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FISCAL IMPACT REPORT

ORIGINAL DATE 1/23/19
 SPONSOR Cadena/Chandler LAST UPDATED 2/05/19 HB 18/aHHHC
 SHORT TITLE Child Income Tax Credit SB _____
 ANALYST Graeser

REVENUE (dollars in thousands)

Estimated Revenue					Recurring or Nonrecurring	Fund Affected
FY19	FY20	FY21	FY22	FY23		
	(\$62,000.0)	(\$63,700.0)	(\$65,700.0)	(\$67,700.0)	Recurring	General Fund (PIT)

Parenthesis () indicate revenue decreases

Duplicates, Relates to, Conflicts with, Companion to SB-300

SOURCES OF INFORMATION

LFC Files

Response Received from:
 Taxation and Revenue Department (TRD)

SUMMARY

Synopsis of HHHC amendment

House Health and Human Services Committee amendment: (1) removed the contingent reference to a feature of the federal Tax Change and Jobs Act which set personal income amounts for state and federal purposes to zero; and (2) made a technical change to provide a tax credit of \$175 per child even if a taxpayer has negative adjusted gross income.

Synopsis of Bill

House Bill 18 proposes a child income tax credit to be claimed on personal income tax returns. Some child credit is available for all New Mexico taxpayers who have child dependents. The amount that can be claimed is maximum at lower income levels and minimum for high-income taxpayers pursuant to the chart below.

This credit is refundable in case that the amount of the credit exceeds the taxpayer's liability. Pursuant to HHHC amendment, a taxpayer with negative adjusted gross income may claim the

child credit amount as if the taxpayer’s income was zero and may use the first line in the table for the amount of credit per child.

Adjusted Gross Income is		Amount of credit per qualifying child is:
Over	But not over	
\$0	\$25,000	\$175
\$25,000	\$50,000	\$150
\$50,000	\$75,000	\$125
\$75,000	\$100,000	\$100
\$100,000	\$200,000	\$75
\$200,000	\$350,000	\$50
\$350,000		\$25

TRD is required to compile an annual report that includes the number of taxpayers approved for this credit and the total general fund cost.

A qualifying child is as defined by Section 152(c) of the Internal Revenue Code, except that a qualifying child for this purpose considers any public assistance contributing to the support of the child to have been contributed by the taxpayer. Thus, the custodial parent is almost always considered to be the parent of the qualifying child.

There is no effective date of this bill. It is assumed that the effective date is 90 days after this session ends (June 14, 2019). The provisions of the bill apply to taxable years beginning on or after January 1, 2019. The tax returns claiming this credit would be filed by June 30, 2020. This credit can only be claimed on

FISCAL IMPLICATIONS

TRD reports the following fiscal impact.

Estimated Revenue Impact*					R or NR**	Fund(s) Affected
FY2019	FY2020	FY2021	FY2022	FY2023		
\$ -	\$ (76,392)	\$ (78,684)	\$ (81,045)	\$ (83,476)	R	General Fund

“TRD used GenTax data to estimate the fiscal impact. On average there are approximately 1.1 million tax filers in New Mexico; the average number of exemptions per taxpayer is two. New Mexico tax forms do not permit a direct count of dependents; an estimate is derived from the total number of exemptions.”

“US Census data estimates that approximately 700,000 persons in New Mexico are under twenty-four and the number of persons per household is 2.65. Using GenTax data the economist estimated the number of qualifying children for each of the last three tax years, and then applied the credit values by income bracket.”

Using a quite different methodology based on the new LFC personal income tax model, LFC staff reports a somewhat smaller fiscal impact. This approach assumes that the number of reported exemptions for all filing status minus either one exemption for the single, head of household in single parent family or married separate and two exemptions for married joint. This

methodology corrects for young dependents filing for a refund, but not qualifying separately for this child credit. This approach may be as valid as the TRD approach.

Estimated Revenue					Recurring or Nonrecurring	Fund Affected
FY19	FY20	FY21	FY22	FY23		
	(\$47,510.0)	(\$48,860.0)	(\$50,330.0)	(\$51,830.0)	Recurring	General Fund (PIT)

Although the new LFC model can still be considered experimental, the table above reports an average of the LFC staff and TRD estimates.

SIGNIFICANT ISSUES

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.

However, the bill may be intended to reduce the unintended increase in overall state personal income tax (PIT) revenue attributed to the federal Tax Change and Jobs Act (TCJA) that is expected to increase PIT collections by roughly \$55 million in fiscal year 2018. This increase is due to the repeal of the personal exemption in favor of a substantial increase in the standard deduction. New Mexico “piggy-backs” on these two changes. It does not, however, piggyback on the federal child credit that serves to balance the impact of the federal changes on taxpayers when they calculate their federal liabilities. This bill would create a state child credit that would also serve to balance in revenue neutral terms the state liabilities.

TRD also notes the same issue: “... The federal Tax Cuts and Jobs Act made a number of changes to how individuals calculate their federal income tax. New Mexico generally conforms to the federal tax code and also conforms to many of these changes. One change was to set the amount of the personal exemption (the amount excluded from income for the taxpayer, spouse and dependents) to zero. See Pub. L. 115-9. The act amends I.R.C. Sec. 151(d), by suspending the personal exemption for tax years beginning after Dec. 31, 2017 and before Jan. 1, 2026. The federal changes also raise the standard deduction and lower federal tax rates. Families filing in New Mexico may pay less federal tax but, nevertheless, pay more New Mexico tax if New Mexico follows the elimination of the personal exemption amounts. This bill appears to substitute a credit in place of the exemption. It should be emphasized that while the federal changes zero out the amount of the personal exemption, the criteria for qualifying as a dependent, including the definition of a “qualifying child” under IRC Sec. 152, have not changed.”

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, although that purpose is not stated in the bill. This reporting will probably be included in the annual preparation by TRD of the Tax Expenditure Report (TER).

ADMINISTRATIVE IMPLICATIONS

TRD should be able to administer the provisions of this bill with moderate administrative impact. Forms, instructions and the GenTax system would have to be changed in the regular, annual maintenance cycle.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

SB300 is similar, but allows a straight \$4,000 deduction from taxable income for each qualifying child. This deduction is worth slightly more for higher income taxpayers than for low income taxpayer because of progressive tax rates.

TECHNICAL ISSUES

~~By setting the floor FAGI amount at \$0, any taxpayers with negative AGI (because of business losses or net capital losses) would not qualify for any child income tax credit. The \$0 in the table on page 2, line 5 should be replaced with a blank, or the \$25,000 should be replaced with the phrase, “not over \$25,000” or both. This technical comment was addressed through HHHC amendment.~~

This bill does not contain a delayed repeal date. LFC recommends adding a delayed repeal date so that the legislature can periodically review if the child income tax credit is still serving a valid purpose.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

In general, the provisions of this bill improve equity and, with the reporting provisions, improve accountability at the cost of degrading adequacy, efficiency and simplicity.

LG/gb/sb/al