

LFC Requester:

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AGENCY BILL ANALYSIS - 2025 REGULAR SESSION

SECTION I: GENERAL INFORMATION

{Indicate if analysis is on an original bill, amendment, substitute or a correction of a previous bill}

Date Prepared: 3 February 2025

Check all that apply:

Bill Number: SB212

Original Correction
Amendment Substitute

Sponsor: Sen. Michael Padilla, Sen. William P. Soules, Rep. Joshua N. Hernandez, Rep. Meredith A. Dixon

Agency Name and Code Number: 305 – New Mexico Department of Justice

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SECTION II: FISCAL IMPACT

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY25	FY26		

(Parenthesis () indicate expenditure decreases)

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY25	FY26	FY27		

(Parenthesis () indicate revenue decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY25	FY26	FY27	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total						

(Parenthesis () Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to:
 Duplicates/Relates to Appropriation in the General Appropriation Act

SECTION III: NARRATIVE

This analysis is neither a formal Opinion nor an Advisory Letter issued by the New Mexico Department of Justice. This is a staff analysis in response to a committee or legislator’s request. The analysis does not represent any official policy or legal position of the NM Department of Justice.

BILL SUMMARY

Synopsis:

Senate Bill 212 (“SB212” or the “Bill”) creates a gross receipts tax credit for funds received from a federal agency for quantum testing and evaluation services. As defined in the Bill, quantum testing and evaluation means a federal benchmarking initiative that exists to determine if it is possible to build a cost-effective quantum computer.

Section One

Section One of the bill adds new material to the Gross Receipts and Compensating Tax Act, Chapter 7, Article 9 NMSA 1978; it is the only substantive section of the SB212. The Section states that the purpose of the credit is to “provide a match for federal funds related to quantum testing and evaluation services, to encourage recruitment of quantum businesses in New Mexico and to increase economic development in New Mexico.” Section One provides that the only taxpayers eligible for this provision are national laboratories—defined as a “prime contractor designated as a national laboratory by an act of congress that operates in New Mexico—that receive federal funds to provide quantum testing and evaluation services. The credit is equal to the amount of federal funds received for quantum testing and evaluation services, up to \$15,000,000 in a calendar year and up to \$60,000,000 in aggregate. To obtain the tax credit, a taxpayer must apply for a certification of eligibility for the tax credit from the Economic Development Department. The Section provides that if more than one national laboratory is eligible for the credit, neither shall receive the credit until the two laboratories develop a plan to ensure the combined claims do not exceed the aggregate limit provided in the Section. Additionally, a national laboratory receiving the tax credit shall provide an annual report to the Economic Development Department and an appropriate legislative committee.

Section Two

Section Two of the Bill creates a delayed repeal provision, repealing Section One effective July 1, 2035.

Section Three

Section Three of the bill creates, in effect, a delayed implementation provision. Under Section Three, the terms of Section One only apply to taxable periods beginning on or after July 1, 2025.

FISCAL IMPLICATIONS

None.

SIGNIFICANT ISSUES

Section One provides that national laboratories eligible for the credit are defined as a “prime contractor designated as a national laboratory by act of congress.” Such an entity may possibly be deemed private for the sake of an analysis of the anti-donation clause. It is unsettled law in New Mexico, however, a tax credit in this vein, potentially could be deemed to be a donation in violation of the anti-donation clause of the New Mexico Constitution. See *Chronis v. State ex rel. Rodriguez*, 1983-NMSC-081, ¶ 30, 100 N.M. 342, 670 P.2d 953 (holding a gross receipts tax reduction for liquor licensees during a period of “economic adjustment” to be an unconstitutional subsidy to the liquor industry).

PERFORMANCE IMPLICATIONS

N/A

ADMINISTRATIVE IMPLICATIONS

None noted.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

RELATIONSHIP

The Bill relates to SB211. SB211 provides for a tax credit under the Income Tax Act and Corporate Income and Franchise Tax Act.

TECHNICAL ISSUES

Section 1(G) of the Bill refers to “qualified expenditures.” However, nothing in the Bill provides that qualified expenditures are required to obtain the tax credit. Rather, the eligibility for the tax credit relies upon the receipt of federal funds for quantum testing and evaluation services. This may be a conflation of issues relating to SB211, which also concerns tax credit for quantum technology and utilizes the term “qualified expenditure.”

OTHER SUBSTANTIVE ISSUES

None.

ALTERNATIVES

None.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

Status quo.

AMENDMENTS

None.