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## FISCAL IMPACT REPORT

ORIGINAL DATE 1/30/16

SPONSOR Shendo LAST UPDATED \_\_\_\_\_ HB \_\_\_\_\_

SHORT TITLE Enable TRD To Share Data For Tax Programs SB 116/ec

ANALYST Graeser

### REVENUE (dollars in thousands)

Estimated Revenue					Recurring or Nonrecurring	Fund Affected
FY20	FY21	FY22	FY23	FY24		
No Fiscal Impact					Recurring	General Fund

Parenthesis ( ) indicate revenue decreases

### SOURCES OF INFORMATION

LFC Files

#### Responses Received From

Taxation and Revenue Department (TRD)  
 New Mexico Environment Dept. (NMED)  
 Energy, Minerals & Natural Resources Dept. (EMNRD)  
 New Mexico Attorney General (NMAG)  
 Administrative Office of the Courts (AOC)  
 Economic Development Department (EDD)  
 Department of Public Safety (DPS)

#### Responses not Received From

Department of Health (DOH)  
 Department of Transportation (DOT)  
 New Mexico Municipal League (NMML)

### SUMMARY

#### Synopsis of Bill

Senate Bill 116 amends the tax data confidentiality statute (Section 7-1-8.8 NMSA 1978) to broaden the list of tax information TRD may legally share data with other state agencies to allow and assist the joint administration of certain tax programs. The changes include adding the Health Care Quality Surcharge Act information that can be shared with the Human Services Department and expanded film credit information to share with the Economic Development Department (EDD). It also adds the Department of Public Safety (DPS) and the Department of Transportation (DOT) for return information for the Weight Distance Tax Act. Lastly, the bill allows the Energy, Minerals and Natural Resources Department (EMNRD) and the New Mexico Environment Department (NMED) to receive information concerning tax credits that are

certified by EMNRD and claimed pursuant to the Income Tax Act.

This bill contains an emergency clause and would become effective immediately upon signature by the governor.

### **FISCAL IMPLICATIONS**

This bill has no direct fiscal implications.

### **SIGNIFICANT ISSUES**

TRD discusses the provisions of this bill:

To effectively manage tax programs and tax incentives that require joint administration across state agencies, as in the case of the recently-enacted Health Care Quality Surcharge, it is necessary for TRD to share certain tax return information. Sharing return data supports enforcing compliance and meeting reporting requirements. As responsibilities for administration may differ among the joint agencies, sharing return data and information constructs a consistent foundation from which agencies can manage their responsibilities.

Tax return information is generally confidential unless TRD is given specific authority to share under Section 7-1-8.8 NMSA 1978. Recent legislation, including the Health Care Quality Surcharge Act, necessitates updating Section 7-1-8.8 NMSA 1978 to authorize new data-sharing. Other recent legislation includes amendments to the Film Production Tax Credit Act, which added joint reporting for TRD and EDD. With regard to the Film Tax Credit this bill would refine data-sharing specifications to expand from “aggregate” return information currently in statute to specific return information.

Proposed changes related to the weight distance tax with the DPS and DOT will streamline compliance verification at New Mexico ports of entry. Currently, DPS staff can query whether or not a company or a driver is compliant but cannot be told which tax program or tax period is out of compliance. Allowing TRD to share specific information on the weight distance tax with DPS will make clarity of tax compliances issues at New Mexico’s ports of entry easier.

Reporting requirements for the tax credits and enforcement of eligibility to claim credits TRD jointly administers with EMNRD and the NMED will also be improved.

EMNRD notes that passing this act would improve customer service:

This information sharing would greatly improve the processing of the various tax credits administered by the Energy, Minerals, and Natural Resources Department (EMNRD). EMNRD is required to certify eligibility for a number of tax credits related to energy and conservation. In the past, because the information sharing was not available, data developed by EMNRD would be transferred by paper to NM Taxation and Revenue Department (TRD) for re-entry. Tax information that TRD held could not be shared with EMNRD when processing tax credits resulting in delays in approving tax credits. This sharing of data with EMNRD should result in better customer service by EMNRD, improved processing time, and the reduction of data re-entry time and errors.

EDD expresses the same support:

SB116 would allow the secretary of the Economic Development Department (EDD) or their designee to request specific return information related to the film tax credit. The

ability to share that tax information would allow EDD to improve the modeling and estimates related to the film tax credit. EDD currently uses registration information to model and estimate future payments, but by having the ability to compare registrations to actual data, EDD would be able to improve its accuracy related to the credit impact forecast. Currently, staff within EDD and TRD have developed a tracking system to address this issue. This tracking system requires productions to sign tax information authorization forms, and this documentation and

### **PERFORMANCE IMPLICATIONS**

This bill would increase accountability for EDD as well as improve accuracy related to modeling and forecasting the film tax credit.

The changes proposed in this bill will support the LFC tax policy of accountability. In many cases, this policy demands an agency or TRD report annually to an interim legislative committee regarding the data compiled from the reports from taxpayers taking the deductions or credits and other information to determine whether the deduction or credit is meeting its purpose.

### **ADMINISTRATIVE IMPLICATIONS**

No agency indicated any increase in administrative costs. Several agencies, including TRD, indicated that the changes might reduce duplication and reduce costs. These were, in all cases, modest.

### **TECHNICAL ISSUES**

The NMAG notes the following:

There do not appear to be any substantive issues with the new disclosure provisions of the bill. However, the substitution of the term “delegate” for “designee” is applied inconsistently within the bill. This appears to be an oversight as the terms are interchangeable. The use of the term should be consistent throughout to avoid a misinterpretation arising from the use of different terms.

### **OTHER SUBSTANTIVE ISSUES**

In the past, TRD has advised that confidentiality of data is keystone to the work of the agency. However, in recent years, with the profusion of tax deductions, exemptions and credits, there has grown a sense that companies taking advantage of tax incentives should be willing, or even proud, to announce participation in these incentive programs.

In general, as well, confidentiality must be preserved if the source of TRD’s data arises from federal tax information. These data must be held confidential pursuant to the master agreement between TRD and the IRS.

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