



NEW MEXICO
LEGISLATIVE
FINANCE
COMMITTEE

Tax Policy Principles and Economic Development Tax Incentive Issues

Presentation to the Revenue Stabilization and Tax Policy
Committee

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Tax Policy Principles

- Used as part of LFC analysis for FIRs and other research
- A guide for evaluating existing and proposed policies
 - E.g. often referenced when reviewing tax reform proposals

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.



Additional Policy Guidelines Needed

- Significant, unexpected rise in cost of several tax expenditures
 - E.g. High-wage jobs tax credit, a cautionary tale for other states
 - Late 2000s: Cost less than \$10 million
 - FY12-FY13: \$20 million
 - FY14: \$49 million
 - FY15: \$50 million
 - FY16: \$66 million
 - 2016 special session – closed loopholes and narrowed the credit
- Tax refund protest claims for 2017 through November ~ \$291 million, per TRD
 - Significant portion related to tax expenditures
 - ~Twice the value of 2016 refund protests and nearly six times 2015 value



Tax Expenditure Policy Principles

- Developed by LFC staff for more targeted analysis of tax expenditures
- Adopted by the Legislative Finance Committee, October 2018

1. **Vetted:** The proposed new or expanded tax expenditure was vetted through interim legislative committees, such as LFC and the Revenue Stabilization and Tax Policy Committee, to review fiscal, legal, and general policy parameters.
2. **Targeted:** The tax expenditure has a clearly stated purpose, long-term goals, and measurable annual targets designed to mark progress toward the goals.
3. **Transparent:** The tax expenditure requires at least annual reporting by the recipients, the Taxation and Revenue Department, and other relevant agencies.
4. **Accountable:** The required reporting allows for analysis by members of the public to determine progress toward annual targets and determination of effectiveness and efficiency. The tax expenditure is set to expire unless legislative action is taken to review the tax expenditure and extend the expiration date.
5. **Effective:** The tax expenditure fulfills the stated purpose. If the tax expenditure is designed to alter behavior – for example, economic development incentives intended to increase economic growth – there are indicators the recipients would not have performed the desired actions “but for” the existence of the tax expenditure.
6. **Efficient:** The tax expenditure is the most cost-effective way to achieve the desired results.

Fiscal Impact Reports

LFC staff use the following table, located in the back of FIRs, to illustrate whether proposed tax expenditures meet the LFC tax expenditure policy principles

| LFC Tax Expenditure Policy Principle | Met? | Comments |
|---|------|----------|
| Vetted | ✓ | |
| Targeted | | |
| Clearly stated purpose | ✓ | |
| Long-term goals | ✓ | |
| Measurable targets | ✗ | |
| Transparent | ✓ | |
| Accountable | | |
| Public analysis | ✗ | |
| Expiration date | ✓ | |
| Effective | | |
| Fulfills stated purpose | ✓ | |
| Passes “but for” test | ? | |
| Efficient | ✗ | |
| Key: ✓ Met ✗ Not Met ? Unclear | | |



Economic Development Tax Incentive Issues

REPORTING & ANALYSIS

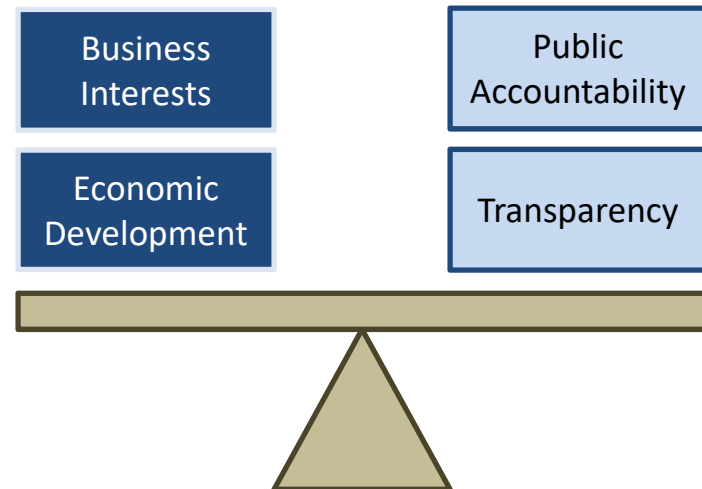
- Often impossible to perform detailed analysis due to insufficient reporting
- Necessary for determining effectiveness and efficiency of tax incentives
- 28 states have a process for regular evaluation of major tax incentives - a red and blue state initiative
 - States use a variety of organizations to evaluate incentives
 - The state's equivalent of LFC
 - The taxation and revenue department
 - The state auditor's office
 - A local university
 - An independent third party, performing the work under contract
 - States fund specialized software and typically provide dedicated staff



Economic Development Tax Incentive Issues

REPORTING & ANALYSIS

- Tax incentive reporting = balancing act



- Lack of reporting on outcomes appears at odds with LFC's evidenced-based approach



Economic Development Tax Incentive Issues

REPORTING & ANALYSIS

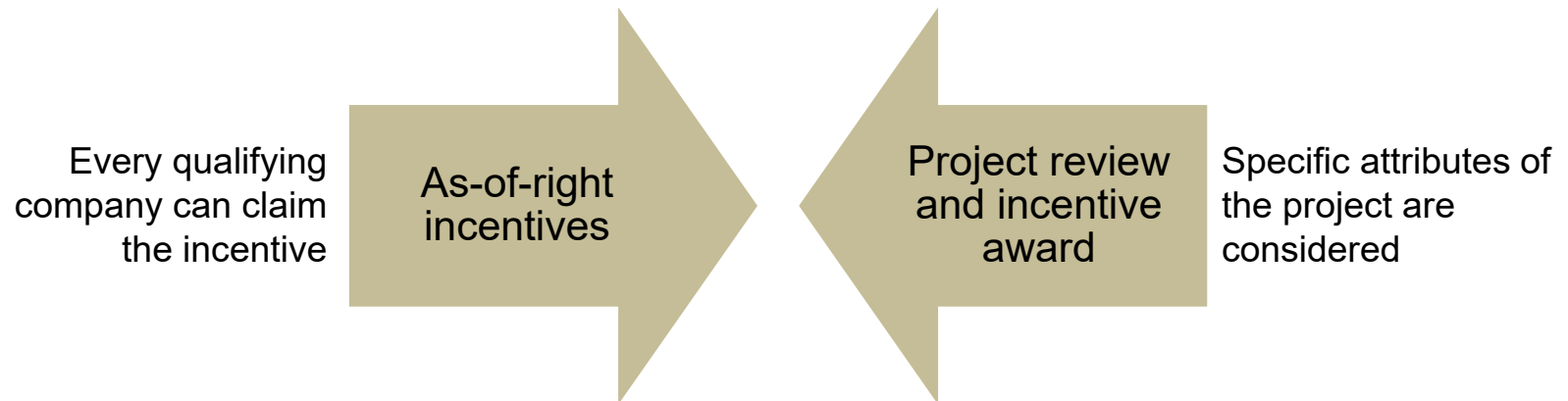
- For some economic development programs and incentives, costs per job can be far more than the job's salary
 - E.g. some projects have resulted in a cost per job of more than \$150 thousand, according to LFC analysis



Economic Development Tax Incentive Issues

AWARDING INCENTIVES

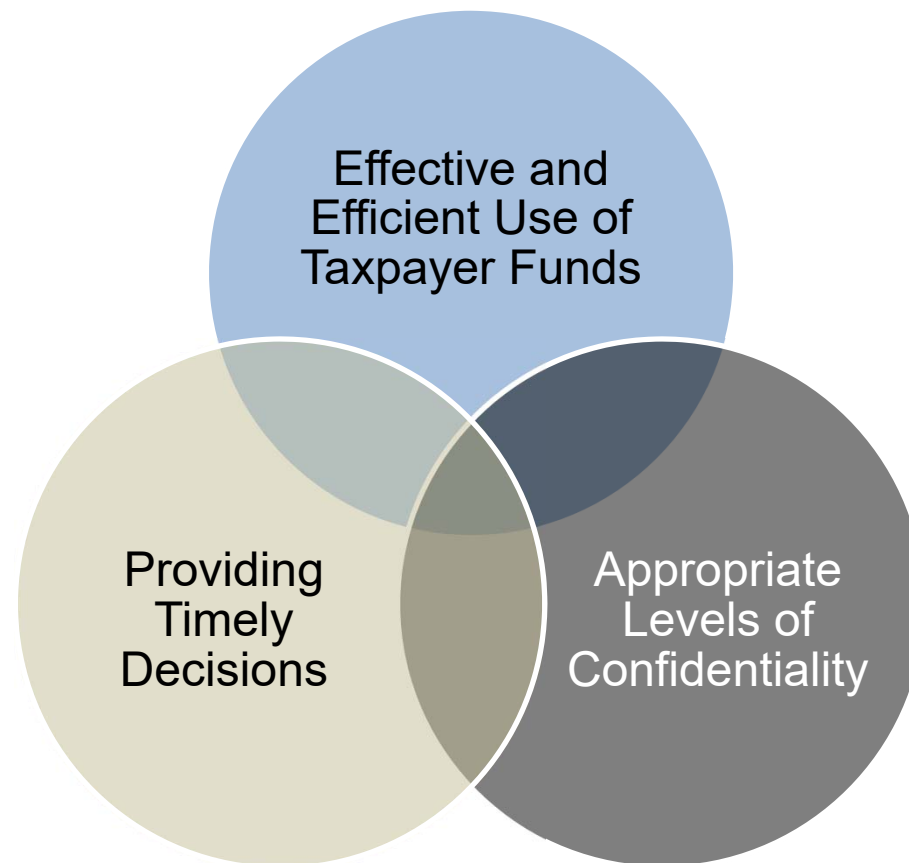
- Difficult to ensure the state always receives a net benefit from each recipient
- Types of projects vary greatly
- The state could consider changes to some incentives



Economic Development Tax Incentive Issues

AWARDING INCENTIVES

- Striking a balance
- JTIP as an example
 - Public meetings
 - Awards at the discretion of the JTIP board



Economic Development Tax Incentive Issues

Local Economic Development Act (LEDA)

- Awards up to the entire available fund balance
- At the sole discretion of a single person – the EDD secretary
 - Determines what companies must provide in return to avoid clawback provisions
- No requirement for independent analysis to show a net benefit to the state

Possible Considerations



Placing restrictions on the amount of funding per project and per job without approval by the Legislature



Amend the award process – reduce potential for abuse, reduce political influences



Economic Development Tax Incentive Issues

Tax Increment Development Districts (TIDDs)

- Some industry representatives recently argued statute allows the Board of Finance to bypass the Legislature
 - Essentially appropriating state gross receipts tax (GRT) revenues that would otherwise flow to the general fund
 - Legislative Council Service and LFC staff believe statute does not permit this
- Potential legislation
 - Clarify the specific process of approval and dedication of the state GRT
 - Ensure it is used for net new, economic base job creation

