

Fiscal impact reports (FIRs) are prepared by the Legislative Finance Committee (LFC) for standing finance committees of the NM Legislature. The LFC does not assume responsibility for the accuracy of these reports if they are used for other purposes.

Current FIRs (in HTML & Adobe PDF formats) are available on the NM Legislative Website (legis.state.nm.us). Adobe PDF versions include all attachments, whereas HTML versions may not. Previously issued FIRs and attachments may be obtained from the LFC in Suite 101 of the State Capitol Building North.

FISCAL IMPACT REPORT

SPONSOR Leavell **ORIGINAL DATE** 02/16/09 **LAST UPDATED** 03/19/09 **HB** _____
SHORT TITLE Corporate and Nonprofit Reporting Periods **SB** 466/aSCORC/aHBIC
ANALYST Francis

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Non-Rec	Fund Affected
FY09	FY10	FY11		
	NFI			

(Parenthesis () Indicate Revenue Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From

Public Regulation Commission (PRC)

Department of Finance and Administration (DFA)

SUMMARY

Synopsis of HBIC Amendment

The House Business and Industry Committee amended Senate Bill 466 correcting a technical problem with the Senate Corporations and Transportation Committee amendment.

Synopsis of SCORC Amendment

The Senate Corporations and Transportation Committee amended Senate Bill 466 clarifying that the provisions of sections 5 and 6 apply to both the initial report and the biennial report.

Synopsis of Original Bill

Senate Bill 466 changes the penalty for a domestic or foreign corporation filing a report with the PRC from \$200 to \$100 and allows the PRC to waive the penalty for demonstrated hardship. The bill allows the PRC to collect a \$10 fee for filing a biennial report with an additional \$10 for late filing. The PRC can revoke a limited liability corporation (LLC) that fails to file a required report or has failed or pay fees but the PRC must give at least 60 days notice and the LLC can rectify based on the PRC notice.

SB 466 requires LLCs to file a biennial report except for the first one which is due within 30 days of when the LLC was issued.

The effective date is July 1, 2009.

FISCAL IMPLICATIONS

The SCORC amendment does not change the fiscal impact.

PRC reports very little fiscal impact:

If SB 466 became law, there should be a minimal net fiscal impact between the decreases in civil penalties received by the PRC versus an increase in the additional filing fees received by the Commission for the filing of biennial reports for limited liability companies. All fees collected by the Corporations Bureau of the PRC revert to the state General Fund and the PRC does not rely on these funds to support operational activities.

SIGNIFICANT ISSUES

PRC:

Current statute imposes a civil penalty of \$200 for late filing of biennial or supplemental reports. Entities can pay this amount or re-incorporate under a different name for a lower cost. The SB 466 would assess a smaller late fee of \$100 which is lower than the total cost to re-incorporate under another name given all costs associated with incorporation. The net effect of the SB 466 would be to encourage business to maintain their corporate status within the State of New Mexico.

The reason for requiring limited liability companies to file biennial reports is to keep track of their existence. Keeping track of their existence has many implications. Currently, there is no method of knowing whether these entities are still in existence. Without information provided directly to the PRC that a limited liability company is no longer in existence, the name of the limited liability company cannot be used by another entity. More generally, the public has an interest in knowing that the database of a state agency is updated regularly and therefore reasonably accurate.

NF/svb:mc

The Legislative Finance Committee has adopted the following principles to guide responsible and effective tax policy decisions:

- 1. Adequacy:*** revenue should be adequate to fund government services.
- 2. Efficiency:*** tax base should be as broad as possible to minimize rates and the structure should minimize economic distortion and avoid excessive reliance on any single tax.
- 3. Equity:*** taxes should be fairly applied across similarly situated taxpayers and across taxpayers with different income levels.
- 4. Simplicity:*** taxes should be as simple as possible to encourage compliance and minimize administrative and audit costs.
- 5. Accountability/Transparency:*** Deductions, credits and exemptions should be easy to monitor and evaluate and be subject to periodic review.

More information about the LFC tax policy principles will soon be available on the LFC website at www.nmlegis.gov/lcs/lfc