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FISCAL IMPACT REPORT

ORIGINAL DATE 2-17-09
 SPONSOR Stewart LAST UPDATED 2-27-09 HB 480
 SHORT TITLE Economic Development Fiscal Accountability SB _____
 ANALYST Francis/Lucero

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY09	FY10	FY11	3 Year Total Cost	Recurring or Non-Rec	Fund Affected
Total		Minor	Minor	Minor	Recurring	General Fund and various other funds

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From

New Mexico State Investment Council (NMSIC)
 Human Services Department (HSD)
 Economic Development Department (EDD)
 Department of Finance and Administration (DFA)
 Taxation and Revenue Department (TRD)

SUMMARY

Synopsis of Bill

House Bill 480 enacts the Economic Development Fiscal Accountability Act which requires the Economic Development Department (EDD) to submit a biennial unified economic development expenditure report by October 1, 2010, and every two years thereafter.

EDD, working with Taxation and Revenue Department (TRD), Department of Finance and Administration (DFA), the State Investment Officer (SIO) and representatives of municipalities and counties, will compile a list and description of every economic development incentive available in New Mexico and each incentive's intended objectives. This list may be compiled and made available as a publication separate from the biennial report.

The bill requires EDD to produce a biennial report beginning October 2010 for review by the governor, the Legislative Finance Committee, the interim Revenue Stabilization and Tax Policy committee (RSTP), and all other economic development-related committees. Generally, this report shall include an account of every state and local economic development incentive, the recipients of the incentive, and its intended outcomes and objectives. Additionally, the objective

of the report shall be created to provide a complete assessment of the state's economic development incentive efforts, and shall include:

- The approximate value of each economic development incentive received yearly by recipients;
- The aggregate number of recipients benefitting from each economic development incentive;
- The location of recipients and amounts and values aggregated by county & municipality;
- The data regarding new jobs created or new employees hired, including demographics; and
- Information on health care coverage provided by recipient to its employees.

In conducting this study, recipients of economic development incentives shall cooperate with EDD (and/or other government entities) to provide any necessary requested information and to provide access to records, subject to the reporting requirements of the Economic Development Fiscal Accountability Act.

FISCAL IMPLICATIONS

Although there is no appropriation, there will be a minor additional impact to the operating budgets of EDD, TRD, DFA and SIO to compile and prepare the information required in the bill. However, most of the information is being gathered but not in a single consolidated report.

The State Investment Office notes that the fiscal implications may be difficult to quantify, as the increased level of administrative duties may vary from year to year based on Economically Targeted Investment (ETI) program activity. SIC already reports on film and private equity investments which would be the bulk of the reporting required.

SIGNIFICANT ISSUES

The bill intends to improve the effectiveness of New Mexico economic development incentives and initiatives to raise the living standards for working families by gathering, analyzing, and reporting the findings of all state and local economic development expenditures and incentives. This informational report would also serve as a tool for legislators to assess the effectiveness of economic development expenditures in relation to one another and to implement any necessary changes in order to encourage a healthier economy for New Mexico's businesses and working families.

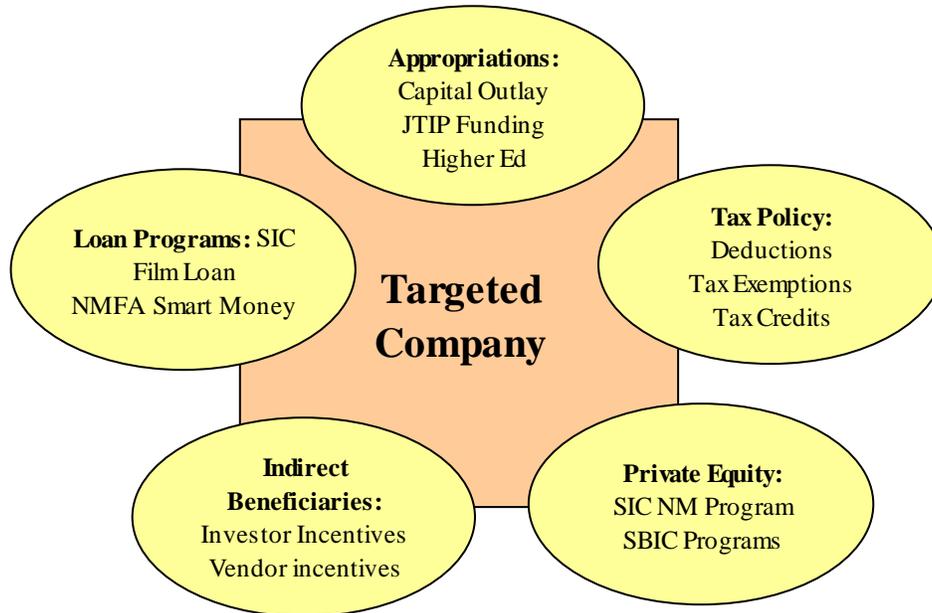
HM 37 from the 2008 session required TRD and EDD to submit a report on manufacturing incentives which was presented to RSTP in November. During the 2007 and 2008 interims, LFC, TRD and EDD made presentations to RSTP and LFC on tax incentive accountability and monitoring. These have been one-time reports and presentations with no ongoing requirement to produce a comprehensive report that captures all of the information required in one place on a timely fashion. Included in the LFC principles (shown in the text box in this FIR) is one for accountability and transparency which HB480 would satisfy to a large extent.

PERFORMANCE IMPLICATIONS

The information gathered by the various departments could help improve job creation by using the data to more effectively target incentives.

ADMINISTRATIVE IMPLICATIONS

Most of the information is already being gathered but is not being compiled in one place for policy-makers. A complete picture is required to make informed decisions about the enactment or continuation of targeted incentives. The main concern that HB480 addresses is that there is no comprehensive report prepared on a set schedule but rather disparate ad-hoc reports that only report on particular types of incentives. The chart below, which was included in an LFC presentation in August 2008, shows how many programs could affect one company. Each of these programs involves different agencies which generate different types of reports but there is no comprehensive report.



LFC staff has compiled information on a number of tax incentives in current law that is included as an appendix. As this table shows, incentives are administered by different agencies, impact different tax programs and have different reporting requirements. Of particular note, only four of the forty-five incentives listed have specific reporting requirements.

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

TRD produces annual reports on personal income tax and property tax and is now posting policy presentations on the agency website. Some of these reports contain the information that would be required by HB480. For example, the personal income tax facts report reports on tax credits that are claimed against tax liability. There is, however, no requirement that this report be published by a certain date and the latest report is for tax year 2005 and so does not reflect the growth in amount and number of credits since then. Other information is also available from TRD but a single report that enumerates all of the credits would be helpful.

EDD produces a quarterly jobs report for the Job Training Investment Program which includes jobs and wages in urban and rural areas. They also occasionally report to legislative committees on the film production tax credit, including a recent study on the effectiveness and return on investment related to the film production tax credit.

According to the Economic Development Department (EDD), additional staff would have to be hired or a contractor retained to complete services. The department is budgeted for the reports they prepare now and so there would be some overlap and cost savings.

The New Mexico State Investment Council (“NMSIC”) would incur an additional workload by compiling data relating to economic development incentives, which currently amount to approximately 16% of the Severance Tax Permanent Fund, distributed across the Small Business Investment Corporation, the NM Film Investment Program Participation Loan Program, and economically targeted investments pursuant to NMSA 1978, Section 7-27-5.4. Since the NMSIC has numerous investments in these areas, the task of compiling these documents to produce a report to EDD would be fairly significant, especially in light of the level of detail that the report requires. However, SIC already reports on film loans and private equity which would make up the bulk of the reporting.

RELATIONSHIP

Relates to HB320 “Require Tax Expenditure Budget”

TECHNICAL ISSUES

TRD reports that there may be a need to require the release of tax return information that in some cases is protected by the confidentiality section of the Tax Administration Act (Section 7-1-8 NMSA 1978) but nothing in HB480 requires TRD to release confidential information. In Section 5, there is a requirement that *recipients* cooperate with and provide information and access to records. This does not mean that TRD can violate the confidentiality provisions of Section 7-1-8 NMSA 1978.

OTHER SUBSTANTIVE ISSUES

TRD and EDD presented a similar report in November to the Legislative Finance Committee and the interim Revenue Stabilization and Tax Policy committee, "Report on Manufacturing Incentives in New Mexico". This report was prepared in response to HM 37 (2008 Regular Session).

ALTERNATIVES

Adding Workforce Solutions Department to the list of agencies that help prepare the report would be useful since they have actual employment and wage data.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

New Mexico will continue to implement and adopt economic incentives in a piecemeal fashion with duplication and without

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ATTACHMENT

Appendix: LFC Analysis of Selected Tax Incentives

Statute	Enacted	Name	Accountability			Target Industry	Credit Features							Employer/Taxpayer Qualifications	Employee Qualifications	Credit Qualifications				Details						
			Reporting Requirement	Data available	Eligibility Determined By		Applicable Tax	Form	Refundable	Transferable	Carry-forward	Exemption	Deduction			Duration	Maximum Credit	Other Requirements	Indexed		Sunset	Clawback				
4-59.1	1953	Industrial revenue bonds	None	None	County approval	MFG	Property/Compensating/GRT	X															Since county purchases property (real and personal), no comp/prop/grt			
7-9A	1979	Investment tax credit for manufacturers	None	CRS Matrix	TRD	MFG	CRS	X			Unlimited												2011 (law becomes more restrictive)			
7-2A-14	1983	Child care corporate income tax credit	None	CIT starting TY06	TRD	All	CIT	X			3 years												Credit for providing or paying for childcare			
7-2-18.2/7-2A-8.6	1984	Cultural property preservation tax credit	None	PIT only/CIT starting TY06	Cultural properties review committee	None	PIT/CIT	X			4 years			24 months from approval	Property listed on NM Register											
58A54-10(C)	1987	Insurance Premium Tax Credit	None	None	PRC	Professional	Insur Prem	X							Assessed for the medical insurance pool								Difficult to find provision and no meaningful reporting			
7-9C-6	1982	Telemarketing gross receipts tax	None	CRS Matrix	TRD Audit	Information	ITGRT																			
7-4-10	1983	Double-weighted sales factor	None	None	TRD	MFG	CIT	X							Manufacturing only							2011	Conventional income apportionment is single weighted property/payroll/sales			
7-2A-15	1994	Business facility rehabilitation credit	None	PIT only/CIT starting TY06	TRD	All	PIT/CIT	X																		
7-2A-15	1994	Qualified business facility rehabilitation	None	CIT starting TY06	TRD Audit	All	CIT				4 years							\$50k	For economically disadvantaged areas.					50% of the cost up to \$50,000		
7-9-54.2	1995	Space gross receipts tax deduction	None	None	TRD Audit	Transportation	GRT								Space services business									Launching, operating, recovery or preparation of ship/payload; operation of spaceport		
7-17	1995	Micro brew tax rate	None	TRD occasional	TRD	Wholesale	Liquor	X							Less than 5,000 barrels											
7-2A-16	1997	Intergovernmental business credit	None	CIT starting TY06	TRD	All	CIT								Business facility that commences operations after 1997 on Indian land				50% of CIT liability	Tribal areas				50 % of CIT liability or tribal tax, whichever is less		
7-2-18.5/7-2A-8.8	1998	Welfare-to-work tax credit	None	PIT only/CIT starting TY06	Federal	None	PIT/CIT				3 years				New hire must be an additional hire over prior year to qualify.				\$1750/job first year, \$2500/job second year				No	50 % of federal credit		
7-9-56.2	1998	Web hosting gross receipts tax deduction	None		TRD Audit	Information	GRT								Web hosting service											
7-9-56.1	1998	Internet services GRT deduction	None		TRD Audit	Information	GRT																	providing infrastructure to access internet		
7-2E-1	1999	Rural jobs tax credit	DOL/EDD/TRD Joint	CRS Matrix/PIT/CIT starting TY06	EDD-approved for JTIP	None	CRS/CIT/PIT	X		X	3 years				2 years (rural munis over 15000)/4 years (other rural)	Job filled for 48 weeks of 12 month period							No	6.25 percent of first 16,000 in wages per year		
7-9-90/7-9-78.1	1999	Uranium Enrichment Deduction	None		TRD Audit	Natural Resource	GRT/Comp																	For uranium enrichment services or equipment/plant for enriching uranium		
7-9-62.1	2000	Aircraft maintenance or remodeling tax deduction	None		TRD Audit	Transportation	GRT																			
7-9F	2000	Technology jobs tax credit	TRD to LFC	CRS Matrix/CIT starting TY06	TRD	Professional	CRS/CIT/PIT	X							Qualified research (not nat. labs or military)				8% of qualified expenditures	Counties with property values less than \$3 billion				Yes; 180 days	4% base credit plus 4% add'l if taxpayer increases payroll; double if rural. Basic credit applies to CRS and add'l applies to PIT/CIT	
7-2-11.4(b)	2001	Texas/Mexico border residents' tax exemption	None		TRD	None	PIT								Manufacturing; Must employ at least five and be within 20 miles of border; companies receiving JTIP ineligible.	Must be resident of another state.									Texan employees do not have to pay PIT	
7-2A-18	2001	Electronic ID equipment	None	CIT starting TY06	TRD Audit	Retail	CIT	X							Must have purchased certified equipment.				\$300						Credit for the purchase of equipment for verifying age.	
7-2F	2002	Film production tax rebate	None	TRD occasional	Film Office/TRD	Information	PIT/CIT	X	X						All expenses taxable in NM; \$5m cap on performing artist expenses; production and postproduction											
7-9-57.2	2002	Rural software development gross receipts tax deduction	None	None	TRD Audit	Information	GRT								Software development					Counties with 50000 according to latest census	By census					
3-64-1	2003	Community development incentive act.	None		County approval	MFG	Property								Only for new or significant expansion facility.				n.a.						Often referred to as IRB-lite; gives similar IRB power to municipalities.	
7-2A-19	2003	Renewable energy production tax credit	EMNRD report to interim legislative committee	CIT starting TY06	EMNRD	Natural Resource	PIT/CIT	X	X						10 years	Renewable energy production (wind, solar, biomass)								2018	Max 10 year for any company	
7-2-18.11/7-2A-17.1	2003	Job mentorship tax credit	None	PIT only/CIT starting TY06	School Principal	All	PIT/CIT	X			3 years				Fewer than 300 employees.	Student 14 -21 yrs old at NM secondary inst.									\$12000 per year	
7-9-56.3	2003	Border trade GRT deduction	None		TRD Audit	Transportation	GRT								At least 2 employees; customs broker or freight forwarder.									2008		
7-2A-8.9	2003	Land conservation tax credit	None	CIT starting TY06	EMNRD	None	PIT/CIT	X			20 years															
7-9G-1	2004	High wage jobs tax credit	Interim committee	CRS Matrix/CIT starting TY06	EDD-approved for JTIP	Export (MFG)	CRS	X	X						4 years	At least 50% sales out of state and employment greater than prior year.	Cannot be relative of employer or own more than 50 percent				Rural job pays at least \$28k; urban is \$40k	No		Jobs created prior to July 1, 2009	10 percent of wages and benefits for each job.	
7-9-94	2005	Military acquisition program tax deduction	None	None	TRD Audit	Federal Gov't	GRT																	2016	For transformational acquisition at missile ranges	
7-9H	2005	Research & development small business tax credit	None	CRS Matrix	TRD	Professional/Manufacturing	CRS	X							Fewer than 25 FTE; less than \$5 million in revenue.				100%					2009		
7-15-3.2	2006	Fee-free zones near Mexican border	None		NMDOT	Transportation	Trip Tax/Weight Distance								X	Within 10 miles of border and trade in connection with crossing the border.										for commercial motor carrier vehicles

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Statute	Enacts	Name	Accountability			Credit Features								Employer/Taxpayer Qualifications	Employee Qualifications	Maximum Credit	Credit Qualifications				Details					
			Reporting Requirement	Data available	Eligibility Determined By	Target Industry	Applicable Tax	Form	Refundable	Transferable	Carry-forward	Exemption	Deduction				Duration	Other Requirements	Indexed	Sunset		Clawback				
7-2-18.14	2006	Solar market development income tax credit	None	PIT	EMNRD	Wholesale	PIT	X				10 years					Credit good for the installation of solar thermal or photovoltaic systems.		\$3k and with fed cred no more than 30% of cost; Total cap \$2m solar thermal \$3m photovoltaic							
7-9-41.2	2007	Locomotive engine fuel GRT deduction	None	None	TRD Audit	Transportation	GRT							X												
7-9-62	2007	Aircraft manufacturer GRT Deduction	None	None	TRD Audit	Transportation																				
7-2-18.17	2007	Angel investor tax credit	EDD Annual Report to LFC	PIT only	EDD	All	PIT	X				3 years				Manufacturing, research, high technology companies with fewer than 100 employees and revenues less than \$5 million; Investor must be accredited according to SEC rules.		\$25k per investment; max 3 investments; total cap \$750 k					2013			
7-9-107	2007	Boxing GRT deduction	None	None	TRD Audit	Entertainment	GRT							X		Production / Staging of fights										
7-9-108	2007	Financial Management GRT deduction	None	None	TRD Audit	Professional	GRT							X		mutual fund, private equity fund, or real estate investment trust										
7-9-112	2007	Solar energy system GRT deduction	None	None	TRD Audit	Retail	GRT																			
7-2-18.19 7-2A-21	2007	Sustainable building tax credit	None	PIT/CIT	EMNRD	Construction	PIT/CIT	X		X		7 years			4 years				Total Cap \$5m Res, \$5m Com, \$1.25m Mfg House							Eligible when construction is complete
7-2-18.20 7-2A-22	2007	Agricultural water conservation credit	None	PIT only	TRD Audit (Dept of Ag promulgates rules)	Agriculture	PIT/CIT					5 years				Agriculture		\$10,000			No		2013		For conservation of water in agriculture	
7-2-18.21 7-2A-23	2007	Blended biodiesel fuel credit	None	DOT occasional	TRD	Transportation	PIT/CIT	X				5 years				Payment of special fuels tax on biodiesel					No		2013			
7-9-29.2	2007	Biodiesel blending facility credit	None		EMNRD	Retail	GRT/Comp	X				4 years							\$1m total credit						Yes	
7-9-1	2007	Alternative energy product manufacturers tax credit	None	CRS matrix	TRD	MFG	CRS					5 years				Job requirement of 1 job for every \$500k investment up to \$30m and 1 job for every \$1m above \$30m (similar to ITC)		5% of expenditures							Yes	
7-2-18.22	2007	Rural health care practitioners credit	None	PIT	DOH	Healthcare	PIT	X				3 years				Must work 1040 to 2080 hours in underserved area		\$5k for doc; \$3k for nurse	Underserved areas.	No						