twelve months during the second taxable year. The tax credit is not available if the qualified state graduate replaces or performs the job of a previous qualified state graduate who is no longer employed by the taxpayer, and may not be claimed for more than two taxable years.

Senate Bill 36 establishes a maximum annual aggregate of $2 million dollars in state graduate employment income tax credits for both personal and corporate income tax. Any claims submitted once the cap is reached are placed in a queue for the next year in the order they are received.

The bill also provides that a taxpayer that claims the state graduate employment tax credit may not apply for and be granted the rural jobs tax credit, the high-wage jobs tax credit, or an additional credit pursuant to the Technology Jobs Credit Act based on the same job for which the state graduate employment tax credit is claimed.

The bill requires taxpayers applying for the credit to provide information to the New Mexico Higher Education Department (HED) concerning the employee's employment, status as a qualified state graduate that was not also employed by another claiming taxpayer in the same taxable year.

Senate Bill 36 further requires the HED to promulgate rules establishing procedures to certify qualified state graduates for purposes of obtaining credit. The HED must issue a dated and sequentially-numbered certificate of eligibility containing a list of the qualified state graduates employed by the taxpayer claiming the credit that includes personal identifiable information.

The bill includes reporting requirements. TRD is required to periodically audit HED records of the credit to ensure the credit's effective administration. TRD must also compile an annual report that includes the number of taxpayers approved to receive the credit to ensure that no more than one tax credit will be allowed per qualified state graduate. The bill requires the appropriate legislative committees to review the effectiveness and cost of the tax credit every five years, beginning in 2018.

There is no effective date of this bill. It is assumed that the new effective date is 90 days after this session ends. The bill is applicable for taxable years beginning on or after January 1, 2014.

FISCAL IMPLICATIONS

According to HED, during academic year 2011-2012 (Fall 2011, Spring 2012, and Summer 2012), there were a total of 22,530 students who graduated from state educational institutions enumerated in Article 12, Section 11 of the Constitution of New Mexico. The graduates were tracked by the Department of Workforce Solutions for four consecutive quarters following their graduation: fourth quarter of calendar year 2012, first quarter of CY2013, second quarter of CY2013, and third quarter of CY2013. Approximately 69 percent (15,543) of the graduates were found employed in New Mexico within the four consecutive quarters. Of the 15,543 graduates, at least 5 percent (or 777 graduates) had a post-baccalaureate graduate master's or professional in STEHM disciplines. TRD assumes these 777 graduates will be hired and at least 400 of them will stay in New Mexico; therefore, the annual $2 million cap for PIT and CIT could be reached if tax credit applications are filed per year at the $5,000 level.

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

SIGNIFICANT ISSUES

HED reports that post-graduate students, especially those pursuing STEHM degrees, are among the potential employees most sought after by corporations, commanding average annual salaries of approximately $100,000 or more. The potential for growth in the STEHM degree fields is significant, and New Mexicans with post-baccalaureate STEHM degrees would benefit. The bill may provide significant benefits to the economy of New Mexico by expanding the employment pool for these graduates while providing employment incentives for the industries employing these graduates

PERFORMANCE IMPLICATIONS

The LFC tax policy of accountability is met with the bill's requirement to report annually to an interim legislative committee regarding the data compiled from the reports from taxpayers taking the deduction and other information to determine whether the deduction is meeting its purpose.

ADMINISTRATIVE IMPLICATIONS

SB 36 includes new functions or assignments to HED, requiring the agency to establish a set of regulations, procedures and ongoing record-keeping in order to accomplish the objectives of the bill. This will require additional study, review and resource assessment to ascertain the total financial impact of this bill. The preliminary review indicates an increase in administrative costs to HED, including enhancing the common database for new post-baccalaureate graduates. SB 36 does not include any additional appropriation to help cover the increase of these costs.

TRD recommends that an application and a claim form with instructions would need to be developed at a cost of $6,000. Coordination between TRD and the Higher Education Board would be needed to create rules, regulations and procedures. To make it easier for both TRD and the Higher Education Board, the application could contain the information needed by both agencies.

Auditing and validating will be labor intensive. One half of an FTE would be needed at a cost of around $30,000 and will increase as the number of employers claiming the credit increase.

Estimated Additional Operating Budget Impact*				Recurring or Nonrecurring	Fund(s) or Agency Affected
FY2014	FY2015	FY2016	FY 14-16		
$6.0	$30.0	$30.0	$66.0	Recurring	Taxation and Revenue Department

* In thousands of dollars. Parentheses ( ) indicate a cost saving.

TECHNICAL ISSUES

According to HED, the agency is not the custodian of student records; the institution that confers a degree/diploma to the student is the custodian of the student record. As the oversight/regulatory agency for the higher education system, HED could direct post-secondary institutions to provide students the appropriate forms to support their future employers' tax credits.

HED suggests the certification of qualifying individuals could be achieved at the same time as the degree/diploma is issued to the graduate by the higher education institution. HED could, by rule, direct institutions to issue a certificate to qualifying students.

TRD indicates on page 9, Subsection K, limits the credit claim to $2,000,000 annually but does not define annually which can either be calendar year or the state's fiscal year.

This bill does not contain a sunset date. The LFC recommends adding a sunset date.

OTHER SUBSTANTIVE ISSUES

HED reports that by restricting the application of this bill to graduates from the constitutionally named institutions, the legislation would exclude graduates from other post-baccalaureate-granting institutions (such as Navajo Technical University), or New Mexico students who receive post-baccalaureate STEHM degrees from universities in other states.

According to TRD, confidentiality issues may arise in administering the reporting requirements between the Higher Education Board and TRD. Releasing information from taxpayer returns to parties not specifically authorized in Section 7-1-8 NMSA 1978 may be considered to be a violation of the Taxpayer's Bill of Rights. Per Section 7-1-4.2 NMSA 1978 New Mexico Taxpayer Bill of Rights includes: "the right to have the taxpayer's tax information kept confidential unless otherwise specified by law, in accordance with Section 7-1-8 NMSA 1978.

The credit is not a function of the number of graduates hired which makes it possible to maximize the credit every year. The credit is suitable for small businesses that may have a lower tax liability but large corporations' are the biggest employers and would benefit the most from the credit.

It would be impossible for TRD to ensure at the time the credit is applied for, that the employee was not also included in the applications for the rural, high-wage or technology jobs tax credits.

Applications for the other credits could come in well after the application for this credit come in. If duplication is found at a later date, the graduate employment tax credit should be denied and reclaimed, however there is no provision within the act to do so.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

Employers would not receive any tax benefit for hiring qualifying students.

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

HD/ds:jl