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## FISCAL IMPACT REPORT

<b>SPONSOR</b> <u>Szczepanski/Steinborn</u>	<b>LAST UPDATED</b> <u>3/11/23</u> <b>ORIGINAL DATE</b> <u>1/28/23</u> <b>BILL NUMBER</b> <u>House Bill 8/aHCEDC/aHAFC</u>
<b>SHORT TITLE</b> <u>Creative Industries Division in EDD</u>	<b>ANALYST</b> <u>Dick-Peddie</u>

### ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT\* (dollars in thousands)

	FY23	FY24	FY25	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
	0.0	\$2,000.0	\$2,000.0	\$4,000	Recurring	General Fund
<b>Total</b>	0.0	\$2,000.0	\$2,000.0	\$4,000	Recurring	

Parentheses ( ) indicate expenditure decreases.  
 \*Amounts reflect most recent analysis of this legislation.

Relates to House Bill 188, House Bill 118, Senate Bill 62  
 Relates to appropriation in the General Appropriation Act

### Sources of Information

LFC Files  
 National Assembly of State Arts Agencies

Responses Received From  
 Higher Education Department (HED)  
 Economic Development Department (EDD)  
 Department of Cultural Affairs (DCA)  
 Workforce Solutions Department (WSD)  
 New Mexico Tourism Department (NMTD)  
 Indian Affairs Department (IAD)

## SUMMARY

### Synopsis of HAFC Amendment to House Bill 8

The House Appropriations and Finance Committee amendment to House Bill 8 strikes the appropriation.

### Synopsis of HCEDC Amendment to House Bill 8

The House Commerce and Economic Development Committee Amendment to House Bill 8 added clarifying language to exclude film projects from the definition of “creative media” and goes on to define “film” as any filming activity supported by the Economic Development Department.

## Synopsis of Original Bill

House Bill 8 appropriates \$67 million from the general fund to the Economic Development Department for the purpose of creating a Creative Industries Division, and companion fund, within the Economic Development Department.

House Bill 8 amends the Economic Development Act to a Creative Industries Division to support the state’s creative industries, defined as a business or person “engaged in creative enterprises, including performing, visual and literary arts, entertainment, media, information and broadcasting, applied arts and design, including architecture, landscape architecture, museum and gallery professions, promotion, marketing, graphics and industrial design, technology and computer system design, software design, coding and digital media, and crafts and artisan professions, including metal, wood, glass, ceramics, paper, printing, textile and culinary arts.” The division is also charged with increasing and promoting creative-industry-based economic development and tourism, supporting educational and workforce training initiatives to facilitate creative industry growth, and supporting entrepreneurs and small businesses in creative industries.

House Bill 8 also creates a nonreverting creative industries fund made up of appropriations, donations, income from investments, and other funding sources. The fund would be administered by EDD for competitive grants and programs that demonstrate the potential to stimulate community or economic development through creative industries. Projects must also demonstrate or support one or more of the following: (1) broad local support, including in-kind or financial support from local governments and surrounding communities or neighborhoods; (2) assistance to small businesses with fewer than 10 employees; (3) expansion of existing creative industries; or (4) the promotion of inclusion and diversity. Grants may be awarded to a county, municipality, or other political subdivision of the state; an Indian nation, tribe or pueblo; and for-profit and nonprofit organizations.

Finally, House Bill 8 requires the division to collaborate with other state agencies, including the Workforce Solutions Department (WSD), Cultural Affairs Department (DCA), New Mexico Tourism Department (NMTD), Indian Affairs Department (IAD), and Higher Education Department (HED).

The effective date of this bill is July 1, 2023.

## FISCAL IMPLICATIONS

The proposed SFC amendments to the committee substitute for House Bill 2 (the General Appropriation Act) contain \$2 million in nonrecurring funding for the creative industries contingent on the passage of House Bill 8 or similar legislation. Any unexpended or unencumbered balance remaining at the end of FY24 shall revert to the general fund. The House Appropriations and Finance Committee struck all appropriations in the bill, but the legislation still creates a nonreverting creative industries fund to support ongoing grants and projects. Although House Bill 8 does not specify future appropriations, establishing a new grant program could create an expectation the program will continue in future fiscal years.

According to the National Assembly of State Arts Agencies, in 2020, cultural and art production contributed \$2.5 billion and 21.5 thousand jobs to the greater New Mexico economy. That translated to 2.6 percent of total gross state product, the same as Nevada, but less than Colorado and Utah, which each reported cultural and art production as 3.6 percent of total gross state product.

## SIGNIFICANT ISSUES

Several states, including Hawaii and Colorado have created state divisions similar to that proposed in HB8. However, these states define “creative industry” more narrowly than the definition provided in the bill. HB8 defines creative industries broadly, encompassing a business, organization, or even an individual engaged in creative enterprises ranging from performing arts and software design to culinary arts. This broad definition makes funding available to a wide range of companies or individuals, including those that are not considered economic base companies, or employers that grow the number of jobs and earnings in a local region.

### Existing Programs

The legislation requires collaboration from several state agencies. The Workforce Solutions Department in partnership with four regional workforce development boards throughout the state, administers the Workforce Innovation and Opportunity Act (WIOA), a federally funded program through the U.S. Department of Labor. WIOA provides access for job seekers to employment, education, training and support services to succeed in the labor market. It also assists businesses that seek qualified job candidates for a broad and deep, statewide array of industries. The department reports that “given its unique expertise and engagement with businesses and industries statewide, WSD is well suited to provide advice, guidance, and networking opportunities to EDD in furtherance of the Creative Industries Division’s purposes”.

The duties of the proposed division significantly overlap with those of existing agencies. The Department of Cultural Affairs, for example, already operates a grant program for artists in the state. The New Mexico Tourism Department (NMTD) also receives significant funding to promote visitation to the state, and uses a wide range of data to closely track the return on investment for all marketing initiatives. NMTD has shifted resources towards creative and cultural industries in recent years. The department’s national marketing campaign, which brands New Mexico as a destination for “adventure steeped in culture” features Native American artists and dancers, culinary artists, and craftspeople. NMTD also runs the New Mexico True Certified Program, which leverages the popular New Mexico True brand to boost local businesses, about half of which fall into the category of creative industries. NMTD reports that as a result of this focus, in 2021 48 percent of overnight visitors to New Mexico participated in cultural activities, compared to the national average of 29 percent. Additionally, 19 percent of all overnight visits included a trip to a museum, compared to just 10 percent for the rest of the United States

In its agency analysis, NMTD expressed concern that House Bill 8 explicitly tasks the Economic Development Department with promoting tourism. NMTD notes:

Promoting tourism falls within the purview of the Tourism Department, at which there is already extensive infrastructure and experience in place for this express purpose. NMTD has a track record of generating positive returns on investment for the state of New Mexico related to this purpose, and [...] cultural and creative promotion has increased cultural activity participation among visitors.

New Mexico Tourism Department was established as its own administrative department, outside of the umbrella of the Economic Development Department, because the New Mexico legislature determined that the two departments had different missions and different core competencies.

For the Creative Industries Division to promote tourism would duplicate efforts to little

effect, and would not represent the best and highest use of taxpayer dollars.

NMTD also speculates that for the division to successfully promote creative industries in the state, the Tourism department would need to “allocate considerable staff time to assist EDD in building a duplicate marketing mechanism. Even with targeted coordination and assistance, it will take several years of dedicated effort to bring this to comparable functionality with Tourism Department marketing infrastructure already in place.”

Some provisions of the proposed division also overlap existing initiatives within EDD. Currently, EDD has a stand-alone division for film, also considered a creative industry, and a justice, equity, diversity, and inclusion office that supports diverse businesses in the state, including creative industries. LFC has concerns with further duplicating efforts and siloing programs supporting towards creative industries.

### **Best Practices for Incentive and Grant Programs**

A 2022 LFC program evaluation on EDD’s two current incentive programs, the Local Economic Development Fund Act (LEDA) and the job training incentive program (JTIP) found that the two programs would benefit from additional guardrails to promote transparency and ensure the best return on investment for public dollars spent on economic development. Some key recommendations from the evaluation included instituting an open, formal process through which all companies seeking state funding apply, implementing local match requirements for state funding (with exceptions for very small communities), and publishing criteria and scoring rubrics by which the department might approve projects and determines award levels. House bill 8 does not currently include these best practices.

The program evaluation also found that for both LEDA and JTIP projects, funds expended by companies were often less than the initial award, and actual jobs created by LEDA were lower than initially projected. The statutes for both LEDA and JTP include claw-back provisions, enabling the department to pull back funds when a company does not deliver on promised jobs or otherwise violates the conditions of receiving state support. House Bill 8 as written does not include any claw-back provisions, making it difficult for the Legislature and agency to hold awardees accountable for spending public funds.

### **Broadening EDD Staffing**

House Bill 8 does not specify how many employees the new division should consist of. LFC projects that to fulfill the duties enumerated in the bill, of the \$2 million appropriation in House Bill 2 for the division, approximately \$750 thousand and 3 FTE would go towards personnel. Currently, EDD does not have the office space to support an additional 3 FTE, and significantly expanding the department may require a larger, more expensive office for the department.

## **PERFORMANCE IMPLICATIONS**

The Accountability in Government Act requires every agency program to have at least two performance measures. LFC and executive staff would need to collaborate with the department to draft performance measures for the division.

## **CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP**

House Bill 8 relates to House Bill 188, which creates a transition division within EDD to provide support and training to regional economies and individuals transitioning away from fossil fuels.

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House Bill 8 relates to House Bill 118 and Senate Bill 188, which create an office of entrepreneurship at the Economic Development Department.

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