

SENATE FINANCE COMMITTEE SUBSTITUTE FOR  
SENATE PUBLIC AFFAIRS COMMITTEE SUBSTITUTE FOR  
SENATE BILL 7

51ST LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2013

AN ACT

RELATING TO TAXATION; REQUIRING THE DEVELOPMENT OF A TAX  
EXPENDITURE BUDGET AND A DEDICATED REVENUE BUDGET; REQUIRING  
REPORTING; AUTHORIZING THE TAXATION AND REVENUE DEPARTMENT TO  
REVEAL CERTAIN RETURN INFORMATION TO THE CONSENSUS REVENUE  
ESTIMATING GROUP; PROVIDING A PENALTY.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. A new section of the Tax Administration Act is  
enacted to read:

"NEW MATERIAL TAX EXPENDITURE BUDGET--MANDATORY REPORT--  
DEADLINE.--

A. No later than October 15 of each year, the  
consensus revenue estimating group shall compile a tax  
expenditure budget for the upcoming fiscal year and present the  
tax expenditure budget, including an analysis of tax

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underscored material = new  
[bracketed material] = delete

1 expenditures, to the governor, the legislative interim revenue  
2 stabilization and tax policy committee and the legislative  
3 finance committee. The tax expenditure budget shall report on  
4 tax expenditures chosen by the consensus revenue estimating  
5 group; provided that all tax expenditures with revenue impacts  
6 of more than one million dollars (\$1,000,000) in the aggregate  
7 for a specific tax expenditure shall be reported before the end  
8 of the five-year period following the effective date of the  
9 provisions of this section, and each five-year period  
10 thereafter.

11 B. A tax expenditure budget shall detail the  
12 approximate costs in foregone revenue from tax expenditures.

13 A tax expenditure budget shall:

14 (1) include a projection of the costs of tax  
15 expenditures for all significant general fund revenue sources;

16 (2) identify each tax expenditure and its  
17 statutory basis, purpose, year of enactment and date of repeal,  
18 if any;

19 (3) quantify the revenue expended by the state  
20 from each tax expenditure;

21 (4) identify the aggregate amount of each tax  
22 expenditure and the number of businesses that used the tax  
23 expenditure;

24 (5) identify unexpected effects of the tax  
25 expenditure that were not within the original expected outcomes

1 of the tax expenditure that have come to the attention of the  
2 department;

3 (6) provide a total of all of the costs in  
4 each fiscal year for all tax expenditures; and

5 (7) include an estimate of jobs created and  
6 the number of businesses that potentially qualified for but  
7 failed to apply for a tax expenditure from reports provided by  
8 the economic development department.

9 C. The consensus revenue estimating group may  
10 request from a state agency or a local government agency  
11 official information necessary to complete the tax expenditure  
12 budget required by this section, and an agency or official  
13 shall comply with a request made pursuant to this section.

14 D. The economic development department shall  
15 estimate the jobs created and the number of businesses that  
16 potentially qualified for but failed to apply for a tax  
17 expenditure and shall report those projections to the consensus  
18 revenue estimating group.

19 E. As used in this section:

20 (1) "consensus revenue estimating group" means  
21 the professional economists of the department of finance and  
22 administration, the department of transportation, the taxation  
23 and revenue department and the legislative finance committee;

24 (2) "jobs created" means the net increase of  
25 full-time jobs that exceeds the full-time equivalent of jobs

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1 that existed at the beginning of the reporting period; provided  
2 that the additional jobs can specifically be attributed to use  
3 of a tax expenditure, including:

4 (a) the net increase if jobs are changed  
5 from part time to full time;

6 (b) the full-time equivalent of jobs  
7 created that were previously filled by employees on contract;  
8 and

9 (c) new jobs created;

10 (3) "significant general fund revenue  
11 sources" means state taxes, including but not limited to the  
12 gross receipts tax, compensating tax, corporate income tax,  
13 personal income tax, tobacco excise tax, liquor excise tax,  
14 taxes levied on natural resource production and sale, motor  
15 vehicle excise tax, gaming excise tax and other sources of  
16 revenue such as rents and royalties, tribal revenue sharing,  
17 fire protection fund reversions, premium taxes and the leased  
18 vehicle surcharge;

19 (4) "tax expenditure" means a deduction,  
20 credit, exemption, exclusion, rebate, offset, preferential tax  
21 rate, subtraction or allowance or related tax structure that  
22 reduces tax liability when compared with a normal tax system as  
23 determined by the consensus revenue estimating group; and

24 (5) "tax expenditure budget" means a  
25 compilation of information about New Mexico's tax expenditures

1 that includes data from the three years preceding the current  
2 fiscal year, the current fiscal year and the upcoming fiscal  
3 year."

4 SECTION 2. A new section of the Tax Administration Act is  
5 enacted to read:

6 "[NEW MATERIAL] DEDICATED REVENUE BUDGET--MANDATORY  
7 REPORT--DEADLINE.--

8 A. No later than October 15 of each year, the  
9 consensus revenue estimating group shall compile a dedicated  
10 revenue budget for the upcoming fiscal year and present the  
11 dedicated revenue budget, including an analysis of tax  
12 expenditures, to the governor, the legislative interim revenue  
13 stabilization and tax policy committee and the legislative  
14 finance committee. The dedicated revenue budget shall report  
15 on dedicated annual revenues chosen by the consensus revenue  
16 estimating group; provided that all dedicated annual revenues  
17 with revenue impacts of more than one million dollars  
18 (\$1,000,000) in the aggregate for a specific dedicated revenue  
19 beneficiary shall be reported before the end of the five-year  
20 period following the effective date of the provisions of this  
21 section, and each five-year period thereafter.

22 B. A dedicated revenue budget shall detail the  
23 approximate projected dedicated revenue for the following  
24 fiscal year that will be unavailable to the general fund.

25 A dedicated revenue budget shall:

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1 (1) identify each dedicated revenue item and  
2 its statutory basis, purpose, year of enactment and date of  
3 repeal, if any;

4 (2) identify the beneficiaries of each  
5 dedicated revenue item, including the uses of the dedicated  
6 revenue;

7 (3) identify the outcomes resulting from the  
8 expenditure of dedicated revenue, if any are quantifiable;

9 (4) identify significant unintended effects of  
10 the dedicated revenue that have come to the attention of the  
11 department; and

12 (5) provide a total of all of the collections  
13 and appropriations in each fiscal year for all dedicated  
14 revenue.

15 C. The consensus revenue estimating group may  
16 request from a state agency or a local government agency  
17 official information necessary to complete the dedicated  
18 revenue budget required by this section. An agency or official  
19 shall comply with a request made pursuant to this section  
20 unless a specific statutory confidentiality provision prohibits  
21 doing so.

22 D. As used in this section:

23 (1) "consensus revenue estimating group" means  
24 the professional economists of the department of finance and  
25 administration, the department of transportation, the taxation

1 and revenue department and the legislative finance committee;  
2 and

3 (2) "dedicated revenue" means an expenditure  
4 of a tax or fee that is dedicated to a specific program or  
5 purpose, as defined by constitution or statute."

6 SECTION 3. Section 7-1-8.8 NMSA 1978 (being Laws 2009,  
7 Chapter 243, Section 10) is amended to read:

8 "7-1-8.8. INFORMATION THAT MAY BE REVEALED TO OTHER  
9 STATE AGENCIES AND STATE PROFESSIONAL ECONOMISTS.--An employee  
10 of the department may reveal to:

11 A. a committee of the legislature for a valid  
12 legislative purpose, return information concerning any tax or  
13 fee imposed pursuant to the Cigarette Tax Act;

14 B. the attorney general, return information  
15 acquired pursuant to the Cigarette Tax Act for purposes of  
16 Section 6-4-13 NMSA 1978 and the master settlement agreement  
17 defined in Section 6-4-12 NMSA 1978;

18 C. the commissioner of public lands, return  
19 information for use in auditing that pertains to rentals,  
20 royalties, fees and other payments due the state under land  
21 sale, land lease or other land use contracts;

22 D. the secretary of human services or the  
23 secretary's delegate, under a written agreement with the  
24 department, the last known address with date of all names  
25 certified to the department as being absent parents of children

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1 receiving public financial assistance, but only for the purpose  
2 of enforcing the support liability of the absent parents by the  
3 child support enforcement division or any successor  
4 organizational unit;

5 E. the department of information technology, by  
6 electronic media, a database updated quarterly that contains  
7 the names, addresses, county of address and taxpayer  
8 identification numbers of New Mexico personal income tax  
9 filers, but only for the purpose of producing the random jury  
10 list for the selection of petit or grand jurors for the state  
11 courts pursuant to Section 38-5-3 NMSA 1978;

12 F. the state courts, the random jury lists produced  
13 by the department of information technology under Subsection E  
14 of this section;

15 G. the director of the New Mexico department of  
16 agriculture or the director's authorized representative, upon  
17 request of the director or representative, the names and  
18 addresses of all gasoline or special fuel distributors,  
19 wholesalers and retailers;

20 H. the public regulation commission, return  
21 information with respect to the Corporate Income and Franchise  
22 Tax Act required to enable the commission to carry out its  
23 duties;

24 I. the state racing commission, return information  
25 with respect to the state, municipal and county gross receipts

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1 taxes paid by racetracks;

2 J. the gaming control board, tax returns of license  
3 applicants and their affiliates as provided in Subsection E of  
4 Section 60-2E-14 NMSA 1978;

5 K. the director of the workers' compensation  
6 administration or to the director's representatives authorized  
7 for this purpose, return information to facilitate the  
8 identification of taxpayers that are delinquent or noncompliant  
9 in payment of fees required by Section 52-1-9.1 or 52-5-19 NMSA  
10 1978; ~~and~~

11 L. the secretary of workforce solutions or the  
12 secretary's delegate, return information for use in enforcement  
13 of unemployment insurance collections pursuant to the terms of  
14 a written reciprocal agreement entered into by the department  
15 with the secretary of workforce solutions for exchange of  
16 information; and

17 M. the professional economists of the department of  
18 finance and administration, the department of transportation  
19 and the legislative finance committee, return information  
20 necessary, not including a taxpayer's name, address or  
21 government-issued identification number, to facilitate the  
22 compilation of the tax expenditure budget pursuant to Section 1  
23 of this 2013 act and the dedicated revenue budget pursuant to  
24 Section 2 of this 2013 act."