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FISCAL IMPACT REPORT

SPONSOR Johnson ORIGINAL DATE 02/01/21
LAST UPDATED 02/02/21 HB 118
SHORT TITLE Homeless Youth Employment Tax Credit SB _____
ANALYST Torres

REVENUE (dollars in thousands)

Estimated Revenue					Recurring or Nonrecurring	Fund Affected
FY20	FY21	FY22	FY23	FY24		
		(\$366.0) – (\$1,230.0)	(\$366.0) – (\$1,230.0)	(\$366.0) – (\$1,230.0)	Recurring	General Fund

Parenthesis () indicate revenue decreases

SOURCES OF INFORMATION

LFC Files

Responses Received From

New Mexico Attorney General (NMAG)

No Response Received

Taxation and Revenue Department (TRD)

Workforce Solutions Department (WSD)

Children, Youth, and Families Department (CYFD)

SUMMARY

Synopsis of Bill

House Bill 118 (HB118) adds homeless youth to the Foster Youth Employment Income Tax Credit. Homeless youth is defined as an individual who meets the federal definition for homeless youth, is 25 years old or younger and works at least 920 hours during the taxable year.

The tax credit is also expanded to allow taxpayers who employ foster or homeless youth to claim the employment income tax credit for the individual employee for more than one calendar year and permit employers to claim the tax credit for more than one foster or homeless youth during the taxable year. The limitation that the taxpayer could only apply for the tax credit for one foster or homeless youth for a maximum of one year is stricken. Furthermore, the bill allows for multiple employers to claim a credit for the same individual, given the individual works at least 920 hours during the taxable year.

HB118 requires that the foster or homeless youth employee be annually certified as a foster or homeless youth. The purpose for certification is deleted from the act. Department of Workforce Solutions, in collaboration with CYFD and New Mexico Indian nations, tribes and pueblos, is delegated authority to adopt procedures for annual certification of foster or homeless youth. The United States Department of the Interior Bureau of Indian Affairs Division of Human Services is removed as an agency that the department must collaborate with when adopting certification procedures.

HB118 also removes the purpose statement of the original act.

The provisions of HB118 are applicable beginning in tax year 2021.

FISCAL IMPLICATIONS

Estimates are based on the U.S. Housing and Urban Development Annual Homeless Assessment Report to Congress. The most recent report for New Mexico included an estimate of 732 homeless youth as defined by HB118, as of 2019. According to a U.S. Health and Human Services Study on homeless youth unemployment¹, homeless youth unemployment rates are “as high as 75 percent, compared to 16 percent among the general population of housed youth.” This range of unemployment rates is used to determine the cost analysis. Furthermore, because each individual can be claimed multiple times by different tax returns in an amount up to \$1,000, the cost analysis estimates that each individual will be claimed by no more than two returns. This is consistent with the referenced study which indicates that “youth living on the streets obtain income through multiple sources. Despite the high likelihood of unemployment, [they] obtain legal income from paid employment.” Cost estimates do not include additional claims that may result in allowing qualified foster youth to also be claimed on multiple returns.

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 a 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

This bill creates a tax incentive for employing homeless youth, which has the potential to help these youth obtain employment. However, in order to claim the credit, an employer must know the employee’s status. It is unclear exactly how this information will be disclosed to employers. If the intent is to encourage hiring homeless youth, potential employees could provide this information to the employer unsolicited. However, if the candidate does not mention this in the

¹ Slesnick, Zhang, and Yilmazer. “Employment and Other Income Sources among Homeless Youth.” HHS Public Access Author Manuscript. June 1, 2019.

interview, the employer would not know (therefore it could not inform the employment decision) or the employer would need to ask the candidate directly (which could raise concerns over privacy and discrimination). It is possible, after the hiring decision is already made, the employer could learn the employee's status and claim the tax credit, but this would provide a benefit for an action that had occurred anyway (the given individual had already been hired). This calls to question how effectively the tax credit itself could provide an incentive to employers to hire homeless youth.

LFC tax expenditure policy principles emphasize the need for a clearly stated purpose statement to evaluate the effectiveness of tax programs. HB118 eliminates the purpose statement in the legislation, reducing accountability and inhibiting policy analysis for effectiveness and efficiency.

This bill does not contain a delayed repeal date. LFC recommends adding a delayed repeal date to new tax expenditures.

PERFORMANCE IMPLICATIONS

The LFC tax policy of accountability is partially 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 credit, but does not provide other information to determine whether the credit is meeting its purpose.

ADMINISTRATIVE IMPLICATIONS

HB 118 requires the Department of Workforce Solutions, in collaboration with the Children, Youth, and Families Department, New Mexico Indian nations, tribes, and pueblos to annually certify that an employee is a foster youth or homeless youth as defined by 42 U.S. Code § 11434a, which states that the individuals who lack a fixed, regular, and adequate nighttime residence and includes children and youths who are sharing the housing of other persons due to loss of housing, economic hardship, or a similar reason; are living in motels, hotels, trailer parks, or camping grounds due to the lack of alternative adequate accommodations; are living in emergency or transitional shelters; or are abandoned in hospitals; who have a primary nighttime residence that is a public or private place not designed for or ordinarily used as a regular sleeping accommodation for human beings; who are living in cars, parks, public spaces, abandoned buildings, substandard housing, bus or train stations, or similar settings; and migratory children. It is unclear if it is possible for any of the departments to validate a person qualifies.

TECHNICAL ISSUES

This bill does not contain a delayed repeal date. LFC recommends adding a delayed repeal date to allow for reevaluation and reconsideration of tax credit effectiveness.

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

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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 Policy Principle	Met?	Comments
Vetted	✘	Not considered by interim committees.
Targeted Clearly stated purpose Long-term goals Measurable targets	✘ ✘ ✘	Eliminates purpose statement.
Transparent	✔	Requires annual reporting in the Tax Expenditure Report.
Accountable Public analysis Expiration date	✘ ✘	A lack of purpose statement, goals, or targets, prevents public analysis on effectiveness.
Effective Fulfills stated purpose Passes “but for” test	✘ ✘	
Efficient	✘	
Key: ✔ Met ✘ Not Met ? Unclear		

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