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FISCAL IMPACT REPORT

SPONSOR: HTRC DATE TYPED: 03/10/03 HB CS/780/aHFI#1
 SHORT TITLE: Economic Development Fiscal Accountability SB _____
 ANALYST: Padilla

APPROPRIATION

Appropriation Contained		Estimated Additional Impact		Recurring or Non-Rec	Fund Affected
FY03	FY04	FY03	FY04		
	NFI		See Narrative	Recurring	General Fund

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From

Economic Development Department
 State Investment Council
 Department of Finance and Administration
 Taxation and Revenue Department (original bill only)

SUMMARY

Synopsis of HFI Amendment #1

The House Floor amendment eliminates the provision that administratively attached the task force to the Economic Development Department. The other changes appear to correct drafting errors.

The Secretary of Economic Development is still the chair of the committee. Presumably this means that EDD will take the lead, even if the task force is not administratively attached to the department.

Synopsis of Bill

The House Taxation and Revenue Committee Substitute for House Bill 780 require comprehensive reporting and analysis of state and local economic development incentives. It creates the “Economic Development Fiscal Accountability Task Force”, which is administratively attached to the Economic Development Department. The 11-member task force, appointed by the gover-

nor, includes representatives from EDD, DFA, TRD, and representatives of municipalities, counties and the economic development community.

The bill requires the task force to submit a report every year for the next three years. The report shall include:

1. A list of every economic development incentive available in New Mexico. (This is to be compiled by EDD and made available to the task force.)
2. Total expenditures, foregone revenue or approximate value of each incentive.
3. The number of recipients of each incentive, the recipients' names and locations, and the amount of incentives accruing to each recipient.
4. Numbers of new jobs created as a result of the incentives, plus wage and gender information.
5. Recommendations to the legislature for amending or repealing existing economic development incentives.

The bill defines "economic development incentive" as expenditures of public funds with a value of at least five thousand dollars, including state or local bonds, grants, loans, loan guarantees, guaranteed debt investment in projects, assistance related to the Local Economic Development Act, etc. Economic development incentives also include "tax expenditures" which mean tax deductions, exemptions, rebates, credits, etc that apply to a narrow class of taxpayers and are intended to stimulate economic development.

Section 5 of the bill allows the task force to require recipients of incentives to file annual reports in order to fulfill the requirements of the bill. It also requires recipients of incentives to "cooperate with and provide information and access to records," except where specifically prohibited by statute.

Significant Issues

1. Task Force Created: The principal difference between the substitute bill and the original bill is that responsibility for the report is shifted from the Economic Development Department to a 11-member task force. EDD would presumably still provide staff support to the task force, although the bill does not require this. The bill does not state how often the task force should meet, nor does it provide for per diem and mileage expenses of the members. EDD did not provide comments on this provision. The task force does not have any representation from the private sector.
2. Broad Scope of Report: Economic development incentives are offered by many entities in New Mexico, including local governments, state agencies, non-profits that may be funded in part by the state or local governments, and federal government agencies. EDD currently lists over forty business incentives (see Attachment 1). This bill appears to require detailed reporting on every available incentive. Since the task force includes diverse representation, it might be able to achieve results better than the EDD initiative outlined in the original bill. The task force would also possibly need information from universities, national labs, and federal government programs, as some economic development incentives are under their authority.
3. Definition of "economic development incentive" and "tax expenditure": EDD, the

State Investment Council and TRD have concerns about these definitions. EDD notes that the bill defines “economic development” as “activities” and “efforts.” Would the efforts of individual EDD employees devoted to recruiting one company, for example, be considered an economic development incentive? The SIC adds that it is unclear if the New Mexico Private Equity Program falls under the bill’s definition of an incentive. Capital outlay expenditures by the legislature would appear to fall under the definition of incentive. TRD believes that reaching a consensus on the many technical issues raised by “tax expenditure” analysis will be difficult.

4. Difficulty of Collecting Information: Much of the information this bill requests is either proprietary business information or would be difficult to elicit from businesses. It is unclear if the provision in Section 5 of the bill will be effective in addressing this problem. Currently, TRD does not require businesses to submit this information upon application for tax incentives. It is doubtful whether TRD or EDD would be successful in gathering such data after tax incentives have been granted. A survey tool might have to be used, with resulting data that would be incomplete and possibly unreliable.

The State Investment Council notes that it currently compiles data to evaluate the results of the New Mexico Private Equity Program. Its experience shows that the New Mexico companies involved in the program are unwilling to divulge the level of detail called for in this bill. SIC notes that it currently reports information only in aggregate to allay business concerns about proprietary information.

5. Information Already Available: EDD already tracks and reports on some of the information requested in the bill. EDD’s performance measures currently assess the direct impact of their job creation activities, including business recruitment, in-plant training and the NM 9000 program. The measures include:

- Number of jobs created in urban areas
- Number of jobs created in rural areas
- Total value of investment
- Dollar value of exports
- Average hourly wage for rural jobs created
- Percent of jobs that pay more than 50% of the minimum wage

Another of the bill’s deliverables is already produced and maintained by EDD. Entitled “New Mexico Business Incentives” the report lists over 40 state and local economic development incentives. The table of contents is at Attachment 1.

FISCAL IMPLICATIONS

This bill has no direct fiscal impact and contains no appropriation. However, EDD and TRD believe they will need additional resources to effectively carry out the tasks envisioned in this bill.

ADMINISTRATIVE IMPLICATIONS

EDD and DFA believe that this bill may require additional staff at EDD to adequately meet the objectives of this bill. TRD also believes the administrative impacts of this bill would be significant. TRD staff would have substantial responsibility for analyzing and evaluating tax expendi-

tures. TRD believes that, although the goals of the bill are laudable, the proposed requirements should not be placed in statute and they should be accompanied by sufficient appropriations needed to accomplish the tasks.

AMENDMENTS

Assuming that the bill does in fact include the New Mexico Private Equity Program in its scope, the State Investment Council recommends the following additional language to Section 4, E.:

Recipients of investment funding from New Mexico private equity funds or as a New Mexico business investment under 7-27-5.15 NMSA 1978 are exempt from the public disclosure of individual company information if this is deemed by the recipients to be proprietary information. Such information will be reported by the state investment officer in aggregate and to the extent disclosed by the recipients for the entire New Mexico Private Equity Program.

POSSIBLE QUESTIONS

1. Would a narrower approach than this bill takes be more practical? For example, could the bill identify a certain number of economic development incentives to investigate?
2. The bill seems to ascribe responsibility for low wages and poor benefits to employers who take advantage of economic development incentives. What if low wages and poor benefits are offered by companies who do not use incentives?
3. If companies are unwilling to divulge information needed to complete the report, should the legislature consider amending existing tax incentives to require that businesses report to EDD or TRD the outcomes of the incentives?
4. If capital outlay expenditures are considered economic development incentives, how would local governments report to the task force on outcomes?

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Attachments