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FISCAL IMPACT REPORT

SPONSOR Maestas ORIGINAL DATE 02/14/14
LAST UPDATED _____ HM 85

SHORT TITLE Study Potential Crowdfunding Benefits SB _____

ANALYST Clark

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY14	FY15	FY16	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total	Minimal	Minimal				

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From

Economic Development Department (EDD)

SUMMARY

Synopsis of Bill

House Memorial 85 requests the Economic Development Department (EDD) study and identify the potential benefits of the crowdfunding provisions of the federal Jumpstart Our Business Startups (JOBS) Act. It also requests EDD prepare a report and present its findings to the appropriate interim legislative committee by November 1, 2014.

FISCAL IMPLICATIONS

There will be a minimal fiscal impact to EDD for administrative costs related to the study and for travel to the interim legislative committee.

SIGNIFICANT ISSUES

The memorial describes crowdfunding as a new and evolved method to raise money on the internet and the potential for this type of fundraising to stimulate investment in small and emerging businesses in New Mexico. The federal JOBS Act establishes a foundation for a regulatory structure for start-up companies and small businesses to raise capital through securities offerings, using the internet, through crowdfunding.

EDD notes the memorial only asks the department to identify potential benefits to the state, which leaves out the possibility that there might be potential negative consequences from the crowdfunding provisions of the JOBS Act.

However, the U.S. Securities and Exchange Commission (SEC) Chair notes the intent of the JOBS Act is to make it easier for startups and small businesses to raise capital from a wide range of potential investors and provide additional investment opportunities for investors. SEC provides the following information related to the JOBS Act and crowdfunding opportunities.

While crowdfunding can be used to raise funds for many things, it generally has not been used as a means to offer and sell securities. That is because offering a share of the financial returns or profits from business activities could trigger the application of the federal securities laws, and an offer or sale of securities must be registered with SEC unless an exemption is available.

Congress created an exemption to permit securities-based crowdfunding when it passed the JOBS Act in 2012. Among other things, the JOBS Act was intended to help alleviate the funding gap and accompanying regulatory concerns faced by startups and small businesses in connection with raising capital in relatively low dollar amounts.

Title III of the JOBS Act established the foundation for a regulatory structure that would permit these entities to use crowdfunding, and directed SEC to write rules implementing the exemption. It also created a new entity -- a funding portal -- to allow internet-based platforms or intermediaries to facilitate the offer and sale of securities without having to register with SEC as brokers. Together these measures were intended to facilitate capital raising by small businesses while providing significant investor protections.

Under SEC's proposed rules implementing the crowdfunding exemption:

- A company would be able to raise a maximum aggregate amount of \$1 million through crowdfunding offerings in a 12-month period.
- Investors, over the course of a 12-month period, would be permitted to invest up to:
 - \$2,000 or 5 percent of their annual income or net worth, whichever is greater, if both their annual income and net worth are less than \$100 thousand.
 - 10 percent of their annual income or net worth, whichever is greater, if either their annual income or net worth is equal to or more than \$100 thousand. During the 12-month period, these investors would not be able to purchase more than \$100 thousand of securities through crowdfunding.

ADMINISTRATIVE IMPLICATIONS

EDD reports use of its existing human resources to execute this study and report may impact other projects and/or programs.

JC/jl