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FISCAL IMPACT REPORT

ORIGINAL DATE 2/17/17

SPONSOR Cisneros LAST UPDATED _____ HB _____

SHORT TITLE Sunset Tax Credits SB 460

ANALYST Iglesias/Graeser

REVENUE (dollars in thousands)

Estimated Revenue					R or NR **	Fund Affected
FY17	FY18	FY19	FY20	FY21		
	0.0	110,000.0 – 130,000.0	110,000.0 – 130,000.0	110,000.0 – 130,000.0	R	General Fund
	0.0	45,000.0 – 58,000.0	45,000.0 – 58,000.0	45,000.0 – 58,000.0	R	Local Governments

Parenthesis () indicate expenditure decreases. ** R = recurring; NR = non-recurring

SOURCES OF INFORMATION

LFC Files

Responses Received From

Energy, Minerals and Natural Resources (EMNRD)
Department of Transportation (DOT)

SUMMARY

Synopsis of Bill

Senate Bill 460 seeks to implement a delayed repeal of multiple credits and deductions for income tax and gross receipts tax. Additionally, this bill requires the interim revenue stabilization and tax policy committee (RSTP) to review the bill's delayed repeal provisions and make recommendations to the 53rd legislature on whether to adopt or extend the delay in repeal of individual provisions. This essentially sets the agenda for the 2017 interim Revenue Stabilization and Tax Policy Committee (RSTPC). If the committee schedules each of these 14 PIT/CIT and 29 GRT/Comp tax expenditures for a 4-hour hearing, allowing both TRD and industry representatives to present costs and benefits, that would consume 22 days of scheduled interim committee agenda.

The delayed repeal of income tax credits and deductions in this bill is effective January 1, 2019; however these credits cannot be claimed for taxable years beginning on or after January 1, 2018. The delayed repeal of gross receipts tax credits in the bill is effective July 1, 2018.

See ‘FISCAL IMPLICATIONS’ for an affected list of credits and deductions.

FISCAL IMPLICATIONS

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.

Below is a list of tax expenditure set for delayed repeal under this bill, along with the estimated cost of the expenditure as of the most recent data-point available from the Taxation and Revenue Department’s (TRD) 2016 Tax Expenditure Report. For several of the Gross Receipts and Compensating Tax deductions, credits and exemptions, LFC analysts have estimated plausible, order-of-magnitude costs. Overall, the amounts listed in the “REVENUE” table above assume a static revenue gain from the repeal. Some of the testimony in response to the repealers of this bill will allege (or prove) that some of these tax expenditures have returned more to the state than their static cost. Others will allege that the tax expenditures have non-fiscal benefits that justify the static cost.

LFC staff note that the delayed repealers of various tax expenditures of this bill would finally allow the legislature and the executive to gather best evidence as to whether these tax expenditures are accomplishing the stated goals, whether that goal be economic development, development of renewable energy or other stated or unstated goal.

Sections 1 & 2 (Personal Income Tax & Corporate Income Tax credits, deductions & exemptions)

Repealed January 1, 2019				
Shall not be claimed for taxable years on or after January 1, 2018				
Short Description	Statute	Category	Five-Year Avg Cost	Amount per year unless otherwise spec'd
Cultural Property Preservation Credit against PIT or CIT	7-2-18.2; 7-2A-8.6	Economic Development	\$178.8	\$50,000/ project
Business Facility Rehabilitation Credit against PIT or CIT	7-2-18.4; 7-2A-15	Economic Development	\$0.0	\$50,000/ project
Welfare to Work Credit	7-2-18.5; 7-2A-8.8	Economic Development		
Electronic ID Reader Credit against PIT or CIT	7-2-18.8; 7-2A-18	Citizen Benefit	\$0.1	\$300 one-time
Job Mentorship Programs Credit against PIT or CIT	7-2-18.11; 7-2A-17.1	Citizen Benefit	\$13.9	\$12,000
Angel Investment Credit against PIT	7-2-18.17	Economic Development	\$308.6	25% of qual'd investment up to \$62.5K per investment
Blended Biodiesel Fuel Credit against PIT or CIT	7-2-18.21; 7-2A-23	Environment/ Conservation/ Renewables	Redacted	\$.01-\$.03/ gallon
Geothermal Ground Coupled Heat Pump Credit against PIT or CIT	7-2-18.24; 7-2A-24	Environment/ Conservation/ Renewables	\$193.1	\$9,000
Advanced Energy Tax Credit against PIT or CIT or Modified Combined	7-2-18.25; 7-2A-25; 7-9G-2	Environment/ Conservation/ Renewables	\$5,083.4	6% of eligible costs
Agricultural Biomass Credit against PIT or CIT	7-2-18.26; 7-2A-26	Environment/ Conservation/ Renewables	\$0.0	\$5/ton
Capital Gains PIT Deduction	7-2-34	Citizen Benefit	\$35,550.9	50% of gain
Corporate Supported Child Care Credit against CIT	7-2A-14	Citizen Benefit	Redacted	\$30,000
Venture Capital Investment Credit against PIT	7-2D-8.1	Economic Development	\$0.0	Amount of capital gain tax differential
Rural Job Tax Credit against PIT, CIT or GRT, Comp, WH, ITGRT, 911 and relay svc surcharges (except Local Option)	7-2E-1.1	Economic Development	\$344.0	\$4,000/ job
Total: (at least)			\$41,673	

Section 3 (Gross Receipts and Compensating Tax Delayed Repealers)

Repealed effective July 1, 2018				
Short Description	Statute	Tax Expenditure Report (TER) Category	Five-Year Avg Cost (\$ thousands)	Best guess cost
Non-Profit Elderly Care Facilities Exemption from GRT	7-9-16	Citizen Benefit	Unknown	400
Fuel Used in Space Vehicles Exemption from GRT or Comp	7-9-26.1	Highly Specialized Industry	Unknown	0
Purses and Jockey Remuneration at NM Racetracks Exemption from GRT	7-9-40A	Highly Specialized Industry	Unknown	1,000
Gross Amounts Wagered at NM Racetracks Exemption from GRT	7-9-40B	Highly Specialized Industry	Unknown	4,000
Space Related Transactions GRT Deduction	7-9-54.2	Highly Specialized Industry	\$1,480.0	
Wind and Solar Generation Equipment GRT Deduction	7-9-54.3	Environment/ Conservation/ Renewables	Unknown	5,000
Space-Related Test Articles Comp Tax Deduction	7-9-54.4	Highly Specialized Industry	Unknown	1,000
Border Zone Trade-Support Companies GRT Deduction	7-9-56.3	Highly Specialized Industry	\$73.2	
Software Development Services GRT Deduction	7-9-57.2	Highly Specialized Industry	\$916.0	
Sales of Tangible Personal Property to Credit Unions GRT Deduction	7-9-61.2	Economic Development	\$1,200.0	
Publication Sales GRT Deduction	7-9-63	Highly Specialized Industry	\$234.0	
Jet Fuel GRT and Comp Tax Deduction	7-9-83; 7-9-84	Economic Development	\$5,096.4	
Film Companies GRT and GGRT Deduction	7-9-86	Economic Development	Unknown	7,000
Lottery Retailers GRT Deduction	7-9-87	Highly Specialized Industry	\$9,450.0	
Military Acquisition Programs GRT Deduction	7-9-94	Highly Specialized Industry	Unknown	1,000
Back to School GRT Deduction (Tax Holiday)	7-9-95	Citizen Benefit	\$3,380.0	
Biomass-Related Equipment and Biomass Materials Comp Tax Deduction	7-9-98	Environment/ Conservation/ Renewables	\$55.0	
Services Used in Construction of Certain Public Health Care Facilities (Sole Community Providers) GRT Deduction	7-9-99	Health Care	\$160.0	
Nonathletic Special Events GRT Deduction	7-9-104	Citizen Benefit	\$1,880.0	
Military Construction Services	7-9-106	Highly Specialized Industry	\$0.0	
Production or Staging of Professional Contests GRT Deduction	7-9-107	Highly Specialized Industry	\$93.8	
Hearing and Vision Aides GRT Deduction	7-9-111	Health Care	Unknown	2,000
Solar Energy Systems GRT Deduction	7-9-112	Environment/ Conservation/ Renewables	\$1,882.0	
Investment Tax Credit against GRT, Comp or WH	7-9A	Economic Development	\$6,506.4	
Laboratory Partnership with Small Business Tax Credit against GRT (except Local Option)	7-9E	Economic Development	\$4,265.4	
Technology Jobs and Research and Development Tax Credit against GRT, Comp or WH and PIT or CIT	7-9F	Economic Development	\$6,507.7	
High-Wage Jobs Tax Credit against GRT, Comp, WH, ITGRT, 911 and relay svc surcharges (except Local Option)	7-9G-1	Economic Development	\$22,069.0	
Affordable Housing Tax Credit against PIT, CIT or GRT, Comp, WH, ITGRT, 911 and relay svc surcharges (except Local Option)	7-9I	Citizen Benefit	\$450.0	
Alternative Energy Product Manufacturers Tax Credit against GRT, Comp, WH, ITGRT, 911 and relay svc surcharges (except Local Option)	7-9J	Economic Development	\$141.4	
			\$67,720.3	\$21,400.0

SIGNIFICANT ISSUES

This bill repeals a number of tax expenditures – some productive and effective and some obsolete. The repealers, however, are a mechanism to finally force a fact-finding agenda. Each of these tax expenditures would be scheduled for hearing in the interim, so that proponents and opponents could justify the tax expenditure by presenting data that the tax expenditure had returned more to the general fund and local governments than their costs, or that the tax expenditure provided other, non-financial benefits.

After hearing all of this testimony, RSTPC could prepare a subsequent bill for the next session that would confirm some of the repealers (at least those on the TRD list of recommended repealers), would leave the majority in their current form, and would possibly expand some of the expenditures that could demonstrate that they were contributing to a sustainable economy.

PERFORMANCE IMPLICATIONS

This review process may require a substantial effort on the part of LFC and TRD. It will also commit private industries that benefit from the tax expenditures to gather and present information to justify the continuation of each of the tax expenditures. Presumably, this evidence would have to be concrete and data-based. The testimony at the time each of these tax expenditures has been enacted has generally not been data-driven. The study proposed in this bill will gather real facts concerning both costs and benefits.

TECHNICAL ISSUES

There are several items in the delayed repeal list that TRD may not consider as tax expenditures. For these, the affected industry can testify that there are other tax policy justifications for their exemption, deduction or credit.

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