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

SPONSOR Cisneros **ORIGINAL DATE** 1/28/16 **LAST UPDATED** **HB**

SHORT TITLE Technology Readiness Gross Receipts Credit **SB** 31

ANALYST Graeser

REVENUE (dollars in thousands)

Estimated Revenue							Recurring or Nonrecurring	Fund Affected
FY16	FY17	FY18	FY19	FY20	FY21	FY22		
	($2,500.0)	($5,000.0)	($5,000.0)	($5,000.0)	($5,000.0)	($5,000.0)	Recurring	General Fund

Parenthesis ( ) indicate revenue decreases

SOURCES OF INFORMATION
LFC Files

Responses Received From
Economic Development Department (EDD)

SUMMARY

Synopsis of Bill

Senate Bill 31 creates the "Technology Readiness Gross Receipts Tax Credit" and allows certain activities of the two national laboratories in the state to generate a dollar for dollar credit against the taxpayer's gross receipts tax liability. Technology readiness means bringing a technology developed at one of the labs to "maturation," which means that the technology has been developed to a stage that results in a prototype or demonstration of the feasibility of real-world application of the technology.

Each national laboratory is limited to assisting ten or more projects, with a limit per project per year of $250,000 and a limit for all project assistance is $2.5 million per laboratory. The credit is applicable only for assistance to New Mexico resident firms and only for technology developed at the national laboratories.

There is no effective date of this bill. It is assumed that the new effective date is 90 days after this session ends (May 18,2016). The provisions of the act apply to technology readiness assistance delivered on or after July 1, 2016. The provisions of the bill are repealed effective July 1, 2027.

FISCAL IMPLICATIONS

The maximum credit if both labs fully participate would be $5 million annually. However, takeup may be slow for a number of reasons.

- Only technology developed at a national laboratory is eligible for technology readiness assistance and the associated credit.
- The firm assisted must have a business license in New Mexico (see technical issues later).
- If both laboratories elect to provide this assistance, then they must coordinate with each other in providing assistance and providing a joint annual report to the state.
- The claim must be approved by the Economic Development Department that must ensure that all of the provisions and qualifications are met.
- The laboratory must provide initial funding to a revolving fund which will be replenished from the tax credits. However, if the assistance is canceled at any point (including after the tax credits are sunset), then the initial contribution is due as gross receipts taxes. This may be an onerous requirement and might delay adoption of the program.

However, there is a viable precursor program that has been in place since 2000 known as the “Laboratory Partnership with Small Business.” This program has recently been fully subscribed and this program will be easily grafted onto the existing framework.

The schedule of revenue shown in the table is an estimate of the latency inherent in the program as modified by the precursor program.

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. This is particularly true for tax incentives that have an estimated FY 17 impact as does this bill.

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.

This bill does not create a new fund or provide for continuing appropriations.

SIGNIFICANT ISSUES

Although the provisions of this bill conform with the general premise that economic development tax incentives should have “claw-back” features, requiring an initial contribution of up to $2.5 milion, or more realistically, one or two projects assistance cost of $250,000 each, may be a burden. Even if the program is a success and lasts until the credits expire in 2027, any amounts of money remaining in the revolving fund will be paid as gross receipts taxes. At minimum, the bill should provide this clawback only in the case the program is cancelled before 2027.

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 credit and other information to determine whether the credit is meeting its purpose.

ADMINISTRATIVE IMPLICATIONS

Minimal for either TRD or EDD. There are only two taxpayers.

TECHNICAL ISSUES

- TRD administers a certification program for the purpose of an in-state residence procurement preference on state and local contracts. This certification requires requires a two-year history of business activity in the state as evidenced by filing gross receipts tax returns. Showing this certificate as proof of New Mexico residency would fulfill the requirement that assisted firms prove residency [Section (1)(F)(2)]. However, in some cases, the firm might be newly formed simply to commercialize licensed technology. In that case, the firm would not be eligible for a TRD certificate.
- The requirement of a revolving fund and the clawback features are somewhat unusual. Assume the laboratory initial funds the revolving fund with $25,000 – anticipating assisting two projects at the rate of $5,000 per month each. On the 25th of the month following the month of assistance, the laboratory files its CRS-1 form and applies for the credit of $10,000. Then out of other lab funds, the $10,000 is credited to the revolving fund. In the meantime, the assistance program has provided another $10,000 worth of assistance and the balance in the fund is $5,000. The credit of $10,000 brings the balance up to $15,000. If the program then closes, the $15,000 balance is considered gross receipts and the provisions of the bill require this amount to be paid as gross receipts tax to TRD. In essence, the laboratory is sustaining a $15,000 fine for volunteering to assist firms in bringing technology to market and discovering that the program was not effective.

OTHER SUBSTANTIVE ISSUES

Both national labs have demonstrated activity pursuant to the Laboratory Partnership with Small Business Program. In FY11, the labs claimed $7.3 million in credits; in FY12, the labs claimed $4.3 million in credits; in FY13, $9.2 million in credits and in FY14, $4.5 million in credits. Many of the clients who have been helped pursuant to the Laboratory Partnership with Small Business program would be eligible for commercialization assistance under the proposed program.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

A number of technology firms that could benefit from this commercialization assistance might not be able to benefit from the talent and expertise available at Los Alamos and Sandia National Laboratories.

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

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