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

SPONSOR Payne **ORIGINAL DATE** 03/04/11 **LAST UPDATED** **HB**

SHORT TITLE Headquarters Corporate Income Tax Credit **SB** 560

ANALYST Golebiewski

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Non-Rec	Fund Affected
FY11	**FY12**	**FY13**		
	($1,000.0)	($2,000.0)	Recurring	General Fund

(Parenthesis ( ) Indicate Revenue Decreases)

TRD:

Estimated Revenue Impact*					R or NR**	Fund(s) Affected
FY2011	**FY2012**	**FY2013**	**FY2014**	**FY2015**		
		($1000.0)	($2000.0)	($3000.0)	Recurring	General Fund

* In thousands of dollars. Parentheses ( ) indicate a revenue loss.

SOURCES OF INFORMATION
LFC Files

Responses Received From
Economic Development Department (EDD)
Taxation and Revenue Department (TRD)

SUMMARY

Synopsis of Bill

Senate Bill 560 would create a tax credit for corporations that locate their business headquarters in New Mexico, spend at least $10 million in new construction and/or renovation, and hire at least 100 full-time employees in New Mexico. The non-refundable, non-transferrable credit amounts to $5 thousand for gross wages per employee, and the annual aggregate amount cannot exceed $5 million. SB560 requires the corporation to share information with EDD so that the credit may be evaluated, and requires TRD to compile an annual report.

SB560 does not allow businesses to claim the headquarters corporate income tax credit and any one or combination of the following: the rural job tax credit, the high-wage jobs tax credit and the additional credit pursuant to the Technology Jobs Tax Credit Act.

FISCAL IMPLICATIONS

Several States and Counties have established similar headquarters corporate income tax credits (see **Estimated Revenue Impact – Detailed Discussion** below). Data from South Carolina Corporate Headquarters credit was used to estimate the fiscal impact, as the credit has been in place since 1995. In their case, data indicates that 23 taxpayers have claimed this credit between 1999 and 2007. In 2007, the most recent year for which data is available, 4 taxpayers established headquarters in South Carolina and claimed this credit. It is assumed for the purpose of this estimate that 4 taxpayers will locate their headquarters to New Mexico each year and that the corporation need not be a New Mexico corporation prior to making the capital investment (see **Technical issues** below). Headquarters corporate income tax credit may be claimed for any employee for three taxable years from the date of hire. Also the fiscal impact is reduced by 50% to account for the requirement that credit is non-refundable and does not have a carry forward.

SIGNIFICANT ISSUES

From a policy perspective, the credit proposed in Senate Bill 560 provides incentives for corporations to relocate or establish their headquarters in New Mexico. The bill is structured such that a substantial initial investment in property and buildings must be made: at least $10 million. It also requires the company's headquarters to employ 100 New Mexicans, at a minimum. This ensures that stable, permanent employment is maintained within New Mexico. Returns, then, will be employment and other corporate expenditures. The state will also benefit from some assurance that the industry will not move upon the expiration of the credit, as the substantial initial investment would be an indication of the permanence of the corporation.

Although this is a reasonable approach to the policy goal, it should be noted that credits introduce complexity into the New Mexico tax system and create inefficiency.

ADMINISTRATIVE IMPLICATIONS

TRD:

The bill assigns the responsibility of tracking the credit to economic development department and requires TRD to apply the nonrefundable credit to their CIT liability. TRD will need to develop a process to ensure that the corporation has not been granted the rural job tax credit, high-wage jobs tax credit, or the technology jobs tax credit. The tax processing system will have to be programmed to capture the number of corporations and the dollar amount of credits applied for reporting purposes. FYI publication updates will be required.

Additional audit staff (2) in the corporate income tax unit would be needed.

TECHNICAL ISSUES

TRD:

On Page 1, Line 21, it is not clear whether the corporation needs to be New Mexico corporation before making the capital investment of $10 million dollars.

In Section J, the clause, “and any other information required by the legislature or the economic development department to aid in evaluating the effectiveness of the headquarters corporate income tax credit” is too broad and not specific. “Any other information” may conflict with NMSA 1978, § 7-1-8, requiring confidentiality of taxpayer information.

OTHER SUBSTANTIVE ISSUES

TRD:

The bill is not clear if the applications that were received but not processed due to the annual cap would be kept and processed the next year in the order received.

The bill could clarify any wage and salary requirements for the jobs created, what happens if more than 100 jobs are created initially but subsequently some jobs are lost making the total jobs created below the required 100 for a period of time.

Confidentiality issues need to be looked at with economic development department providing information on the certificate listing social security numbers and employment data to TRD.

The bill requires TRD to audit the records maintained for the credit by economic development with no detail as what will be the result of exception or no exception audit.

If the purpose is to provide more job opportunities for New Mexico residents and reduce New Mexico’s unemployment rate, the statute should require that the employees hired by the corporations (for this credit) be New Mexico residents. Suggest there be a requirement that a portion of the employees have been New Mexico residents for a certain time period.

Estimated Revenue Impact – Detailed Discussion

TRD:

Below is a listing and brief description of some of the headquarters corporate headquarters tax credits that are available in other parts of the country.

Augusta, GA, Corporate Headquarters Tax Credit
Companies establishing or relocating their North American or International corporate headquarters (principal central administrative offices) in Augusta-Richmond County are eligible to receive an income tax credit of $5,000 per job per year for five years if the new jobs pay twice the county average wage rate. A $2,500 tax credit is available if the

wages are greater than the county average.

The tax credit is available to taxpayers that: Establish or relocate their headquarters and the headquarters of a subsidiary in Augusta-Richmond County, Create 50 or more jobs, Invest $1 million, Pay wages that exceed the county average wage rate.

The headquarters tax credit can be used against 100% of tax liability regardless of where the taxpayer locates the headquarters. Credits not applied to income tax liability may be used to reduce withholding tax. Companies establishing or relocating their headquarters to Augusta-Richmond County may be eligible for a tax credit if the headquarters is defined as the principal central administrative offices of a company. New jobs created at the new headquarters must be full-time and must pay above the average wage.

Columbia County, GA, Corporate Headquarters Tax Credit
The Corporate Headquarters Tax Credit (CHTC) is available in Columbia County for companies that (1) establish their corporate headquarters locally, (2) create 50 or more jobs, (3) invest at least $1,000,000, and (4) pay wages that are at least 115% of the County's average wage. A local company meeting these requirements is eligible for a $2,500 CHTC per full-time job created. For newly created jobs that pay 200% of the County's average wage, the company will receive a $5,000 CHTC. These tax credits apply for five years beginning with the year that the jobs are created, and the credits can be carried forward for 10 years. See the summary table below to see how Georgia's Headquarters Tax Credit works:

Georgia's Corporate Headquarters Tax Credit
At least 50 Jobs with wages > 115% of the County Average
$1 million
10 Years
100% of tax liability & withholdings
$2,500 per F.T. Job, Years 1-5

At least 50 Jobs with wages > 200% of the County Average
$1 million
10 Years
100% of tax liability & withholdings
$5,000 per F.T. Job, Years 1-5

Mississippi National or Regional Headquarters Tax Credits
Credits equal between $500 and $2,000 per position and can be applied to state income tax to reduce an eligible entity's corporate income tax liability. These credits are awarded to induce companies to establish a headquarters in Mississippi that includes officers and other high-level employees. Transferring or establishing a national or regional headquarters must create a minimum of thirty five qualified jobs within a one year period. Unused credits can be carried forward for up to five years.

Hoosier Headquarters Relocation Tax Credit in Indiana
When a business relocates its corporate headquarters (defined as the location of the principal office of the principal executives) to Indiana, it is entitled to a credit against its state tax liability equal to half of the costs incurred in relocating the headquarters. A

company must have global annual revenue of at least $100 million to qualify.

South Carolina Corporate Headquarters Credit
A corporation is allowed a credit against corporate income tax or corporate license fees equal to 20% of the qualifying costs for establishing a corporate headquarters in South Carolina, or expanding or adding to an existing corporate headquarters. The credit is made up of two parts: Part 1 - the real property costs and Part 2 - the personal property costs. Each part has specific minimum investment and job creation requirements. Any unused credit may be carried forward for 10 years, or if the 75 new job and per capita income requirements set forth in SC Code Section 12-6-3410(D) are met, the credit can be carried forward for 15 years. No credit may be claimed for a tax year during which the corporation fails to meet the qualifying employment requirements. The carry forward period is not extended for any year in which the credit may not be claimed for failure to meet the employment requirements, but the remaining eligible carry forward may be claimed in the year that the corporation requalifies for the credit by meeting the employment requirements.

JAG/mew

The Legislative Finance Committee has adopted the following principles to guide responsible and effective tax policy decisions:

1. ***Adequacy:*** *revenue should be adequate to fund government services.*
2. ***Efficiency:*** *tax base should be as broad as possible to minimize rates and the structure should minimize economic distortion and avoid excessive reliance on any single tax.*
3. ***Equity****: taxes should be fairly applied across similarly situated taxpayers and across taxpayers with different income levels.*
4. ***Simplicity****: taxes should be as simple as possible to encourage compliance and minimize administrative and audit costs.*
5. ***Accountability/Transparency:*** *Deductions, credits and exemptions should be easy to monitor and evaluate and be subject to periodic review.*

More information about the LFC tax policy principles will soon be available on the LFC website at www.nmlegis.gov/lcs/lfc