Fiscal impact reports (FIRs) are prepared by the Legislative Finance Committee (LFC) for standing finance committees of the Legislature. LFC does not assume responsibility for the accuracy of these reports if they are used for other purposes.

FISCAL IMPACT REPORT

		LAST UPDATED	3/17/23
SPONSOR	HTRC	**ORIGINAL DATE**	3/6/23
SHORT TITLE	Tax Changes	**BILL NUMBER**	CS/House Bill 547/ HTRCS/ aHFl/ aSTBTC/aSFl#1/Conference Committee
		ANALYST	I. Torres/Faubion/Graeser

REVENUE*

Estimated Revenue					Recurring or Nonrecurring	Fund Affected
FY23	FY24	FY25	FY26	FY27		
	($2,000)	($2,000)	($2,000)	($2,000)	Recurring	Sections 1-4: Industrial Revenue Bonds – General Fund
	See fiscal implications				Recurring	Sections 1-4: IRBs – Local Governments
	See fiscal implications				Recurring	Sections 1-4 IRBs – School Districts
	($1,100)	($1,200)	($1,200)	($1,200)	Recurring	Section 5: Armed Forces Retirement Pay Exemption – General Fund
		($142,800)	($149,200)	($155,100)	Recurring	Section 6: Income Tax Brackets – General Fund
	($18,400)	($18,800)	($19,200)	($19,600)	Recurring	Section 7: Low-Income Comprehensive Tax Rebate – General Fund
	($11,700)	($11,700)	($11,700)	($11,700)	Recurring	Section 8: Rural Health Care Practitioner Tax Credit – General Fund
	($102,600)	($106,600)	($108,900)	($111,100)	Recurring	Section 9: Child Income Tax Credit – General Fund
		$35,100	$35,800	$36,800	Recurring	Section 10: Capital Gains Deduction – General Fund
($666,600)	($6,670)				Nonrecurring	Section 11: 2021 Income Tax Rebates – General Fund
	(Up to $7,010)	(Up to $7,247)	(Up to $7,296)	(Up to $7,419)	Recurring	Sections 12 & 13: EV and Charging Unit Income Tax Credits – General Fund
	Up to ($4,000)	Up to ($4,000)	Up to ($4,000)	Up to ($4,000)	Recurring	Section 14: Energy Storage System Tax Credit - General Fund
		$7,000	$7,200	$7,400	Recurring	Section 15: Corporate Income Tax Rate – General Fund
	($116,140)	($238,550)	($369,810)	($504,260)	Recurring	Sections 16 & 17: GRT and Compensating Tax Rate – General Fund
	($7,280 to $14,000)	($7,480 to $14,100)	($7,730 to $14,600)	($7,910 to $14,900)	Recurring	Section 18: Child Care Provider GRT Deduction – General Fund
	($8,230 to $15,800)	($8,450 to $15,900)	($8,730 to $16,500)	($8,930 to $16,800)	Recurring	Section 18: Child Care Provider GRT Deduction – Local Governments
	Up to ($137)	Up to ($132)	Up to ($137)	Up to ($144)	Recurring	Section 19: Medicaid Renovation GRT Deduction – General Fund
FY23	FY24	FY25	FY26	FY27	Recurring or	Fund

					Nonrecurring	Affected
	Up to ($180)	Up to ($170)	Up to ($180)	Up to ($180)	Recurring	Section 19: Medicaid Renovation GRT Deduction – Local Governments
	($12,540)	($25,300)	($25,600)	($25,800)	Recurring	Sections 20 - 22: Liquor Excise– General Fund
	$179	$364	$370	$375	Recurring	Sections 20 - 22: Liquor Excise– Class A Muni
	$555	$1,120	$1,132	$1,141	Recurring	Sections 20 - 22: Liquor Excise– Drug Court Fund
	$747	$1,508	$1,523	$1,536	Recurring	Sections 20 - 22: Liquor Excise Tax – Local DWI Grant Fund
	$16,093	$32,466	$32,793	$33,074	Recurring	Sections 20 - 22: Liquor Excise– Alcohol Harms Alleviation Fund
		Minimal but negative			Recurring	Section 23: Index Social Security– General Fund
	($900)	($900)	($900)	($900)	Recurring	Section 24: Special Needs Adoption Tax Credit – General Fund
	($320)	($640)	($640)	($640)	Recurring	Section 25: Teacher Supply PIT Exemption – General Fund
	($3,180)	($4,230)	($5,280)	($6,330)	Recurring	Sections 26, 27 & 28 Geothermal Energy Generation Tax Credit – General Fund
	($1,420)	($1,420)	($1,420)	($1,420)	Recurring	Sections 26, 27 & 28 Geothermal Energy Generation Tax Credit – Local Governments
	($8,000)	($8,000)	($8,000)	($8,000)	Recurring	Sections 29 & 30: Geothermal Ground-Coupled Heat Pump Credit – General Fund
	Negative but minimal	($61,500.0)	($75,900.0)	($87,300.0)	Recurring	Sections 31 -35: Film Tax Credits – General Fund
	Up to ($39,300)	Up to ($38,850)	Up to ($38,600)	Up to ($38,500)	Recurring	Section 36: Healthcare Practitioner Copayment or Deductible GRT – General Fund
	Up to ($10,800)	Up to ($12,300)	Up to ($13,900)	Up to ($15,500)	Recurring	Section 36: Healthcare Practitioner Copayment or Deductible GRT – Local Governments
	($4,879)	($4,879)	($4,879)	($4,879)	Recurring	Section 37: Dyed Diesel Fuel GRT Exemption – General Fund
	($3,253)	($3,253)	($3,253)	($3,253)	Recurring	Section 37: Dyed Diesel Fuel GRT Exemption – Locals
	$2,000	$2,000	$2,000	$2,000	Recurring	Sections 38 - 40: Tobacco Excise Taxes – Tobacco Settlement Permanent Fund
	($75,900)	($77,300)	($173,900)	($178,400)	Recurring	Section 41- Motor Vehicle Excise – General Fund
	$75,900	$77,300	$155,600	$159,625	Recurring	Section 41 – Motor Vehicle Excise – State Road Fund
	-	-	$18,300	$18,775	Recurring	Section 41 – Motor Vehicle Excise – Transportation Project Fund
FY23	**FY24**	**FY25**	**FY26**	**FY27**	**Recurring or**	**Fund**

					Nonrecurring	
		Indeterminate but negative			Recurring	Section 42 – Apportionment of Business Income (Single-Sales Factor) – General Fund
($666,600)	**($428,776)**	**($726,628)**	**($978,742)**	**($1,137,972)**	**Recurring and Nonrecurring**	**TOTAL GENERAL FUND**
$0	**($30,527)**	**($31,171)**	**($15,060)**	**($16,467)**	**Recurring**	**TOTAL Local Government Revenue and Funds for Local Governments**
$0	**$94,548**	**$112,886**	**$191,525**	**$195,840**	**Recurring**	**Other State Funds**

Parenthesis ( ) indicate revenue decreases.
*Amounts reflect most recent analysis of this legislation.

See "Administrative Implications" below for additional operational impacts.

Sources of Information

LFC Files

<u>Responses Received on Related Bills From</u>
Taxation and Revenue Department (TRD)
Energy, Minerals and Natural Resources (ENMRD)
Office of the Attorney General (NMAG)
Department of Finance and Administration (DFA)
Human Services Department (HSD)
Department of Health (DOH)
Economic Development Department (EDD)
Early Childhood Education and Care Department (ECECD)
Municipal League (ML)

SUMMARY

Synopsis of Conference Committee Amendment to House Bill 547

The following narrative reflects the most current version of this bill, as substituted and amended.

Section 1 through 4: Industrial Revenue Bonds
These sections add "energy storage facilities" to the authority granted municipalities and counties to negotiate an industrial revenue bond (IRB). In addition, it adds energy storage facilities to the school district hold-harmless provisions of Sections 3-32-6 and 4-59-4 NMSA 1978. The effective date of the provisions of Sections 1 through 4 of the bill is July 1, 2023

Section 5: Armed Forces Retirement Pay Exemption
This section amends the Income Tax Act to remove the sunset date on the armed forces retirement pay exemption currently in effect through tax year 2026. With this change, this

exemption would remain at $30 thousand of retirement pay per armed forces retiree starting in taxable year 2024. An amendment added surviving spouses of armed forces retirees to this exemption. This section does not contain an effective date, and as a result, would go into effect June 16, 2023, (90 days after the Legislature adjourns) if signed. The provisions in this section apply to taxable years beginning on or after January 1, 2023.

Section 6: Income Tax Brackets

This section restructures the personal income tax rates and income brackets to increase the number of brackets, adjust the rates, and change the income range within each bracket. The proposed income tax structure is as follows:

Joint Filers		
Income Range ($)	Fixed tax owed	rate
0 - 8,000		1.50%
8,000 - 25,000	$120.00	3.20%
25,000-50,000	$664.00	4.30%
50,000 - 100,000	$1,739.00	4.70%
100,000 - 315,000	$4,089.00	4.90%
315,000 +	$14,624.00	5.90%
Single Filers		
Income Range ($)	Fixed tax owed	rate
0 - 5,500		1.50%
5,500 - 16,500	$82.50	3.20%
16,500 - 33,500	$434.50	4.30%
33,500 - 66,500	$1,165.50	4.70%
66,500 – 210,000	$2,716.50	4.90%
210,000 +	$9,748.00	5.90%
Married Separate Filers		
Income Range ($)	Fixed tax owed	rate
0 - 4,000		1.50%
4,000 - 12,500	$60.00	3.20%
12,500 - 25,000	$332.00	4.30%
25,000 - 50,000	$869.50	4.70%
50,000 - 157,500	$2,044.50	4.90%
157,500 +	$7,312.00	5.90%

The effective date of this section is January 1, 2024, and the rate change is applicable for taxable years beginning on or after January 1, 2024.

Section 7: Low-Income Comprehensive Tax Rebate

This section mandates the income levels eligible to receive the low-income comprehensive tax rebate (LICTR) be adjusted to account for inflation each taxable year. It also adjusts the 2023 tax year base table, expanding the income range and slightly increasing the rebate amount. This section does not contain an effective date, and as a result, would go into effect June 16, 2023, (90 days after the Legislature adjourns) if signed. The provisions of this section apply to taxable years beginning on or after January 1, 2023.

Section 8: Rural Health Care Practitioner Tax Credit

This section amends the rural healthcare practitioner tax credit against income tax to add several categories of health workers to the list of approved practitioners eligible to receive the credit. It adds pharmacists, registered nurses, clinical social workers, independent social workers, professional mental health counselors, professional clinical mental health counselors, marriage and family therapists, professional art therapists, alcohol and drug abuse counselors, midwives, and physical therapists to be eligible for a $3,000 annual credit. This section also reduces the number of hours that a practitioner is required to provide service in a rural area to be eligible for the rural healthcare practitioner tax credit. This section does not contain an effective date, and as a result, would go into effect June 16, 2023, (90 days after the Legislature adjourns) if signed. The provisions in this section apply to taxable years beginning on or after January 1, 2023.

Section 9: Child Income Tax Credit
This section increases the child tax credit for the lowest three income levels from $175 to $600, $150 to $400, and $125 to $200. This section also adds language to annually adjust the credit amounts to account for inflation. This section does not contain an effective date, and as a result, would go into effect June 16, 2023, (90 days after the Legislature adjourns) if signed. The provisions of this section apply to taxable years beginning on or after January 1, 2023.

Section 10: Capital Gains Deduction
This section seeks to amend the limit of capital gains that may be deducted from personal income tax. The current limit is the greater of $1,000 or 40 percent of the taxpayer's net capital gain income. This bill changes the maximum a taxpayer may claim to $2,500. This bill allows a deduction of 40 percent of up to $1 million of capital gain income from a sale of a New Mexico business. This section does not contain an effective date, and as a result, would go into effect June 16, 2023, (90 days after the Legislature adjourns) if signed. The provisions of this section apply to taxable years beginning on or after January 1, 2024.

Section 11: 2021 Income Tax Rebates
This section provides a temporary personal income tax (PIT) rebate to be paid to all residents who filed state tax returns for tax year 2021. The proposed rebate is $500 for single filers and married individuals filing separate returns and $1,000 for married individuals filing joint returns, heads of household, and surviving spouses. The effective date of this section is April 1, 2023.

Section 12 and 13: Electric Vehicle and Charging Unit Income Tax Credits
This section creates two new refundable personal income tax credits for a five-year period beginning in tax year 2023 through tax year 2027. First, this bill creates the refundable electric vehicle income tax credit of $2,500 for each electric vehicle purchase or $4,000 for households under 200 percent the federal poverty level. Second, this bill creates an electric vehicle charging unit income tax credit of up to $300 to cover the cost of purchasing and installing an electric vehicle charging unit. This bill caps electric vehicle credits at $10 million a year and caps charging unit credits at $1 million a year, for a cap on total credits in any year of $11 million. The provisions of this section apply to taxable years beginning on or after January 1, 2023.

Section 14: Energy Storage System Income Tax Credit

SUMMARY

This section proposes a personal income tax credit of 40 percent of the cost of equipment and installation for an energy storage system installed for taxable years up to January 1, 2028. The credit is for installation of an energy storage system on the claimant's residential, agricultural, or commercial property. The credit amount is limited to a maximum of $5,000 per system for residential systems and $150 thousand for agricultural and commercial systems. The Energy, Minerals and Natural Resources Department (EMNRD) is required to certify installations on a first-come, first-served basis with a limit of $4 million for all awards per year. If aggregate applications exceed this cap, the applications would enter a queue for the following year. The credit is transferrable but not refundable and may be carried forward for five years if credits exceed liabilities. The provisions of the act are applicable to tax years beginning on or after January 1, 2023, for installations completed on or after March 1, 2023, and before January 1, 2028.

Section 15: Corporate Income Tax Rate
This section creates a single corporate income tax rate of 5.9 percent. The effective date of this section is January 1, 2024. The provisions in this section apply to taxable years beginning on or after January 1, 2024.

Section 16 and 17: Gross Receipts and Compensating Tax Rate
These sections reduce the state gross receipts and compensating tax rates by half a percent over four years. These sections become effective in FY24, when the bill reduces the gross receipts tax (GRT) and compensating tax by one-eighths percent (0.125%). Another one-eighth percent reduction will take effect in FY25, FY26, and FY27, representing a total reduction a one-half percent (0.5%). These rate reductions are in addition to the one-quarter (0.25%) rate reduction passed in House Bill 163 in the 2022 regular session. The rate was to reach 4.875 percent under current law, and in this bill, the rate is further reduced to 4.375 percent, reflecting a three-quarter (0.75%) rate reduction from FY22. Per conference committee amendment, the gross receipts tax provisions restoring the tax rate to previous levels should revenues decline by more than 5 percent will end in 2037. The effective date of these sections is July 1, 2023.

Section 18: Childcare Provider GRT Deduction
This section creates a new gross receipts tax (GRT) deduction for the sale of childcare s through either a licensed childcare assistance program or a for-profit prekindergarten provider. For licensed childcare services, the provider's receipts must be pursuant to a contract or grant with the Early Childhood Education and Care Department and licensed by the Childcare Assistance Program. For a for-profit prekindergarten provider, the services must be pursuant to the Prekindergarten Act. Finally, this section creates a requirement for the Taxation and Revenue Department (TRD) to compile an annual report to be presented to the Revenue Stabilization and Tax Policy Committee and Legislative Finance Committee. The effective date of this bill is July 1, 2023 until July 1, 2033.

Section 19: Medicaid Renovation GRT Deduction
This section would allow a gross receipts tax deduction to an eligible provider that installs equipment or real property modifications to a residence of a Medicaid recipient to allow that resident to live safely at home. The effective date of the provisions of this section is July 1, 2023 and a delayed repeal date of July 1, 2033.

Sections 20 through 22: Liquor Excise Tax
These sections increase liquor excise tax rates by 20 percent over current rates and distribute a portion of the revenue from the tax to a new alcohol harms alleviation fund. Under the proposed bill, the distributions of the net receipts attributable to the liquor excise tax are as follows:

Percent Distribution of Liquor Excise Tax Revenue	Earmarked Use
40.0%	Local DWI Grant Fund
0.5%	Municipalities in a class A county with a population of 30,000 – 60,000
6.0%	Drug Court Fund
53.0%	Alcohol harms alleviation fund
0.0%	General Fund

The effective date of these sections is January 1, 2024.

Section 23: Index Social Security Income for Taxes
This section annually adjusts the income caps on the income tax exemption for social security income to account for inflation. The provisions in this section apply to taxable years on or after January 1, 2023.

Section 24: Special Needs Adoption Tax Credit
This section increases the adopted special needs child credit from $1,000 per child to $1,500 per child. The former specification “husband and wife” has been changed to “married couples.” The provisions in this section apply to taxable years on or after January 1, 2023.

Section 25: Teacher Supply PIT Exemption
This section creates an income tax deduction for school supplies purchased by a public school teacher of up to $500 in tax year 2023 and $1,000 in tax year 2024 and after. The school supplies must be used for educational uses in the teacher’s classroom and by the teacher’s students. The provisions of this section apply to taxable years beginning on or after January 1, 2023.

Sections 26 through 28: Geothermal Energy Generation Tax Credit
These sections create the geothermal electricity generation income tax credits and companion gross receipts and compensating tax deductions. This personal income tax and corporate income tax credits are equal to 1.5 cents per kilowatt-hour of electricity generated in New Mexico in a taxable year. The joint personal/corporate income tax credit is capped at $5 million each calendar year. The GRT and compensation tax deductions apply to tangible personal property and installation services for equipment, transmission, and plant construction costs of the electrical energy generation geothermal facility. The tax credit provisions are applicable to tax years beginning on or after January 1, 2023, and sunset after January 1, 2028. The GRT deductions are effective July 1, 2023, and sunset July 1, 2028. The compensating tax deductions are effective July 1, 2023, and sunset July 1, 2031.

Sections 29 and 30: Geothermal Ground-Coupled Heat Pump Credit
These sections reinstate the expired geothermal ground-coupled heat pump personal income and

corporate income tax credits. The credit rate remains at 30 percent of costs, with a maximum of $9,000 tax credit per installation. The cap for each credit is increased from $2 million to $4 million separately for the personal income tax and corporate income tax credits (Sections 29 and 30). The provisions of this section apply to taxable years beginning on or after January 1, 2023.

Sections 31 through 35: Film Tax Credits
These sections increase the benefits of the film tax credit, including raising the cap for films not by New Mexico film partners, expanding subsidies for nonresidents, and enhancing the benefit of filming in rural locations. The provisions of Sections 31 through 35 of this act apply to film production companies that commence principal photography for a film or commercial audiovisual product on or after July 1, 2023.

Section 36: Healthcare Practitioner Copayment or Deductible GRT
This section expands the medical services gross receipts tax deduction to add all receipts from a copayment or deductible paid by a patient to a healthcare practitioner for commercial contract services provided under health insurance. The effective date of this section is July 1, 2023. The provisions sunset effective July 1, 2028.

Section 37: Dyed Diesel Fuel GRT Exemption
This section exempts the sale and use of dyed special fuels from the gross receipts and compensating tax when used for agricultural purposes. Qualifying dyed special fuels are those dyed in accordance with federal regulation for use in agricultural purposes. The effective date of this section is July 1, 2023.

Sections 38 through 40: Tobacco Excise Taxes
This section removes the 50 cents per cigar cap on the tobacco products tax on cigars. All cigars would be subject to the 25 percent tax applied to other tobacco products. This section also distributes 13 percent of the tobacco products excise tax to the tobacco settlement permanent fund. The effective date of the provisions of these sections is July 1, 2023.

Section 41: Motor Vehicle Excise Tax Distributions
This section redistributes the motor vehicle excise tax (MVX) to the state road fund and the transportation project fund. In FY24 and FY25, the distribution is 32 percent to the general fund, 49.25 percent to the state road fund, and 18.75 percent to the transportation project fund. In FY26 and beyond, the distribution is 0 percent to the general fund, 75 percent to the state road fund, and 25 percent to the transportation project fund. If, for any single fiscal year occurring after fiscal year 2025 and prior to fiscal year 2045, gross receipts tax revenues are less than 95 percent of the gross receipts tax revenues for the previous fiscal year, the MVX distributions would be the FY22 distribution rates. The effective date of this section is July 1, 2023.

Section 42: Apportionment of Business Income (Single-Sales Factor)
This section would replace the three-factor formula with an opt-out single sales factor through tax year 2028, after which time all business will shift to single-sales. The sales factor is the ratio of sales in New Mexico divided by total sales in all states. The bill allows eligible businesses the option of retaining the three-factor formula, which is the average of property, payroll, and sales factors, or adopting a sales-only apportionment through tax year 2028. The effective date of this

section is January 1, 2024. The provisions in this section apply to taxable years beginning on or after January 1, 2024. Eligible businesses are those with a cumulative investment in property in New Mexico exceeding $50 million.

FISCAL IMPLICATIONS

This bill creates or expands a number of tax expenditures with a cost that is difficult to determine but likely significant. LFC has serious concerns about the significant risk to state revenues from tax expenditures and the increase in revenue volatility from erosion of the revenue base.

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.

Sections 1 through 4: Industrial Revenue Bonds for Energy Storage Systems
Overall fiscal impacts of this proposal can only be illustrated and not calculated because the impacts are critically dependent on adoption by developers and counties and municipalities. Most new renewable projects to date that have been approved for industrial revenue bond (IRB) treatment have not involved energy storage facilities. It is likely the provisions of this bill are intended to incentivize retrofitting existing utility scale wind or solar projects with battery energy storage system capability. Details of the illustration are included in the fiscal impact report for House Bill 67 and assume there would be 200 megawatt-hours of installation pursuant to the provisions of this bill in each year throughout the exhibit period.

In the short run, all jurisdictions lose money, with the state losing the most. The exact amount of payment in lieu of taxes (PILT) negotiated is up to the sponsoring jurisdiction. Pursuant to the provisions of this bill, the provisions of Sections 3-32-6 or 4-59-2 NMSA 1978, would apply and any negotiated PILT would be automatically shared with school districts in the county. The IRB statute provide a gross receipts and compensating tax deduction for equipment installed in renewable energy projects Therefore, both the state and the sponsoring local government would forgo the initial construction phase GRT and compensating tax and the initial high level of property tax measured by accelerated depreciation of tangible personal property.

Section 5: Armed Forces Retirement Pay Exemption
TRD provided the following analysis:

> Two sources of data were analyzed to arrive at an estimated revenue impact for extending eligibility of the exemption to a surviving spouse. The first data source is the Department of Defense (DOD) annual *Statistical Report on the Military Retirement System*, using the four annual reports published 2018 through 2021. The second data source was a sample of New Mexico military retiree state income tax returns for tax year 2018. The analysis takes into account the 5.9 percent marginal tax rate effective for Tax Year 2021 and beyond.
>
> The *Statistical Report on the Military Retirement System* provides an aggregate number

of retirees and survivor beneficiaries by state, and an aggregate amount of benefits distributed. Taking an average of the four annual reports, New Mexico has 2,739 survivor beneficiaries. This analysis assumes all surviving spouses qualify for the exemption. The *Statistical Report on the Military Retirement System* notes that survivor benefits are approximately half of full retirees' benefits. With that assumption, TRD calculated the fiscal impact based on 2,739 survivor beneficiaries' claiming the exemption each year starting with tax year 2023.

Section 6: Income Tax Brackets
The impact of the proposed changes to the income tax brackets was estimated by LFC using tax year 2021 tax return data for New Mexico taxpayers. Using the University of New Mexico's Bureau of Business and Economic Research (BBER) January 2023 forecast, LFC indexed the data to tax year 2024 and then grew the estimate annually by BBER's New Mexico wage and salary growth.

Section 7: Low-Income Comprehensive Tax Rebate
This section indexes both the LICTR payment amount and the eligible income levels to inflation, allowing both to grow with inflation. It also links the income thresholds to the consumer price index, increasing the income levels by the inflation rate, except in instances where the inflation rate would result in a downward revision. TRD applied the proposed LICTR amounts by modified gross income (MGI) level and number of exemptions to historical data using tax year 2021. The average rebate amount for the current population claiming the rebate increases from approximately $142 to $164. The fiscal impact includes the expanded population of eligible taxpayers who can now qualify under the higher threshold of $39 thousand MGI, about 29 thousand additional taxpayers. Their average rebate amount is estimated at $32 per taxpayer. Additionally, the estimate includes of taxpayers who are currently eligible but have not claimed the rebate in the past. As the rebate amount increases, this may incentivize those currently eligible to claim the rebate, and TRD assumes those taxpayers who currently have an MGI that meets the income levels would now claim the rebates. The annual growth in the estimate is based on IHS Markit's January 2023 forecast for the consumer price index.

Section 8: Rural Health Care Practitioner Tax Credit
TRD provided a fiscal impact analysis for House Bill 38, which adds all of the same types of practitioners, except midwives, to be eligible for the rural healthcare practitioner credit. To compute the fiscal impact of the proposed amendments, TRD used the information provided in the New Mexico Health Care Workforce Committee (HCWC) annual report for 2022. In total, 5,577 healthcare practitioners are estimated to become newly eligible for the credit under the provisions of this bill. Some of the providers in the newly eligible categories in metropolitan areas may qualify for part-time credits if they perform some of their practice in rural qualified areas; but such metropolitan providers are not assumed in this estimate.

Using a sample of taxpayers that have claimed the credit between 2016 and 2020, TRD assumed the distribution of the new population of practitioners claiming the credit between full-time and part-time credits to be 60:40. TRD also assumed a percentage share of the credit that these newly eligible taxpayers may apply to their annual tax year liability, given the associated average salaries for the new categories of practitioners eligible for the $3,000 maximum credit. The average salary for each respective practitioner category was taken from Workforce Solutions Department's occupation and wage data. For pharmacists and physical therapists, the tax liability based on their average salary is assumed to reach the $3,000 credit amount. But for the other categories of newly eligible practitioners, it was assumed that, based on their average salaries, only 68 percent of the credit amount would be claimed.

Based on the foregoing figures and assumptions, the expansions outlined in this bill are estimated to reduce PIT revenue by $9.7 million per year. TRD assumes no growth in the number of professionals eligible for the credit each year. Given the presumed intent to improve access to healthcare, this credit could see growth as more professionals provide services in qualified rural areas.

Given these assumptions by TRD, to adjust the fiscal impact to include approximately 13 midwives licensed through the Department of Health (DOH) and practicing in rural areas and to adjust for the lower hour requirement, LFC assumed, of the 40 percent of credit claims that currently claim half the credit amount, a quarter of them would now be eligible to claim the full amount, resulting in approximately 200 more full-time claims, a 10 percent total increase. LFC assumes an additional 200 practitioners become eligible to claim a partial credit that were not previously eligible for any credit amount, resulting in a 20 percent increase in total claims. LFC maintains that 68 percent of the credit amount would be claimed for the lower credit amount and the full credit would be claimed for the higher credit amount given the average salaries and tax liability for those different types of practitioners. This results in a total general fund revenue impact of $11.7 million per year.

Section 9: Child Income Tax Credit

This section provides a much larger child tax credit for incomes up to $75 thousand than is currently outlined in statute. For people with incomes from $0 to $25 thousand, the credit is increased from $175 to $600. For people with incomes from $25 thousand to $50 thousand, the credit is increased from $150 to $400. For people with incomes from $50 thousand to $75 thousand, the credit is increased from $125 to $200. The remaining credit amounts for people with incomes from $75 thousand and higher remain the same. The impact of the new proposed child tax credit amounts for taxpayers with adjusted gross income under $75 thousand was estimated using tax return data for New Mexico taxpayers for tax years 2020 and 2021. Due to unavailability on the number of qualifying children each taxpayer has, TRD estimated the impact based on the number of exemptions each taxpayer claimed and their filing status. TRD's estimate of the increased fiscal impact by raising the credit amount for those under $75 thousand is based on the average impact for the last two tax years. The annual growth in the estimate is based on IHS Markit's January 2023 forecast for the consumer price index.

Section 10: Capital Gains Deduction

Using tax return data for New Mexico taxpayers claiming the capital gains deduction, TRD estimated a three-year average for tax years 2019 through 2021 of the impact of decreasing the capital gains deduction to a maximum amount per taxpayer of $2,500. Capital gains can fluctuate, and this average is assumed flat through tax years 2022 and 2023 because of weak national forecasts for stock growth and real estate investment. For tax year 2024, the effective tax year for this bill, the average capital deduction impact is grown by IHS Markit's January

2023 S&P 500 stock index forecast. This assumes a modest growth in capital gains and, therefore, an annual increase in general fund revenue from personal income tax (PIT). As capital gains income is volatile and subject to the behavior of markets, the fiscal impact should be considered a high-end estimate. Capital gains deductions have been as low as $41.2 million in 2019.

Section 11: 2021 Income Tax Rebates
The estimated loss in general fund revenues due to the rebates is $666.6 million in FY23. Given that the rebate language mirrors the supplemental income tax rebate previously adopted (in House Bill 2 of the 2022 special legislative session) and is also based on tax year 2021 filing, LFC and TRD assume the same universe of tax filers would be eligible for the rebate as in 2022.

As in previous years, an appropriation in the General Appropriation Act is needed to provide relief payments for households ineligible for the rebates. For this rebate, the appropriation is estimated to be $15 million to the Human Services Department (HSD) for FY23 and FY24 to provide a one-time relief payment to households contingent on the passage of 2021 income tax rebates.

Section 12 and 13: Electric Vehicle and Charging Unit Income Tax Credits
The table below reports the number of battery electric vehicles (BEVs) and plug-in hybrid electric vehicles (PHEVs) registered in New Mexico and estimates for the following years from the Department of Transportation.

Table: Number of light electric and plug-in hybrid electric vehicles registered in New Mexico as of June 30, 2022

FISCAL YEAR	BEV	PHEV	HEV
2022*	4,382	3,086	33,072
2023	5,421	3,558	35,249
2024	6,970	4,513	39,631
2025	8,609	5,463	43,916
2026	10,295	6,383	47,993
2027	12,047	7,281	51,944

Note: Values are stock of noncommercial vehicles weighing no more than 26,000 lbs., registered in New Mexico as of June 30, 2022. The numbers were derived from the Motor Vehicle Division (MVD) data extract of all vehicles registered in New Mexico. The Vehicle Identification Number (VIN) information of the registered vehicles in the MVD data extract was decoded using the National Highway Traffic Safety Administration (NHTSA) Product Information Catalog Vehicle Listing (vPIC) Application Programming Interface (API) to accurately classify the registered vehicles according to their electrification level.

The fiscal impact of the credits is uncertain, especially further into the future, but cannot exceed the caps of $10 million and $1 million annually. All vehicle sales forecasted above are assumed to receive the $2,500 credit and, as shown in the revenue table, neither credit is expected to reach its limitation during the forecast period.

Section 14: Energy Storage System Income Tax Credit
The fiscal impact of the provisions of this bill simply reflects the $4 million cap along with transferability of the tax credit. With a maximum credit of $150 thousand for agricultural and commercial installations and $5,000 for residential installations, 20 commercial systems and 200

residential systems would consume the credit. It is unknown whether these are appropriate targets.

Section 15: Corporate Income Tax Rate
Currently, there are two corporate income tax rates: 4.8 percent for corporations making less than $500 thousand; and 5.9 percent for corporations making more than $500 thousand. According to the 2022 Tax Expenditure Report, there were approximately 71,200 corporate income taxpayers in tax year 2020 and 67,359 of those taxpayers have $0 or less in income and did not pay any corporate income tax. Additionally, 3,543 taxpayers made less than $500 thousand in income and paid the 4.8 percent rate currently in statute, accounting for only 7.7 percent of total corporate income taxes paid. The remaining 331 taxpayers made over $500 thousand in income and therefore paid the 5.9 percent rate currently in statute. As the corporate income is a marginal tax, all corporate taxpayers would experience a tax increase under this bill. High-earning taxpayers already at the 5.9 percent tax rate would pay a higher rate on their first $500 thousand of earnings.

LFC used the corporate income tax tables in the 2021 Tax Expenditure Report to estimate the fiscal impact of the tax increase on businesses in tax year 2020. LFC grew the figures by the gross corporate income tax growth rate estimated in the December 2022 Consensus Revenue Estimating Group through the forecast period. This assumes CIT growth is equal throughout the income distribution.

Sections 16 and 17: Gross Receipts and Compensating Tax Rate
The estimated cost of reducing the compensating and gross receipts tax rates was calculated using the December 2022 Consensus Revenue Estimate.

Section 18: Child Care Provider GRT Deduction
The Early Childhood Education and Care Department (ECECD) used data from provider payments on file to determine the GRT deduction would cost at least $16.4 million from the deduction of GRT on ECECD contracts and grants alone. In attempting to determine additional revenue impacts, TRD used data from the most recent PreK Annual Report, 2018-2019 School Year, February 2020, from the Public Education Department and Children, Youth and Families Department and *The State of Preschool 2021 – State Preschool Yearbook about New Mexico* from the National Institute for Early Education Research to estimate the receipts of prekindergarten providers eligible per the Prekindergarten Act.

LFC staff estimated the cost using ECECD contract and grant totals, reported children served, and for-profit data. Estimates also use total births in the state by year from the Department of Health and childcare uptake data provided by the U.S. Census Bureau. Finally, estimates use the average weighted municipal gross receipts tax rate of 8.04 percent. The annual fiscal impacts used the GRT revenue growth from the December 2022 Consensus Revenue Estimating Group (CREG) forecast.

FISCAL IMPLICATIONS

Using these sources, LFC staff estimates deducting for-profit prekindergarten exemptions from the gross receipts tax is likely to reduce total revenues by around $4 million a year. Similarly, deducting childcare contracts from the gross receipts tax is likely to reduce total collections by nearly $11.5 million a year. Because most childcare and prekindergarten services are in a municipality, the state share of the total cost is estimated to be 47 percent with the remainder representing costs to local governments.

Section 19: Medicaid Renovation GRT Deduction
The table shows as "up to" because two other gross receipts tax deductions may apply: Section 8-9-47 NMSA 1978 is a deduction for tangible personal property sold to a government. The net effect of this proposed deduction would be to exempt construction services from the GRT. HSD notes: "In 2021, there were approximately 1,341 Medicaid clients who benefited from environmental modifications to their homes, at a total cost of $5,788,099."

Sections 20 through 22: Liquor Excise Tax
LFC staff used the liquor excise tax forecast from the Consensus Revenue Estimating Group (CREG) in December 2022 to estimate the revenue impact of the proposed tax increases and distribution changes. The general fund would no longer receive any revenue from liquor excise tax net receipts versus approximately 49.5 percent under current statute, resulting in a negative general fund revenue impact of $25.3 million to $25.8 million through the forecast period.

The rate increases in the bill represent a 20 percent increase for all alcohol types, except local brewers, small wineries, and craft distillers, which would not see any increase. The increases per serving are as follows:

- The beer and cider tax rate increases from 4 cents to 5 cents per 12 ounce serving.
- The spirits tax rate increases from 7 cents to 9 cents per 1.5 ounce serving.
- The wine tax rate increases from 7 cents to 8 cents per 5 ounce serving.

The amount to be distributed to municipalities located in a class A county with a population of more than 30 thousand but less than 60 thousand is amended from a fixed rate to a percentage, resulting in significant increases to that distribution given the projected revenues. Currently, only Farmington qualifies for this distribution. The amount distributed to the local DWI grant fund and the drug court fund would increase by more than $2.6 million in total. The new alcohol harms alleviation fund would receive the largest distribution, resulting in about $32 million to $33 million in revenue through the forecast period. Because this provision goes into effect halfway through FY24, the amounts are half in that year.

The bill does not include a recurring appropriation but does create the alcohol harms alleviation fund. The fund allows for continuing appropriations, donations, investment interest, and other sources and is subject to appropriation by the Legislature to the Human Services Department, Department of Health, Early Childhood Education and Care Department, Public Education Department, and Higher Education Department. The revenue distributions contained in this bill are a recurring expense to the general fund. Any unexpended or unencumbered balances remaining at the end of the fiscal year shall not revert to the general fund. LFC has concerns with including continuing distribution language in the statutory provisions for newly created funds

FISCAL IMPLICATIONS

because earmarking reduces the ability of the Legislature to establish spending priorities.

Section 23: Index Social Security Income for Taxes
Currently, social security income is exempt from state income tax for individuals with income of less than $75 thousand for married filers filing separately; $150 thousand for heads of household, surviving spouses, and married filers filing jointly; and $100 thousand for single filers. This bill would annually adjust the income caps by a ratio of the consumer price index, increasing the income levels by the inflation rate, except in instances where the inflation rate would result in a downward revision.

The current social security exemption estimate in the Consensus Revenue Estimating Group (CREG) December 2022 forecast for personal income tax (PIT) is based on modeling the impact at the current adjusted gross income (AGI) levels. To scale the impact of this exemption to tax year 2022 and into the forecast horizon, TRD utilized a combination of (a) the growth in Social Security outlays forecasted by the Congressional Budget Office (CBO), (b) the growth rate of the population 65 years and older in New Mexico relative to the United States, and (c) the cost-of-living-adjustment (COLA) to Social Security and Supplemental Security Income (SSI) benefits for calendar year 2022. Thus, a portion of the indexing of the AGI thresholds would be captured in the growth rates currently assumed for this population because it captures inflationary increases to social security benefits, which then roll into increases in overall AGI. But, if the AGI thresholds are not indexed, over time fewer taxpayers would be eligible for the exemption as their AGI increases with inflation. Thus, the bill proposal would reverse the slow increase in revenue to the general fund as taxpayers lose the exemption qualification, by indexing the income thresholds to inflation. This has a minimum impact year over year but in aggregate would build up more year after year with no indexing.

Section 24: Special Needs Adoption Tax Credit
The data source for this estimate is the 2018, 2019-20, 2021, and 2022 editions of TRD's Tax Expenditure Report. The credit has been stable since 2017 and shows a slight decline in the number of claims. This, however, may be attributed to late filing:

Fiscal Year	2017	2018	2019	2020	2021	2022
# Claims	1,013	1,026	1,097	1,081	985	907
Credit ($1,000)	$1,826	$1,861	$2,022	$1,985	$1,767	$1,592
Avg Amount per claim	$1,803	$1,814	$1,843	$1,836	$1,794	$1,755

The credit amount is increased from $1,000 to $1,500 in this bill and is applicable for the 2023 tax year. Returns for the 2023 tax year are due in April 2024 and would affect FY24 revenues. The estimate in the Fiscal Impact Table is simply an average of historical amounts increased by 50 percent.

Section 25: Teacher Supply PIT Exemption
This section provides a personal income tax (PIT) deduction to all public school teachers who spend their own money on classroom supplies in New Mexico. According to the last report of the National Center for Educational Statistics, 94 percent of all public school teachers in the United

State have spent their own money on classroom supplies without reimbursement. The Taxation and Revenue Department (TRD) applied that percentage to the 21,850 public school teachers in New Mexico during the academic year 2019-2020 to estimate that approximately 20,539 teachers may claim the deduction. The lost revenue to the general fund is based on a median wage of $54,923 and an effective tax rate of 3.1 percent for a taxable income between $50 thousand and $75 thousand.

The fiscal impact increases from FY24 to FY25 because the deduction amount doubles from $500 for tax year 2023 to $1,000 for tax year 2024 and onwards. The impact is estimated to be constant after that. The analysis is made on the prepandemic number of teachers; it is assumed the number of teachers reaches prepandemic levels in the coming years and remains flat. Also, it is assumed the mean wage for teachers would stay in the specified range above for the coming years, and therefore, no significant changes in the effective tax rate are expected.

Sections 26 through 28 Geothermal Energy Generation Tax Credit
The personal/corporate income tax credit of 1.5 cents per kilowatt-hour means the $5 million credit would be associated with the generation of over 300 thousand megawatt-hours of electricity, enough to power 120 thousand to 270 thousand homes for a year. Assuming an 80 percent duty cycle and 24/7 production, this represents about 40 megawatts capacity that would be creditable. Utility scale solar capital costs currently run about $1.15 per watt. This relatively unproved technology would probably start with capital costs something in excess of $5/watt. Assume the industry would install 10 megawatts of capacity a year. Based on these assumptions, see below for estimated tax credit costs:

		FY24	FY25	FY26	FY27
Initial Installation (Watts)		10,000,000	10,000,000	10,000,000	10,000,000
Cost per Watt		$5	$5	$5	$5
GRT/Comp Deduction ($1,000)		$50,000	$50,000	$50,000	$50,000
7.10%		$3,550	$3,550	$3,550	$3,550
60%		($2,130)	($2,130)	($2,130)	($2,130)
40%		($1,420)	($1,420)	($1,420)	($1,420)
Cumulative Production					
Annual Hours (80% Duty Cycle)	7,008	70,080,000	140,160,000	210,240,000	280,320,000
Tax credit per watt-hour	$0.015	($1,050)	($2,100)	($3,150)	($4,200)

Sections 29 and 30: Geothermal Ground-Coupled Heat Pump Credit
TRD has provided an estimate of the fiscal impact as follows:

Estimated Revenue Impact*					R or NR**	Fund(s) Affected
FY2023	FY2024	FY2025	FY2026	FY2027		
--	($1,140)	($1,150)	($1,160)	($1,170)	R	General Fund

* In thousands of dollars. Parentheses ( ) indicate a revenue loss. ** Recurring (R) or Non-Recurring (NR).

TRD provided the following description of the methodology for estimated revenue impact:

> To estimate the fiscal impact, the Taxation and Revenue Department (TRD) used internal data from applications for the recently expired Geothermal Income Tax Credit. TRD used

a 5-year average of applications for the credit as the base amount, excluding Tax Years 2020 and 2021 due to impacts from the Covid-19 pandemic. First, the fiscal impact takes the base amount and grows it by 1 percent year-over-year based on market analysis conducted by Grand View Research[1], as their market analysis published in 2020, estimates a 7.2 percent growth in the geothermal heat pump market between 2020 and 2027. Additionally, TRD applied an 83 percent growth rate between FY22 and FY23 to account for the transferability of the credit using the amount of credit claimed between fiscal years 2009 and 2010 from the Renewable Energy Production Tax Credit.

The Energy, Minerals and Natural Resources Department (EMNRD) supports this relatively low estimate, noting the last three years of the credit provided claims as shown:

2020	$ 680,495	78
2019	$ 1,037,732	123
2018	$ 561,552	65

Each of these systems cost close to or more than the $30 thousand creditable cost maximum. To reach the $8 million aggregate cap, approximately 1,800 installations per year would have to be installed with each installation costing $30 thousand. Even with new technology being developed at LANL and several private companies, it is unlikely that this level of installations would be achieved.

Sections 31 through 35: Film Tax Credits

Film tax credits are estimated to take an average of nearly two years to pay out from the general fund from the beginning of principal photography. Because of the lag, the general fund is not expected to incur costs related to the increased tax credit values until FY25. Similarly, the Economic Development Department does not expect any caps to be reached under current statute until FY25.

The Economic Development Department estimates current total tax credits earned each year by film companies that are not New Mexico film partners (non-partner films), if the $110 million cap didn't exist, would be as follows (dollars in millions):

Fiscal Year	Proposed Cap	Non-Partner Film Tax Credit Outlook Without Cap
FY 25	$130	$116.13
FY 26	$140	$127.75
FY 27	$150	$140.52
FY 28	$160	$154.58
FY 29	$170	$170.03
FY 30	$180	$187.04
FY 31	$190	$205.74

However, additional credit enhancements contained in the bill are likely to increase the credit amounts as forecasted above. Therefore, the estimated cost to the general fund in the revenue table assumes film tax credit costs reach the cap in each fiscal year for non-partner films.

The additional cost associated with increasing the rural incentive from 5 percent to 10 percent, applied to eligible expense categories although limited for expenses that are capped, is estimated to be around $1.94 million beginning in FY26. For those productions receiving credits faster than the two-year average delay of principle-photography-to-credit payout, a small amount may be paid in FY24.

For the above-the-line enhancements, only two large productions and two smaller productions would need to qualify before the $40 million cap is reached. At the current rates of production, at least 10 productions would be eligible in the first year. Because of the current expectations for productions qualifying for the increased credits for above-the-line expenses, the full cap is expected to be reached in the first year.

EDD expects the modifications to the credit for nonresident crew would average $7.18 million annually. Similarly, cost estimates on the revenue table assume a quarter of the FY26 cost in FY25, though a small amount may be paid in FY24 for those applications whose photography-to-payout timeline is faster than the average. Furthermore, the benefit is to sunset in five years when the state's new film schools should be meeting workforce needs for film productions with New Mexico residents. Changes made to the nonresident crew credits for non-partner films is expected to save the state money after FY31. The cost for the nonresident crew changes is shown below:

Fiscal Year of Production Spend	Fiscal Year of Tax Credit Payout	Additional Cost of NRCE Change to Flat 15% (Film Partners)
FY24	FY 25	$988,876.35
FY24	FY 26	$3,955,505.40
FY25	FY 27	$5,317,957.26
FY26	FY 28	$6,913,344.44
FY27	FY 29	$8,774,629.48
FY28	FY 30	$10,939,038.08

The table below shows the estimated cost by category of film tax credit change as proposed (dollars in thousands).

Estimated Revenue					Recurring or Nonrecurring	Category
FY24	FY25	FY26	FY27…	…FY33		
-	($20,000)	($30,000)	($40,000)	($50,000)	Recurring	Increased cap for Non-film partners and non-film partner modifications
-	($40,000)	($40,000)	($40,000)	($40,000)	Recurring	Increased cap for nonresidents – above the line – Film Partners
-	($989)	($3,956)	($5,318)	$1,390	Recurring	Increased cap for nonresidents – below the line – Film Partners
-	($487)	($1,950)	($1,950)	($3,410)	Recurring	Increase to 10 percent for rural film – Film Partners

FISCAL IMPLICATIONS

-	($71,500.0)	($85,900.0)	($97,300.0)	($92,000.0)	Recurring	TOTAL GENERAL FUND IMPACT*

*Totals are rounded.

Section 36: Healthcare Practitioner Copayment or Deductible GRT

TRD has created an estimate for the impact of this deduction. The impact of gross receipts tax deductions and exemptions are difficult to analyze. The impacts of this bill contain more uncertainty than many other deductions. From TRD:

> The fiscal impact relies upon average spending in copayments and deductibles of $113 and $693, respectively. But there is high variability in copayments and deductibles depending on the type and number of visits to the doctor and whether it is an employer-sponsored or marketplace plan. For example, the number of visits to the doctor varies drastically by age group, with babies and the elderly population averaging more visits compared to children and adults. Additionally, TRD assumed that the proportion of enrollees in a health insurance plan with a deductible is 89 percent. Thus, 89 percent of the insured population was assumed to pay deductible and 11 percent the copayment. It is essential to mention that a more precise estimate of the fiscal impact would require access to data such as total spending per person in New Mexico for services that count toward the deductible and for services covered with a copay. Finally, the lost revenue estimate is based on the growth rate of the real consumer spending for healthcare produced by the firm IHS Markit and on the effective gross receipts tax rate. The fiscal impact also accounts for the impact to the hold harmless payments to municipalities and counties.

HSD notes that Medicaid payments would remain taxable, as would payments by the uninsured.

> There is no fiscal impact to the New Mexico Medicaid program. Copayment and deductible paid by Medicare Part C pursuant to Title 18, Medicaid (Title XIX) and the Children's Insurance Program (CHIP) (Title XXI) and fee-for-service payment are still subject to GRT. Only receipts from a copayment or deductible paid by an insured or enrollee to a healthcare practitioner or an association of healthcare practitioners for commercial contract services pursuant to the terms of the insured's health insurance plan or enrollee's managed care health plan are deducted from gross receipts.

Section 37: Dyed Diesel Fuel GRT Exemption

The Department of Transportation reports volumes of dyed diesel as follows:

> FY2017: 330,448,986 gallons … 65% as large as taxable special fuel (excluding IFTA).
> FY2018: 448,406,653 gallons … 84% as large as taxable special fuel (excluding IFTA).
> FY2019: 524,998,010 gallons … 92% as large as taxable special fuel (excluding IFTA).
> FY2020: 427,272,899 gallons … 72% as large as taxable special fuel (excluding IFTA).
> FY2021: 325,031,794 gallons … 52% as large as taxable special fuel (excluding IFTA).
> FY2022: 331,135,193 gallons … 50% as large as taxable special fuel (excluding IFTA).

Along with the reported volumes, LFC used the Energy Information Administration (EIA) data on dyed diesel prices over the same period. Finally, LFC used the current weighted average gross receipts tax rate for the state of 7.13 percent and determined the following amounts of GRT had been paid on dyed diesel for each year:

	Estimated GRT

FISCAL IMPLICATIONS

	Paid
FY17	$64,341,199
FY18	$93,966,592
FY19	$104,292,788
FY20	$74,171,043
FY21	$58,234,327
FY22	$92,844,119
AVG:	**$81,308,345**

According to a survey conducted by the New Mexico Petroleum Marketers, dyed diesel wholesalers expect selling around 10 percent of products to agricultural users. Given the difficulty in estimating future diesel prices and purchases, for the purpose of this analysis, the cost on page 1 is equivalent to the annual average GRT paid times the 10 percent expectation for agricultural use. Furthermore, LFC assumed GRT paid followed the general split of other purchases in the state where 60 percent of the impact is to the general fund with the remaining 40 percent of impact experienced by local governments.

Because it is unclear how the tax department would determine which purchases are for agricultural use, the entire cost of the exemption could be up to $48.8 million to the general fund and $32.5 million to local governments should all sales of dyed fuel qualify (by misreporting or inability to administer the agricultural use provision). The bill should be clarified to ensure agricultural use is verifiable and reported by those claiming the exemption.

Sections 38 through 40: Tobacco Excise Taxes
LFC used the December 2022 Consensus Revenue Estimating Group's tobacco products tax forecast to apply the proposed cigar tax rate to the taxable volume of all cigars. This analysis assumed the average cost of a cigar to be $2.15, an average pulled from multiple national studies. The cigar tax increase results in approximately $2 million in additional general fund revenue. 13 percent of tobacco excise tax revenue, approximately the share of revenue generated from this tax increase on cigars of total tobacco excise taxes, will be distributed to the tobacco settlement permanent fund.

Section 41: Motor Vehicle Excise Tax Distributions
LFC used the Consensus Revenue Estimating Group's December 2022 forecast to estimate the impact of the motor vehicle excise tax distribution changes. In FY24 and FY25, this proposal would shift 27.39 percent, or $75.9 million, from the general fund to the road fund. In FY26 and beyond, the general fund would no longer receive any revenue from the motor vehicle excise tax net receipts versus 59.39 percent under current statute, resulting in a negative general fund revenue impact of $173 million to $179 million through the forecast period. The road fund would receive an additional $155 million to $163 million, and the transportation project fund would receive an additional $18 million to $19 million.

Section 42: Apportionment of Business Income (Single-Sales Factor)
This section would replace the three-factor formula with an opt-in single sales factor. This is the ratio of sales in New Mexico divided by total sales in all states. The bill allows "eligible businesses" the option of retaining the three-factor formula or adopting a sales-only apportionment through tax year 2028 at which time all business will shift to single-sales. The assumption in this analysis is that all businesses will adopt an apportionment formula that

reduces or maintains taxes, resulting in a negative impact on the general fund through corporate income taxes. After FY28, the fiscal impact is unknown as some businesses will pay more and others less corporate income tax when moved over to single-sales.

SIGNIFICANT ISSUES

This bill narrows the gross receipts tax (GRT) base. Many efforts over the last few years to reform New Mexico's taxes focused on broadening the GRT base and lowering the rates. Narrowing the base leads to continually rising GRT rates, increasing volatility in the state's largest general fund revenue source. Higher rates compound tax pyramiding issues and force consumers and businesses to pay higher taxes on all other purchases without an exemption, deduction, or credit.

Sections 1 through 4: Industrial Revenue Bonds for Energy Storage Systems
Developers installing mixed facilities with wind generation and battery energy storage (BESS) or solar facilities and BESS probably do not need the authority granted in this bill. It is likely the provisions of this bill are intended to incentivize retrofitting existing utility scale wind or solar projects with BESS capability. For somewhat technical reasons, solar and wind equipment is considered tangible personal property for property tax purposes and for the purpose of the GRT deduction for sales of tangible personal property to governments (7-9-54 NMSA 1978).

Section 5: Armed Forces Retirement Pay Exemption
This bill would not have any effect until FY28; therefore, it may be prudent to postpone its passage until the military retirement income tax exemption currently in statute has been implemented and data from the exemption can be analyzed. After a few years of implementation, legislators can better understand its impact and have better information with which to decide to extend the sunset.

Adding surviving spouses to this section makes the change more immediate. The section needs to have an applicability date added to the bill of "tax year 2023" or "tax year 2024" so that it is clear when this is supposed to be in effect. Without a specific tax year applicability, Section 6 is effective June 16, 2023, so this would be effective beginning that date rather than at the beginning of a tax year.

Excluding types of retirement income from the taxable base is seen as eroding horizontal equity in state income taxes. By excluding income based on retirement status and profession, taxpayers in similar economic circumstances are no longer treated equally, with older and veteran taxpayers receiving a benefit not available to younger or nonveteran taxpayers at the same level of income.

Section 6: Income Tax Brackets
The personal income tax structure proposed in this section would decrease taxes for all taxpayers, with the rate decreases targeted at the lowest income earners. Single filers with incomes below $66.5 thousand and married filers with incomes below $100 thousand would see

a tax rate decrease. Those with incomes above those thresholds would maintain the same tax rate as currently in statute but would see a tax decrease due to the marginal structure of personal income tax. They would see lower taxes on their incomes up to $66.5 thousand for single filers and $100 thousand for married filers.

Under the proposed tax bracket changes, approximately 41 percent of taxpayers would be in the 1.5 percent tax bracket, the same as the current structure. The next four brackets with tax rates between 3.2 percent and 4.9 percent each contain between 10.7 percent and 16.4 percent of taxpayers. The highest tax bracket at 5.9 percent contains approximately 2.9 percent of taxpayers. This analysis illustrates that this proposal effectively redistributes taxpayers throughout the bracket structure.

Tax burden is also effectively redistributed across incomes under this proposal, increasing the personal income progressivity as rates and tax burden rises with incomes. Used in tax analysis, progressivity is a measure of tax share by income and does not connote ideological alignment of the tax proposal. A progressive tax means, as income rises, a larger share of one's income is paid to that tax, as one's ability to pay increases. For example, under the proposed structure, the share of overall state tax revenue paid per bracket never exceeds 46 percent for any single bracket while the old structure saw the majority of personal income tax (approximately 83 percent) paid by a single bracket. The lowest tax bracket taxpayers average a negative tax liability after claiming eligible credits and refunds under both the proposed and current structure. The current tax structure is extremely compact at the lower income levels with taxpayers quickly reaching the 4.9 percent tax rate as incomes rise.

The proposed brackets changes maintain the so-called "marriage penalty." As defined by the Tax Foundation, a marriage penalty exists when a state's income brackets for married taxpayers filing jointly are less than double the bracket widths for single filers. As of tax year 2022, New Mexico is one of 15 states which has a "marriage penalty" built into its income tax brackets.

Section 7: Low-Income Comprehensive Tax Rebate

This section would index both the rebate amount and the eligible income levels to inflation, allowing both to grow as inflation pushes prices, and usually wages, higher. The rebate amount has been indexed to inflation since 2021, allowing the payment to keep up with inflation. This bill requires the income levels to also index to inflation, allowing incomes to naturally rise with inflation without "graduating" people off the rebate who may still need the support. Without adjusting the income eligibility for inflation, the rebate would "phase out" as people's incomes rise above the static eligibility income thresholds. This bill would eliminate the phase-out of LICTR as incomes rise.

Allowing tax expenditures to phase out with inflation acts like a sunset and allows future legislatures to decide whether the rebate or credit should be continued and at what level. Indexing both the rebate level and the income thresholds creates permanence to this rebate, requiring statutory changes to eliminate or reduce the benefit.

TRD notes by indexing the modified gross income (MGI) ranges along with the current law to index the rebate amount to the consumer price index, the proposed change provides consistent tax relief to low-income residents, often measured by the Federal Poverty Guideline, as that population's income increases with inflation. So, for example, for a family of four in 2003, the Federal Poverty Guideline was $18,400 of annual income. Twenty years later the federal poverty guideline for a family of four in 2023 is $30 thousand annual income, a 63 percent increase or an average annual increase of 3.2 percent. The new proposed indexing of the MGI ranges would, thus, maintain the rebate purchasing power to the population in New Mexico that is low-income. This would maintain progressivity in the income tax structure through LICTR, progressivity being where higher earning taxpayers pay a larger share of their income in tax compared to lower-earning taxpayers.

Section 8: Rural Health Care Practitioner Tax Credit

Since the rural healthcare practitioner tax credit program inception in 2007, an average of 2,000 rural healthcare providers have participated each year, according to DOH. In FY22, approximately 2,000 rural healthcare providers claimed the credit, costing approximately $7.1 million, according to the 2022 New Mexico Tax Expenditure Report. The Office of Superintendent of Insurance (OSI) notes the federal government's Health Resources and Services Administration (HRSA) designates 22 of New Mexico's rural counties as health professional shortage areas (HPSAs) for mental health providers, 17 rural counties are HPSAs for primary care, and six rural counties are dental health HPSAs. The Human Services Department (HSD) notes improving access to healthcare especially in rural areas is a key priority for HSD. This bill aligns with HSD's efforts to support, increase, and expand the healthcare provider workforce in rural New Mexico. HSD notes provider taxes are considered part of the calculation when determining Medicaid reimbursement rates, so reducing or removing tax obligations may result in slightly lower Medicaid payments. However, lower payments could be offset by higher service utilization among Medicaid individuals as providers are recruited and retained in parts of the state with limited access to care. Tax credits may encourage more licensed providers to practice in rural areas of New Mexico. As a result, this bill could help address healthcare workforce shortages, which would ultimately improve access to care for Medicaid-enrolled members and all New Mexicans.

Section 9: Child Income Tax Credit

Indexing the tax credit amount to inflation would ensure that the real value of the credit does not erode as prices rise. Especially given the recent high inflation, this ensures the credit maintains its intended value of the benefit regardless of what happens with inflation. TRD notes that by indexing the credit amount to the consumer price index, the proposed change maintains the 'real' buying power of the credit as inflation occurs year over year. A family with children would see the economic impact of the credit remain steady year-over-year as it applies that credit to the consumption of necessities such as food, childcare, gasoline, and housing. These areas of consumption, in particular, make up a larger proportion of income among the lower-income earners compared to higher-income earners.

The structure of the child tax credit creates "cliff effects" between each credit amount where taxpayers' credit amount is decreased dramatically as soon as they enter into a new income bracket. For example, someone making $24,999 would qualify for a $600 per child credit while someone making $25,001, effectively the same income, would only qualify for a $400 credit and have a higher tax liability than the other taxpayer. This creates issues with horizontal equity at those thresholds.

SIGNIFICANT ISSUES

TRD notes the increase to the child tax credit would continue to erode horizontal equity in the state income taxes. By basing the credit on number of qualifying children, taxpayers with same level of income are no longer treated equally. Thus, two New Mexico residents who earn the same salary may have different tax liability given how many children they choose to have in their household. The credit would provide greater tax benefit to families with greater number of children. However, the child tax credit is a tool to provide economic aid to families with children and is particularly helpful to lower income families. The increase to the credit amount is targeted at those with adjusted gross income below $75 thousand. This can be expected to result in a reduction in child poverty and hunger in the state.

Section 10: Capital Gains Deduction
Only nine states—Arizona, Arkansas, Hawaii, Montana, New Mexico, North Dakota, South Carolina, Vermont, and Wisconsin—tax capital gains less than ordinary income. In addition, some states, including Colorado, Idaho, Louisiana, and Oklahoma, provide capital gains tax breaks only for capital gains on investments in in-state businesses, and a few states target specific industries, such as farming or manufacturing. Nationally, approximately 85 percent of capital gains are generated by the wealthiest 5 percent of taxpayers.

By taxing income differently depending on the source of the income, capital gains deductions erode both horizontal and vertical equity. Horizontal equity, the principle that taxpayers with equal income should pay equal tax, is eroded as those with capital gains income are taxed less than those with earned income or wage income. Vertical equity, the principle that tax obligations should increase as incomes rise, is eroded as those with investment income are not fully taxed on that income and should be contributing more to state taxes.

TRD notes the following:

> Personal income tax (PIT) represents a consistent source of revenue for many states. While this revenue source is susceptible to economic downturns, it is also positively responsive to economic expansions. New Mexico is one of 42 states, along with the District of Columbia, that impose a broad-based PIT. The PIT is an important tax policy tool that has the potential to further both horizontal equity, by ensuring the same statutes apply to all taxpayers, and vertical equity, by ensuring the tax burden is based on taxpayers' ability to pay.
>
> While any taxpayer may apply for this deduction, most of the financial benefit is realized by high-wealth individuals who have passive income derived from investments. The proposed changes to the capital gains deduction will increase the amount of income for high-wealth individuals that is subject to New Mexico PIT.

Section 11: 2021 Income Tax Rebates
TRD notes the following:

> The state general fund has experienced substantial growth with the recovery out of the COVID-19 pandemic, expansion of the GRT tax base with online sales, and strength from direct and indirect revenues from the severance of oil and natural gas. New Mexico joins many other states seeing record revenues exceeding expectations. The rebate and

associated relief payments for non-tax filers represent an equitable distribution of surplus revenue to every resident of New Mexico.

At the end of FY23, prior to actions taken during this 2023 regular legislative session, general fund reserves are projected to reach $5.08 billion, or 60.5 percent of recurring appropriations due to historic oil and natural gas production and broad-based economic growth. The rebates proposed in this bill are one of several steps state policymakers can take to target a fiscally responsible level of reserves without committing to recurring expenditure growth or tax cuts that may not be sustainable in future years. The estimated rebate and relief payments total $1.04 billion, which is equivalent to 12.4 percent of recurring appropriations. These rebates, combined with a 35 percent reserve target, smart investments in critical public services, and a sustainable level of recurring tax relief will poise New Mexico to weather future oil-related volatility.

The rebates will support New Mexicans who have faced the high costs of inflation in household expenditures such as groceries, gasoline, heating costs and other expenses over the last year. There are also multiplier effects of a rebate such as this on the economy. The magnitude of the fiscal multiplier, however, is debatable and a consensus among economists doesn't exist. New Mexicans may also choose to use the rebates to reduce household debt or improve future liquidity positions, both of which will make New Mexico households more resilient.

TRD will intercept rebates for a small percentage of taxpayer who have outstanding 2021 tax debt. Although taxpayers whose refunds/rebates are intercepted will not directly receive the financial benefit, their outstanding debt will be reduced and, in the case of child support, the beneficiary custodial parties will benefit from receiving additional child support owed to them.

Giving government rebates in an inflationary environment could make matters worse by driving prices up further. When consumers get an influx of cash, they likely spend it. That additional spending may drive prices up and further contribute to inflation.

The effective date for the distribution of the rebates is set in section 27 of the bill as April 1, 2023. If the governor does not sign the bill before April 1, 2023, the rebates will not be in effect until 90 days after signature.

Sections 12 and 13: Electric Vehicle and Charging Unit Income Tax Credits
These income tax credits are intended to incentivize the purchase or lease of electric vehicles and electric vehicle charging units. This bill defines an electric vehicle to include both vehicles that run exclusively on a battery (also called battery electric vehicles or BEVs) and those that derive part of their power from electricity stored in a battery, which is capable of being recharged from an external source of electricity (also called plug-in hybrid electric vehicles or PHEVs).

Section 14: Energy Storage System Income Tax Credit
The purpose of this tax credit is to incentivize retrofitting medium-scale battery energy systems to existing solar arrays. The text allows a number of modes of energy storage. Some sort of

energy storage will be required to assist the state in achieving the goal of 100 percent renewable by 2045.

Section 15: Corporate Income Tax Rate

TRD notes:

> The reduction of the CIT rates to one rate moves the majority of taxpayers who have tax liability to the higher tax rate. In tax year 2020, of those that had tax liability, the majority, approximately 94 percent, incurred that liability with taxable income less than $500 thousand placing them at the 4.8 percent current tax rate. This now places smaller income companies on par with larger corporations. But while for personal income time (PIT) there is progressivity tied to the "ability to pay" and fairness with vertical equity, that association of ability to pay is not readily applied to corporate income tax policy. The Tax Foundation quotes Jeffrey Kwall, a professor of law at Loyola University Chicago School of Law that "graduated corporate income rates are inequitable—that is, the size of a corporation bears no necessary relation to the income levels of the owners." Additional arguments that the Tax Foundation puts forth for a single-rate, is that it minimizes the effort by corporations to avoid the tax liability at the higher marginal tax rates. New Mexico would join 29 other states who have a corporate income tax in enacting a single-rate corporate income tax.

Sections 16 and 17: Gross Receipts and Compensating Tax Rate

For the first time in 40 years, the Legislature in 2022 voted to reduce the statewide gross receipts tax rate (GRT) from 5.125 percent to 4.875 percent over two years. Despite the rate reduction, the average gross receipts tax rate customers would pay when including municipal tax is likely to remain above 7.5 percent, around the median combined rate of our neighboring states. Further reducing the statewide GRT increases New Mexico's competitiveness and reduces tax burdens for businesses and people in New Mexico. Furthermore, as a regressive tax, reducing the gross receipts tax rate would improve the progressivity of New Mexico's tax code.

Section 18: Childcare Provider GRT Deduction

The Early Childhood Education and Care Department notes:

> ECECD has received feedback in stakeholder roundtables that the collection of gross receipts taxes from for-profit childcare providers and prekindergarten providers creates an unlevel playing field between for profit and non-profit and government entities. To be responsive to stakeholder concerns, ECECD included gross receipts taxes in its federally approved cost estimation model and approved alternative methodology that informed the new childcare reimbursement rates. If this provision were to pass, ECECD may need to reconsider its cost estimation model and rate setting for childcare payments and amend both administrative rule and its approved childcare development fund (CCDF) plan.
>
> Approved in accordance with its CCDF plan, the cost estimation model that replaced the market rate survey to reflect the true cost of care of childcare was the culmination of a year's worth of work and was an important step toward reimbursing and supporting our childcare industry for actual costs. As such, if this provision were to pass, ECECD would need to revise its current rates (either through amending the current plan or in the next four-year cycle) to reflect the reduced costs paid by private childcare providers.

SIGNIFICANT ISSUES

According to the Taxation and Revenue Department:

> The bill proposes a GRT tax deduction to support the provision of childcare assistance and prekindergarten services. It is, however, unclear what the purpose of this bill is. For instance, it is unclear whether the bill attempts to assist providers of these services so that they can hire more staff and increase the wages of their workers to improve the quality of these services or to aid in subsidizing childcare for low and middle income families. TRD suggests including a purpose statement in the bill to make the goal more transparent, which would help to evaluate the effectiveness of the deductions.
>
> While tax incentives may support particular industries or encourage specific social and economic behaviors, the proliferation of such incentives complicates the tax code. Adding more tax incentives: (1) creates special treatment and exceptions to the code, growing tax expenditures and/or narrowing the tax base, with a negative impact on the general fund; and, (2) increases the burden of compliance on taxpayers and TRD. Adding complexity and exceptions to the tax code does not comport generally with the best tax policy.

Section 19: Medicaid Renovation GRT Deduction:
Because tangible personal property is already deductible pursuant to Section 8-9-47 NMSA 1978 (tangible personal property sold to a government) and Section 8-9-73.3 NMSA 1978 (GRT deduction for durable medical equipment), the net effect of this provision is to allow a deduction for construction. Of long-standing tax policy, all construction should be, and with few exceptions is, gross receipts taxable. Government buildings, buildings for nonprofit organizations, and buildings constructed as part of tax incentive or revenue bond agreements are all taxable. The provisions of this bill, allow a deduction for construction. The fiscal impact of this deduction is very small (a less than $500 thousand loss) and the tax policy concern may be more important.

Sections 20 through 22: Liquor Excise Tax
New Mexico's tax code is out of line with most states in that complex distributions are made through the tax code instead of through appropriations. As an alternate to this proposal and revenue earmarks, the liquor excise tax could continue to be distributed to the general fund and alcohol abuse funding needs could be provided for through general fund appropriations in the General Appropriation Act (HB2). The more complex the tax code's distributions, the costlier it is for TRD to maintain the GenTax system and the more risk is involved in programming changes. More discussion included in the fiscal impact reports for SB61, SB220, SB259, HB230, and HB321.

Section 23: Index Social Security Income for Taxes
TRD notes the following:

> Over time, if the adjusted gross income (AGI) levels are not indexed to inflation, recipients of social security income will no longer qualify for the exemption. Slowly, fewer taxpayers will be eligible for the exemption as their AGI increases with inflation. In 1984, when the federal government subjected a portion of social security benefits to federal income taxes, they did not index the combined income thresholds at which point social security benefits are taxable. Since 1984, wage and retirement income have

increased and therefore the proportion of beneficiaries paying federal tax on their benefits and the amount of taxable social security benefits is rising over time. The new proposed indexing of the AGI ranges will thus maintain the proportion of taxpayers eligible for the exemption relative to their real inflation-adjusted income. This will maintain progressivity in the income tax structure to preserve this exemption among low and middle-income recipients of social security where progressivity being where higher-earning taxpayers pay a larger share of their income in tax compared to lower-earning taxpayers.

In current statute, there is a "cliff effect" at the income caps where those with incomes just under the cap do not pay income tax on their social security income, while those with incomes just over the cap do pay income tax on their social security income. This erodes horizontal equity at those income levels near the exemption caps as those with similar incomes are not treated equally.

Section 24: Special Needs Adoption Tax Credit

CYFD notes the following:

> This amendment will benefit families adopting special needs children because it will further increase resources available to them for their commitment to providing permanency for children and youth. Also, by producing an annual report, tax and revenue would provide CYFD with a valuable resource for monitoring the successes of placing children for adoption with special needs, which would further validate the importance of having this resource available for adoptive parents and their families. This bill would also support the department's efforts to recruit, retain, and support resource parents because it would help adoptive parents with unexpected costs due to the child's needs.

Section 25: Teacher Supply PIT Exemption

This section's purpose appears to be compensating teachers who spend their own resources to buy school supplies for their classrooms. TRD notes the creation of a deduction falls well short of compensating teachers for their expenses, assuming they spend up to $1,000 annually. On average, teachers would save an estimated $16 on their taxes in FY24 and $32 for FY25 onwards.

TRD also notes that, as this is a deduction from net income, it would not benefit taxpayers who are able to deduct or exempt most of their income through other statutes. For instance, it is not clear if any of the schoolteachers employed through tribal schools would fall under the qualifications for this deduction, but if they do, they are already able to exempt all their income if they work and live on tribal lands per Section 7-2-5.5 NMSA 1978. It is unclear if this bill would apply to part-time teachers or only to full-time teachers.

Sections 26 through 28: Geothermal Energy Generation Tax Credit

The Energy, Minerals and Natural Resources Department (EMNRD) comments:

> Geothermal electricity production is reliable baseload power that is dispatchable at any time, produces near-zero carbon emissions, and has a small physical footprint. The Geothermal Energy Association (a trade association of geothermal industry

> entities) estimated New Mexico could produce 11 percent of its energy from geothermal energy sources. Currently, there is one utility-scale geothermal electricity generation facility operating in the state: Lightning Dock in Hidalgo County, which has a capacity of approximately 15 MW of electricity. Many other sites in New Mexico have promising geothermal development potential, including sites in Rincon, Radium Springs, and San Diego Mountain in Dona Ana County; Hillsboro in Sierra County; McGregor in Otero County; and Lower Frisco Hot Springs in Catron County, as well as many other sites along the Rio Grande.
>
> The now-expired Renewable Energy Production tax credit program was very helpful in developing wind and solar photovoltaic energy resources in New Mexico. Geothermal resource development is more capital-intensive and riskier than either wind or solar development as it requires exploration onto a largely unknown resource. EMNRD believes this tax credit would be an effective incentive.

Sections 29 and 30: Geothermal Ground-Coupled Heat Pump Credit
EMNRD provides a technical perspective:

> In 2021, the Sustainable Buildings Tax Credit program was updated and revamped. As part of the revisions to that statute, a credit for ground-source heat pumps was added to the list of eligible systems, products, and building techniques that qualify for the Sustainable Buildings Tax Credit. If this bill were to pass, applicants could apply for a tax credit for the same heat pump from the Sustainable Buildings Tax Credit and the credit re-instituted by this bill. This would allow for a double issuance of credits. EMNRD believes that the updated Sustainable Buildings Tax Credit has absorbed the need for a separate tax credit for ground-source heat pumps; as a result this credit is arguably duplicative of an existing program. If enacted, this bill should be amended to preclude applicants from applying under both credits.

LFC staff note that residential geothermal ground source heat pumps are eligible for a 30 percent federal residential energy credit, pursuant to the federal Inflation Reduction Act. Commercial/industrial/agricultural installations are eligible for a 30 percent business investment tax credit (ITC) pursuant to the same Inflation Reduction Act.

Between the two credits, 60 percent of the cost of these installations would be rebated as tax credits. Based on prior experience, the benefits of these tax credits may go primarily to the installers and not to the residential or commercial/agricultural business owner. EMNRD should monitor the installation costs and make sure that the credits improve the market acceptability of these installations.

Sections 31 through 35: Film Tax Credits
The Federal Reserve Bank of Boston conducted an analysis in 2009 of film tax credits across states[1]. The study attempted to account for identified issues in previous New Mexico studies by

[1] https://www.bostonfed.org/-/media/Documents/neppc/weiner040209.pdf

Ernst and Young and normalize the impacts. In doing so, the Federal Reserve analysis estimates the state's tax return on investment to be between 12 cents and 39 cents for every dollar of credit paid. Since then, few studies have published new analysis on New Mexico's tax return on investment, instead opting for an "economic return on investment," which measures direct and indirect economic activity overall and not the return to state taxes.

Using the methodology from a 2021 Olsberg SPI (a creative industries consulting firm) economic impact study on the film incentive program, EDD estimates the program created about 8,000 film jobs in 2022, for a cost per job of approximately $18 thousand calculated solely on the cost of the tax credit. For comparison, the FY22 cost per job for the department's other most notable incentive programs, the Job Training Incentive Program (JTIP) and LEDA, were significantly lower, with JTIP at about $7,000 per job and LEDA costing $9,000 per job created. (The LEDA cost per job does not reflect any grants to film companies, which were made in FY20 and FY21.) It is worth noting that LEDA and JTIP utilize one-time awards to create new jobs, while the film tax credit is a recurring expenditure, further increasing the cost per job compared with other incentive programs.

The Economic Development Department submits:

> This bill will continue and increase the economic impact of the film industry and foster increased job growth and investment across the state. The economic return on investment (ROI) is a measure of how much economic value is created per $1 of investment in tax credits by the state. The cost to the state is then estimated to be total value of the tax credits minus the additional state and local taxes received as a result of the uplift in activity. It is estimated that the [economic, not revenue,] ROI of the film tax credit is $7.83.
>
> **Industry Employment Supported by Film Tax Credit**
>
> | | |
> |---|---:|
> | Direct | 3,481 |
> | Indirect/induced | 4,257 |
> | Industry adjustment | 348 |
> | Total | 8,086 |
>
> This industry continues to provide high paying wages to New Mexicans. In FY22, the median hourly wage for full-time New Mexico crew members was $29.36 per hour. In 2022, the median hourly wage was almost $32 per hour. As a comparison, the median wage in New Mexico for all industry was $18.18 per hour in FY22, and the New Mexico minimum wage as of 2022 is $11.50 per hour.

Section 36: Healthcare Practitioner Copayment or Deductible GRT

TRD notes policy issues relating to the taxation of healthcare services:

> Rising healthcare spending is one of the most considerable fiscal challenges facing state governments and continues to be a concern for patients who cope with growing out-of-pocket costs. In 2020, employee deductibles in New Mexico were about 7.4 percent of the state's median income, representing the highest proportion in the country. This is a concern, especially if we consider that New Mexico is at the bottom of the ranking of median income. Hence, any fiscal incentive to reduce healthcare costs would positively

SIGNIFICANT ISSUES

> affect health insurance consumers. However, reducing healthcare costs by constraining the main underlying drivers of healthcare costs should be a priority for state governments. Different studies have shown that low healthcare spending contributes to increasing disposable income for workers, lowering premiums and deductibles, and boosting job growth. Lower healthcare spending also affects state budgets because it results in lower health insurance spending for government employees and reduces lost tax revenue due to the deductions to ease the burden of health insurance spending.
>
> The recent GRT state rate reduction to 5 percent and the additional rate drop to 4.875 percent on July 1, 2023, are aimed to benefit all taxpayers and support fewer tax incentives. While tax incentives may support particular industries or encourage specific social and economic behaviors, the proliferation of such incentives complicates the tax code. Adding more tax incentives: (1) creates special treatment and exceptions to the code, growing tax expenditures and/or narrowing the tax base, with a negative impact on the general fund; and, (2) increases the burden of compliance on both taxpayers and TRD. Adding complexity and exceptions to the tax code does not comport generally with the best tax policy.

Section 37: Dyed Diesel Fuel GRT Exemption
Dyed diesel and dyed gasoline are exempt from both federal and state motor fuel excise taxes. Motor fuel excise taxes are considered road user fees and dyed fuels are supposed to be used for purposes other than road vehicles (construction equipment, mining, agriculture, generators, etcetera).

The federal government applies excise tax to all clear fuels. New Mexico applies excise taxes to almost all clear fuels. So, if it is clear fuel, it is subject to gasoline or special fuels tax. If it is dyed fuel, it is exempt from gasoline or special fuels tax and, therefore, GRT is applied. By exempting dyed diesel from GRT, it would receive special tax status where no tax is applied, contrary to the LFC adopted tax policy principle of equity.

TRD adds:

> If this legislation is enacted, receipts from the sale or use of the subset of dyed special fuels used for agricultural purposes will not be subject to any excise tax. TRD understands that the purpose of the legislation is to encourage the use of dyed special fuels in agriculture. However, the creation of special exemption for the sale or use of a particular category of fuels goes against sound tax policy by: (i) distorting the market for agricultural fuels generally; (ii) adding complexity to the tax code for both taxpayers, increasing the burden of tax compliance, and for TRD, increasing administrative costs; and, (iii) violates principles of horizontal equity by favoring consumption of certain fuels that are otherwise similar in application and use to other fuels.

Sections 38 through 40: Tobacco Excise Taxes
This section removes preferential treatment of cigars priced over $2 by removing the 50 cent per cigar cap on the tax rate. All cigars, regardless of price, would be taxed at 25 percent. In FY22, there were 406.5 thousand cigars sold at over $2 and 6.8 million cigars sold under $2.

SIGNIFICANT ISSUES

Section 41: Motor Vehicle Excise Tax Distributions

TRD notes the following policy issues:

> Directing all motor vehicle excise tax (MVX)] revenue to the state road fund and local governments road funds is a supportable earmark since the cost of maintaining roads is directly tied to vehicle sales, which contribute to road deterioration. This would enable direct planning of budget use with forecasted MVX revenue. This proposal though would eliminate a recurring general fund revenue source, reducing the legislature's budgetary flexibility with respect to the broad appropriation needs of the general fund in future years. In FY22, MVX revenue made up 1.5 percent of all general fund recurring revenue.

Section 42: Apportionment of Business Income (Single-Sales Factor)

This section repeals the use of the three-factor formula apportionment of multi-state income in favor of a single sales factor formula apportionment for all corporations and pass-through entities after the opt-out period through FY28. This puts most corporations on equal footing, not just manufacturing corporations or corporations with headquarters in New Mexico. However, this proposal would have uneven effect between primarily New Mexico corporations and national/multinational corporations with limited sales in New Mexico and would not impose any additional liability on non-nexus corporations with any level of sales in New Mexico.

Currently, with a few exceptions for corporate headquarters or manufacturing, corporations and pass-through entities (PTEs) apportion their U.S. income to New Mexico using the average of property, payroll, and sales factors. Essentially, each of these factors is the percentage of New Mexico property, payroll, or sales to the corresponding U.S. total property, payroll, or sales. This bill proposes to abandon this three-factor apportionment formula and only consider sales ratios. This will, in general, provide additional liability for national and international corporations with moderate physical presence, but will provide very substantial tax deductions for businesses that have relatively large ratios of property and payroll ratio relative to the sales ratio. This provision is intended to incentivize national and international corporations to build plants and facilities in New Mexico and hire New Mexico workers, but export the New Mexico produced products or services out of the state. However, the bulk of the tax reductions in the state will affect the oil and gas sector that has very large property and payroll factors, but very low sales factor.

TRD adds:

> A single-sales factor and one tax rate reduces the complexity of the CIT code. This change would support the tax policy principle of simplicity. Taxpayers incur compliance burdens as they prepare, submit, and keep records about tax returns. Likewise, TRD incurs administrative costs to collect taxes, review the accuracy of tax returns and tax payments, and bring taxpayers into compliance. The reduction of apportionment from three factors to one simplifies the tax code for both taxpayers and TRD.
>
> Some policy makers have argued that using a single sales factor method of apportionment incentivizes corporations to increase payroll in a state. However, the data regarding increase in local employment from adopting the single sales factor are inconclusive. Furthermore, the large majority of states have now adopted the method, diluting any potential positive impact on employment substantially.

SIGNIFICANT ISSUES

> Changing to a single sales factor will place New Mexico as a more competitive environment compared to other states with a similar application of a single sales factor or no corporate income tax at all. Most states have moved to a single sales factor for purposes of income apportionment. As of January 2022, of states with CIT, only four states, including New Mexico, used the traditional three-factor formula, while 30 states and the District of Columbia used only sales in their apportionment formula...
>
> Making changes to apportionment under Section 7-4-19 NMSA 1978 does not only impact Corporate Income Tax. These changes impact all income tax programs when calculating net taxable income, including Personal Income Tax, fiduciary filers, S-CORP filers and non-income pass-through entity.

PERFORMANCE IMPLICATIONS

Section 1 through 4: Industrial Revenue Bonds
The LFC tax policy of accountability may not be met. The fiscal impact is created by the sale of tangible personal property to government, deductible in current statute. TRD does not have direct information on the sale of tangible personal property sold to government (the local jurisdiction sponsoring the industrial revenue bond, or IRB) and, therefore, cannot include this information in the annual Tax Expenditure Report. The gross receipts tax deduction specific to the sale of energy storage systems to government does not create additional fiscal impact and may not be reported by the developer. This comment is true regarding any IRB project, not just those created pursuant to the provisions of this bill.

Section 5: Armed Forces Retirement Pay Exemption
The LFC tax policy of accountability is not met because TRD is not required in the bill to report annually to an interim legislative committee regarding the data compiled from the reports from taxpayers taking the exemption and other information to determine whether the exemption is meeting its purpose. TRD would report utilization data in its annual Tax Expenditure Report. However, TRD would not have access to data to establish if the bill increases the number of veterans, particularly highly skilled officers and senior enlisted retirees, to relocate to New Mexico, which is the stated goal of this tax exemption.

Section 6: Income Tax Brackets
No performance implications.

Section 7: Low-Income Comprehensive Tax Rebate
The LFC tax policy of accountability is not met since TRD is not required in the bill to report annually to an interim legislative committee regarding the data compiled from the reports from taxpayers taking the rebate and other information to determine whether the rebate is meeting its purpose. This rebate is included in TRD’s annual Tax Expenditure Report, including number of claims and total cost.

Section 8: Rural Health Care Practitioner Tax Credit
The LFC tax policy of accountability is met with the bill’s requirement to report annually to an interim legislative committee regarding the data compiled from the reports from taxpayers taking

the credit and other information to determine whether the credit is meeting its purpose.

Section 9: Child Income Tax Credit
The LFC tax policy of accountability is met with the bill's requirement to report annually to an interim legislative committee regarding the data compiled from the reports from taxpayers taking the credit and other information to determine whether the credit is meeting its purpose.

Section 10: Capital Gains Deduction
No performance implications.

Section 11: 2021 Income Tax Rebates
The LFC tax policy of accountability is not met because TRD is not required in the bill to report to an interim legislative committee regarding the data compiled from the reports from taxpayers taking the rebate and other information to determine whether the rebate is meeting its purpose.

Sections 12 and 13: Electric Vehicle and Charging Unit Income Tax Credits
No performance implications.

Section 14: Energy Storage System Income Tax Credit
The LFC tax policy of accountability is met with the bill's requirement for TRD to report annually to an interim legislative committee regarding the data compiled from the reports from taxpayers taking the deduction and other information to determine whether the deduction is meeting its purpose.

Section 15: Corporate Income Tax Rate
No performance implications.

Sections 16 and 17: Gross Receipts and Compensating Tax Rate
No performance implications.

Section 18: Child Care Provider GRT Deduction
The LFC tax policy of accountability is met with the bill's requirement to report annually to an interim legislative committee regarding the data compiled from the reports from taxpayers taking the deduction.

Section 19: Medicaid Renovation GRT Deduction
The LFC tax policy of accountability is met with the bill's requirement for TRD to report annually to an interim legislative committee regarding the data compiled from the reports from taxpayers taking the deduction and other information to determine whether the deduction is meeting its purpose.

Sections 20 through 22: Liquor Excise Tax
No performance implications.

Section 23: Index Social Security Income for Taxes
The LFC tax policy of accountability is not met since TRD is not required in the bill to report

annually to an interim legislative committee regarding the data compiled from the reports from taxpayers taking the exemption and other information to determine whether the exemption is meeting its purpose.

Section 24: Special Needs Adoption Tax Credit
The LFC tax policy of accountability is met with the bill's requirement to report annually to an interim legislative committee regarding the data compiled from the reports from taxpayers taking the credit and other information to determine whether the credit is meeting its purpose.

Section 25: Teacher Supply PIT Exemption
No performance implications.

Sections 26 through 28: Geothermal Energy Generation Tax Credit
EMNRD notes: "Adding new tax credit certification obligations to EMNRD without providing for staff to administer them would slow down processing for all tax credits, especially the new solar market development tax credit and the sustainable buildings tax credit."

The LFC tax policy of accountability is met with the bill's requirement to report annually to an interim legislative committee regarding the data compiled from the reports from taxpayers taking the credit and deduction and other information to determine whether the credit and deduction are meeting their purpose.

Sections 29 and 30: Geothermal Ground-Coupled Heat Pump Credit
The LFC tax policy of accountability is met with the bill's requirement to report annually to an interim legislative committee regarding the data compiled from the reports from taxpayers taking the credit and other information to determine whether the credit is meeting its purpose.

Sections 31 through 35: Film Tax Credits
No performance implications.

Section 36: Healthcare Practitioner Copayment or Deductible GRT
The LFC tax policy of accountability is met with the bill's requirement for TRD to report annually to an interim legislative committee regarding the data compiled from the reports from taxpayers taking the deduction and other information to determine whether the deduction is meeting its purpose.

Section 38: Dyed Diesel Fuel GRT Exemption
No performance implications.

Sections 39 and 40: Tobacco Excise Taxes
No performance implications.

Section 41: Motor Vehicle Excise Tax Distributions
No performance implications.

Section A: Apportionment of Business Income (Single-Sales Factor)

PERFORMANCE IMPLICATIONS

No performance implications.

ADMINISTRATIVE IMPLICATIONS

In general, TRD would have significant difficulty implementing the changes proposed in this distributional and deduction/exemption portions of this bill by July 1, 2023.

The General Appropriation Act appropriates $5 million to TRD to implement tax and motor code changes mandated in legislation. This section includes all other agency administrative and operational implications.

Section 1 through 4: Industrial Revenue Bonds
Neither TRD nor EMNRD report significant administrative impacts for these sections.

Section 5: Armed Forces Retirement Pay Exemption
None.

Section 6: Income Tax Brackets
None.

Section 7: Low-Income Comprehensive Tax Rebate
None.

Section 8: Rural Health Care Practitioner Tax Credit
The Regulation and Licensing Department notes inclusion of the identified professions may require licensure verification by the impacted boards. The bill adds a requirement for those practitioners that claim the rural healthcare practitioner tax credit to report the credit to the Department of Health, which is then required to report the information it collects to the Legislative Finance Committee and the Revenue Stabilization and Tax Policy Committee. The information is to include the number of taxpayers who were approved for the credit and the total value of the credits received.

Section 9: Child Income Tax Credit
None.

Section 10: Capital Gains Deduction
None.

Section 11: 2021 Income Tax Rebates
None.

Sections 12 and 13: Electric Vehicle and Charging Unit Income Tax Credits
None.

Section 14: Energy Storage System Income Tax Credit
TRD reports small impacts. EMNRD reports needing at least 1 FTE, depending on the number of

projects that seek approval of the tax credit.

Sections 15: Corporate Income Tax Rate
None.

Sections 16 and 17: Gross Receipts and Compensating Tax Rate
None.

Section 18: Child Care Provider GRT Deduction
None.

Section 19: Medicaid Renovation GRT Deduction
Should this bill come into effect, the Aging and Long-Term Services Department may pursue outreach to inform its home- and community-based providers of the benefit provided under the provisions of this section. The administrative impact should be minimal. TRD reports minimal impact.

Sections 20 through 22: Liquor Excise Tax
The Human Services Department (HSD) notes there is no appropriation to the Human Services Department designated in this bill; however, the bill stipulates HSD could request to have an appropriation of the alcohol harms alleviation fund through the Legislature. A program that could be proposed using the distribution would require additional 2 FTE and a portion of two supervisors' time to implement. The Behavioral Health Services Division would need to develop a process for ensuring appropriate and rigorous evaluation of the efficacy and impact of this appropriation. It could require 2 FTE calculated at a 70 pay band and 0.2 FTE of two supervisors calculated at a 75 pay band. The total funding required for this staff time would be $241 thousand for salaries, fringe benefits, and operating costs. In addition, this project would require an evaluation budget of approximately $75 thousand. This would allow HSD to provide meaningful data to LFC and other stakeholders about the effectiveness of this allocation.

HSD notes it is unclear whether this funding can be matched with federal Medicaid funds. The best possible federal Medicaid matching would be at 50 percent (the administrative rate). However, obtaining this match is questionable because grant funding programs need federal approval in order to receive federal matching funds. If a county operated a substance abuse center at an annual cost to the benefit of Medicaid members, then federal matching of state funds is possible. If approved, then HSD could get matching funds, either at the 50 percent administrative rate, or the regular matching percentage, depending on if the program is service-based.

Section 23: Index Social Security Income for Taxes
Minimal.

Section 24: Special Needs Adoption Tax Credit
Minimal.

Section 25: Teacher Supply PIT Exemption
Minimal.

Sections 26 through 28: Geothermal Energy Generation Tax Credit
EMNRD notes it would require at least 1 additional FTE to administer the geothermal electricity generation tax credit with a total recurring cost of $97 thousand per year, including benefits.

TRD expects the provisions of Section 28 to be a relatively difficult to implement:

> This bill will have a high impact on TRD's Information Technology Division (ITD) of approximately 1,000 hours or about six months for an estimated $210 thousand contractual cost. It is anticipated the proposal will have a moderate impact of approximately 140 hours on the Administrative Services Division (ASD) requiring staff workload hours from three existing full-time employees (FTE). The work includes testing of distributions, testing of multiple revenue reports, general ledger transactions and financial statements.

TRD also notes the following:

> If several bills with similar effective dates become law there will be a greater impact to TRD and additional staff workload costs or contract resources may be needed to complete the changes specified by the effective date(s) of each bill. TRD recommends an effective date of January 1, 2024, or July 1, 2024, to ensure proper implementation of the legislation in TRD administration and system processes.

Sections 29 and 30: Geothermal Ground-Coupled Heat Pump Credit
EMNRD has provided an estimate of fiscal side of the administrative impacts:

> The renewal of the heat pump tax credit by this bill will also have a fiscal impact on EMNRD, as staff support will be required to reinstitute the tax credit program which has expired. Since the existing tax credit expired on December 31, 2020, the staff who provided the technical review and certification for this program have been reassigned to other programs. The estimated fiscal impact for EMNRD includes staff resources to revise rules for the program, reflecting the new requirements, and to develop an electronic submission process for applications. Administering the program would cost approximately $90 thousand, of which $60 thousand represents one new FTE (including benefits).

Sections 31 through 35: Film Tax Credits
None.

Section 36: Healthcare Practitioner Copayment or Deductible GRT
Minimal.

Section 37: Dyed Diesel Fuel GRT Exemption
None.

Sections 38 through 40: Tobacco Excise Taxes
None.

Section 41: Motor Vehicle Excise Tax Distributions
None.

Section 42: Apportionment of Business Income (Single-Sales Factor)
None.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

See the fiscal impact reports for each of the below bills for more information on the related sections.

Section 1 through 4: Industrial Revenue Bonds
Nearly identical to HB67. HB67 includes a GRT deduction, removed in this bill.

Section 5: Armed Forces Retirement Pay Exemption
Relates to HB433 which removes the sunset of the armed forces retirement pay exemption.

Section 6: Income Tax Brackets
This section is similar to HB119.

Section 7: Low-Income Comprehensive Tax Rebate
Identical to HB81/aHCPAC.

Section 8: Rural Health Care Practitioner Tax Credit
Relates to HB38, HB437, and HB351 which also amend the rural healthcare practitioner credit.

Section 9: Child Income Tax Credit
Identical to HB144.

Section 10: Capital Gains Deduction
Relates to HB120 which proposes an identical capital gains deduction up to $2,500 but does not include the 20 percent deduction for the sale of New Mexico businesses up to $300 thousand of income.

Section 11: 2021 Income Tax Rebates
Relates to SB10, which also proposes 2021 income tax rebates at a higher amount.

Sections 12 and 13: Electric Vehicle and Charging Unit Income Tax Credits
Credits reflect HB412 with no changes to vehicle fees. Also relates to SB22.

Section 14: Energy Storage System Income Tax Credit
Relates to HB32. HB32 requires substantially different administrative processes.

Section 15: Corporate Income Tax Rate
Identical to HB322.

Sections 16 and 17: Gross Receipts and Compensating Tax Rate
Related to HB367 with a larger GRT and compensating tax rate reduction and with no anti-pyramiding provisions.

Section 18: Child Care Provider GRT Deduction
Nearly identical to HB137 except this provision includes a sunset.

Section 19: Medicaid Renovation GRT Deduction
Identical to HB220.

Sections 20 through 22: Liquor Excise Tax
Relates to SB61, SB220, SB259, HB230, and HB321, which amend the liquor excise tax rates and/or distributions.

Section 23: Index Social Security Income for Taxes
This section is related to HB193 which also indexes social security income exemption levels.

Section 24: Special Needs Adoption Tax Credit
Similar to SB 277 with the addition of a sunset.

Section 25: Teacher Supply PIT Exemption
Identical to SB28.

Sections 26 through 28: Geothermal Energy Generation Tax Credit
Relates to SB173.

Sections 29 and 30: Geothermal Ground-Coupled Heat Pump Credit
Relates to SB45.

Sections 31 through 35: Film Tax Credits
Relates to SB 12.

Section 36: Healthcare Practitioner Copayment or Deductible GRT
Similar to SB448.

Section 37: Dyed Diesel Fuel GRT Exemption
Identical to SB360.

Sections 38 through 40: Tobacco Excise Taxes
Relates to HB123, HB124, and SB235, which adjust the tobacco products and cigarette excise tax rates and distributions.

Section 41: Motor Vehicle Excise Tax Distributions

Relates to HB321 and SB184, which also changes the distribution of MVX revenues by different percentages to the same NMDOT funds. Conflicts with SB38, which repeals sections of the Motor Vehicle Excise Tax Act which includes the imposition of MVX and the distribution of MVX proceeds.

Section 42: Apportionment of Business Income (Single-Sales Factor)
Similar to HB322, which changes apportionment to a single-sales factor but does not provide the opt-in provision or extend the deadline for railroads to convert to the new apportionment.

Does the bill meet the Legislative Finance Committee tax policy principles?

1. **Adequacy**: Revenue should be adequate to fund needed government services.
2. **Efficiency**: Tax base should be as broad as possible and avoid excess reliance on one tax.
3. **Equity**: Different taxpayers should be treated fairly.
4. **Simplicity**: Collection should be simple and easily understood.
5. **Accountability**: Preferences should be easy to monitor and evaluate

Does the bill meet the Legislative Finance Committee tax expenditure policy principles?

1. **Vetted**: The proposed new or expanded tax expenditure was vetted through interim legislative committees, such as LFC and the Revenue Stabilization and Tax Policy Committee, to review fiscal, legal, and general policy parameters.
2. **Targeted**: The tax expenditure has a clearly stated purpose, long-term goals, and measurable annual targets designed to mark progress toward the goals.
3. **Transparent**: The tax expenditure requires at least annual reporting by the recipients, the Taxation and Revenue Department, and other relevant agencies.
4. **Accountable**: The required reporting allows for analysis by members of the public to determine progress toward annual targets and determination of effectiveness and efficiency. The tax expenditure is set to expire unless legislative action is taken to review the tax expenditure and extend the expiration date.
5. **Effective**: The tax expenditure fulfills the stated purpose. If the tax expenditure is designed to alter behavior – for example, economic development incentives intended to increase economic growth – there are indicators the recipients would not have performed the desired actions "but for" the existence of the tax expenditure.
6. **Efficient:** The tax expenditure is the most cost-effective way to achieve the desired results.

IT/JF/LG/rl/hg/mg/hg/mg

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP