

Fiscal impact reports (FIRs) are prepared by the Legislative Finance Committee (LFC) for standing finance committees of the NM Legislature. The LFC does not assume responsibility for the accuracy of these reports if they are used for other purposes.

Current FIRs (in HTML & Adobe PDF formats) are available on the NM Legislative Website (www.nmlegis.gov). Adobe PDF versions include all attachments, whereas HTML versions may not. Previously issued FIRs and attachments may be obtained from the LFC in Suite 101 of the State Capitol Building North.

FISCAL IMPACT REPORT

ORIGINAL DATE 2/8/16

SPONSOR Varela **LAST UPDATED** _____ **HB** 324

SHORT TITLE Repeal Tax Credits, Deductions & Exemptions **SB** _____

ANALYST Graeser

REVENUE (dollars in thousands)

Estimated Revenue					Recurring or Nonrecurring	Fund Affected
FY16	FY17	FY18	FY19	FY20		
	\$115,700.0	\$120,300.0	\$122,200.0	\$126,300.0	Recurring	General Fund
	\$25,100.0	\$26,600.0	\$27,900.0	\$29,400.0	Recurring	Local Gov't GRT

Parenthesis () indicate revenue decreases

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY16	FY17	FY18	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total	\$1,000.0	(\$100.0)	\$(100.0)	\$800.0	Nonrecurring & Recurring	TRD Operating

Parenthesis () indicate expenditure decreases

SOURCES OF INFORMATION

LFC Files

Responses Received From

Taxation and Revenue Department (TRD)
 Department of Finance and Administration (DFA)
 Economic Development Department (EDD) comment on SB-252
 Attorney General's Office (AGO)
 Department of Transportation (DOT)

SUMMARY

Synopsis of Bill

House Bill 324 repeals 43 tax expenditures contained in 56 sections of the NMSA. Tax expenditures estimated to cost the general fund over \$5 million annually include the Advanced Energy Credit against PIT, the Capital Gains PIT deduction, Technology Jobs Tax Credit Against GRT, Comp or WH and PIT or CIT, Jet Fuel GRT and Comp Deduction, Lottery

Retailers GRT Deduction, Railroad Equipment, Aircraft & Space Vehicles Exemption from Compensating Tax, Locomotive Engine Fuel Comp Deduction and the Investment Credit Against GRT, Comp or WH. Other interesting proposed repeals include Angel Investment Credit Against PIT (which was reauthorized in SB-1 in 2015’s Special Session) and Tax Holiday Sales GRT Deduction and Purses and Jockey Remuneration at NM Racetracks and Gross Amounts Wagered Exemption from GRT (which is among the oldest exemptions in the code).

The effective date of this bill is July 1, 2016. Section 1 of the bill allows claims for the repealed income tax and corporate income tax sections for TY 16 years, but prohibiting those hereafter. Thus, the PIT and CIT estimates for FY 17 are somewhat overstated.

FISCAL IMPLICATIONS

LFC used a compendium primarily obtained from the 2015 TRD Tax Expenditure Report (TER), as prepared by Legislative Council Service (LCS). When the TER did not record a current estimate, the compendium used the initial FIR estimate. LFC then grew the five-year averages by the growth rate assumed in the January 2016 consensus revenue estimate. Breaking up the general fund impact roughly by revenue type, LFC forecasts the following:

FY 16	FY 17	FY 18	FY 19	FY 20	
0	31,700	33,200	35,000	36,700	PIT
0	14,200	13,200	10,500	10,800	CIT
0	37,600	39,800	41,800	44,100	GRT
0	32,200	34,100	34,900	34,700	Comp
	115,700	120,300	122,200	126,300	Total General Fund
0	25,100	26,600	27,900	29,400	Approximate Local GRT

A detailed chart is included as an appendix.

This bill supports and sustains the LFC tax policy principles of adequacy, efficiency and equity. In the current revenue situation, the bill proposes that the increasing cost of tax expenditures revenues renders the state unable to over growing recurring appropriations.

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.

SIGNIFICANT ISSUES

Roughly half of the sections proposed for repeal are obsolete, ineffective or little used. As such, it is unlikely that these sections could survive any test of accomplishing any purpose – whether passed originally as an economic development initiative or to accomplish a defined tax policy purpose, such as decreasing the amount of tax pyramiding.

Other tax expenditures, however, may have been required for a company to consider and approve a plant expansion in new Mexico. For example, the Locomotive Engine Fuel Comp Deduction at 7-9-110.1; 7-9-110.2 and 7-9-110.3 were required for the railroads to invest in the multi-modal freight facility in Santa Theresa. Most of the space-related deductions or credits were enacted to support the SpacePort.

The capital gains PIT deduction is particularly interesting. Beginning more than 20 years ago, economic development specialists pointed out that a high marginal PIT tax rate and the lack of capital gains deduction were deterring high-income, world-class managers from relocating to New Mexico. The initial capital gains deduction at 7-2-34 NMSA 1978 was enacted in 1999 and was the actual amount of capital gain with a maximum deduction of \$1,000. Complaints continued. In 2003, this deduction was increased to the greater of 50% of capital gains or 100% of the amount of capital gains limited to \$1,000. The amount of deduction may have peaked in 2008, but for the previous five years, the maximum was \$53,814,800 in FY 14. It is difficult to determine that there has been any “bang for the buck” from this expanded deduction.

PERFORMANCE IMPLICATIONS

By and large, the LFC tax policy of accountability has not been met for most of the tax expenditures listed here. TRD may be required to report annually to an interim legislative committee regarding the data compiled from the reports from taxpayers taking the deduction. These cost reports have been prepared for FY 2012, 2013, 2014 and 2015 each one surpassing the previous one in completeness and accuracy. However, TRD has made limited attempts to quantify any benefits and other information to determine whether the deduction is meeting its purpose.

ADMINISTRATIVE IMPLICATIONS

TRD will report a major impact to IT to strip these tax expenditures out of the systems. On the other hand, the operations division will not have to administer the 23 tax expenditures.

OTHER SUBSTANTIVE ISSUES

DOT reports the following fiscal impact on the State Aviation Fund from the repeal of the comp tax on aircraft fuel (7-9-83; 7-9-84 NMSA 1978) .

Estimated Revenue					Recurring or Non-Rec	Fund Affected
FY16	FY17	FY18	FY19	FY20		
0	1,222*	960*	1,033*	1,067*	Recurring	State Aviation Fund

*The total impact on the State Aviation Fund revenue is partly uncertain. In fact, the cancellation of the deductions for the sale or use of jet fuel may slightly increase the price of jet fuel. A higher price may slightly reduce the quantity of jet fuel sold and this, consequently, may translate in a small tax base contraction.

ALTERNATIVES

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

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

LG/jo/al

Statutory Citation	Description	Bill Section	5-Year Avg (millions)
7-2-18.4 & 7-2A-15	Business Facility Rehabilitation Credit Against PIT or CIT	1 & 2	0.000
7-2-18.5 & 7-2A-8.8	Welfare to Work Programs Credit Against PIT	1 & 2	0.000
7-2-18.8; 7-2A-18	Electronic ID Reader Against PIT	1 & 2	0.000
7-2-18.11 & 7-2A-17.1	Job Mentorship Programs Credit Against PIT	1 & 2	0.014
7-2-18.17	Angel Investment Credit Against PIT	1 & 2	0.309
7-2-18.21;7-2A-23	Blended Biodiesel Fuel Credit Against PIT or CIT	1 & 2	0.000
7-2-18.24; 7-2A-24	Geothermal Ground Coupled Heat Pump Credit Against PIT or CIT	1 & 2	0.241
7-2-18.25; 7-2A-25	Advanced Energy Credit Against PIT	1 & 2	5.070
7-2-18.26; 7-2A-26	Agricultural Biomass Credit Against PIT or CIT	1 & 2	0.000
7-2-34	Capital Gains PIT Deduction	1 & 2	28.673
7-2A-14	Corporate Supported Child Care Credit Against CIT	1 & 2	0.086
7-2D-8.1	Venture Capital Investment Credit Against PIT	1 & 2	0.000
7-2E-1.1	Rural Job Tax Credit Against PIT, CIT or GRT, Comp, WH, ITGRT, 911 & Relay SVC Surcharges	1 & 2	0.344
7-9E	Laboratory Partnership with Small Business Tax Credit Against GRT (Except Local Option)	1 & 2	3.834
7-9F	Technology Jobs Tax Credit Against GRT, Comp or WH and PIT or CIT	1 & 2	6.508
7-9I	Affordable Housing Tax Credit Against PIT, CIT or GRT, Comp, WH, ITGT, 911 & Relay SVC Surcharges	1 & 2	0.491
7-9J	Alternative Energy Product Manufacturers Tax Credit Against GRT, Comp, WH, ITGRT, 911 and Relay Service Charges	1 & 2	0.118
7-9-16	Nonprofit Elderly Care Facilities Exemption from GRT	3	1.000
7-9-26.1	Fuel Used in Space Vehicles	3	0.200
7-9-30	Railroad Equipment, Aircraft & Space Vehicles Exemption from Compensating Tax	3	7.500
7-9-40	Purses and Jockey Remuneration at NM Racetracks and Gross Amounts Wagered Exemption from GRT	3	2.000
7-9-54.2	Space Related Transactions GRT	3	1.480
7-9-54.3	Wind and Solar Generation Equipment GRT Deduction	3	2.100
7-9-54.4	Space-Related Test Articles Comp Tax Deduction	3	0.200
7-9-56.3	Trade-Support Companies in Border Zone GRT Deduction	3	0.137

Statutory Citation	Description	Bill Section	5-Year Avg (millions)
7-9-57.2	Software Development Services GRT Deduction	3	1.137
7-9-61.2	Sales of Tangible Personal Property to Credit Unions GRT Deduction	3	1.250
7-9-63	Publication Sales GRT Deduction	3	0.235
7-9-83; 7-9-84	Jet Fuel GRT and Comp Deduction	3	5.380
7-9-86	Film Companies GRT & GGRT Deduction	3	0.000
7-9-87	Lottery Retailers GRT Deduction	3	9.450
7-9-94	Military Acquisition Programs GRT Deduction	3	0.300
7-9-95	Tax Holiday Sales GRT Deduction	3	3.400
7-9-98	Biomass-Related Equipment and Biomass Materials GRT Deduction	3	0.050
7-9-99	Services Used in Construction of Certain Public Health Care Facilities (Sole Community Providers) GRT Deduction	3	0.160
7-9-104	Nonathletic Special Events GRT Deduction	3	1.817
7-9-106	Military Construction Services GRT Deduction	3	0.000
7-9-107	Production or Staging of Professional Contests GRT Deduction	3	0.095
7-9-110.1; 7-9-110.2; 7-9-110.3	Locomotive Engine Fuel Comp Deduction	3	19.309
7-9-110.1; 7-9-110.2; 7-9-110.3	Locomotive Engine Fuel GRT Deduction	3	3.831
7-9-111	Hearing & Vision Aides GRT Deduction	3	0.800
7-9-112	Solar Energy Systems GRT Deduction	3	1.902
7-9A	Investment Tax Credit Against GRT, Comp or WH	3	6.030