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FISCAL IMPACT REPORT

SPONSOR Griego DATE TYPED 03/18/05 HB _____

SHORT TITLE Employer-Sponsored Insurance Tax Credits SB 231/a SCORC

ANALYST Padilla-Jackson

REVENUE

Estimated Revenue		Subsequent Years Impact	Recurring or Non-Rec	Fund Affected
FY05	FY06			
(\$3,800.0)	(\$11,000.0)	5% to 10% growth	Recurring	General Fund

(Parenthesis () Indicate Revenue Decreases)

Duplicates: House Bill 284

SOURCES OF INFORMATION

LFC Files

Responses Received From

Human Services Department (HSD)

Taxation and Revenue Department (TRD)

SUMMARY

Synopsis of SCORC Amended Bill

The Senate Corporations and Transportation Committee (SCORC) amended Senate Bill 231. The amendments replace instances of the word “may” and replaces them with “shall” when referring to the Department of Taxation and Revenue allowing the tax credit.

Synopsis of Original Bill

Senate Bill 231 modifies the Income Tax Act and the Corporate Income and Franchise Tax Act to provide tax credits to small New Mexico employers (25 or fewer employees) providing employer-sponsored health insurance to their employees. The tax credit would apply to personal income or corporate income tax liabilities in an amount not exceeding five percent of the cost of employer-sponsored health insurance. A tax credit of up to 10 percent would apply to employers electing to offer coverage but who have not offered health insurance during the previous tax

year. Employers eligible for the 10 percent tax credit would receive a five percent tax credit beginning in the second tax year and thereafter. The proposed tax credit is refundable, therefore, if the credit exceeds the taxpayer's tax liability, the excess amount will be refunded to the taxpayer.

The tax credit would apply to taxable years beginning on or after January 1, 2005.

Significant Issues

According to HSD, Senate Bill 231 is based on the recommendations of the Insure New Mexico! Council to:

“Provide a graduated tax credit for small businesses (25 employees or less) that offer health insurance for their employees. Small businesses currently offering health insurance would receive a five percent tax credit, while small businesses not currently offering health insurance would receive a 10 percent tax credit declining to five percent in the second year. This tax credit is designed to entice small businesses to begin and continue to offer health insurance for employees”.

PERFORMANCE IMPLICATIONS

According to HSD, Senate Bill 231 addresses the Human Services Department goal of providing New Mexicans access to support and services so they may move toward self-sufficiency. (See estimates below in Fiscal Implications Section).

HSD also noted that Senate Bill 231 would target several performance measures the Governor has identified to reduce the uninsured population and increase the rate of employer-sponsored health insurance in New Mexico. The Governor is introducing a package of legislation aimed at decreasing the uninsured rate by 10 percent.

FISCAL IMPLICATIONS

There is no change to the fiscal impact below based on the SCORC amendments.

TRD estimates a total fiscal impact of -\$11 million in FY06 and -\$3.8 million in FY05. The TRD analysis was twofold.

Credit for currently-insured population

TRD impacts were estimated using survey information from the New Mexico Health Policy Commission. According to the survey, there are approximately 24 thousand firms in the state with less than 25 employees, employing over 170 thousand employees. The current rate of insurance coverage for these employees was estimated at 40 percent, or 68,000 covered employees. Assuming employer-paid premiums average \$2,800 per employee, the 5 percent tax credit for these employees would generate credits of \$9.5 million in tax year 2005. It is expected that this amount will grow with insurance premiums, which average between 5 and 10 percent per year.

Credit for newly insured population

Increases in insurance coverage under the proposal are uncertain. TRD's estimate assumes an increase in insured employees (68,000) of about 2.5 percent or 1,700 covered employees in tax year 2005. Tax year 2005 credits for employees not currently covered would thus be about \$500 thousand (1,700 employees times the cost per employee of \$2,800 times the 10 percent credit).

This number is expected to increase significantly in future years as more employers learn about the program.

FY 2005 fiscal effects in the table represent adjustments made by TRD to the first two quarterly income tax payments for tax year 2005. Therefore, approximately half of the \$10 (\$9.5 million plus \$500 thousand) will be collected in FY05 (adjusted for by TRD for quarterly income tax payments) and \$11 million would be collected in FY06 (\$10 million times 10 percent growth).

ADMINISTRATIVE IMPLICATIONS

The cost to the Department of Taxation and Revenue of administering the proposed measure would reportedly be relatively minor, as the bill provisions could be administered with resources currently available.

TECHNICAL ISSUES

- Senate Bill 231 does not clearly define “owner of a New Mexico business.” As the bill currently reads, this term could be loosely interpreted, allowing tax credits to business owners, for whom the bill was not intended.
- According to TRD, since the credits are limited to New Mexico businesses, they may violate the Commerce Clause, U.S. Constitution Article 1, Section 8, because the income and corporate income taxes are apportioned taxes. Adjusting the tax base on in-state presence discriminates against out-of-state businesses.
- According to TRD, both tax credits would probably violate the anti-donation clause of the New Mexico Constitution, Article IX, Section 14, since the credits are refundable where the taxpayer has no liability. This is a donation to private business.

OTHER SUBSTANTIVE ISSUES

HSD provided the following comments on Senate Bill 231:

According to the Census’ 2003 Current Population Survey, New Mexico ranks second in the nation for the rate of uninsured at 22.1 percent or an estimated 414,000 individuals. The NM Health Policy Commission’s recent survey of New Mexico employers reported that 70 percent of employers who currently do not offer health insurance want some form of tax relief from the state. Twenty six percent of the employers, who do not offer coverage, say they are likely to offer a plan in the near future to their employees. The employer survey findings indicate employers are very likely to support and utilize tax credits as provided for in Senate Bill 231. Implementation of the tax credits contained in the bill could have a positive impact on the high rate of uninsured in New Mexico.

OPJ/lg:yr