FISCAL IMPACT REPORT

SPONSOR	Chandler/ Harper/ Jaramillo	**ORIGINAL DATE** / **LAST UPDATED**	1/25/22 / 2/2/22	**HB**	67/aHTRC/aSFC
SHORT TITLE	Tech Readiness Gross Receipts Tax Credit			**SB**	
				ANALYST	Torres

REVENUE (dollars in thousands)

Estimated Revenue					Recurring or Nonrecurring	Fund Affected
FY22	**FY23**	**FY24**	**FY25**	**FY26**		
--	($500.0)	($2,000.0)	($2,000.0)	($2,000.0)	Recurring	General Fund
	Up to $3,000.0				Nonrecurring	General Fund – Fund reversion
--	($1,500.0)	--	--	--	Nonrecurring	Technology Readiness Gross Receipts Tax Credit Fund

Parenthesis ( ) indicate revenue decreases

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

FY22	FY23	FY24	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
$32.1			$32.1	Nonrecurring	TRD- General Fund Operating Budget

Parenthesis ( ) indicate expenditure decreases

SOURCES OF INFORMATION
LFC Files

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

SUMMARY

Synopsis of SFC Amendment

The Senate Finance Committee amendment to house bill 67 changes the sunset from July 1, 2032 to 2027.

Synopsis of HTRC Amendment

The House Taxation and Revenue Committee amendment to house bill 67 adds a temporary provision to transfer the remaining funds in the technology readiness gross receipts tax credit fund to the general fund.

Synopsis of Original Bill

House bill 67 amends the technology readiness gross receipts tax credit to extend the sunset from July 1, 2023, to July 1, 2032. This bill also changes the way this tax credit is funded from a distribution from a fund to a typical monthly credit against gross receipts owed. Current law transfers $125 thousand of gross receipts tax revenue per month to the fund created for the credit, and the credit may be claimed so long as there is a balance in the fund. This bill replaces that funding structure with a standard tax credit capped at $1 million per national laboratory per year. As such, the bill also repeals Section 7-1-6.65 NMSA 1978, the distribution of gross receipts tax to the technology readiness gross receipts tax credit fund and repeals the delayed repeal of this credit of July 1, 2024.

The effective date of this bill is July 1, 2022. The delayed repeal date of this bill is July 1, 2032.

FISCAL IMPLICATIONS

The fiscal impact assumes that the full cap of $1 million per national laboratory is used. New Mexico currently has two qualifying national laboratories, the estimate assumes no additional qualifying laboratories are established in New Mexico in the forecast period, and that the current two qualifying national labs remain in the state and utilize the credit. As reported in the TRD, 2021 Tax Expenditure Report[1], no taxpayers claimed the credit in the first fiscal year.

The fiscal impact for FY23 is scored against the current cost of the distribution from the general fund to the Technology Readiness Gross Receipts Tax Credit Fund, which would cease at the end of FY22. It is unclear what will occur with the revenue remaining in the Technology Readiness Gross Receipts Tax Credit Fund at the end of FY22. The amount in the fund could be as much as $3 million depending on whether there are any claims for the credit in FY22. The current bill language does not have the fund revert to the general fund and is therefore not indicated in the fiscal impact (see technical issues narrative below).

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. Increasing the cost of tax expenditures narrows the tax base and reduces the state's revenue diversification, contributing to revenue volatility. The committee recommends the bill adhere to the LFC tax expenditure policy principles for vetting, targeting, and reporting or be held for future consideration.

SIGNIFICANT ISSUES

The Economic Development Department notes:

> The TRGR program was initially launched as a pilot program, and there is a year remaining before the credit would sunset. The extension of the TRGR tax credit through FY32 could effectively make the program semi-permanent. It is unclear whether sufficient proof of concept in terms of key performance indicators and success metrics have been demonstrated. EDD recognizes the value of the undertaking by the national

[1] *2021 Tax Expenditure Report*, Taxation and Revenue Department, https://www.tax.newmexico.gov/forms-publications/

> laboratories, but the project may be considered to still be in the pilot phase and thus it may be premature for such an extension.

The Taxation and Revenue Department finds:

> The legislation standardizes the funding source for the Technology Readiness Gross Receipts Tax Credit to bring it in line with how most other tax credits are funded. Standardization may reduce complexity and the administrative burden related to the current distribution-to-fund mechanism.
>
> The extension of the credit allows for more assistance to small businesses through an incentive to the national labs. The national labs in New Mexico have produced innovative technology and represent a substantial resource to New Mexico. The assistance to businesses provided by the national labs that is supported by the credit may lead to new industry in New Mexico, providing jobs, and increasing the tax base.
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> The extension of the credit is a tax expenditure and comes at a cost to the general fund. Tax expenditures narrow the base, which may result in higher taxes elsewhere, a reduction in government services, or both. While tax incentives may support particular industries or encourage specific social and economic behaviors, the proliferation of such incentives complicates the tax code. Adding more tax incentives: (1) creates special treatment and exceptions to the code, growing tax expenditures and/or narrowing the tax base, with a negative impact on the general fund; and (2) increases the burden of compliance on both taxpayers and TRD. Adding complexity and exceptions to the tax code does not comport generally with the best tax policy.

This bill narrows the gross receipts tax (GRT) base. Many of the efforts over the last few years to reform New Mexico's taxes focused on broadening the GRT base and lowering the rates. Narrowing the base leads to continually rising GRT rates, increasing volatility in the state's largest general fund revenue source. Higher rates compound tax pyramiding issues and force consumers and businesses to pay higher taxes on all other purchases without an exemption, deduction, or credit.

ADMINISTRATIVE IMPLICATIONS

TRD will update forms, instructions, and associated publications. These updates will be incorporated into annual tax program revisions. The ITD will incur a low impact of approximately $30 thousand of contractual resources to implement changes to GenTax, the tax system of record. ASD will work with ITD to implement the changes to the distribution as well as work with the Department of Finance and Administration. ASD will have $2,100 in associated staff workload costs.

Due to the effective date of July 1, 2022 for this bill and other proposed bills, any changes to rates, deductions, and distributions adds to the complexity and risk TRD faces July 1, 2022 to ensure complete readiness and testing of all processes. If several bills with similar effective dates become law there will be a greater impact to TRD and additional staff workload costs or contract resources may be needed to complete the changes specified by the effective date(s) of each bill.

TECHNICAL ISSUES

Section 2 of the bill repeals the current distribution to Technology Readiness Gross Receipts Tax Credit Fund from net receipts of gross receipts tax. There is currently $2.1 million set aside in the fund for this credit based on 2020 legislation, with a distribution of $125 thousand continuing each month. The bill does not contain reversion language and the balance will not be distributed to the general fund under Section 7-1-6.1 NMSA 1978. TRD and LFC recommend language be added directing that any amounts in the fund be reverted to the general fund.

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 Policy Principle	Met?	Comments
Vetted	✘	
Targeted		
Clearly stated purpose	✓	
Long-term goals	✓	
Measurable targets	✓	
Transparent	?	
Accountable		
Public analysis	✓	

Expiration date	✓	
Effective Fulfills stated purpose Passes "but for" test	 ? ?	 Insufficient analysis has been done on the program as nothing Has been claimed.
Efficient	?	
Key: ✓ Met ✗ Not Met ? Unclear		

IT/al/acv