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FISCAL IMPACT REPORT

SPONSOR <u>SFC</u>	LAST UPDATED <u>3/7/23</u> ORIGINAL DATE <u>3/1/23</u>
SHORT TITLE <u>Tax Changes</u>	BILL NUMBER <u>CS/CS/Senate Bill 147ec/STBTCS/ SFCS/aSFC</u>
	ANALYST <u>Graeser</u>

REVENUE (dollars in thousands)

Estimated Revenue Impact*					R or NR**	Fund(s) Affected
FY23	FY24	FY25	FY26	FY27		
--	Positive, but minimal				R	Section 7: General Fund - Exemption of income under Personal Income Tax (PIT)
	Unknown, but positive					Section 8: General Fund – add entity level credit to base income for CIT
--	(1,450.0)	(1,560.0)	(1,790.0)	(2,000.0)	R	Section 10: General Fund - Excluding Cannabis Excise tax in GRT receipts
--	(1,030.0)	(1,100.0)	(1,270.0)	(1,420.0)	R	Section 10: Local Governments - Excluding Cannabis Excise tax in GRT receipts
(\$180.0)	(\$150.0)	--	--	--	NR	Section 13: General Fund – ARPA Funds GRT exemption
(\$120.0)	(\$100.0)	--	--	--	NR	Section 13: Local Governments – ARPA Funds GRT exemption
--	(Negative, but minimal)				R	Section 15: Various Funds – Governmental Gross Receipts Tax deduction digital goods
	Likely positive, potentially significant				R	Section 16: Tribal Governments GRT
	\$0	\$0	\$0	\$0		Section 16: General Fund
	\$0	\$0	\$0	\$0		Section 16: Local Governments
--	\$0	\$0	\$0	\$0	R	Section 22: General Fund – Credit – Medical Insurance Pool
--	Minimal impact – shifts between local governments				R	Section 23: Local Governments – Cannabis Excise Tax
--	\$0	\$0	\$0	\$0	R	Sections 18, 27 – 28: General Fund – Repeals
--	\$0	\$0	\$0	\$0	R	Sections 18, 27 – 28: Local Governments - Repeals

Parenthesis () indicate revenue decreases.

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

FY23	FY24	FY25	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
\$11.1				NR	Section 15 --TRD ITD
\$33.6				NR	Section 15 --TRD contract
\$0.9	\$0.9	\$0.9	\$2.7	R	Section 15 – TRD ASD
\$0.5			\$0.5	NR	Section 18 -- ASD

Parenthesis () indicate expenditure decreases.

Sources of Information

LFC Files

Responses Received From

Taxation and Revenue Department (TRD) on STBTC sub
Economic Development Department (EDD) on STBTC sub

No Response Received

Indian Affairs Department (IAD)

SUMMARY

Synopsis of SFC amendment to SFC Committee Substitute for STBTC Committee Substitute for Senate Bill 147

SJC amendment to SJC committee substitute for STBTC committee substitute for SB147 deletes the exclusion by definition of “gross receipts” for all excise taxes and restricts the exclusion to the existing “gross receipts tax, governmental gross receipts tax, leased vehicle gross receipts tax” and adds “cannabis excise tax.”

Synopsis of SFC Committee Substitute for STBTC Committee Substitute for Senate Bill 147

STBTC Committee Substitute for Senate Bill 147 is a Taxation and Revenue Department (TRD) agency bill that makes several small but significant administrative changes to the tax code.

The significant change between the STBTC committee substitute and the SJC committee substitute is (Section 8) includes an add-back to the definition of base income in the Corporate Income Tax Act, the amount of credit for distributed net income of an entity level pass-through. This entity level pass-through was added last year.

This description and section-by-section analysis has been provided mainly by TRD. Some significant changes include:

- **Section 1:** TRD will produce a tax expenditure budget by November 15 of each year.
- **Section 2:** Technical corrections to language related to distribution of cannabis excise tax to local governments.
- **Section 3:** Adds to the information that may be revealed to the Department of Transportation under Section 7-1-8.2 NMSA 1978, tax return information pertaining to special fuels and the Special Fuels Supplier Tax Act.
- **Section 4:** Cleans up language under Section 7-1-14 NMSA 1978 to clarify where taxpayers should report gross receipts tax.
- **Section 5:** Adds insurance premium returns to the tax programs under Section 7-1-26 NMSA 1978 that may request refunds by filing a regular or amended return, without a separate refund request.
- **Sections 6, 17, 20, and 24:** Standardize various sections related to tax compliance checks for various types of license renewal including liquor licenses, cigarette distributor and manufacturer licenses, weight distance permits, and cannabis licenses.
- **Section 7:** Updates language for the exemption of income by members of New Mexico federally recognized nations, tribes, bands, or pueblos to align State law with U.S. Supreme Court precedent.
- **Section 8:** Adds entity level net distributed income from pass-through entity to the adds for base income in the Corporate Income Tax Act;

- **Section 9:** Provides a new definition for “disclosed agency” to clarify when certain receipts are excluded from gross receipts.
- **Section 10:** As amended, provides that receipts from the cannabis excise tax are excluded from gross receipts.
- **Section 11:** Exempts the use of services from compensating tax for a governmental entity.
- **Section 12:** Cleans up outdated citations with the alternative fuel tax act imposing the tax to clarify the receipts exempt from gross receipts tax or compensating tax.
- **Section 13:** Exempts receipts derived from funds received pursuant to the American Rescue Plan Act (ARPA) of 2021 from gross receipts for health care providers and cleans up language to this section.
- **Section 14:** Clarifies when alternative evidence may be used to support the deduction for gross receipts tax for manufacturers and manufacturing service providers.
- **Section 15:** Add to a deduction for gross receipts tax for licenses to use digital goods sold to a governmental entity when subsequently loaning those digital goods to the public.
- **Section 16:** Allows tribes to set tribal rate of their choosing.
- **Sections 18, 27 and 28:** Repeals various obsolete, duplicate, and expired sections of the tax code.
- **Section 19:** Clarifies the amount of the trip tax that may be imposed.
- **Sections 21 and 25:** Clarifies that the insurance premium tax applies to insurers who procure or renew insurance with a non-admitted insurer.
- **Section 22:** Provides that portion of credit for assessments contributed to the New Mexico medical insurance pool that exceeds a member's premium tax liability shall not be refunded and shall not be carried forward to subsequent taxable periods.
- **Section 23:** Provides for destination-based sourcing of cannabis excise tax to conform with the gross receipts tax (GRT).
- **Section 26:** Allows those who take the test to become a certified public accountant and have 18 months from receiving their test results to pass all parts of the exam, compared to 18 months from taking the test under current law.
- **Section 30:** Declares an emergency to allow the GRT deduction for amounts received by providers from the Medical Assistance Division from ARPA to go into effect the first day of the month after the bill is signed (Section 13 of the bill).

The effective date of Sections 1 through 12 and 14 through 28 is July 1, 2023. The effective date of Section 13 is the first day of the month following the immediate effective (due to emergency clause) date of this act.

FISCAL IMPLICATIONS

TRD and LFC staff note the methodology for the various changes proposed in this bill:

[Section 7]: The bill more narrowly defines who may qualify for the tribal exemption of Personal Income Tax (PIT) by exchanging ‘lives’ with to ‘is domiciled’ within the boundaries of defined Indian nation, tribe, or pueblo land. While this language is more narrowly defined, this will likely impact only a small number of taxpayers and thus a small positive impact to the general fund.

[Section 8]: LFC notes ... this section increases the base income in the Corporate Income Tax

Act by the entity level credit for net income of pass-through entities enacted last year. It is not possible to estimate this element because no returns have been received reporting this credit.

[Section 10]: Currently, entities that pay cannabis excise tax are subject to double taxation or pyramiding because the excise taxes they collect are then subject to GRT. LFC used the Consensus Revenue Estimating Group (CREG) December 2022 forecast for cannabis excise tax to estimate the impact of removing them from the calculation of gross receipts. Because of the change to 4.875 percent state rate effective July 1, 2023, both the total effective rate and the relative shares of the impact between the general fund and the local governments have changed. Also, this change only affects the in-state effective tax rate because of cannabis licensing laws.

[Section 13]: This bill adds payments from the American Rescue Plan Act (ARPA) to the existing exemption provided by Section 7-9-41.6 NMSA 1978. TRD employed data from the Health Resources and Services Administration to estimate the lost revenue from this exemption. This dataset shows the number of providers that have been approved to receive a payment from ARPA rural distribution program since November 2021. In New Mexico, a total of 292 health providers have been approved to receive \$71,791,376.¹

ARPA rural recipients must only use payments for eligible expenses associated with serving rural healthcare needs associated with Covid-19, including services rendered with lost revenues. Thus, estimated fiscal impacts assume that those eligible services and expenses will remain constant at the level and value of the payments already approved to health providers. This assumption is based on the fact costs associated with Covid-19 are expected to stabilize as the preventive measures have aided in controlling the pandemic impacts.

Since it is unclear whether a portion of payments under ARPA rural might have already been made and thus not eligible for the exemption (see Policy Issues), the estimated revenue impact evenly prorates the current funding approved through the end of the federal timeframe which ends in FY25. For FY23, the fiscal impact presumes only payments received on or after the effective date of this bill will be exempted.

Finally, the effective gross receipts tax rate assumed for FY24 and FY25 accounts for the scheduled state Gross Receipts Tax (GRT) rate reduction of 0.125 percent that will take effect on July 1, 2023.

LFC staff note that the ARPA increase in the Medicaid Federal Medical Assistance Program (FMAP) will phase down in calendar 2024 and will be zero effective January 1, 2024. LFC has estimated a smaller impact than TRD and have included this lower estimate in the table on page 1.

[Section 15]: Some public libraries currently pay governmental gross receipts tax (GGRT) on licenses for digital goods, i.e. e-books that are subsequently lent to the general public, and will be able to claim this deduction. The magnitude is unknown but is assumed to be minimal. Various entities receive a distribution of GGRT under Section 7-1-6.38 NMSA 1978.

[Section 16]: The bill removes a requirement that the GRT rate levied inside tribal land may not be greater than the total GRT rate imposed by the state and local governments within the exterior

¹ <https://www.hrsa.gov/provider-relief/data/targeted-distribution/arp-rural>

boundaries of the tribe. This bill gives tribal governments the ability to raise rates in excess of their current limits, which may result in tribes increasing their GRT rates and may result in an increase in tribal tax revenue collections. General fund revenues and local government revenues will not share in any additional amounts imposed by the Indian jurisdictions in the accustomed 75/25 ratio.

[Section 22]: Since TRD began administering the Insurance Premium Tax in 2020, no taxpayer has requested a refund of the New Mexico Insurance Pool Credit from returns processed in the GenTax system, the tax system of record. With no historical cases and preventing any future possibility of a refund, the impact to the general fund is \$0.

[Section 23]: This section transitions the cannabis excise tax from origin-based sourcing to destination-based sourcing to align with the GRT. To the extent cannabis is delivered, the alignment of the tax incidence of cannabis excise tax to the delivery location may shift some revenues between a municipality and a county or between two counties. The expectation is that very few sales of cannabis products are delivered to purchasers at a location other than the store location, and the effect of this change is very minimal and would have a very small fiscal impact between local governments.

[Sections 18, 27, 28]: Sections 18 and 28 repeal various tax expenditures or incentives that have expired or are obsolete. The fiscal impact is zero and a detailed list of repeals is listed below in Policy Issues. Section 27 repeals a duplicative section of 7-9-46 NMSA 1978, a GRT and GGRT deduction. The deduction remains in statute with no change in fiscal impact.

SIGNIFICANT ISSUES

TRD provides the following discussion of the policy implications and rationale for each of the bill's provisions. LFC has added some comments to the TRD analysis.

[Section 1]: The proposed new section of the Tax Administration Act would require TRD to compile and present a tax expenditure budget to the governor, the Revenue Stabilization and Tax Policy Committee, and the Legislative Finance Committee no later than November 15 of each year. Statutorily mandating a tax expenditure budget brings New Mexico in line with the majority of states that have defined tax expenditure reporting requirements in state statute. New Mexico's current tax expenditure report is required pursuant to a 2012 executive order rather than by statute.

A Pew Charitable Trust report highlighted that New Mexico fails to have a regular evaluation of tax incentives defined in statute. This bill will provide consistent reporting of a key area of tax policy to policymakers and the public. Continued reporting on the impact of tax expenditures will be an important data source for policymakers to make informed decisions about tax incentives.

[Section 2]: The amendment makes technical changes to Section 7-1-6.68 NMSA 1978 to clarify the language and utilize consistent language as used in other distributions for local governments, such as gross receipts tax.

[Section 3]: Currently, only gasoline and ethanol information, such as taxpayer names and filing periods, is identified by TRD in public reports. The Department of Transportation (NMDOT)

receives aggregated special fuel reports that often prove insufficient for NMDOT's research purposes. NMDOT is required to report to the Federal Highway Administration (FHWA) the number of gallons sold, produced, exported and deducted from all fuel types. When there are anomalies in the reporting, NMDOT is unable to provide a justification to the FHWA. Disclosing this information to NMDOT would allow them to provide more accurate reporting to the FHWA, which would ease the distribution of federal funds to the department. Placing the release of information of special fuels for public release in 7-1-8.2 alongside gasoline and ethanol brings consistency in the statute to treat each fuel type the same. As gasoline, ethanol, and special fuels are all reported together on the combined fuel tax return, this also allows efficiency in releasing the complete tax return information.

[Section 4]: The amendment makes technical changes to Section 7-1-14 NMSA 1978 to clarify the language and utilize consistent language related to business tax reporting locations.

[Section 5]: By adding insurance premium tax to the list of tax programs that can request refunds by filing a return versus a separate refund request, refunds are streamlined for this tax program. This brings further consistency with how taxpayers are treated across different tax programs.

[Sections 6, 17, 20 and 24]: The amendments in these sections make technical changes to Sections 7-1-82, 7-12-9.1, 7-15A-12 and 26-2C-6 NMSA 1978 to apply consistent language to standardize TRD's compliance checks of license renewal for liquor, cigarette, cannabis sellers, and manufacturers (for cigarette taxes) and weight-distance permit holders. This will allow TRD to streamline its administration of license compliance checks, improving customer service.

[Section 7]: The section amends Section 7-2-5.5 NMSA 1978 to clarify the legal definition of "living" on Indian lands to "is domiciled" on Indian land. This will align New Mexico law with U.S. Supreme Court precedent, which looks to, and uses the term, "domicile" to determine when a Native American working on tribal land is exempt from income taxation. The amendment also updates outdated language referring to family members and federal definitions.

[Section 8]: Adds entity level net distributed income from pass-through entity to the adds for base income in the Corporate Income Tax Act. This should have been included in the entity-level tax provisions passed last year.

[Section 9]: The amendment makes technical changes to Section 7-9-3 NMSA 1978 to clarify the definition of "disclosed agency." These clarifications will prevent litigation and tax pyramiding.

[Section 10]: The amendment removes cannabis excise tax from the definition of gross receipts under Section 7-9-3.5 NMSA 1978, thus eliminating GRT on the excise taxes a business collects to remit to the state. This narrows the exemption proposed in previous versions of this bill to only include recreational cannabis. Retailers who sell cigarettes, liquor and other products with various excise taxes embedded in the wholesale price still subject to double taxation.

[Section 11]: The concern in this section has been whether Sandia National Lab or LANL might benefit from this exemption from compensating tax for services sold to government entities. LFC staff have analyzed this contention and note that Sandia and LANL do not take title to equipment but do use the equipment and would be subject to the compensating tax but for the exemption in 7-9-14 NMSA 1978. However, the labs are the end users of services provided by

contractors and the tax liability is on the side of the contractors and this exemption from compensating tax conforms statute to practice. There may be some services provided to governments by non-profit [501(c)(3)] organizations besides non-profit hospitals that might be excluded by this section, but LFC staff have been unable to find evidence of this contention.

[Section 12]: The bill makes minor technical changes to correct statutory citations.

[Section 13]: Federal American Rescue Plan Act (ARPA) payments to health providers exempted from GRT in this bill are to support healthcare providers severely impacted by the Covid-19 pandemic. By exempting these gross receipts payments from GRT, this bill provides relief to these rural providers and prevents the increase of costs for all recipients of healthcare in the state. The treatment of ARPA payments will be consistent with previously exempted Coronavirus Aid, Relief, and Economic Security Act (CARES) federal payments also aimed at supporting healthcare providers serving during the Covid-19 pandemic.

Under the New Mexico Constitution, and applicable case law, a tax exemption may not be retroactive. Therefore, the proposed tax exemption for certain healthcare providers with respect to ARPA funds they receive can only apply to receipts received on or after the effective date of this bill. ARPA payments already made will remain taxable under the GRT. The bill includes the declaration of emergency specifically so that this deduction will apply as soon as possible.

The fiscal effect of this deduction will probably not be realized in GRT receipts but in the reimbursement level to providers by the Medical Assistance Division (MAD). Currently, MAD adds an 8 percent reimbursement to the amounts paid to providers and this added amount will probably be cancelled pursuant to the provisions of this section. Testimony from HSD/MAD should be solicited to confirm or reject this LFC staff speculation.

[Section 14]: Section 7-9-43 NMSA 1978 already allows taxpayers to provide alternative evidence to nontaxable transaction certificates (NTTCs) to claim various GRT deductions, but taxpayers experience significant confusion because the individual GRT deductions mention NTTCs but do not currently mention alternative evidence. This amendment to Section 7-9-46 NMSA 1978 will provide clarification to both TRD and taxpayers regarding taxpayers' ability to provide alternative evidence for this deduction referencing NTTCs. Providing this clarification will ensure consistent and fair treatment of all taxpayers.

[Section 15]: The inclusion of digital goods (e-books) under GRT and GGRT deduction (Section 7-9-54 NMSA 1978) will ensure the consistent application of the deduction for both e-books and tangible books for GRT and GGRT. Public libraries who purchase licenses for e-books that are subsequently loaned to the general public will not be subject to GRT and GGRT; purchases of tangible books are already covered by this deduction. There is no identifiable tax policy argument to tax e-book licenses but not to tax tangible books offered through public libraries.

DCA adds commentary to this section:

This change will allow libraries that serve the public (public, tribal, and academic libraries) to make tax-free purchases licenses for e-books and other e-materials, bringing these easily accessible materials in line with physical library materials, which libraries can already purchase tax-free. This may increase public access to informational and culturally rich resources. It is common for public libraries to use state grants in aid and general obligation bond funding to purchase e-materials, so gross receipts tax is being

paid with funding intended to provide additional services to communities.

[Section 16]: The legislation would permit tribal governments to increase their gross receipts tax rates if that is the preferred policy of the tribe. This would provide more sovereignty for tribal governments to set their rates and will better allow them to fund their desired level of governmental services. (See the LFC analysis for Senate Bill 90 for a more extensive discussion of this issue.)

[Section 18]: This section repeals an exemption for Motor Vehicle Excise Tax, which applied to fiscal years 2005-2009 and, thus, the time period this exemption can have been claimed has expired.

[Section 19]: The amendment makes technical changes to Section 7-15-3.1 NMSA 1978 to clarify the amount of trip tax that may be imposed. The trip tax is imposed on motor carriers on an isolated and occasional basis, while motor vehicle registration fees are imposed annually, and the weight distance tax is quarterly. This bill will clarify that a motor carrier's trip tax cannot completely offset the amount of vehicle registration fees or weight distance tax owed but may only offset to the extent a trip tax liability is due.

[Sections 21 and 25]: The amendments to Section 7-40-3 and 59A-15-4 NMSA 1978 ensure self-procured insurance providers are subject to the insurance premium tax and the Tax Administration Act. This is technical cleanup dating back to the transition of the Insurance Premium Tax from the Office of the Superintendent of Insurance to TRD in 2020.

[Section 22]: The amendment to Section 7-40-6 NMSA 1978 clarifies that the New Mexico Medical Insurance Pool credit is nonrefundable and cannot be carried forward to a future tax year liability. These clarifications will prevent future litigation.

[Section 23]: The amendments to Section 7-42-6 NMSA 1978 align the reporting of cannabis excise tax to GRT such that the destination sourcing for both taxes are the same. The current language requires cannabis retailers that deliver their product to report the tax to the retail location for cannabis excise tax purposes, but the delivery location for GRT purposes, placing an extra burden on retailers of adult-use cannabis.

[Section 26]: The amendments to Section 61-28B-8 NMSA 1978 provide that an individual taking the examination to become a certified public accountant has 18 months from receiving their test results to pass all parts of the exam. Current law gives 18 months from when the test is taken.

[Section 27]: Two amendments for Section 7-9-46 NMSA 1978 were passed and signed during the 2021 regular legislative session. This section repeals one of those amendments to leave only one Section 7-9-46 NMSA 1978 in the law.

[Section 28]: TRD recommends repealing the following tax expenditures, which have no fiscal impact due to expiration dates in the law, duplicate incentives or other statute requirements that have not been met. The fiscal impact and rationale for repeal are as reported in the 2022 Tax Expenditure Report and prior annual reports (See attachment).

PERFORMANCE IMPLICATIONS

For each bill that imposes, restates, or expands a tax expenditure, LFC notes whether the official LFC tax policy of accountability is met or not met. The STBTC substitute removed proposed section 10 of the original bill, which would have allowed TRD to require separate reporting by rule. The combination of that authority and Section 1 of this bill would have put into statute conformance with the LFC accountability policy for all bills proposing tax expenditures and provide annual notification to the Legislature about utilization and costs and whether these tax expenditures are meeting the purpose as originally stated. LFC recommends restoring this power to require separate reporting of GRT and compensating tax deductions.

CONFLICTS, DUPLICATES, COMPANIONS

Section 1 is similar to SB69 of the 2022 regular session; Section 13 is similar to SB26 of this session; Section 16 is similar to SB90 of this session.

ADMINISTRATIVE IMPLICATIONS

TRD will update forms, instructions, publications, and implement required modifications to GenTax, which will be incorporated into annual tax year implementation.

In the most likely case that only a handful of tribal governments enact GRT rate changes at a time, the impact on ITD would be low, approximately 160 hours, or about one month, of workload and \$33.6 thousand in contractual resources for Section 15. There will need to be staff training across the division to implement the changes in this bill.

[Sections 6, 17, 20 and 24]: By aligning the language to standardize TRD's Audit and Compliance Division (ACD) compliance checks of license renewal for liquor, cigarette, and cannabis sellers, the entire compliance process will be streamlined. There may need to be additional field visits to ensure a taxpayer who is no longer licensed does not have products for sales, but in the long run, these changes will save time and money for ACD.

Section 19 will require the Administrative Services Division to test the changes to the trip tax. This will require 1 FTE for eight hours.

TECHNICAL ISSUES

There has been some concern about Section 11, which allows an exemption from the compensating tax for the use of services by governmental entity. LFC analysis confirms this is largely a technical provision to conform statute to actual practice. The bottom line is that no government—federal, state, or local—pays any compensating tax, let alone compensating tax on services.

LFC staff note in Section 16, tribal governments may increase the tribal government gross receipts tax without limit. However, the state and local governments will continue to receive 25 percent of the base amount, which is compared with the rate in effect in areas surrounding the tribal areas. For all of the 20 tribal, nation, or pueblo jurisdictions that impose gross receipts taxes (except for Santa Clara and Ohkay Owingeh) this is the rate effective in the county areas,

also known as county remainder areas.

Previous attempts to implement this change have been found to be ineffective. This version is carefully drafted to accomplish the increases and retain the sharing agreements with the state and local jurisdictions.

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	✓	
Targeted		
Clearly stated purpose	✓	
Long-term goals	✓	
Measurable targets	✗	
Transparent	✓	
Accountable		
Public analysis	✗	
Expiration date	✓	
Effective		

Fulfills stated purpose	✓	
Passes “but for” test	?	
Efficient	✗	
Key: ✓ Met ✗ Not Met ? Unclear		

Attachment

1. Rationale for Repeal

LG/al/ne/rl/hg/mg/rl/ne

Section (NMSA 1978)	Name	Rationale for Repeal
7-9-114	Advanced Energy GRT and Compensating Tax Deduction	No claims to date. Construction of facility required prior to Dec. 31, 2015
7-2-18.25 7-2A-25 7-9G-2	Advanced Energy Credit Against GRT, Compensating Tax, Withholding Tax, PIT, or CIT	No claimants in Tax Year 2021. Fiscal impact in FY22 due to prior tax years. Construction of facility required prior to Dec. 31, 2015
7-2-18.21 7-2A-23	Blended Biodiesel Fuel Credit against PIT and CIT	Credit has expired, and carry-forward period ended in tax year 2017
7-2-18.4 7-2A-15	Business Facility Rehabilitation Credit against PIT and CIT	No claims to date, there are no enterprise zones to establish eligibility
7-2-18.8 7-2A-18	Electronic ID Reader Credit against PIT and CIT	Credit has never been claimed
7-9-106	Military Construction Services GRT Deduction	Deduction has expired July 1, 2022.
7-9-16	Nonprofit Elderly Care Facility Exemption from GRT	Non-profit entities already qualify for a more general GRT exemption based on non-profit status
7-9-105	Penalty Pursuant to Section 7-1-71.2 NMSA 1978 Credit Against GRT, Compensating Tax and Withholding Tax	Credit has not been available since July 1, 2010
7-2-18.27	Physician Participating in Cancer Treatment Clinical Trials Credit against PIT	Credit applied to tax years 2014-2016. The time period this credit could have been claimed has expired
7-9-86	Sales to Qualified Film Production Company GRT and GGRT Deduction	This deduction cannot be claimed by a film production company if they claim the more extensive film production tax credit (7-2F <i>et seq.</i> NMSA 1978)
7-14A-9	Vehicles Titled Before July 1, 1991 Exemption from Leased Vehicle GRT	At this point, this exemption applies to very few, if any, vehicles
7-2D-8.1	Venture Capital Investment Credit against PIT	No taxpayers have claimed this credit. It appears to compete with the net capital gain income deduction (7-2-34 NMSA 1978)
7-2-18.28 7-2A-27	Veteran Employment Credit against PIT and CIT	Credit applied to tax years 2012-2016 with carry forward of three years Credit can no longer be claimed
7-2-18.5 7-2A-8.8	Welfare-to-Work Credit against PIT and CIT	Tied to a federal program that no longer exists