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

SPONSOR Munoz **ORIGINAL DATE** 02/03/12
LAST UPDATED **HB**

SHORT TITLE Business Improvement Benefit Fees **SB** 222

ANALYST Smith

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY12	FY13	FY14		
	($24.0)	($48.0)	Recurring	General Fund

(Parenthesis ( ) Indicate Revenue Decreases)

SOURCES OF INFORMATION
LFC Files

Responses Received From
Taxation and Revenue Department (TRD**)**

SUMMARY

Synopsis of Bill

Senate Bill 222 proposes a new personal income tax and corporate income tax credit. These new "business improvement benefit tax credits" may be claimed by a taxpayer in the amount equal to the amount of any business improvement benefit fee paid less any other tax incentive or rebate of expenditures to the taxpayer as a result of the qualified business improvement fee paid by the taxpayer. The purpose of these credits is to promote revitalization and restore the economic vitality of areas within certain municipalities by encouraging business owners to participate in business improvement districts. The credits may only be claimed in the tax year in which the taxpayer pays the qualified business improvement benefit fee and any credit amount that exceeds the taxpayer's tax liability cannot be carried forward or transferred to another taxpayer. These credits have a maximum annual aggregate of $2,000,000. **Only taxpayers doing business in the City of Gallup will qualify for this State tax credit.**

FISCAL IMPLICATIONS

TRD relied on a proposal entitled "Gallup Business Improvement District (BID) Business Plan"[1], the promoters projected that the annual assessment income would be $117,504 for the initial FY2010 budget. From FY2010 to FY2014, each tract of commercial property within the Gallup BID area would be subject to annual property assessments in the amount of 1% of the

[1] Please see: http://www.gallupbid.com/uploads/2/9/7/2/2972312/bidplan.pdf.

assessed value of the property based on the 2006 property tax assessment done by the McKinley County Assessor's Office. The tax credit is non-refundable and any unused amount cannot be rolled forward.

The minimum fiscal impact above is based on the $118,000 assessment fees estimated in the proposal document. From this amount, it is assumed that only 50% of the assessment fees would exceed individual personal and corporate income tax liabilities and that claimants of this tax credit would simultaneously qualify for other credits and rebates of expenditures of approximately 20% of the claim.

A potential General Fund revenue exposure of this bill is that the quasi-independent Gallup BID could possibly get the impact fees set above the 1% level proposed, knowing that some or all of the fees paid would be reimbursed by the State. If the fee were set at a higher rate, the fiscal impact could potentially reach the $2 million cap.

SIGNIFICANT ISSUES

There are other equally economically depressed communities in the State, so restricting this to Gallup seems unusual.

It is likely that this Gallup Business Improvement Zone would be eligible for federal subsidy, including the federal New Markets Tax Credit. Thus, the amount of the State tax credit would be reduced by the amount of federal subsidy.

TECHNICAL ISSUES

Page 4, line 9, and page 9, line 8, “periodic basis” should be defined.
Page 5, line 3, and page 10, line 1, “applications” should be changed to “claims” since the Department only receives the claim after the municipality approves it.

A partnership, LLP, Sub Chapter S corporation or other pass-through entity (PTE) may not be able to claim this credit. The entity pays the assessment fee, but this bill authorizes the tax credit for the person who paid the assessment fee. In the case of a PTE, the taxpayer making the claim is not the entity that incurred the cost. Paragraph F on page 2 indicates that the credit “may be claimed by a partnership, business association or LLC…”; however, paragraph F would not solve the entity mismatch problem.

OTHER SUBSTANTIVE ISSUES

This bill may be counter to the LFC tax policy principle of adequacy. According to the LFC staff General Fund Recurring Appropriation Outlook for FY14 and FY15, December 2011 forecasted revenues will be insufficient to cover growing recurring appropriations.

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

SS/svb