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

SPONSOR Keller & Smith, JE **ORIGINAL DATE** 02/03/14 **LAST UPDATED** **HB**

SHORT TITLE Tech Commercialization Gross Receipts **SB** 59

ANALYST van Moorsel

REVENUE (dollars in thousands)

Estimated Revenue					Recurring or Nonrecurring	Fund Affected
FY14	**FY15**	**FY16**	**FY17**	**FY18**		
$0.0	($1,200.0)	($1,200.0)	($1,200.0)	($1,200.0)	Recurring	General Fund
$0.0	($800.0)	($800.0)	($800.0)	($800.0)	Recurring	Local Governments
$0.0	**($2,000.0)**	**($2,000.0)**	**($2,000.0)**	**($2,000.0)**	**Recurring**	**Total**

(Parenthesis ( ) Indicate Revenue Decreases)

SOURCES OF INFORMATION
LFC Files

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

SUMMARY

Synopsis of Bill

Senate Bill 59 creates a new section of the Gross Receipts and Compensating Tax Act to create a credit against the gross receipts tax (GRT) for technology transfer and commercialization and scientific research funding to provide an incentive for the technology transfer and commercialization industry to locate and expand in New Mexico. The credit may be claimed in an amount equal to 50 percent of a distribution made to:

- a New Mexico four-year public post-secondary educational institution or a designated nonprofit entity thereof specifically for technology transfer and commercialization or collaborative scientific research purposes; or
- an eligible endowment fund or an organization that promotes the commercialization of licensed technology conceived in a New Mexico four-year public post- secondary educational institution or a federal scientific and engineering laboratory or test facility located in New Mexico.

The total amount of the tax credit against GRT due must be divided by 12 and taken on each monthly GRT return for 12 consecutive months after the date of contribution. The tax credits taken by an individual taxpayer may not exceed $500 thousand in a calendar year. The credit is capped at $2 million per year. TRD must consider claims for the tax credit in the order received. Taxpayers whose claims are not approved due to the cap being met are placed at the front of the queue for the following year.

Entities receiving a distribution from taxpayers claiming the mist certify to TRD the amount and use of the money and the taxpayer who made the contribution. TRD must administer the credit.

Taxpayers allowed the credit must report the amount of the credit to TRD, which must compile an annual report on the tax credit including the number of taxpayers approved to receive the credit, the aggregate amount of credits approved and any other information necessary to evaluate the effectiveness of the tax credit. Beginning in 2019 and every year thereafter, TRD must compile and present the annual reports to RSTP and the LFC with an analysis of the effectiveness and cost of the tax credit.

Starting in FY19, entities that receive distributions from taxpayers who claim the credit must report to RSTP and the LFC, who must evaluate the uses of and expenditures of the distribution received.

The provisions of SB 59 are applicable to distributions made on or after July 1, 2014 and apply to gross receipts tax returns filed on or after August 1, 2014.

The effective date of this bill is July 1, 2014.

There is no sunset date. The LFC recommends adding a sunset date.

FISCAL IMPLICATIONS

TRD's analysis of the fiscal impact notes giving to educational institutions is highly variable and follows no clear trend. At UNM, for example, New Mexico's largest four year public university, published audit reports show that non-operating revenue from gifts decreased by nearly 42 percent in FY12 after increasing by almost 77 percent in FY11. Given the large presence of national laboratories in New Mexico, and the relatively low aggregate annual cap, combined with the lack of an economic-theory based method of fiscal impact estimation, the fiscal impact is assumed to be the maximum $2 million annually, with 60 percent of the impact falling on the General Fund and 40% on local governments

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.

PERFORMANCE IMPLICATIONS

The LFC tax policy of accountability is 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 deduction and other information to determine whether the deduction is meeting its purpose.

TECHNICAL ISSUES

This bill does not contain a sunset date. The LFC recommends adding a sunset date.

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

PvM/ds