# F I S C A L   I M P A C T   R E P O R T

**SPONSOR** Fischmann  **ORIGINAL DATE** 02/15/10  **LAST UPDATED**  **HB**

**SHORT TITLE** Review Tax Exemptions and Credits Every 5 Years  **SB** 125

**ANALYST** Gutierrez

## REVENUE (dollars in thousands)

| Estimated Revenue | | | Recurring or Non-Rec | Fund Affected |
|---|---|---|---|---|
| FY10 | FY11 | FY12 | | |
| | None | | | |

(Parenthesis ( ) Indicate Revenue Decreases)

**SOURCES OF INFORMATION**
LFC Files

Responses Received From
Taxation and Revenue Department (TRD)
Department of Finance and Administration (DFA)

**SUMMARY**

Synopsis of Bill

Senate Bill 125 require the Revenue Stabilization and Tax Policy Committee (RSTP) to develop a five-year schedule to review tax incentives, including tax exemptions, credits, deductions and exclusions, to determine if the incentive is effective and essential and merits the tax expenditure that results from the use of the incentive.

RSTP shall include in its proposed budget a request for adequate funds to contract for an independent review to be completed annually on the tax incentives scheduled for review in that year.

A new section of the Tax Administration Act (TAA) would require the Taxation and Revenue Department (TRD) to identify every newly-created “exemption, credit, deduction or exclusion that is created, applied to a taxpayer’s liability or used to determine a taxpayer’s liability” under the TAA, and provide a list to the RSTP for review.

This bill creates new sections within seventeen different tax acts to include language mandating this five-year review by RSTP.

Because no effective date is provided in the bill, its provisions will become effective ninety (90) days after the 2010 legislative session adjourns.

## SIGNIFICANT ISSUES

New Mexico offers a wide range of tax incentives that reduce the tax burden to encourage job creation, workforce development, environmental protection, social equity and other outcomes (see Attachment 2). However, by reducing revenue, tax incentives leave less funding available for state services and infrastructure, which are also important for moving New Mexico forward. Further, limited reporting requirements currently make it difficult for policymakers to know whether tax incentives are meeting their goals (see Attachment 1).

TRD:

> Without any statutory mandate, the Department has undertaken a multi-year, comprehensive review and analysis of tax expenditures. (See **Other Issues – Detailed Discussion** below for a summary of the work plan for this comprehensive review and analysis.) The first two reports prepared as part of this effort have been completed and released.[1] In each of the past two years the Department has also released (and will continue to release) detailed information on tax expenditures in the form of business incentive credits.[2] The Department believes that this comprehensive, multi-year plan will allow the Department to provide the Governor and the Legislature a carefully prepared and highly useful series of reports that will help inform policy debates and policy decisions well into the future. Note: these reports and others can be found on the Departments website at http://tax.state.nm.us/pubs/taxpolicy.htm.

## ADMINISTRATIVE IMPLICATIONS

TRD:

> The bill contains language requiring the Taxation and Revenue Department, beginning in 2010, to provide list a containing "every tax exemption, credit, deduction or exclusion that is created, applied to a taxpayer's liability or used to determine taxpayer's liability" administered under the Tax Administration Act, but it is unclear whether only newly-created tax incentives are intended to be included (see **Technical Issues**). The proposal does not directly impose other responsibilities on the Department, but as a practical matter the Department would likely incur extensive costs assisting the Committee's analysis of the various tax exemptions and deductions likely to be considered by the Committee. The extent of administrative impact on the Department would depend on whether the legislation intends to review all tax incentives, or only newly-created tax incentives.

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[1] The reports, prepared under contract with the Department, are Thomas F. Pogue, "Tax Expenditure Budget: Defining the Benchmark GRT Base" April 2008; and Thomas F. Pogue, "Tax Expenditures: Concept and Framework for Analysis" April 2009.

[2] "Report on Manufacturing Incentives in New Mexico" November 2008; "Business Incentive Tax Credits" September, 2009 (presentation to the Economic and Rural Development Committee); "Film and Other Business Incentive Credits" November 2009 (presentation to the Revenue Stabilization and Tax Policy Committee).

## TECHNICAL ISSUES

TRD:

"Tax expenditure" is defined in the bill as "revenue foregone by the state due to the use by taxpayers or others of tax exemptions, credits, deductions, exclusions or other forms of tax incentives". This definition suggests that <u>any</u> exemption, credit, deduction or exclusion is a "tax expenditure", but that is too expansive a definition since many exemptions, etc. are necessary to properly determine tax and are not intended to provide an incentive.

Section 2, Subsection A (page 3, lines 14 through 25) – the first sentence probably requires clarification. It may be unclear whether only newly-created tax incentives are intended to be listed for review "beginning in the year the exemption, credit, deduction or exclusion goes into effect", and it is further unclear how an evaluation could be completed in the first year a tax incentive is in effect. In addition, there is no reference in Section 1 of the bill stating that only newly-created tax incentives are intended for periodic review. Thus, Section 1 may contradict Section 2 in the scope (definition) of tax incentives intended for review.

Section 19 of the bill (pages 28 and 29) duplicates Section 17 of the bill.

## OTHER SUBSTANTIVE ISSUES

TRD:

The following summarizes the work plan of the Taxation and Revenue Department for a multi-year, comprehensive review and analysis of tax expenditures. There are three basic steps to the plan:

1. A report that describes in depth the concept and framework for analysis of tax expenditures. This step of the plan has been completed (see the April 2009 report by Thomas F. Pogue referenced in footnote 1 above).

2. A series of reports that will define and measure tax expenditures for all major taxes, including the gross receipts and compensating taxes; the gasoline, alcohol, cigarette and motor vehicle excises, the personal and corporate income taxes, taxes related to severance of oil, gas, coal, uranium, and minerals; the insurance premiums tax; gaming taxes; and the property tax. (The first report in this series, covering the gross receipts tax, the largest revenue source for both the State and local government, was completed under contract by Thomas F. Pogue in April 2008; see footnote 1 above. A second report, covering manufacturing tax incentives, is referenced in footnote 2 above, along with updated reports to interim legislative committees on business incentive tax credits.)

3. A final series of reports that will provide analyses of the effectiveness of each major tax expenditure.

BLG/mt

***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***

ATTACHMENT 1

# Appendix: LFC Analysis of Selected Tax Incentives

| | | | Accountability | | | | Credit Features | | | | | | | | Credit Qulifications | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| Statute | Enacted | Name | Reporting Requirement | Data available | Eligibility Determined By | Target Industry | Applicable Tax | Form | Refun-dable | Trans-ferable | Carry-forward | Exemp-tion | Dedu-ction | Duration | Employer/Taxpayer Qualifications | Employee Qualifications | Maximum Credit | Other Requirements | Indexed | Sunset | Clawback | Details |
| 4-59.1 | 1953 | Industrial revenue bonds | None | None | County approval | MFG | Property/ Compensating/ GRT | X | | | | 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 | | | Un limited | | | | Manufacturing only; Job requirement of 1 job for every $500k investment up to $30m and 1 job for every $1m above $30m. | | | | | 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 | | | | | | 30%/$30,000 | | No | | | 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 | | 50%/$25,000 | | No | | | |
| 59A54-10(C) | 1987 | Insurance Premium Tax Credit | None | None | PRC | Professional | Insur Prem | X | | | | | | | Assessed for the medical insurance pool | | 50/75% | | | | | Difficult to find provision and no meaningful reporting |
| 7-9C-6 | 1992 | Telemarketing gross receipts tax | None | CRS Matrix | TRD Audit | Information | ITGRT | | | | | | X | | | | | | | | | |
| 7-4-10 | 1993 | 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 | | | | | | X | | 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 | | | 2 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 | | | | | | X | | Web hosting service | | | | | | | |
| 7-9-56.1 | 1998 | Internet services GRT deduction | None | | TRD Audit | Information | GRT | | | | | | X | | | | | | | | | 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 | | $1000 per job | | 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 | | | | | | X | | | | | | | | | 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 | | | | | | X | | | | | | | | | |
| 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 | | | | | X | | | 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 | | | | | | X | | Software development | | | Counties with 50000 according to latest census | By census | | | |
| 3-64-1 | 2003 | Community development incentive act | None | | County approval | MFG | Property | | | | | X | | 20 years | 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) | | First come first serve up to 2 million watts plus an add'l 500k watts for solar | | | 2018 | | Max 10 year for any company |

ATTACHMENT 1

# Appendix: LFC Analysis of Selected Tax Incentives

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|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| Statute | Enacted | Name | Reporting Requirement | Data available | Eligibility Determined By | Target Industry | Applicable Tax | Form | Refun-dable | Trans-ferable | Carry-forward | Exemp-tion | Dedu-ction | Duration | Employer/Taxpayer Qualifications | Employee Qualifications | Maximum Credit | Other Requirements | Indexed | Sunset | Clawback | Details |
| 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 | | | | | | X | | 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 | | | | | | X | | | | | | | 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 |
| 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. | | $9k 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 | Fnancial 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 | |
| 7-9J | 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 | | | |

# INCENTIVES

## General Business Incentives:

- High Wage Jobs Tax Credit
- Rural Jobs Tax Credit
- Job Training Incentive Program (JTIP)
- Welfare-to-Work Tax Credit
- Community Development Incentive Act (Property Tax Exemption)
- Child Care Corporate Income Tax Credit
- Tax Deductions Using IRBs
- Cultural Property Preservation Tax Credit
- Texas/Mexico Border Residents' Tax Exemption
- Fee-Free Zones Near Mexican Border

## Industry-Specific Incentives:

### *Aerospace:*

- Research & Development Tax Deduction
- Aircraft Manufacturing Tax Deduction
- Aircraft Maintenance or Remodeling Tax Deduction
- Space Gross Receipts Tax Deductions

### *Agri-Business:*

- Agricultural Business Tax Deductions & Exemptions

### *Clean and Renewable Energy*

- Alternative Energy Product Manufacturers Tax Credit
- Advanced Energy Tax Credits
- Renewable Energy Production Tax Credit
- Solar Energy systems Gross Receipts Tax Exemption
- Solar Market Development Income Tax Credit
- Hybrid Vehicle Tax Exemption
- Sustainable Building Tax Credit
- Bio Fuels Production and Sales Tax Incentive

### *Department of Defense Contractors:*

- Military Acquisition Program Tax Deduction

### *Distilling & Brewing*

- Preferential Tax Rate

### *Film:*

- Film Production Tax Rebate
- Filmmaker Gross Receipts Tax Deduction

### *Financial Management:*

- Financial Management Tax Credit

### *Manufacturing:*

- Double Weight Sales Factor
- Investment Tax Credit for Manufacturers

***Railroads:***

- Locomotive Fuel Gross Receipts & Compensating Tax Exemption

***Technology:***

- Angel Investment Credit
- R&D Small Business Tax Credit
- Research & Development Gross Receipts Tax Deduction
- Rural Software Development Gross Receipts Tax Deduction
- Technology Jobs Tax Credit
- Web Hosting Gross Receipts Tax Deduction

***Telemarketing:***

- Telemarketing Gross Receipts Tax

***Tribal Land:***

- Intergovernmental Business Tax Credit

**High Wage Jobs Tax Credit**

A taxpayer who is an eligible employer may apply for and receive a tax credit for each new high-wage economic-base job. The credit amount equals 10% of the wages and benefits paid for each new economic-base job created.

Qualified jobs:
• Pays at least $28,000/year in a community with a population of less than 40,000
• Pays at least $40,000/year in a community with a population of 40,000 or more
• Created on or after July 1, 2004 and is occupied for at least 48 weeks by the employee

Qualified employers can take the credit for 4 years. The credit can be applied to the state portion of the gross receipts tax, compensating tax and withholding tax. Any excess credit will be *refunded to the taxpayer*. The credit shall not exceed $12,000 per year, per job.

Qualified employers:
• Made more than 50% of its sales to persons outside New Mexico during the most recent 12 months of the employer's modified combined tax liability reporting periods ending prior to claiming this credit
• Are eligible for the Job Training Incentive Program (manufacturing facilities and non-retail services industries)
• Are growing with employment greater than the previous year

Qualified employees:
• Must be a resident of New Mexico
• Cannot be a relative of the employer or own more than 50% of the company

**Rural Jobs Tax Credit**

Eligible employers may earn the rural jobs tax credit for each qualifying job created after July 1, 2000, applying it to taxes due on the CRS return or to corporate or personal income tax. An "eligible employer" is one whom the Economic Development Department (505-827-0300) has approved for *Job Training Incentive Program* assistance. A qualifying job is a job filled by an eligible employee for 48 weeks in a 12-month qualifying period.

Employers receive a credit of 6.25% of the first $16,000 in wages paid for a qualifying job. If the job is located in Tier One, the employer receives credit for 4 consecutive years. A Tier Two employer may take it for 2 consecutive years. (Tiers are defined below.) If the amount of credit for a qualifying period exceeds the owner's tax liability for the period, the excess may be carried forward for up to 3 years.

Rural New Mexico is defined as any part of the state other than Los Alamos County, certain municipalities (Albuquerque, Rio Rancho, Las Cruces, Santa Fe) and a 10-mile zone around those select municipalities. The rural area is divided into two tiers: Tier 2 – all the rural area municipalities that exceed 15,000 in population (Alamogordo, Carlsbad, Clovis, Farmington, Gallup, Hobbs, Roswell); Tier 1 – everywhere else in the rural area.

For each new qualifying job created, the amount of credit that may be earned:
• Tier 1: 25% of the first $16,000 in wages paid – to be claimed in installments of 6.25% per year (a maximum annual credit of $1,000 per job) for 4 years
• Tier 2: 12.5% of the first $16,000 in wages paid – to be claimed in installments of 6.25% per year (a maximum annual credit of up to $1,000 per job) for 2 years

An eligible employer may apply to the Taxation and Revenue Department (TRD) for the credit. As part of the application, the business must certify its eligibility for the credit, the amount of wages eligible for credit and whether the jobs are in Tier 1 or Tier 2. If approved, a document will be issued in the amount of the credit. The document is numbered, carries its date of issuance, and is transferable. If transferred, the parties notify TRD of the transfer within10days of transfer. The document remains valid for 3 years after its date of issuance. The owner of the tax credit document may offset the approved credit against state taxes owed on the CRS-1 form (state gross receipts tax, compensating tax and withholding tax) or against income tax (personal or corporate, depending on how the owner is organized). Not all of the credit earned, however, may be taken at once. If the job is in Tier 2, 50% of the credit may be taken within each qualifying period (the 12 months beginning on the anniversary date of the day an eligible employee filled a qualifying job). For Tier 1 jobs, 25% of the credit may be taken within any qualifying period.

**Job Training Incentive Program (JTIP)**

New Mexico has one of the most aggressive training incentive packages in the country. The Job Training Incentive Program (JTIP) funds classroom and on-the-job training for newly created jobs in expanding or relocating businesses for up to 6 months. The program reimburses between 50% and 80% of employee wages and required travel expenses. Custom training at a New Mexico public educational institution may also be covered.

*Eligible Uses*

Customized training is conducted at the business facility or at an educational institution in one of three ways:
(1) Custom classroom training at New Mexico public educational institutions; or
(2) Training at the business facility, with hands-on skill development, customized to develop unique skills essential to the business; or
(3) A combination of on-the-job and classroom training

*Rates, Terms*
Trainee wages are reimbursed to the company at the completion of the approved training period which ranges from 3 to 6 months. Reimbursement is 50% in urban locations, 70% in rural locations, and 75% on Native American land or in economically disadvantaged areas. Jobs that also meet the wage requirements of the High Wage Jobs Tax Credit are eligible for an additional 5% reimbursement.

Instructional cost of classroom training is reimbursed at a maximum of $35 per hour, per trainee with a cap of $1,000 per trainee. Costs include instructional salaries, fringe benefits, supplies and materials, textbooks, expendable tools and other necessary and reasonable costs associated with conducting training.

Travel cost required by training is reimbursable up to 5% of the total amount requested for wages.

*Industry Targets*
Economic-based businesses are eligible for JTIP funds. This includes new or expanding businesses that manufacture or produce a product in New Mexico and non-retail service sector businesses if at least 50% of the company's revenues are derived from customers outside New Mexico. The company must be creating new jobs as a result of expansion, startup, or relocation to the State of New Mexico.

*Other Conditions*
To be eligible for JTIP, trainees must be new hires to the company, must have been residents of the State of New Mexico for at least1continuous year at any time prior to employment in an eligible position, must be currently domiciled in New Mexico, and must be of legal status for employment. Trainees must not have left a public school program in the 3 months prior to employment, unless they graduated or completed a GED.

**Welfare-to-Work Tax Credit**
The credit equals 50% of the federal welfare-to-work credit for which the employer is eligible, up to $1,750 for the first year of employment, increasingto $2,500 for the second year. The state credit piggybacks on the federal credit of the same name and can be applied to New Mexico personal or corporate income tax.

For a person hired, the employer receives from the state 50% of the credit earned for federal purposes. Credit can be earned on the same individual employed by the same employer for up to 2 years.

State maximum credit amounts are $1,750 for the first year, $2,500 for the second year per qualifying employee, and any part of the remaining credit may carry forward at the end of the taxable year for 3 consecutive taxable years. An employer must first qualify for the federal credit.

Additional criteria:
• Hiring of the individual must increase the employer's total number of jobs (over the average in the preceding calendar year) or replace a previous qualified employee
• Wage, benefits and working conditions must be comparable with similar jobs of that same employer

• Employee must live in a high unemployment county, one that has been determined by the Department of Labor to have had an unemployment rate exceeding 10% in 6 or more months during the previous calendar year (determined every January).
• Corporations or individuals attach their NM Department of Labor certification to the appropriate tax forms and submit to the NM Taxation and Revenue Department.

**Community Development Incentive Act (Property Tax Exemption)**
Municipalities and counties may exempt commercial personal property of a *new business facility* from property tax for up to 20 years. This incentive is designed to provide communities a less expensive alternative to IDBs (Industrial Development Bonds), or IRBs (Industrial Revenue Bonds) particularly when the project is too small to warrant the expense associated with IDBs or IRBs.

A "*facility*" means any factory, mill, plant, refinery, warehouse, dairy, feedlot, building or complex or buildings located within the state, including land on which the facility is located and all machinery, equipment and other real and tangible personal property located at or within the facility and used in connection with the operation of the facility. A "*new business facility*" means a facility that is employed by the taxpayer in the operation of a revenue-producing enterprise. The facility may not be a replacement business facility (by the taxpayer or a relative). The facility must be acquired by or leased to the taxpayer on or after July 1, 2003.

**Child Care Corporate Income Tax Credit**
Corporations providing or paying for licensed child care services for employees' children under 12 years of age may deduct 30% of eligible expenses from their corporate income tax liability for the taxable year in which the expenses occur. For a company operating a value-added day care center for its employees, this credit reduces the cost to provide this benefit to employees. The corporate income tax credit is 30% of eligible costs up to $30,000 in any taxable year. Unused credit amounts may be carried forward for 3 years.

**Tax Deductions Using IRBs: Gross Receipts, Compensating & Property Tax Exemption for Sales of Property to Governments**
**Applies to Industrial Revenue Bond (IRB) Projects**
The gross receipts tax is New Mexico's version of a sales tax. Sales of tangible personal property (other than construction materials) to governments are deductible from this tax. Similarly, importation of tangible personal property for use by governments is also deductible. When the property is purchased with proceeds of an industrial revenue bond, the government entity issuing the IRB takes title to the property, whether purchased locally or imported. Accordingly, purchases of machinery, office equipment, furniture and similar tangibles as part of an IRB project are not subject to the gross receipts tax, compensating tax or property tax (subject to negotiated payments in lieu of property taxes to local schools or governments). Tangible personal property (other than building materials and related construction services) purchased with IRB proceeds is also included.

**Cultural Property Preservation Tax Credit**
Taxpayers may take this credit on corporate or personal income tax returns for restoring, rehabilitating or preserving properties listed on the New Mexico Register of Cultural Properties. Specifically, a tax credit is available where historic structures are certified as having received rehabilitation to preserve and enhance their historic character.

To qualify, the property must be listed on the official New Mexico Register of Cultural Properties that is maintained by the Historic Preservation Division of the Office of Cultural Affairs. Any given taxpayer can be involved with more than one project and claim a credit for each qualifying project.

The maximum credit is 50% of the cost of restoration, rehabilitation or preservation; $25,000 credit maximum per project. The taxpayer may apply the credits against existing tax liabilities only, and may carry unused amounts forward for 4 years.

**Texas/Mexico Border Residents' Tax Exemption**
Non-resident employees may allocate their compensation to their home state. Since Texas does not have a personal income tax, Texas residents working at the enterprise won't have to pay any state income tax on their compensation from the enterprise. The enterprise must be in the manufacturing business, physically located within 20 miles of the Mexican border, have at least 5 employees who are New Mexico residents and not receiving *Job Training Incentive Program* funds.

**Fee-Free Zones Near the Mexican Border**
Effective May 17, 2006, this law exempts from the trip tax the use of New Mexico highways by commercial motor carrier vehicles while operating exclusively within 10 miles of a border with Mexico in conjunction with crossing the border with Mexico. This law also exempts from weight distance tax the use of New Mexico highways by commercial motor carrier vehicles while operating exclusively within 10 miles of a border with Mexico in conjunction with crossing the border with Mexico.

## Industry-Specific Incentives:

AEROSPACE

**Research and Development Tax Deduction**
Aerospace services are the research and development services sold or for resale to an organization for resale by the organization to the U.S. Air Force. When R&D services are sold to Phillips Laboratory for resale to the Air Force, the seller's receipts are deductible. If the R&D services are sold to an intermediary for resale to Phillips Laboratory for resale to the Air Force, those receipts are also deductible.

**Aircraft Manufacturing Tax Deduction**
Receipts of an aircraft manufacturer or affiliate from selling aircraft or aircraft parts, or from selling services performed on aircraft or aircraft components or from selling aircraft flight support, pilot training or maintenance training services may be deducted from gross receipts.

**Aircraft Maintenance or Remodeling Tax Deduction**
Receipts from maintaining, refurbishing, remodeling or otherwise modifying a commercial or military carrier (aircraft) over 10,000 pounds gross landing weight may be deducted from gross receipts.

**Space Gross Receipts Tax Deductions**
There are four separate deductions connected with the operation of a spaceport in New Mexico. The four deductions are:
1. Receipts from launching, operating or recovering space vehicles or payloads
2. Receipts from preparing a payload in New Mexico
3. Receipts from operating a spaceport in New Mexico
4. Receipts from the provision of research, development, testing and evaluation services for the United States Air Force operationally responsive space program

"Space" is defined as any location beyond altitudes of 60,000 feet above mean sea level. "Payload" means a system, subsystem or other mechanical structure designed and constructed to perform a function in space. "Space operations" is defined as the process of commanding and controlling payloads in space. "Spaceport" is defined as the installation and related facilities used for the launching, landing, operating, recovering, servicing and monitoring of vehicles capable of entering or returning from space.

AGRI-BUSINESS

**Agricultural Business Tax Deductions and Exemptions**
Gross receipts tax deductions are available for selling to agribusinesses:

1. Feed for livestock, including the baling wire or twine used to contain the feed, fish raised for human consumption, poultry or animals raised for hides or pelts and seeds, roots, bulbs, plants, soil conditioners, fertilizers, insecticides, germicides, insects, fungicides, weedicides and water for irrigation
2. Warehousing, threshing, cleaning, harvesting, growing, cultivating or processing agricultural products including ginning cotton, and testing and transporting milk. Gross receipts tax exemptions are permitted for feeding, pasturing, penning, handling or training livestock and, for agribusinesses, selling livestock, live poultry and unprocessed agricultural products, hides and pelts.

CLEAN AND RENEWABLE ENERGY

***Alternative Energy Product Manufacturers Tax Credit***
Manufacturers of electric or hybrid vehicles, fuel cell systems, renewable energy systems, IGCC systems, and carbon sequestration equipment may receive for a tax credit of up to 5 percent of the their capital expenses. The credit may be applied against gross receipts, compensating, or withholding tax and may be carried forward for up to 5 years.

***Advanced Energy Tax Credits***
Advanced energy facilities, such as solar thermal electric generating, advanced technology coal generating or recycled energy, may qualify for up to $60 million in credits. The credit is equal to 6 percent of facility development and construction expenditures.

***Renewable Energy Production Tax Credit***
Each renewable energy generator of one megawatt or more may earn an income tax credit (personal or corporate) of 2.7 cents (on average) per kilowatt-hour for the first four hundred thousand megawatt-hours (=400,000,000 kilowatts) of electricity produced for ten

consecutive years, beginning with the first year of production. New Mexico's is fully refundable.

***Solar Energy Systems Gross Receipts Tax Exemption***
Power produced from solar electric and solar thermal energy systems is exempt from gross receipts tax when the generated power is used on-site.

***Solar Market Development Income Tax Credit***
Augments the federal solar tax credit by reimbursing up to 30 percent of the cost of a solar photovoltaic or solar thermal system. Solar system owners can receive up to $2,000 federal solar tax credits and up to $9,000 in state solar tax credits.

***Hybrid Vehicle Tax Exemption***
Purchasers of hybrid gasoline-electric vehicles with an EPA fuel economy rating of 27.5 miles per gallon or better can save between $600 and $1,000 in-state tax savings in addition to the federal tax deduction.

***Sustainable Building Tax Credit***
The Sustainable Building Tax Credit provides income tax credits for building energy-efficient, sustainable commercial, institutional and residential buildings. Homes must be 40 percent more energy efficient than the standard building code. Commercial and institutional buildings must be 50 percent more energy efficient. As an example, a LEED-H Silver certified 2000 square foot home that is at least 40 percent more energy efficient than a home built to the standard building code can receive a $10,000 state tax credit.

***Bio Fuels Production and Sales Tax Incentive***
Provides a tax credit on blended biodiesel fuels (a minimum of 2 percent biodiesel). Gross receipts and compensating tax may be deducted for installing biodiesel blending infrastructure up to $50,000 per facility or $1 million per year.

## DEPARTMENT OF DEFENSE CONTRACTORS

**Military Acquisition Program Tax Deduction**
Receipts from transformational acquisition programs performing research and development, testing and evaluation at New Mexico major range and test facility bases pursuant to contracts entered into with the U. S. Department of Defense may be deducted from gross receipts (through June 30, 2016).

## DISTILLING AND BREWING

**Preferential Tax Rate**
Microbreweries producing less than 5,000 barrels of beer annually and small wineries producing less than 560,000 liters of wine per year qualify for a preferential tax rate.

The Liquor Excise Tax Act imposes taxes on beer, wine and spirituous liquors. The basic tax rate for wine is 45 cents per liter. Wine produced by a small vintner (definition in opening sentence above) carries a tax of 10 cents per liter on the first 80,000 liters and 20 cents on production over that level up to 560,000 liters. The basic tax rate for beer produced by a brewery is 41 cents; beer produced by a microbrewery (defined above) is taxed at 8 cents per gallon.

FILM

**Film Production Tax Rebate**
New Mexico offers a tax rebate of up to 25% on production expenditures that are subject to taxation by the State of New Mexico. Applicable expenses include feature films, television, national commercials, and documentaries. A "film" is defined as a single medium or multi-media program, including national advertising messages, fixed on film, videotape, computer disc, laser disc, or other delivery medium, that can be viewed or reproduced and that is exhibited in theaters or by individual television stations, groups of stations, networks, cable television stations or other means or licensed for home viewing.

Inquiring companies may apply for either the tax credit or gross receipt tax exemption (Nontaxable Transaction Certificates), but not both. The tax rebate includes post-production expenditures, video games, and film technologies. You may also receive a loan of up to 80% of your estimated tax rebate upfront.

**Filmmaker Gross Receipts Tax Deduction**
**Nontaxable Transaction Certificates (NTTCs)**
The State of New Mexico charges a gross receipts tax, or sales tax, at the point of sale. As an incentive, the state will issue your company Nontaxable Transaction Certificates (NTTCs), which work much like grocery-store coupons. A certificate is presented at the point of sale, and no gross receipts tax is charged. Film production companies intending to take the income tax credit (see above) may not use the Nontaxable Transaction Certificates. *Contact the New Mexico Film Office, **www.nmfilm.com**, or 1.800.545.9871 for an application or more information. Additional incentives and services are available for production companies filming in New Mexico, visit the Film Office web site at **http://www.nmfilm.com***

FINANCIAL MANAGEMENT

**Financial Management Tax Credit (Effective July 1, 2007)**
Receipts from fees received for performing management or investment advisory services for a related mutual fund, hedge fund or real estate investment trust may be deducted from gross receipts.

MANUFACTURING

**Double Weight Sales Factor**
A corporation (or family of corporations filing together) with income from sources within New Mexico as well as from sources outside the state, apportions the income based on a three-factor formula. New Mexico taxes the total corporate income multiplied by the average proportion of corporate sales, payroll and property in New Mexico. The 3 factors

(sales, payroll and property) have equal weight (33.33% each) in the formula. For a limited time (through the year 2010) manufacturers may elect to use a modified formula which gives the sales factor a 50% weight, reducing the other 2 to 25% apiece. The sales factor now has twice the significance of the other two, thus, the "double-weighted sales factor formula."

For purposes of electing the four-factor apportionment method, "manufacturing" excludes construction, farming, power generation and processing of natural resources, while allowing certain natural-gas-fired, wholesale power plants to qualify. The taxpayer, having elected to use the double-weighted formula, must use it for at least 3 consecutive years.

Investment Tax Credit for Manufacturers
*(Investment Credit Act)*
Manufacturers may take a credit against gross receipts, compensating or withholding taxes equal to 5% of the value of qualified equipment imported and put into use in a manufacturing plant in New Mexico, provided the manufacturer meets the criteria of hiring additional workers to earn the credit, as follows:

| *For Claims* | *1 new worker employed for each* |
|---|---|
| 0-$30,000,000: | $500,000 qualified equipment; |
| Over $30,000,000: | $1 million in qualified equipment. |

The credit may be claimed for equipment acquired under an IRB. This is a double benefit because no gross receipts or compensating tax was paid on the purchase or importation of the equipment.

The credit is taken through the CRS-1 form. This is the form on which state and local gross receipts, compensating and withholding taxes are paid to the state. The manufacturer simply reduces its payment of those state taxes (by as much as 85% per reporting period) until the amount of investment credit is exhausted. There also are provisions for issuing a refund when the credit balance falls under $500,000. The credit does not apply against local gross receipts taxes, so the full amount of those taxes remains due every month. Excluded from the manufacturer definition are construction, farming, certain types of power generation and processing natural resources and hydrocarbons.

RAILROADS

**Locomotive Fuel Gross Receipts & Compensating Tax Exemption(Effective July 1, 2007)**
Receipts from the sale of fuel to a common carrier to be loaded or used in a locomotive engine are exempted from the gross receipts and compensating taxes. "Locomotive engine" is defined as a wheeled vehicle consisting of a self-propelled engine that is used to draw trains along railway tracks.

TECHNOLOGY-INTENSIVE COMPANIES

**Angel Investment Credit (Effective July 1, 2007)**
A taxpayer who files a New Mexico income tax return and who is a "qualified investor" may take a tax credit of up to $25,000 (25% of a qualified investment of not more than $100,000)

for an investment made in a New Mexico company that is engaging in high-technology research or manufacturing. The taxpayer may claim the angel investment credit for up to 2 qualified investments in a taxable year, provided that each investment is in a different qualified business. Any portion of the tax credit remaining unused at the end of the taxpayer's taxable year may be carried forward for 3 consecutive years.

**R&D Small Business Tax Credit**
A qualified R&D small business is eligible for a credit equal to the sum of all gross receipts taxes, compensating taxes or withholding taxes due to the state for up to 3 years.

*Definitions*
Qualified research is defined as that undertaken for the purpose of discovering information that is technological in nature and the application of which is intended to be useful in the development of a new or improved business component and in which substantially all activities constitute elements of a process of experimentation related to new or improved function, performance, reliability or quality, but not related to style, taste, cosmetic or seasonal design factors.

Qualified R&D small business means a business that:
1. employs no more than 25 employees in any prior calendar month
2. had total revenues of no more than $5 million dollars in any prior fiscal year3. did not in any prior calendar month have more than 50% of its voting securities or other equity interest with the right to designate or elect the board of directors or other governing body of the qualified business owned directly or indirectly by another business
4. has made qualified research expenditures for the period of 12 calendar months ending with the month for which the credit is sought of at least 20% of its total expenditures for those 12 months.

Qualified research expenditure means an expenditure directly related to qualified research, but does not include any expenditure on research funded by any grant, contract or similar mechanism by another person or governmental entity, and does not include any expenditure on property that is owned by a municipality or county in connection with an industrial revenue bond project or expenditures for which the taxpayer has received any other applicable credit.

**Research and Development Gross Receipts Tax Deduction**
Any service that is exported from the state, including research and development services are not subject to New Mexico gross receipts tax. These services must be produced by a business with a New Mexico office, sold to an out-of-state buyer and delivered and initially used out-of-state. This makes R&D a deductible transaction.

**Rural Software Development Gross Receipts Tax Deduction**
A taxpayer whose primary business is providing software development services and who had no business location in New Mexico other than in a qualified area during the period for which a deduction under this section is sought. The company must have been established after 7/1/02. Software development services include custom software design and development and web site design and development, but does not include software implementation or support services.

Rural, for purposes of this tax deduction, is defined as statewide except for an incorporated municipality with a population of more than 50,000 (Albuquerque, Las Cruces, Rio Rancho and Santa Fe).

**Technology Jobs Tax Credit**
This credit has two parts: a basic credit and an additional credit, each equal to 4% of the qualified expenditures on qualified research at a qualified facility. The credit amount doubles for expenditures in facilities located in rural New Mexico (as defined for this tax credit as anywhere outside Rio Rancho or more than 3 miles outside Bernalillo, Dona Ana, San Juan or Santa Fe counties).

*Eligible Uses*
1. Expenditures: Includes a wide range of non-reimbursed expenses such as payroll, consultants and contractors performing work in New Mexico, software, equipment, technical manuals, rent, operating expenses of facilities (but excludes expenditures on buildings owned by a government pursuant to an IRB or already owned by the taxpayer or an affiliate before 2/2/2000).
2. Research: Must be technological in nature and constitute elements of a process of experimentation leading to new or improved function, performance or reliability (not cosmetic, style).
3. Facility: A building or group, with land and machinery, equipment and other real or personal property used in connection with the operation of the facility; excludes national labs.

*Rates, Terms*
1. Basic credit: the taxpayer claims the credit within 1 year following the end of the year in which the expenditure was made. The claim is made by filing a form for approval with the Tax and Revenue Department. The amount approved is applied against the taxpayer's state gross receipts, compensating and withholding liabilities until the credit is exhausted.
2. Additional credit: a taxpayer earns the additional credit by increasing its payroll. The annual payroll must increase by at least $75,000 over the base period and by at least $75,000 for each $1 million in qualified expenditures (equivalent to$40,000 in credit) it wishes to claim. The base period floats; it is defined as the 12-month period ending on the day1year prior to the day the taxpayer applies for the additional credit. The base period payroll amount is also to be adjusted for inflation so that merely keeping up with the inflation will not earn any credit. The taxpayer applies for approval of the credit by filing the appropriate form with the tax department; approved credit amounts may be applied against the taxpayer's income or corporate income tax liability; it is not refundable so any excess of credit over liability is carried forward.

**Web Hosting Gross Receipts Tax Deduction**
Receipts from hosting World Wide Web sites may be deducted from gross receipts. Hosting means storing information on computers attached to the internet.

TELEMARKETING

**Telemarketing Gross Receipts Tax Exemption**
Receipts from WATS (Wide Area Telephone Service) and private communications services

are exempted from gross receipts tax and interstate telecommunications gross receipts tax act.

TRIBAL LAND

**Intergovernmental Business Tax Credit**
A corporation engaged in growing, processing or manufacturing may receive a credit for up to 50% of the total of all taxes imposed by an Indian nation, tribe or pueblo located wholly or partly in New Mexico on income derived from new business activity on Indian land. This credit is limited to income from a new business established on tribal land after 7/1/97. The credit is non-refundable, and can be applied against the existing tax liabilities only; an excess can be carried forward.