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## FISCAL IMPACT REPORT

SPONSOR STBTC ORIGINAL DATE 03/01/21  
LAST UPDATED \_\_\_\_\_ HB \_\_\_\_\_  
SHORT TITLE Statewide Economic Development Finance Act SB 440/STBTCS  
ANALYST Martinez

### **ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)**

	FY21	FY22	FY23	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
<b>Total</b>	NFI	NFI	NFI			

(Parenthesis ( ) Indicate Expenditure Decreases)

### **SOURCES OF INFORMATION**

LFC Files

#### Responses Received From

New Mexico Finance Authority (NMFA)

### **SUMMARY**

#### Synopsis of Bill

The Senate Tax, Business and Transportation Committee substitute for Senate Bill 440 amends the Statewide Economic Development Finance Act (SWEDFA). Additionally, STBTCS 440 removes the requirement that the Economic Development Department (EDD) determine eligibility of each project considered for financing from the Economic Development Revolving Fund (EDRF).

There is no effective date of this bill. It is assumed that the effective date is 90 days following adjournment of the Legislature.

### **FISCAL IMPLICATIONS**

STBTCS 440 does not carry an appropriation and will not create a significant fiscal impact.

NMFA stated that the broadened programmatic authority provided in the bill could be used to implement various financing programs in the event that federal funds are directed to New Mexico for economic recovery initiatives.

## SIGNIFICANT ISSUES

Section 1 (H) amends the definition of “eligible entity” to remove that an eligibility does not need to be determined by the department;

Section 1 (O) amends the definition for “standard project” to include that other expenditures can be included for which financing assistance is provided for adequate consideration. And also includes that projects can include loan loss reserves or collateral fortification; or other expenditures;

Section 1(R) amends the definition for “qualifiable benefits” to include other measurable benefits to the economy or well-being of the state;

Section 2(D) allows the New Mexico Finance Authority to provide financing assistance from the fund for projects to eligible entities;

Section 3(C) states that money in the economic development revolving fund is appropriated to the authority to provide financing assistance for projects;

Section 4(A) states that the authority may issue and sell economic development revolving fund bonds in principal amounts it determines necessary to provide sufficient money for any purpose of the Statewide Economic Development Finance Act, including: (1) providing financing assistance;

The New Mexico Finance Authority provided the following:

On February 27, 2021, the U.S. House of Representatives passed H.R.1319, the American Rescue Plan Act of 2021 (“Act”), a \$1.9 trillion stimulus package to support COVID-19 recovery and relief. H.R.1319 includes \$10 billion to reauthorize the State Small Business Credit Initiative Act of 2010 (“SSBCI”). The SSBCI is a federal financing program that delivered flexible, affordable capital that leveraged private capital to increase the flow of capital to small businesses. SSBCI funds are not allocated on a competitive basis, the funds are allocated to states based upon decline in employment levels between December 2019 and December 2020, with a minimum allocation of 0.9 percent of the funds.

The SSBCI Act requires that the funds earmarked for each state be distributed in three tranches, with the first tranche delivered when the U.S. Treasury Department (“Treasury”) approves a state for participation. The second and third tranches of funds are delivered at the point that the state certifies it has expended 80 percent of funds on loans or investments to eligible businesses. If a state does not utilize one-third of its allocation after three years, or two-thirds of its allocation after six years, the Treasury may reallocate some or all of that state’s remaining allocation to other states without regard to minimum or set-aside allocation requirements.

In 2010, EDD was named by the governor as the state’s recipient of the SSBCI award. EDD subsequently entered into a memorandum of understanding with NMFA to administer the funds. NMFA used the funds to offer a loan participation program as it is the only financing program eligible under both the SSBCI and SWEDFA. While NMFA and EDD were successful in delivering the capital and timely meeting the leverage

requirements contained in the 2010 SSBCI program, the state would have benefited from the ability to offer one or more additional programs as most other states had done.

STBTCS 440 provides the state with the option of offering a Capital Access program, which provides matching funds to local banks to create loan loss reserves as an incentive to increase small business lending. Capital Access programs were very successful in the 2010 SSBCI program and were frequently paired with other programs, such as loan participation programs, as a way to invest the SSBCI funds expeditiously and in a way that doesn't duplicate federal programs such as the SBA 7(a) guaranty and 504 direct subordinated loan programs.

## **PERFORMANCE IMPLICATIONS**

The New Mexico Finance Authority provided the following:

In 2010, many states used the SSBCI funds to implement various financing programs. Should additional SSBCI funds be provided to New Mexico, NMFA would be limited to the tools available to leverage the funds.

Of the financing programs authorized by SSBCI, loan participation programs are the most labor-intensive programs to operate because independent underwriting and monitoring of the loans occurs as if NMFA was the direct lender. The Capital Access program can operate under high volumes as it provides loan loss insurance to loans that meet certain economic development targets. Without the amendments contained in STBTCS/SB 440, NMFA would be unable to handle a high volume of applications without hiring additional commercial lenders.

## **ADMINISTRATIVE IMPLICATIONS**

The New Mexico Finance Authority provided the following:

SWEDFA was established in 2003 to provide New Mexico with financing tools offered by neighboring states. SWEDFA has been amended several times, the most significant of which occurred in 2005 when several new financing programs, such as direct lending and guarantees, were authorized and in 2006 when NMFA was authorized to operate the New Markets Tax Credit ("NMTC") program. In addition to the highly successful federal NMTC program, NMFA has implemented only three programs under SWEDFA: a \$5.1 million state-funded loan participation program established in 2005, the \$11 million SSBCI loan participation program from 2011-2017, and a \$12 million NMFA-funded emergency working capital program established in 2020.

Under SWEDFA, authorized financing programs are established by rules adopted by the NMFA Board of Directors and approved by the NMFA Oversight Committee. As a result, NMFA would have to propose to, and secure the approval of, the NMFA Oversight Committee prior to utilizing the authority provided in the bill.

## **TECHNICAL ISSUES**

The New Mexico Finance Authority provided the following:

SWEDFA exempts certain proprietary information received from an Eligible Entity from the Inspection of Public Records Act. Currently, in order for a business to be determined an Eligible Entity, NMEDD must determine that the business serves an economic development purpose and is suitable for financing. To make that determination, NMEDD reviews application materials provided by the applicant. If, and until, NMEDD makes that determination, the sensitive and proprietary information may be reviewed, to the extent permitted under the Inspection of Public Records Act (“IPRA”). The amendment contained in STBTCS/SB 440 eliminates the requirement that NMEDD determine eligibility, thereby increasing efficiency of the application review and providing confidence to applicants that sensitive and proprietary information cannot be reviewed by competitors.

#### **OTHER SUBSTANTIVE ISSUES**

The New Mexico Finance Authority provided the following:

The NMFA Act provides that the cabinet secretary of NMEDD shall serve on the NMFA Board. Currently, the NMEDD cabinet secretary, or her designee, serves as the Chair of the Board Economic Development Committee, which reviews all SWEDFA based loan applications and makes recommendations to the board about whether to approve or disapprove any loan application. In this role, NMEDD already has the implicit power to voice its conclusions that a project does not serve an economic development purpose or is not suitable for finance should the NMEDD reach that conclusion.

#### **WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL**

NMFA stated that if this bill does not pass, New Mexico would be limited in the number and type of programs that could be offered in the event that the federal SSBCI program is reauthorized by Congress which could limit the ability to secure the funds timely.

JM/sb