F I S C A L   I M P A C T   R E P O R T

ORIGINAL DATE 2/5/07
SPONSOR Harden **LAST UPDATED** **HB**

SHORT TITLE Tax Credits For Low-Income Citizens **SB** 482

ANALYST Francis

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Non-Rec	Fund Affected
FY07	FY08	FY09		
	($36,400.0)	($37,500.0)	Recurring	General Fund

(Parenthesis ( ) Indicate Revenue Decreases)

Conflicts with SB317, HB436

SOURCES OF INFORMATION
LFC Files
Taxation and Revenue Department

Responses Received From
Taxation and Revenue Department (TRD)
Department of Finance and Administration (DFA)
Human Services Department (HSD)

SUMMARY

Synopsis of Bill

Senate bill 482 creates a new personal income tax credit called the "State Earned Income Tax Credit" (SEITC) that is calculated as 10 percent of the federal Earned Income Credit (EIC). The credit is refundable, meaning if the credit exceeds the taxpayer's liability, the excess is refunded to the taxpayer. SB482 also explicitly excludes credits provided in the Income Tax Act from the calculation of modified gross income.

The effective date is January 1, 2007.

FISCAL IMPLICATIONS

Enacting this credit would reduce general fund personal income tax revenue by $36.4 million per tax year. Even though the credit is for tax year 2007, it is assumed that it will be claimed in the filing season in 2008 and so all of the impact is in FY08. The credit is expected to grow to $37.5 million in FY09.

In 2004, 199,552 New Mexican taxpayers received the federal EIC and 90 percent of the credits were in excess of liability. A total of $364 million in EIC were claimed. Using this number as the base, the cost to the state of the SEITC would be $36.4 million. Tax filers eligible for the low-income comprehensive tax rebate (LICTR) will also be eligible for the SEITC.

SIGNIFICANT ISSUES

Twenty states, including the District of Columbia, currently offer a state level EIC (Colorado's EIC is tied to their TABOR rules and so some years they do not allow the credit). The credit has proven to be a simple and efficient credit. It is also popular since it only goes to individuals and families with earned income. One of the key elements is the refundability of the credit: the taxpayer receives the full amount of the credit regardless of the tax liability. Twelve of the seventeen state EICs are refundable, according to research at the Institute on Taxation and Economic Policy. New York and Vermont have the most generous EICs allowing over 30 percent of the federal credit and making it refundable. Rhode Island has a 25 percent credit but it is not refundable which restricts its effectiveness.

TABLE 1: STATE EARNED INCOME TAX CREDITS BASED ON THE FEDERAL EITC

State	Percentage of Federal Credit (Tax Year 2006 Except as Noted)	Refundable	Workers Without Qualifying Children Eligible?
Delaware	20%	No	Yes
District of Columbia	35%	Yes	Yes
Indiana[a]	6%	Yes	Yes
Illinois	5%	Yes	Yes
Iowa	6.5%	No	Yes
Kansas	15%	Yes	Yes
Maine	5%	No	Yes
Maryland[b]	20%	Yes	No
Massachusetts	15%	Yes	Yes
Michigan	10% (effective in 2008; to 20% in 2009)	Yes	Yes
Minnesota[c]	Average 33%	Yes	Yes
Nebraska	8%	Yes	Yes
New Jersey[d]	20%	Yes	No
New York[e, f]	30%	Yes	Yes
Oklahoma	5%	Yes	Yes
Oregon	5% (to 6% in 2008)	Yes	Yes
Rhode Island	25%	Partially[g]	Yes
Vermont	32%	Yes	Yes
Virginia	20%	No	Yes
Wisconsin	4% - one child 14% - two children	4% - one child 14% - two children	No

TABLE 1: STATE EARNED INCOME TAX CREDITS BASED ON THE FEDERAL EITC			
State	Percentage of Federal Credit (Tax Year 2006 Except as Noted)	Refundable	Workers Without Qualifying Children Eligible?
	43% - three children	43% - three children	

Notes: From 1999 to 2001, Colorado offered a 10% refundable EITC financed from required rebates under the state's "TABOR" amendment. Those rebates, and hence the EITC, were suspended beginning in 2002 due to lack of funds and again in 2005 as a result of a voter-approved five-year suspension of TABOR. Under current law, the EITC is projected to resume in 2010.
a Presently scheduled to expire in TY 2011.
b Maryland also offers a non-refundable EITC set at 50 percent of the federal credit. Taxpayers in effect may claim either the refundable credit or the non-refundable credit, but not both.
c Minnesota's credit for families with children, unlike the other credits shown in this table, is not expressly structured as a percentage of the federal credit. Depending on income level, the credit for families with children may range from 25 percent to 45 percent of the federal credit; taxpayers without children may receive a 25 percent credit.
d The New Jersey credit is available only to families with incomes below $20,000.
e The New York credit would be reduced automatically to the 1999 level of 20 percent should the federal government reduce New York's share of the TANF block grant.
f Beginning in 2006, New York also allows certain non-custodial parents who are making child support payments to claim an EITC that is the greater of 20 percent of the federal EITC that they would be eligible for with one qualifying child as a custodial parent or 250 percent of the federal EITC for taxpayers without qualifying children.
g Rhode Island made a very small portion of its EITC refundable effective in TY 2003. In 2006, the refundable portion was increased from 10 percent to 15 percent of the nonrefundable credit (i.e. 3.75 percent of the federal EITC).

Source: Economic Policy Institute (www.epi.org)

For a single or married taxpayer with no children, the cut-off for benefits is very low but for taxpayers with children, the benefit goes to many more. The federal EIC can only be claimed if someone is below the income cut-offs and

- has a valid social security number
- is not filing separately
- is a US citizen or resident alien
- does not have foreign income
- does not have more than $2,800 in investment income
- has some earned income.

Table one shows the cut-off and peak amounts and the maximum credit for each class of filer. For example, a married filer with one child and adjusted gross income of between $8,000 and $16,500 would receive the maximum federal credit of $2,747 (state credit = $275). The same filer with income over $34,001 in adjusted gross income would receive no federal credit and, thus, no state credit.

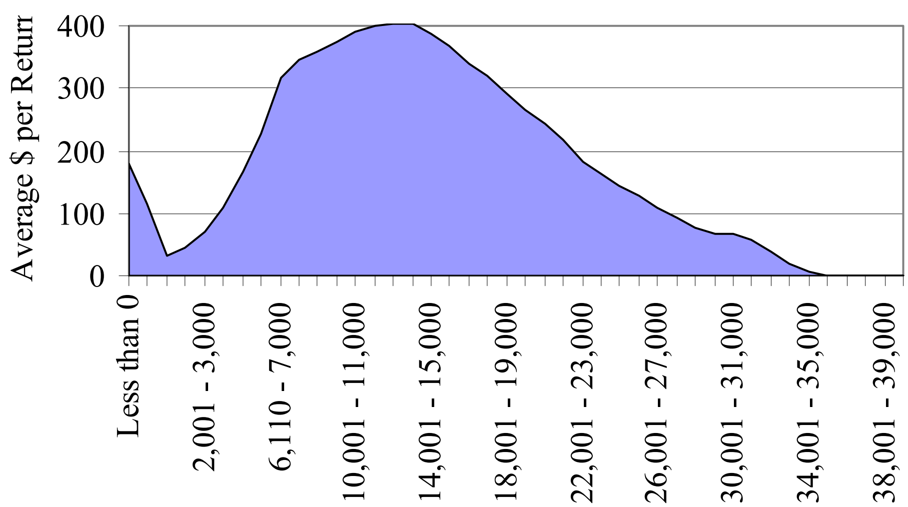
Table 1: Federal Income Cut-offs for Earned Income Credit

	Adjusted Gross Income			Maximum Credit
	Cut-off	Peak		
		Start	Finish	
Single				
No children	12,120	5,500	6,500	412
One child	32,001	8,500	14,500	2747
More than one child	36,348	11,500	14,500	4536
Married				
No children	14,120	5,500	8,500	412
One child	34,001	8,000	16,500	2747
More than one child	38,348	11,500	16,500	4536

Source: IRS 2006 Tax Year

For filers without children, they must be age 25 to 65, not a qualifying child or dependent of another person and must have lived in the United States for more than six months. For filers with children, the children must be younger than 19, younger than 25 if a full time student, or permanently disabled. The children also have to have lived with the filer for more than six months and cannot be claimed as a qualifying child or dependent of another person.

Figure Two: State Earned Income Tax Credit Phase-out



Source: Based on TRD data

One of the features of the EIC is that it phases-out at higher incomes. Figure two, which is based on 2005 data, shows the maximum average credit of about $400, which would be $4,000 for the federal EIC, is reached at an income level of $13,000. This is an average of all tax filers, whether single or not or childless or not.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

SB317 and HB436 propose a working family's credit similar to the SEITC proposed here but would not allow the LICTR if the credit were claimed..

ADMINISTRATIVE ISSUES

The Human Services Department reports that since the HB482 explicitly excludes credits from the calculation of modified gross income, a calculation used to determine eligibility, there would be minimal impact on the programs HSD administers such as food stamps or Medicaid.

NF/nt