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FISCAL IMPACT REPORT

SPONSOR Powdrell-Culbert **ORIGINAL DATE** 02/16/11
LAST UPDATED 02/24/11 **HB** 304/aHBIC/aHTRC
SHORT TITLE Angel Investment Tax Credit Extension **SB** _____
ANALYST Golebiewski

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Non-Rec	Fund Affected
FY11	FY12	FY13		
	(\$80.0)	(\$165.0)	Recurring	General Fund

(Parenthesis () Indicate Revenue Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From

Taxation and Revenue Department (TRD)

Economic Development Department (EDD)

SUMMARY

Synopsis of HTRC Amendment

The HTRC amendment would strike the second amendment by HBIC; that is, it would not add “effective January 1, 2017” to the repeal at the end of the original bill. This HBIC amendment would not have been effective at changing the date of repeal. Additionally, it should be noted that Section C of HB 304 states that a taxpayer can claim the credit “no later than one year following the end of the calendar year.” Therefore, the date of repeal should be January 1, 2018.

Synopsis of HBIC Amendment

The HBIC amendment extends the angel investment credit an additional year (through December 31, 2016), to be consistent with the 5 years stated in the bill description. It also clarifies that Laws 2007, Chapter 172, Section 24 is repealed effective January 1, 2017. It impacts the estimate just based on the expiration date; that is, it will last one additional year.

Synopsis of Original Bill

House Bill 304 amends Section 7-2-18.17 NMSA 1978 to extend the angel investment credit through December 31, 2015.

FISCAL IMPLICATIONS

TRD:

Estimated Revenue Impact*					R or NR**	Fund(s) Affected
FY2011	FY2012	FY2013	FY2014	FY2015		
0	(\$80.0)	(\$165.0)	(\$175.0)	(\$185.0)	Recurring	General Fund

* In thousands of dollars. Parentheses () indicate a revenue loss. ** Recurring (R) or Nonrecurring (NR).

Historical angel investment credit claims data was used to estimate the fiscal impact. Historical growth rate for this credit was used to calculate future year impact.

SIGNIFICANT ISSUES

The angel investment credit allows for two credits per taxpayer of up to \$25,000 each (25% of the investment of not more than \$100 thousand). The taxpayer has to apply for certification of eligibility for the angel investment credit from the Economic Development Department (EDD), and the aggregate amount of credits is capped at \$750 thousand. Statute also requires EDD to report to the Legislative Finance Committee annually on the utilization and effectiveness of the angel investment credit – this requirement may not be fulfilled currently, but should going forward.

As with all tax credits, deduction and exemptions, House Bill 304 will narrow the Personal Income Tax base and will complicate the New Mexico tax system. This runs contrary to the tax policy principles of efficiency and simplicity.

EDD:

Angel investors report they invest significantly more money to small New Mexico business due to the tax credit. Without the tax credit extension, NM angel investments will decrease and fewer small technology companies will receive funding. The purpose of these types of investments is to provide start-up capital for new businesses and ultimately to create high wage jobs.

TECHNICAL ISSUES

TRD:

The title of the bill indicates the credit is extended for five years. However, the bill permits a taxpayer to claim the credit for a qualified investment made until December 31, 2015, rather than December 31, 2011. Although the bill makes the credit available for another five years from December 1, 2010, it actually extends the existing credit by only four years.

Section 2 repeals the 2007 law requiring that Section 7-2-18.17 be repealed effective January 1, 2013. If the intent is for the credit to be repealed after taxpayers could claim credits through December 31, 2015, the bill should contain a section repealing Section 7-2-18.17 effective January 1, 2017.

This bill could address carry forward provision also. See Laws 2007, Ch. 172, § 23 which states, “effective April 2, 2007, adds a temporary provision that provides that in taxable years 2013 through 2015, a taxpayer may carry forward amounts resulting from angel investment credits claimed and approved for qualified investments made in calendar year 2009, 2010 or 2011.

The exemption proposed in this bill meets the criteria of an “economic development tax incentive” as defined in the economic development tax incentive guidelines in Section 9-15-56 NMSA 1978, but this bill does not include all items required in that Section as below.

- (1) a statement of purpose;
- (2) a requirement that the economic development department track job creation;
- (3) a description of the financial obligation of the taxpayer if the specific standards are not met.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

If this bill is not enacted, the angel investment credit will sunset December 31, 2011.

JAG/svb:mew

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