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## FISCAL IMPACT REPORT

ORIGINAL DATE 02/07/13

SPONSOR McCamley LAST UPDATED \_\_\_\_\_ HB 359

SHORT TITLE Links on Economic Development Dept. Website SB \_\_\_\_\_

ANALYST Clark

### ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY13	FY14	FY15	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
<b>Total</b>		NFI				

(Parenthesis ( ) Indicate Expenditure Decreases)

### SOURCES OF INFORMATION

LFC Files

#### Responses Received From

Economic Development Department (EDD)

### SUMMARY

#### Synopsis of Bill

House Bill 359 requires the Economic Development Department to post direct links on its website to all documents necessary to start a business, including instructions for obtaining and registering such documents, including:

1. a combined reporting system identification number form;
2. a federal employer identification number form; and
3. any other document required by the federal government, the state, a county, or a municipality or other political subdivision.

### FISCAL IMPLICATIONS

There are no significant fiscal implications.

### SIGNIFICANT ISSUES

Analysis provided by the Economic Development Department describes the bill's requirements as "an impossible task, as it would encompass not only every county, municipality, and political subdivision in New Mexico, but every state and some (or every) foreign country." However, as

the bill references “the federal government” and “the state” one can reasonably conclude the bill refers to the United States and New Mexico and does not reference business registration documents required in other states or by foreign governments.

The EDD analysis also assumes the following:

Depending entirely on the type of business, there is an almost unlimited universe of documents, many of which are custom-crafted to the type of business in question, that EDD would have to provide. The documents would vary from the most basic corporate documents to patent, trademark, property, tax, trade, import/export, environmental, land use, and health documents.

However, the bill specifies linking to documents, not creating custom documents. Additionally, the bill makes no mention directly or indirectly of patent, trademark, property, trade, import/export, environmental, land use, and health documents.

The EDD also provided the following analysis.

By legally mandating that the EDD provide “all documents” necessary to start a business, the state is effectively representing to the public that it may reasonably rely on those documents provided. If that representation causes a member of the public to rely on the documents and the documents are insufficient for any reason -- even if a foreign jurisdiction changes its law in any number of areas, for example -- that reasonable reliance creates a liability on behalf of the state for damages the person who relied on them suffers as a result. There could also be criminal penalties involved. For example, the EDD has identified aerospace as one of its target industries because the state is naturally conducive to that industry for a number of reasons. Countless products and components used in the aerospace industry are subject to the International Trade in Arms Regulations (ITAR). If a local company relied on the documents the EDD supplied to start a business that supplies a component to a company operating at Spaceport America, and those documents did not comply with ITAR, federal criminal penalties could result for the local company, even though no one in state government ever knew the documents would be used for that purpose. Civil liability on behalf of the state would inevitably result.

## **PERFORMANCE IMPLICATIONS**

The EDD is tasked with creating jobs and assisting companies through various means in order to enable job creation. This bill requires the EDD to make it easier to start a business, which would increase the department’s performance.

## **ADMINISTRATIVE IMPLICATIONS**

This bill would require EDD personnel to gather links to business registration documents and place the documents on its website. The administrative implications should be minimal given the information the EDD currently has on its website.

The EDD provided the following information.

The Economic Development Department has on its website links to documents generally necessary for a person to start a business. The department provides links to the Small Business Development Corporation, which provides mentoring and technical assistance to persons who may need help to develop their business plan as well as other educational and training services. Links also are provided to the Taxation and Revenue Department which opens to “Register your Business,” and the Public Regulation Commission which takes the person to the “How Do I” tab where all instructions reside. In addition, the website currently has links to the NM Certified Incubators and to federal resources such as the Small Business Administration website.

JC/svb