

1 SENATE BILL 98

2 **55TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2021**

3 INTRODUCED BY

4 Bill Tallman

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10 AN ACT

11 RELATING TO ECONOMIC DEVELOPMENT INCENTIVES; REQUIRING  
12 RECIPIENTS OF PUBLIC SUPPORT FROM THE STATE PURSUANT TO THE  
13 LOCAL ECONOMIC DEVELOPMENT ACT TO REPORT JOB CREATION AND  
14 CAPITAL INVESTMENT INFORMATION; REQUIRING THE TAXATION AND  
15 REVENUE DEPARTMENT TO COMPILE AND PRESENT A TAX EXPENDITURE  
16 BUDGET AND ANALYSES OF CERTAIN TAX EXPENDITURES TO THE GOVERNOR  
17 AND LEGISLATIVE COMMITTEES; MAKING AN APPROPRIATION.

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19 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

20 SECTION 1. A new section of the Local Economic  
21 Development Act is enacted to read:

22 "[NEW MATERIAL] REPORTING REQUIREMENTS.--

23 A. A qualifying entity that receives public support  
24 provided by the state to a local or regional government shall,  
25 prior to April 1 of each year for five years following

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1 receiving the public support, report to the department the  
2 number of new full-time jobs created by the qualifying entity  
3 in the previous calendar year, the job title for each person  
4 employed in a new full-time job, the total annual wages and  
5 salaries for those new full-time jobs and any capital  
6 investments made by the qualifying entity in the previous  
7 calendar year.

8 B. Prior to August 1 of each year, the department  
9 shall compile the annual reports received from the qualifying  
10 entities and submit the compilation to the legislative finance  
11 committee and the department of finance and administration.

12 C. As used in this section, "new full-time job"  
13 means a job:

14 (1) that is primarily performed in New Mexico;

15 (2) that is held by an employee who is hired  
16 to work an average of at least thirty-two hours per week for at  
17 least forty-eight weeks per year; and

18 (3) that the qualifying entity attributes to  
19 the public support provided by the state."

20 SECTION 2. A new section of the Tax Administration Act is  
21 enacted to read:

22 "[NEW MATERIAL] TAX EXPENDITURE BUDGET--ASSESSMENT AND  
23 ANALYSIS OF CERTAIN TAX EXPENDITURES.--

24 A. No later than October 15 of each year, the  
25 secretary shall compile and present a tax expenditure budget to

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1 the governor, the revenue stabilization and tax policy  
2 committee and the legislative finance committee and post the  
3 tax expenditure budget report to the department's website.

4 B. A tax expenditure budget report shall include  
5 the following information for each tax deviation of a tax  
6 administered by the department:

7 (1) identification of the tax deviation and  
8 the deviation's statutory basis;

9 (2) the year of enactment, amendment or  
10 repeal, if any;

11 (3) a brief description of the tax deviation;

12 (4) the intended purpose of the tax deviation,  
13 if specified in the law providing for the tax deviation or as  
14 otherwise determined by the department;

15 (5) if the tax deviation is a tax expenditure,  
16 an estimate of the approximate amount of foregone revenue by  
17 fiscal year for:

18 (a) the three fiscal years preceding the  
19 current fiscal year, including the general fund, other state  
20 funds and local government revenues; and

21 (b) the current and subsequent fiscal  
22 year, if feasible, and a brief description of the methodology  
23 and assumptions applied to the forecasted estimate;

24 (6) the number of taxpayers that claimed a tax  
25 expenditure for each fiscal year reported, unless reporting of

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1 such data is in a form that can be associated with or otherwise  
2 identify, directly or indirectly, a particular taxpayer;

3 (7) the data source used for the estimate; and

4 (8) a measure of the reliability of the  
5 estimate.

6 C. A tax expenditure budget report may include  
7 additional information that the department considers relevant  
8 to the review of individual tax deviations, including:

9 (1) a description or reference citation of any  
10 tax deviation evaluation or compilation of information  
11 completed by an executive or legislative agency since the last  
12 tax expenditure budget report by the department; and

13 (2) a measure of the tax deviation's effect on  
14 the administration of the tax system.

15 D. If a tax expenditure is identified by the  
16 department as having a purpose of economic development and an  
17 estimated cost of more than ten million dollars (\$10,000,000)  
18 per fiscal year, the department shall, at least every three  
19 years for each identified tax expenditure:

20 (1) perform an objective assessment of the  
21 effectiveness of the tax expenditure;

22 (2) include with the assessment an economic  
23 analysis of the tax expenditure, with the support and  
24 assistance of the staff of the legislative finance committee  
25 and the economic development department;

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1 (3) no later than October 15 of every year,  
2 compile and present the assessment and economic analysis to the  
3 governor, the revenue stabilization and tax policy committee  
4 and the legislative finance committee; provided that if the  
5 department determines that there is insufficient data to  
6 perform an economic analysis of a tax expenditure, in lieu of  
7 the economic analysis the department shall present: 1) the  
8 current reporting requirements for the tax expenditure; and 2)  
9 recommendations as to how sufficient data may be collected and  
10 statutory changes necessary to perform or improve the economic  
11 analysis; and

12 (4) post the information compiled pursuant to  
13 Paragraph (3) of this subsection to the department's website.

14 E. The department may request from an executive  
15 agency or a local government agency or official, information  
16 necessary to complete the tax expenditure budget or assessment  
17 of economic development tax expenditures required by this  
18 section. An agency or official shall comply with a request  
19 made pursuant to this section by the department as permitted by  
20 law.

21 F. As used in this section:

22 (1) "tax deviation" means a deduction, credit,  
23 exemption, exclusion, preferential tax rate, subtraction,  
24 allowance or other deviation from the baseline of a tax that  
25 reduces tax liability, as determined by the secretary in

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1 consultation with the legislative finance committee and the  
2 department of finance and administration. "Tax deviation"  
3 includes a deviation enacted due to constitutional prohibition,  
4 federal preemption, comity between governments, avoiding  
5 taxation under multiple tax programs or defining a tax base or  
6 is otherwise determined to not be a tax expenditure; and

7 (2) "tax expenditure" means a tax deviation  
8 enacted, as determined by the secretary in consultation with  
9 the legislative finance committee and the department of finance  
10 and administration, to reflect state policy, such as to promote  
11 the general welfare of citizens or give preferential tax  
12 treatment to a specific industry, or to reflect a specific  
13 purpose, such as to incentivize consumer behavior, economic  
14 development or job creation."

15 SECTION 3. APPROPRIATION.--One hundred ninety-two  
16 thousand dollars (\$192,000) is appropriated from the general  
17 fund to the taxation and revenue department for expenditure in  
18 fiscal year 2022 to assist the department in evaluating tax  
19 expenditures and other economic development incentives. Any  
20 unexpended or unencumbered balance remaining at the end of  
21 fiscal year 2022 shall revert to the general fund.

22 SECTION 4. EFFECTIVE DATE.--The effective date of the  
23 provisions of this act is July 1, 2021.