SENATE BILL 98

55TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2021

INTRODUCED BY

Bill Tallman

This document may incorporate amendments proposed by a committee, but not yet adopted, as well as amendments that have been adopted during the current legislative session. The document is a tool to show amendments in context and cannot be used for the purpose of adding amendments to legislation.

AN ACT

RELATING TO ECONOMIC DEVELOPMENT INCENTIVES; REQUIRING RECIPIENTS OF PUBLIC SUPPORT FROM THE STATE PURSUANT TO THE LOCAL ECONOMIC DEVELOPMENT ACT TO REPORT JOB CREATION AND CAPITAL INVESTMENT INFORMATION; REQUIRING THE TAXATION AND REVENUE DEPARTMENT TO COMPILE AND PRESENT A TAX EXPENDITURE BUDGET AND ANALYSES OF CERTAIN TAX EXPENDITURES TO THE GOVERNOR AND LEGISLATIVE COMMITTEES **SFC→**~~; MAKING AN APPROPRIATION~~**←SFC** .

.218494.1AIC March 16, 2021 (4:17pm)

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BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. A new section of the Local Economic Development Act is enacted to read:

"[NEW MATERIAL] REPORTING REQUIREMENTS.--

A. A qualifying entity that receives public support provided by the state to a local or regional government shall, prior to April 1 of each year for five years following receiving the public support, report to the department the number of new full-time jobs created by the qualifying entity in the previous calendar year, the job title for each person employed in a new full-time job, the total annual wages and salaries for those new full-time jobs and any capital investments made by the qualifying entity in the previous calendar year.

B. Prior to August 1 of each year, the department shall compile the annual reports received from the qualifying entities and submit the compilation to the legislative finance committee and the department of finance and administration.

C. As used in this section, "new full-time job" means a job:

(1) that is primarily performed in New Mexico;

(2) that is held by an employee who is hired to work an average of at least thirty-two hours per week for at least forty-eight weeks per year; and

(3) that the qualifying entity attributes to the public support provided by the state."

SECTION 2. A new section of the Tax Administration Act is enacted to read:

"[NEW MATERIAL] TAX EXPENDITURE BUDGET--ASSESSMENT AND ANALYSIS OF CERTAIN TAX EXPENDITURES.--

A. No later than October 15 of each year, the secretary shall compile and present a tax expenditure budget to the governor, the revenue stabilization and tax policy committee and the legislative finance committee and post the tax expenditure budget report to the department's website.

B. A tax expenditure budget report shall include the following information for each tax deviation of a tax administered by the department:

(1) identification of the tax deviation and the deviation's statutory basis;

(2) the year of enactment, amendment or repeal, if any;

(3) a brief description of the tax deviation;

(4) the intended purpose of the tax deviation, if specified in the law providing for the tax deviation or as otherwise determined by the department;

(5) if the tax deviation is a tax expenditure, an estimate of the approximate amount of foregone revenue by fiscal year for:

(a) the three fiscal years preceding the current fiscal year, including the general fund, other state funds and local government revenues; and

(b) the current and subsequent fiscal year, if feasible, and a brief description of the methodology and assumptions applied to the forecasted estimate;

(6) the number of taxpayers that claimed a tax expenditure for each fiscal year reported, unless reporting of such data is in a form that can be associated with or otherwise identify, directly or indirectly, a particular taxpayer;

(7) the data source used for the estimate; and

(8) a measure of the reliability of the estimate.

C. A tax expenditure budget report may include additional information that the department considers relevant to the review of individual tax deviations, including:

(1) a description or reference citation of any tax deviation evaluation or compilation of information completed by an executive or legislative agency since the last tax expenditure budget report by the department; and

(2) a measure of the tax deviation's effect on the administration of the tax system.

D. If a tax expenditure is identified by the department as having a purpose of economic development and an estimated cost of more than ten million dollars ($10,000,000) per fiscal year, the department shall, at least every three years for each identified tax expenditure:

(1) perform an objective assessment of the effectiveness of the tax expenditure;

(2) include with the assessment an economic analysis of the tax expenditure, with the support and assistance of the staff of the legislative finance committee and the economic development department;

(3) no later than October 15 of every year, compile and present the assessment and economic analysis to the governor, the revenue stabilization and tax policy committee and the legislative finance committee; provided that if the department determines that there is insufficient data to perform an economic analysis of a tax expenditure, in lieu of the economic analysis the department shall present: 1) the current reporting requirements for the tax expenditure; and 2) recommendations as to how sufficient data may be collected and statutory changes necessary to perform or improve the economic analysis; and

(4) post the information compiled pursuant to Paragraph (3) of this subsection to the department's website.

E. The department may request from an executive agency or a local government agency or official, information necessary to complete the tax expenditure budget or assessment of economic development tax expenditures required by this section. An agency or official shall comply with a request made pursuant to this section by the department as permitted by law.

F. As used in this section:

(1) "tax deviation" means a deduction, credit, exemption, exclusion, preferential tax rate, subtraction, allowance or other deviation from the baseline of a tax that reduces tax liability, as determined by the secretary in consultation with the legislative finance committee and the department of finance and administration. "Tax deviation" includes a deviation enacted due to constitutional prohibition, federal preemption, comity between governments, avoiding taxation under multiple tax programs or defining a tax base or is otherwise determined to not be a tax expenditure; and

(2) "tax expenditure" means a tax deviation enacted, as determined by the secretary in consultation with the legislative finance committee and the department of finance and administration, to reflect state policy, such as to promote the general welfare of citizens or give preferential tax treatment to a specific industry, or to reflect a specific purpose, such as to incentivize consumer behavior, economic development or job creation."

SFC→~~SECTION 3. APPROPRIATION.--One hundred ninety-two thousand dollars ($192,000) is appropriated from the general fund to the taxation and revenue department for expenditure in fiscal year 2022 to assist the department in evaluating tax expenditures and other economic development incentives. Any~~

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~~**unexpended or unencumbered balance remaining at the end of fiscal year 2022 shall revert to the general fund.**~~**←SFC**

SECTION SFC→~~4.~~←SFC SFC→3.←SFC EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2021.