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SENATE BILL 960

47TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2005

INTRODUCED BY

Gerald P. Ortiz y Pino

AN ACT

RELATING TO GOVERNMENT ACCOUNTABILITY; REQUIRING ANNUAL
DISCLOSURE OF ALL PUBLIC CONTRACTS, TAX BENEFITS, ECONOMIC
DEVELOPMENT INCENTIVES AND THEIR RESPECTIVE VALUES.

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

Section 1. [NEW MATERIAL] LEGISLATIVE FINDINGS. -- The
legislature finds that, while various tax benefits and economic
incentives have been created over the decades for good purpose,
these emoluments remain largely unknown while the annual
struggle by the legislature to fund expanding programs without
raising taxes becomes more difficult each year. The
legislature needs a consistent, accurate and current accounting
of its generosity and investments on an annual basis just as
any business needs an accurate annual inventory to remain
solvent.

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1 Section 2. A new Section 9-6-3.2 NMSA 1978 is enacted to
2 read:

3 "9-6-3.2 [NEW MATERIAL] SERVICES CONTRACTS DISCLOSURE. --

4 A. The management and contracts review division of
5 the department of finance and administration shall annually
6 provide to the legislature a complete report of:

7 (1) all services contracts, in effect and
8 pending, by department;

9 (2) the length of time to fully complete the
10 entire task as well as the length of the contract;

11 (3) the purpose and dollar value of the
12 contract;

13 (4) the person contracting to provide the
14 service, including identification of the person's primary state
15 of business;

16 (5) a succinct explanation, including
17 comparable cost estimates, for contracting for the service
18 rather than having the work provided by state or other public
19 employees;

20 (6) the revenue source for payment of the
21 contracted services; and

22 (7) whether the contract was awarded as a
23 "sole source" contract pursuant to Section 13-1-126 NMSA 1978
24 and if so, setting forth the review process and the specifics
25 of the purchasing negotiations.

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1 B. The report shall be provided annually on or
2 before November 1 starting in 2005 to the governor, the New
3 Mexico legislative council, the legislative finance committee,
4 the revenue stabilization and tax policy committee and any
5 other appropriate legislative committee charged with study of
6 economic development or taxation matters.

7 C. As used in this section, "services contract"
8 means a contract valued at twenty thousand dollars (\$20,000) or
9 more to provide information or other services, but not tangible
10 goods, to the state."

11 Section 3. [NEW MATERIAL] DEFINITIONS.--As used in
12 Sections 3 through 5 of this act:

13 A. "department" means the taxation and revenue
14 department;

15 B. "economic development" means activities or
16 efforts directed toward attracting new businesses and
17 industries into the state, expanding existing businesses and
18 industries, increasing the number of jobs or attracting certain
19 types of employment or enhancing the state's ability to compete
20 with other states in attracting and retaining businesses and
21 industries in the state;

22 C. "economic development incentive" means any of
23 the following provided or intended for economic development:

24 (1) an expenditure of or authority to expend
25 public funds with a value of at least five thousand dollars

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1 (\$5,000) for the benefit of one or more recipients, including
2 state or local bonds, grants, loans, loan guarantees,
3 participation interests in loans, guaranteed debt investment in
4 projects, tax increment financing and other enterprise zone
5 property and infrastructure benefits and direct or indirect
6 assistance for economic development projects pursuant to the
7 Local Economic Development Act; or

8 (2) a tax expenditure;

9 D. "recipient" means an individual, corporation,
10 business entity or other person or an industrial or commercial
11 facility, project or enterprise that is eligible to receive or
12 has received money or other consideration, benefit or any thing
13 of value from an economic development incentive; and

14 E. "tax expenditure" means a tax deduction,
15 exemption, rebate, credit or exclusion or preferential tax rate
16 or other special tax treatment that:

17 (1) decreases public revenues;

18 (2) applies to a narrow class of taxpaying
19 entities that would otherwise be subject to a general tax
20 provision and for which the special tax provision is a clear
21 exception; and

22 (3) is intended to stimulate economic
23 development in the state or any of its local communities.

24 Section 4. [NEW MATERIAL] TAXATION AND ECONOMIC
25 DEVELOPMENT REPORT. --

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1 A. The department shall submit an annual taxation
2 and economic development report on or before November of each
3 year beginning in 2005 to the governor, the New Mexico
4 legislative council, the legislative finance committee, the
5 revenue stabilization and tax policy committee and any other
6 appropriate legislative committee charged with study of
7 economic development matters.

8 B. The report shall present information on every
9 state and local government economic development incentive, the
10 recipients of the incentive and the intended objectives and
11 outcomes of the incentive. The report may also include
12 recommendations for legislative changes to economic development
13 incentives.

14 C. The department, working with the department of
15 finance and administration, the state investment officer and
16 representatives of municipalities and counties, shall compile a
17 list and description of every economic development incentive
18 available in New Mexico and each incentive's intended
19 objectives. The list shall be compiled and included in its
20 annual report.

21 D. The report shall include the following
22 information for each current economic development incentive:

23 (1) the total amount of expenditures or public
24 revenues foregone or the current value or other approximate
25 value of each economic development incentive received by

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1 recipients in each calendar year in which the incentive has
2 been in effect;

3 (2) the aggregate number of recipients
4 benefiting from each economic development incentive, and, where
5 practicable and permitted by law, the names and amounts or
6 values of the incentive to each recipient;

7 (3) the location of recipients and incentive
8 amounts and values aggregated by municipality and county;

9 (4) the number of new jobs created or new
10 employees hired by each recipient as a result of the economic
11 development incentive, and for each new job or employee, the
12 employee's wage or salary, gender and state of residence
13 immediately prior to employment; and

14 (5) information on health care coverage or
15 health insurance provided by each recipient to its employees.

16 E. Tax expenditure information shall include:

17 (1) the known or estimated annual revenue loss
18 to the state in the current year and for the past five years;

19 (2) the number of years the tax expenditure
20 has been in effect;

21 (3) figures showing the expansion or
22 contraction in the last ten years of the class of business of
23 the recipients of the tax expenditure; and

24 (4) if a beneficiary of a tax expenditure
25 involving state or local bonds, grants, loans, loan guarantees

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1 or other enterprise zone property and infrastructure benefit or
2 assistance pursuant to the Local Economic Development Act is
3 also a recipient of an economic development incentive.

4 F. In compiling the report, the department shall
5 present and organize the information on the various economic
6 development incentives and recipients in such a way as to
7 provide a coherent and complete picture of the state's economic
8 development incentive efforts and the results of those efforts.
9 It shall develop methods to analyze, evaluate, measure and
10 project the effectiveness of the economic development
11 incentives in meeting their stated objectives and intended
12 outcomes.

13 Section 5. [NEW MATERIAL] INFORMATION REPORTS--
14 RECIPIENTS' COOPERATION.--The department may request that
15 recipients of economic development incentives file annual
16 reports providing the appropriate information in order to
17 better assess and evaluate state and local incentive policies.
18 Except where specifically prohibited by statute or court order,
19 every recipient of an economic development incentive shall
20 cooperate with and provide information and access to records
21 related to the economic development incentive as requested by
22 the department or other state agency or local government
23 administering or providing an economic development incentive.