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

		ORIGINAL DATE	02/08/21		CS/11 HTRC/
SPONSOR	HTRC	**LAST UPDATED**	02/19/21	**HB**	aSFC/aSFL#1/ec
SHORT TITLE	GRT & Permanent Fund for LEDA Projects			**SB**	
				ANALYST	Iglesias

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY21	**FY22**		
$200,000.0	-	Nonrecurring	General Fund (to EDD for recovery grants under LEDA)

(Parenthesis ( ) Indicate Expenditure Decreases)

Relates to Senate Bill 1, similar to Senate Bill 5

SOURCES OF INFORMATION
LFC Files

Responses Received From
Economic Development Department (EDD)
New Mexico Finance Authority (NMFA)

SUMMARY

Synopsis of SFL #1 Amendment

The Senate Floor #1 amendment to CS/HB11/HTRCS/aSFC reinstates the exception to the Inspection of Public Records Act, as recommended by NMFA.

Synopsis of SFC Amendment

The Senate Finance Committee amendment to the House Taxation and Revenue Committee substitute for House Bill 11 makes the following changes to the bill:

- Removes the bill's permanent changes to the Local Economic Development Act (LEDA) that would have allowed for state and gross receipts tax sharing for certain projects with construction costs greater than $350 million.
- Enhances the definition of broadband network facilities for LEDA projects to require those facilities meet baseline federal communications speed standards, and require that public LEDA funds only be used for facilities and locations that do not already meet baseline standards.

- Requires the economic decline for eligibility of the bill's recovery grants be measured on a quarterly basis rather than an annual basis.
- Provides for NMFA to issue recovery grants in multiple application rounds and requires the authority to prioritize applications demonstrating the largest revenue decline.
- Requires NMFA to reserve recovery grant funding for businesses that are awarded funds but then subsequently lose eligibility, in the event that business becomes eligible again in a succeeding quarter.
- Requires businesses to demonstrate a net increase in the number of full-time employees relative to the immediately preceding quarter to qualify for recovery grants.
- Eliminates the original bill's exception to the Inspection of Public Records Act (IPRA) for recovery grants awarded.

By removing the permanent GRT-sharing provisions for certain LEDA projects, the SFC amendment address LFC's concern that changes to tax expenditures should be fully vetted before approved. Presumably, the issue could be discussed during the interim and reintroduced in a following legislative session after receiving public hearing and input from relevant legislative committees.

The provision that requires NMFA to reserve recovery grant funds for a qualifying entity that falls out of compliance during the distribution period does not limit the number of times, nor the period of successive quarters, that this reservation of funds may occur. Given the last application date of June 30, 2022, NMFA states the reversion date of June 30, 2023 will not allow enough time for entities who need to avail themselves of the grace period.

Additionally, by reserving funds for businesses that become ineligible, this could result in funds being set aside such that they are unusable should those businesses not be able to qualify in subsequent quarters, thereby taking funds off the table for other businesses in need. To fix this issue, this provision could be amended to require the funding set-aside to only be applicable until the last application round. If the businesses for which funds were set aside but are no longer eligible, this would free up those funds for the last application round to ensure other eligible businesses could qualify for funding.

The amendments attempt to enhance transparency and accountability of the recovery grants by eliminating the IPRA exemption. However, it should be noted that NMFA will receive confidential taxpayer returns and business filings in order to determine eligibility for the grants, and by removing this exemption, confidential taxpayer information could be subject to public inspection.

NMFA strongly recommends that the IPRA provisions that protect the information obtained by NMFA be restored, which is consistent with the SBRLF stimulus program legislation passed in the First Special Session of 2020, and included in the current version of SFCS/SB 3. The original language allowed NMFA and EDD to disclose "broad demographic information and information relating to the total amount of recovery grants made, the total outstanding balance of recovery grants made and the names of the recovery entities that received recovery grants" which is nearly identical to the IPRA protections contained in the Small Business Recovery Act which established the small business recovery loan funds.

The amendments try to ensure that businesses receiving recovery grants are demonstrating net gains in full-time employees. However, because the amendments base eligibility on the employment changes from the immediately preceding quarter, it is possible for businesses to receive grant funds even if they have laid off employees. For example, if a business starts with 10 employees and receives grant funding, lays off 8 employees in the following quarter (thereby losing eligibility for that quarter), but then adds 2 employee the next quarter, the business would be eligible for funds in that next quarter despite now having only 4 employees (less than half from when the business started to receive funding). If the intent is to base eligibility on a net gain in jobs relative to when the business first received funding, this could be fixed by requiring the business to add employees relative to the quarter in which they last received grant funding.

The amendments require NMFA to determine eligibility based on quarterly filings. NMFA states this will require deeper staffing levels as the revenue decline is to be measured quarterly rather than annually, which cannot be uniformly captured through reports already filed by eligible businesses.

Additionally, since income taxes are generally filed annually, this may require NMFA to use gross receipts tax filing data to determine eligibility. However, many businesses also do not file GRT on a quarterly basis (many file annually or semi-annually), which could make it more difficult for small businesses to prove eligibility for the grants. It is possible for NMFA to develop mechanisms to work around this issue, since the amendments also strike previous language in the bill that prevented the authority from requesting additional documentation to determine a business's eligibility.

It should also be noted that GRT filings may be amended for up to three years after filing, with minimal penalties for amendments. This could potentially open up a risk of filers amending their returns to reflect revenue losses in order to become eligible for grants, then after receiving grant funds, amend their filings again to reflect actual revenues. The penalties for such amendments would be negligible relative to the size of the grants, and there does not appear to be a mechanism in the bill that would claw back grant funds if businesses receive monies based on inaccurate filings.

NMFA states the authority will have to rely on quarterly reports filed with the Workforce Solutions Department. These reports capture the number of individuals employed, but do not state the number of hours worked. Similarly, the comparable federal wage report forms capture the number of employees on a specific date in the quarter, which may not be the high-water mark for employment. NMFA states an eligible entity will have to certify it met this provision, but NMFA will not be able to verify the information provided. Furthermore, NMFA states that anticipated delays in receiving the reports may prove difficult to manage and cause unanticipated delays in review.

Synopsis of Original Bill

The House Taxation and Revenue Committee substitute for House Bill 11 expands the Local Economic Development Act (LEDA) in two ways and makes a $200 million one-time appropriation from the general fund to the renamed "local economic development recovery act fund" (the "LEDA fund," previously the "local and regional economic development support fund") for grants to certain businesses, to be administered by the Economic Development Department (EDD) and the New Mexico Finance Authority (NMFA).

GRT-Sharing for Certain LEDA Projects. *[Note: this is no longer relevant with the SFC amendment to remove the bill's permanent GRT-sharing provision.]* The first change to LEDA is to allow a permanent mechanism for tax revenue sharing for certain new large LEDA projects. The bill allows 75 percent of some state (and up to 56.25 percent of some local) gross receipts tax (GRT) and compensating revenue from large LEDA projects (over $350 million in construction and infrastructure costs) to be placed into the LEDA fund to help with recruitment of those large projects. Only costs associated with new construction of the project will be subject to this provision, and EDD and all local governments affected must agree to the revenue sharing.

Recovery Grants. The second change to LEDA is a temporary project to provide relief and recovery for businesses affected by Covid-19. This portion transfers $200 million from the general fund to the economic development recovery act fund for this purpose.

- The program will be administered by EDD with processing of applications and payments by NMFA during 2021 and 2022.
    - Maximum allowable grant to a business is $100 thousand, paid in quarterly installments.
    - Funding to applicant businesses will be prioritized by the greatest percentage reduction in annual revenues, with qualifying businesses demonstrating a decline in revenues in tax year 2020 compared with tax year 2019.
    - $200 million of funding comes from the general fund; any funds remaining at the end of FY23 shall revert to the general fund.
- Eligible Businesses must:
    - Remain “active and open” with new full-time-equivalent (FTE) employees added to the payroll in the prior quarter;
    - Operate in New Mexico with one to 75 employees per location;
    - Have filed tax returns demonstrating a decline in revenues for taxable year 2020 from revenues for taxable year 2019;
    - Be current on state and local tax obligations; and
    - Add and document FTE in quarterly reports to the Workforce Solutions Department from the date of application to the dates of reimbursement.
- Terms of the grant:
    - Funding must be used only for reimbursement of rent, lease or mortgage obligations;
    - The grant must be accompanied by job creation and increased state tax revenues;
    - Each new (or rehired) FTE will qualify the business for a set amount of funding, up to the total award amount (EDD will issue a rule to determine the calculations for this amount using the bill's instructions to base the amount on the business's revenue decline in 2020 and on the wages paid to employees);
    - The business must adhere to reporting requirements established by EDD and NMFA; and
    - Applications will be accepted until June 30, 2022.

See the “Significant Issues” section for a more detailed description of the bill's components.

This bill contains an emergency clause, and the provisions relating to the recovery grants would become effective immediately on signature by the governor. The effective date of Sections 1 through 10 and 12 through 14 of this bill (GRT and compensating tax-sharing provisions of LEDA projects) is July 1, 2021.

FISCAL IMPLICATIONS

Recovery Grants. This bill appropriates $200 million from the general fund to EDD to provide the recovery grants pursuant to this bill. Any funds unspent at the end of FY23 will revert to the general fund. A detailed description of the recovery grant provisions is in the Significant Issues section of this report.

GRT and Compensating Tax Sharing for Certain LEDA Projects. *[Note: this is no longer relevant with the SFC amendment to remove the bill's permanent GRT-sharing provision.]* This GRT sharing provision, effective in FY22, pertains to new LEDA projects with large construction costs (over $350 million), requiring that GRT and compensating taxes generated from those construction costs be shared between the LEDA fund and state and local governments.

This bill may be counter to the LFC tax policy principle of adequacy, efficiency, and equity. Due to the increasing cost of tax expenditures, revenues may be insufficient to cover growing recurring appropriations.

Effectively, this creates a new tax expenditure with a cost that is difficult to determine but likely significant. LFC has serious concerns about the significant risk to state revenues from tax expenditures and the increase in revenue volatility from erosion of the revenue base. The committee recommends the bill adhere to the LFC tax expenditure policy principles for vetting, targeting, and reporting or be held for future consideration.

Estimating the cost of tax expenditures is difficult. Confidentiality requirements surrounding certain taxpayer information create uncertainty, and analysts must frequently interpret third-party data sources. The statutory criteria for a tax expenditure may be ambiguous, further complicating the initial cost estimate of the expenditure's fiscal impact. Once a tax expenditure has been approved, information constraints continue to create challenges in tracking the real costs (and benefits) of tax expenditures.

Assuming one-third of the construction costs would be taxable, the state would give up at least $3.5 million in tax revenue each year for a single qualifying project with $350 million in construction costs, and local governments would give up at least $1.5 million.[1] Alternatively, the state would give up over $10 million per year on a project with $1 billion in construction and infrastructure costs – over the course of 10 years, this would be a $100 million cost to the state.

Notably, however, the relative cost to the state and local governments of this provision hinges on whether the project meets the "but for" question – see item #5 of the LFC tax expenditure policy principles provided on the last page of this report. EDD argues that, in theory, this would only be a negative cost to the state and local governments if the project would occur anyway, regardless of public support.[2] However, if lack of public support meant the project would be lost, then EDD presumes the public funding necessary to secure the project would result in a gain to the state.

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[1] Calculation of potential cost = $350 million construction costs * one-third taxable * average state effective GRT rate of 4.3 percent * 75 percent distribution to LEDA fund. Note the cost for local governments would be similar but calculated with an average effective GRT rate of 2.6 percent and a 56.25 percent distribution to the LEDA fund.

[2] If the project would occur regardless of public funding, then the state and local governments could reasonably

EDD believes this provision will be a net positive for the state by assuming that such funding would occur only if this tax expenditure were made available. According to EDD:

> "The GRT sharing mechanism should result in net positive revenues for the state and local governments because the requirement that all parties agree to the terms would answer the "but for" test for incentives. If the project were going to happen anyway, or if it was a net negative deal for the local governments, they would decline. Only if the project would not happen "but for" this incentive structure would they agree to the revenue sharing."

Notably, EDD's argument that these projects would pass the "but for" question relies on an assumption that local governments would not participate in the project (and would not give up tax revenue) if they were aware the project would occur anyway. However, the state and local governments have historically demonstrated a willingness to forego tax revenues in the name of job creation, and local governments' willingness to participate in the agreement is not evidence in itself that the deal would not happen regardless of public support.[3]

SIGNIFICANT ISSUES

Legal Concerns

Constitutional Anti-Donation Issues. Notably, the Local Economic Development Act is enacted under Article IX, Section 14(D), of the New Mexico Constitution, which is an exception to the anti-donation clause. It provides that the anti-donation clause does not prohibit "the state or a county or municipality from creating new job opportunities by providing land, buildings or infrastructure for facilities to support new or expanding businesses."

Typically, EDD will provide a portion of LEDA money upfront, and the companies have to meet certain milestones set in the contract to receive additional tranches of money. EDD states this bill continues in that same framework by providing one of the four quarterly payments upfront and requiring companies to meet hiring requirements to receive all or a portion of the additional quarterly payments.

On January 25, 2021, EDD provided a memo in which the department states the recovery grant provisions of this bill do not violate the New Mexico constitution's anti-donation clause. Specifically, the memo argues the recovery grants do not meet the definition of a "donation"

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expect to receive the GRT and compensating taxes from that project. Therefore, any agreement to provide revenues to the LEDA fund to support that project would be a net loss to the state and local governments of the revenue it could have received. However, if the public support is necessary to secure that project, then the project would not exist "but for" the tax expenditure. See #5 of the LFC tax policy principles provided on the last page of this FIR.

[3] For example, the major aerospace Project Orion is a planned $10 billion investment in Albuquerque to build an 80-acre site adjacent to the Sunport and construction of 4.1 million square feet of buildings. Under this bill, the project could also qualify for the GRT and compensating tax-sharing provisions, as long as the local governments and EDD agree. If agreed, and because this is a planned project, any state or local government tax revenue distributed into the LEDA fund from the construction of this project would be a net loss to the state and local governments in revenue they would already expect to receive.
https://www.cabq.gov/mayor/news/city-taking-steps-to-bring-major-aerospace-project-to-albuquerque

because the bills provides that the transfers are made in exchange for "consideration" and with conditions – in other words, the state receives something of value in exchange for the funds provided and provides conditions for that funding.

In this case, EDD believes the condition of adequate consideration is met because the recovery grants are conditioned on new job creation in accordance with LEDA. Additionally, the bill requires a written certification by the appropriate officer of the recovery entity certifying that (1) the officer understands recovery grants must be accompanied by new job creation, and (2) the officer has reasonable basis to believe the business does not expect to cease operations or file for bankruptcy.

However, Article IX, Section 14(D) does not permit the state or a local government to create new job opportunities by making grants of public money to private businesses. Additionally, a promise to create jobs is not sufficient consideration in exchange for a grant of public money because there is no direct benefit to the state – it is impossible to measure whether the promise to create jobs confers a benefit on the state that is comparable to the amount of the grant paid to the recipient. As discussed above, Section 14(D) recognizes this by only excepting the creation of new job opportunities by the provision of "land, buildings or infrastructure" from the anti-donation clause.

Detailed Description of Bill Components

GRT and Compensating Tax Sharing for Certain LEDA Projects. *[Note: this is no longer relevant with the SFC amendment to remove the bill's permanent GRT-sharing provision.]* The first LEDA expansion of this bill is permanent, creating a mechanism allowing sharing of gross receipts tax (GRT) and compensating tax revenues with companies for very large projects with significant construction and infrastructure expenses exceeding $350 million. If such a project gets approval through a written agreement with the Economic Development Department (EDD), the county, and the municipality in which the project is located (if in a municipality, otherwise only the county), it allows 75 percent of the state GRT and compensating tax revenues from the project construction would flow to the LEDA fund. Of this amount, 75 percent (56.25 percent of total state tax revenues) could be used to reimburse that company for costs already eligible under LEDA. The remaining state contribution stays in the LEDA fund to be available for other projects.

No remaining portion of the local government tax revenues would stay in the LEDA fund, but the local match must be equal to the state match for the project itself, so up to 56.25 percent of the local tax revenues generated from the construction would also flow to the LEDA fund to go toward the project. If one or both of the local governments decline to enter into this agreement, the project would not be eligible for this funding mechanism.

EDD and the local governments would track taxable expenses on a monthly basis and require the company to provide tax information as documentation. On a quarterly basis, EDD would work with the local governments to calculate an estimated total amount of tax revenue generated for each government entity and send those totals, along with all documentation, to the Taxation and Revenue Department (TRD) for verification the estimates were performed correctly (*see "Technical Issues" item #1*). TRD would then subtract the appropriate amounts from the next scheduled monthly transfers to the general fund and the local governments.

EDD also provides the following discussion regarding this provision in the bill:

> "The GRT and compensating tax revenue sharing provisions allow the state to compete for projects that are so large that EDD may not have enough uncommitted LEDA funds to successfully compete with offers from other states. If a company needs to make a decision in June, they probably will not be willing to wait until the next legislative session for a LEDA appropriation. EDD occasionally misses out on deals like this because we cannot compete with offers made by other states. The structure of these provisions answers the "but for" test for incentives, so the state and local GRT revenues devoted to the project would be part of a much larger total of new revenues we would not see otherwise. The general fund would still get an increase of 25 percent of the total, and local governments would get nearly half of their total. The result is potential for far more private investment, jobs, and revenues for state and local governments."

Permanent Changes to LEDA Provisions Should be Fully Vetted by Interim Committees. This provision creates a permanent change to LEDA funding that seems to function similar to tax increment development districts (TIDDs). In recognizing the potential for significant losses to state revenues for projects that may occur with or without public support, over time the TIDD statutes were amended to provide various safeguards for this funding mechanism. However, this bill does not appear to have similar safety mechanisms in place. This kind of permanent change should be fully vetted by interim committees before passage to be sure the bill appropriately ensures the best interest of the state.

If there is concern that this provision is needed to secure a project[4] before the next legislative session, then the bill should consider an FY23 effective date for this provision, ensuring the Legislature would need to revisit the issue in the next session.

Additionally, there may be concerns on what types of projects would qualify for GRT and compensating tax sharing. For example, could film projects qualify? Netflix's most recent expansion promised $1 billion in production spending and $150 million in capital expenditures.[5] That capital cost level would prevent that type of project from qualifying under this bill's provision. However, should a film company promise $350 million in capital expenditures, nothing in the bill seems to preclude a film project for qualifying for the bill's cost-sharing provisions, despite the other forms of state support (notably the 25 percent to 35 percent film production tax credit) the project would already receive.

[Note: this concern was addressed by the SFC amendment to remove the bill's permanent GRT-sharing provision.]

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[4] For example, the *Wall Street Journal* (WSJ) reported Samsung Electronics is considering an investment of as much as $17 billion to build a chip-making factory in Arizona, Texas, or New York. The proposed plan would employ up to 1,900 people and aims to be operational by October 2022. *WSJ* reports the city of Goodyear, Arizona is offering a range of incentives, including tax breaks and infrastructure upgrades to attract the factory. https://www.wsj.com/articles/samsung-eyes-up-to-17-billion-u-s-chip-plant-investment-11611361050?mod=searchresults_pos1&page=1

[5] https://www.abqjournal.com/1520539/netflix-plans-significant-expansion-in-abq.html

Recovery Grants. The second LEDA expansion is a temporary project, creating a targeted grant program to help businesses significantly impacted by Covid-19 with rent, lease and mortgage obligations in exchange for job creation and increased tax revenues. The bill funds these recovery grants with a $200 million appropriation from the general fund to EDD's LEDA fund for this temporary program, with any unused funds reverting at the end of FY23.

EDD would administer the program and issue any rules necessary, but the bill calls for the agency to enter into a memorandum of agreement with the New Mexico Finance Authority (NMFA) to transfer funds as needed to them, and NMFA would accept applications for the grant program and process payments. Applications would be accepted until the end of 2021, and EDD and NMFA would need to set aside a proportional estimated amount of funding for those businesses that may still be under public health closure orders on the effective date of this bill (the bill allows for up to 25 percent of total funds transferred to the LEDA fund). Once those closure orders are rescinded or changed to allow those businesses to reopen, that amount set aside would be made available. If there is not sufficient funding to award grants to all businesses applying for funds, the funding shall be prioritized by the greatest percentage reduction in annual revenues from 2019 to 2020.

The maximum amount of award is $100 thousand per business, broken into quarterly payments, and must be used to reimburse business rent, lease or mortgage costs. To be eligible, a business must pay taxes to the state of New Mexico, be current on its state and local tax obligations, and prove a decline in revenues from taxable year 2019 to taxable year 2020. The business must have one to 75 employees per location, but otherwise all businesses would be eligible as long as they meet the other requirements.

To receive any quarterly payment after the first, the business must provide documentation the funding has been used to exclusively make mortgage, rent or lease payments. It must also show through quarterly unemployment insurance filings with the Department of Workforce Solutions it is adding FTEs, with each FTE qualifying the company for a set amount of the total possible award for that quarter.

Finally, the bill requires companies to adhere to reporting requirements put in place by EDD and NMFA for them to meet the bill's requirement for annual reports to legislative committees, providing the following information:

- The total dollar value of recovery grants made to date, along with breakouts of disbursements by quarterly payment number;
- The number of recovery entities assisted, in total and by county;
- The total number of new jobs created and the total number of employees currently employed by recovery entities that received grants;
- The total projected annual payroll for the jobs created;
- The total number of recovery grant applications;
- The number of recovery entities, if any, that received initial payments but were determined to be ineligible for additional quarterly payments; and
- An overview of the industries and types of business entities represented by recovery entities that received recovery grants.

EDD also provides the following discussion regarding this provision of the bill:

> "The [Covid-19] recovery component [of this bill] provides relief to companies in New Mexico that have a real chance to rebuild, rehire employees, and make it through this economic crisis but need some help to get there. This can be a critical component of how we save many of our businesses in the state. This is an unprecedented way for the state to invest funds through grants, but we are also in an unprecedented crisis.
>
> More than 2,000 business locations in New Mexico closed permanently in 2020, and many more are struggling to stay afloat, avoid eviction by their landlords, and get back on their feet and rehire employees. This tool alone cannot save them all, but it would be the single most significant step the state has taken towards saving many of them. In conjunction with other state and federal programs available, this can be a key component of how we prevent another wave of permanent business closures, saving those investments, jobs, and tax revenues."

Exemption From the Inspection of Public Records Act (IPRA). This bill provides an IPRA exemption stating the recovery grant applications shall be confidential, provided that EDD and NMFA may disclose broad demographic information regarding the grants, information related to the total amount of recovery grants made, the total outstanding balance of recovery grants, and the names of the recovery entities that received recovery grants.

PERFORMANCE IMPLICATIONS

The LFC tax policy of accountability is met with the bill's requirement to report annually to an interim legislative committee regarding the data compiled from the reports from taxpayers taking the recovery grants pursuant to this bill and other information to determine whether the recovery grants are meeting the bill's purpose.

ADMINISTRATIVE IMPLICATIONS

This bill requires EDD to enter a memorandum of understanding with NMFA to provide the recovery grants. Although the bill appropriates $200 million from the general fund to EDD, the bill puts NMFA in charge of distributing the grants. Discussions with EDD indicate the department intends to use the systems NMFA has already developed in administration of the Small Business Recovery Act of 2020 (passed in the June 2020 special session) to process the grant applications and distribute funds. At this time, EDD does not currently have such a system in place, and the department believes coordination with NMFA will speed up the process of administering the recovery grant provisions of this bill.

NMFA states that many businesses needing the recovery grants may need to file for bankruptcy protection in order to reorganize their debt to stay in business. The requirement contained in Section 11 C (2)(c) that the authorized officer certify that the eligible entity has a reasonable basis to believe that it does not expect to file bankruptcy may prevent businesses that would otherwise stay in operation and employ New Mexicans from being able to access this critical funding. Because the grants are not expected to be repaid, NMFA states this provision does not appear to be relevant.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

Senate Bill 1 also seeks to provide pandemic relief by creating a new temporary GRT deduction for certain food service establishments for March 2020 through June 2020.

The Senate Finance Committee Substitute for Senate Bill 5 is nearly identical to the House Taxation and Revenue Committee Substitute for House Bill 11 prior to the SFC amendments.

TECHNICAL ISSUES

The bill requires 56.25 percent of the local government portion of GRT and compensating tax revenue be dedicated to the LEDA; however, Section 10-C(2) requires the qualifying entity to estimate 75 percent of the projects construction GRT and compensating tax revenue attributable to state and local governments' GRT and compensating tax revenues. *This should likely be amended to require estimation of 56.25 percent to meet the bill's intent pursuant to Section 14 (the state and local distributions to the LEDA fund). [Note: this is no longer relevant with the SFC amendment to remove the bill's permanent GRT-sharing provision.]*

OTHER SUBSTANTIVE ISSUES

Beneficiaries of Recovery Grants. This bill may present an anomaly that could curtail its benefit to New Mexicans. While the bill has many safeguards to ensure that grants are given only to New Mexico businesses and that these businesses remain current on taxes owed to New Mexico, there are no similar safeguards applicable to the ultimate recipients of the grant money, i.e., the landlords. This bill requires grantees to pay the entire grant amount to their landlords, but the bill does not require that these landlords be New Mexico businesses, be current on property taxes, or maintain their property in conformance with local building codes. Further, there is no requirement that the landlords make improvements in their property that may be necessary for their tenants to continue to do business under the changed circumstances caused by the pandemic.

Existing Stimulus. Various existing federal initiatives have targeted pandemic relief for individuals and small businesses. In December 2020, Congress approved an additional $900 billion relief package that included $600 stimulus checks to individuals, an additional $13 billion for the Supplemental Nutrition Assistance (food stamp) Program, $10 billion for childcare assistance, and roughly $284 billion in forgivable Paycheck Protection Program loans. This occurred on top of the previous Coronavirus Aid, Relief, and Economic Security (CARES) Act that provided nearly 22 thousand business with $2.2 billion in forgivable loans to encourage keeping employees on the payrolls. Assuming an apportionment to 0.5 percent to New Mexico, this could mean another $1.2 billion in forgivable loans for the state's small businesses.

Additionally, existing state initiatives include the State Investment Council's $100 million New Mexico recovery loan fund that provides low-interest loans, the Small Business Recovery Act of 2020 that was passed in the June 2020 special session, and the Economic Development Department's no-interest Local Economic Development Act (LEDA) loans and Covid-19 Emergency Loan Guarantee Program.

Does the bill meet the Legislative Finance Committee tax policy principles?

1. **Adequacy**: Revenue should be adequate to fund needed government services.
2. **Efficiency**: Tax base should be as broad as possible and avoid excess reliance on one tax.
3. **Equity**: Different taxpayers should be treated fairly.
4. **Simplicity**: Collection should be simple and easily understood.
5. **Accountability**: Preferences should be easy to monitor and evaluate

Does the bill meet the Legislative Finance Committee tax expenditure policy principles?

1. **Vetted**: The proposed new or expanded tax expenditure was vetted through interim legislative committees, such as LFC and the Revenue Stabilization and Tax Policy Committee, to review fiscal, legal, and general policy parameters.
2. **Targeted**: The tax expenditure has a clearly stated purpose, long-term goals, and measurable annual targets designed to mark progress toward the goals.
3. **Transparent**: The tax expenditure requires at least annual reporting by the recipients, the Taxation and Revenue Department, and other relevant agencies.
4. **Accountable**: The required reporting allows for analysis by members of the public to determine progress toward annual targets and determination of effectiveness and efficiency. The tax expenditure is set to expire unless legislative action is taken to review the tax expenditure and extend the expiration date.
5. **Effective**: The tax expenditure fulfills the stated purpose. If the tax expenditure is designed to alter behavior – for example, economic development incentives intended to increase economic growth – there are indicators the recipients would not have performed the desired actions "but for" the existence of the tax expenditure.
6. **Efficient:** The tax expenditure is the most cost-effective way to achieve the desired results.

LFC Tax Expenditure Policy Principle	Met?	Comments
Vetted	✘	Not vetted through interim committees
Targeted		No clearly stated purpose, goals or targets, but presumably to (1) provide relief to businesses losing significant revenues due to the Covid-19 pandemic, and (2) to assist the state in attracting large economic development projects with high construction and infrastructure costs.
Clearly stated purpose	✘	
Long-term goals	✘	
Measurable targets	✘	
Transparent	⁄	The bill requires reporting to interim legislative committees on the recovery grants. No additional reporting is required for the GRT and compensating tax sharing provisions included in this bill for certain LEDA projects.
Accountable		
Public analysis	⁄	See reporting requirements discussed above.
Expiration date	⁄	The recovery grant provision of this bill is limited to FY23; however, the GRT and compensating tax-sharing LEDA provisions projects are permanent.
Effective		See discussion in Significant Issues section of this FIR
Fulfills stated purpose	?	
Passes "but for" test	?	
Efficient	?	
Key: ✓ Met ✘ Not Met ? Unclear ⁄ Partial		

DI/rl/sb/al/rl