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SENATE BILL

55TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2022

INTRODUCED BY

Bill Tallman

AN ACT

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

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

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

"[NEW MATERIAL] REPORTING REQUIREMENTS.--

A. A qualifying entity that receives public support
provided by the state to a local or regional government shall,
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:

8 (a) the current reporting requirements
9 for the tax expenditure; and

10 (b) recommendations as to how sufficient
11 data may be collected and statutory changes necessary to
12 perform or improve the economic analysis; and

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

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

22 F. As used in this section:

23 (1) "tax deviation" means a deduction, credit,
24 exemption, exclusion, preferential tax rate, subtraction,
25 allowance or other deviation from the baseline of a tax that

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

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

16 SECTION 3. APPROPRIATION.--Three hundred forty-two
17 thousand dollars (\$342,000) is appropriated from the general
18 fund to the taxation and revenue department for expenditure in
19 fiscal year 2023 to assist the department in evaluating tax
20 expenditures and other economic development incentives. Any
21 unexpended or unencumbered balance remaining at the end of
22 fiscal year 2023 shall revert to the general fund.

23 SECTION 4. EFFECTIVE DATE.--The effective date of the
24 provisions of this act is July 1, 2022.