# FISCAL IMPACT REPORT

| | | | |
|---|---|---|---|
| | | **LAST UPDATED** | |
| **SPONSOR** | Tallman | **ORIGINAL DATE** | 2/1/24 |
| **SHORT TITLE** | Electric Vehicle Tax Credit | **BILL NUMBER** | Senate Bill 8 |
| | | **ANALYST** | Faubion |

**REVENUE***
**(dollars in thousands)**

| Type | FY24 | FY25 | FY26 | FY27 | FY28 | Recurring or Nonrecurring | Fund Affected |
|---|---|---|---|---|---|---|---|
| EV and charging tax credits | | ($11,000.0) | ($11,000.0) | ($11,000.0) | ($11,000.0) | Nonrecurring | General Fund |
| EV Fees | | $815.0 | $2,600.0 | $4,100.0 | $6,230.0 | Recurring | State Road Fund |
| EV Fees | | $243.5 | $777.0 | $1,215.0 | $1,860.0 | Recurring | Transportation Project Fund |

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

**ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT***
**(dollars in thousands)**

| Agency/Program | FY24 | FY25 | FY26 | 3 Year Total Cost | Recurring or Nonrecurring | Fund Affected |
|---|---|---|---|---|---|---|
| EMNRD Startup | | $55.0 | | $55.0 | Nonrecurring | General Fund |
| EMNRD Operating | | $86.3 | $86.3 | $172.6 | Recurring | General Fund |
| TRD | | $320.0 | | $320.0 | Nonrecurring | General Fund |
| Total | | $461.3 | $86.3 | $547.6 | Recurring/Nonrecurring | General Fund |

Parentheses ( ) indicate expenditure decreases.
*Amounts reflect most recent analysis of this legislation.

Conflicts with House Bill 140 and in-part duplicates Senate Bill 183.

## Sources of Information

LFC Files
DOT Electric Vehicle Forecast

Agency Analysis Received From
New Mexico Attorney General (NMAG)
The Energy, Minerals and Natural Resources Department (EMNRD)
Department of Transportation (NMDOT)

Agency Analysis was Solicited but Not Received From
Taxation and Revenue Department (TRD)
Environment Department (NMED)

## SUMMARY

### Synopsis of Senate Bill 8

Senate Bill 8 creates two new personal income tax credits for a five-year period beginning in tax year 2024 through tax year 2028. First, SB8 creates the electric vehicle income tax credit of $3,250 for each electric vehicle purchase and second, 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. SB8 caps electric vehicle credits at $10 million a year and caps charging unit credits at $1 million a year, for a total credit cap in any year of $11 million.

SB8 also creates an additional annual registration fee of $120 for purely electric vehicles and $60 for plug-in hybrid electric vehicles. The newly created fees are distributed in an amount equal to 77 percent of total collections to the state road fund and 23 percent of total collections to the transportation project fund. This fee is imposed whether the vehicle owner claims an electric vehicle income tax credit or not.

Electric vehicles eligible for the electric vehicle income tax credit are only those with a before-tax manufacturer suggested retail price of $55 thousand or less.

Taxpayers shall submit information required by TRD to claim credit for the purchase of an electric vehicle or for a lease of at least three years. TRD will consider applications for the tax credit in the order received. If the tax credit cap of $10 million is reached, additional applications for certification shall not be approved in that calendar year and instead shall be placed at the front of the queue for the subsequent year. Any portion of the income tax credits that exceeds the taxpayer's tax liability is not refundable to the taxpayer. The electric vehicle tax credit is transferable.

Like the electric vehicle credit, the electric vehicle charging unit tax credit will be paid in the order received by the department and claims will be paid by TRD on a first come, first-paid basis until the cap is reached. Unlike the Electric Vehicle Income Tax Credit, the Vehicle Charging Unit Income Tax Credit is available through certain business entities, specifically partnerships and limited liability companies.

This bill requires the Taxation and Revenue Department compile an annual report with specified data and any additional information needed to evaluate the tax credit. This annual report is to be presented to the Revenue Stabilization and Tax Policy Committee and the Legislative Finance Committee with an analysis of the cost of the credit.

The applicability of both tax credits begins May 15, 2024 through tax year 2028. The effective date of new fees and the distribution of those fees is January 1, 2025.

## FISCAL IMPLICATIONS

The fiscal impact of this bill is dependent on the forecast of the number of electric vehicles sold in New Mexico in the coming years which has increased dramatically, partially a result of the Advanced Clean Cars and Trucks rule adopted in November of 2023[1]. NMDOT estimates have EV sales in New Mexico growing at over 50 percent year-over-year in FY26 through FY28.

SB8 defines an electric vehicle to include 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).

The table below reports the number of BEVs and PHEVs registered in New Mexico and estimates for the following years from the Department of Transportation. The fiscal impact of the credits cannot exceed the caps of $10 million for EV purchases and $1 million for chargers annually. Given the expected growth in EV sales, the demand for the credits will greatly outpace the available certifications each year. Note that the credits sunset at the end of 2028 and are therefore considered non-recurring.

| FISCAL YEAR | BEV | PHEV |
|---|---|---|
| **2022*** | 4,382 | 3,996 |
| **2023*** | 6,917 | 5,028 |
| **2024** | 9,966 | 6,100 |
| **2025** | 13,907 | 7,465 |
| **2026** | 22,896 | 10,507 |
| **2027** | 36,681 | 14,575 |
| **2028** | 57,462 | 19,933 |

*Values are stock of all passenger, non-commercial vehicles registered in New Mexico (NM) as of June 30, 2023.

The fees do not have a sunset provision. It must be noted that the impact of the additional registration fees on the state road fund and the local governments road fund does not account for any decrease in gasoline tax revenue that might occur because of substitution away from a gasoline powered vehicle towards an electric vehicle.

This bill creates or expands a tax expenditure with a cost that is difficult to determine but likely significant. LFC has serious concerns about the substantial risk to state revenues from tax expenditures and the increase in revenue volatility from erosion of the revenue base. The committee recommends the bill adhere to the LFC tax expenditure policy principles for vetting, targeting, and reporting or action be postponed until the implications can be more fully studied.

## SIGNIFICANT ISSUES

These income tax credits are intended to incentivize the purchase or lease of electric vehicles and electric vehicle charging units.

[1] https://www.env.nm.gov/transportation/

The Environment Department website summarizes the recent policy and funding EV landscape:

> On July 3, 2023, Governor Lujan Grisham announced that the state would move to adopt Advanced Clean Cars and Advanced Clean Trucks rules to further advance New Mexico's goals of ensuring New Mexicans have access to zero-emission vehicles, like electric cars, qualified plug-in vehicles, and hydrogen trucks. Zero-emission vehicles fight climate change and improve local air quality. Unlike gasoline and diesel fuels, electric cars and hydrogen truck fueling stations will not pollute groundwater throughout our state.
>
> Fossil fuel-powered transportation in New Mexico contributes to air pollution and greenhouse gas emissions in our state. After the extraction and production of oil and gas, fossil-fuel transportation represents the second largest source of greenhouse gas emissions.
>
> After a four-day joint public hearing, multiple stakeholder meetings, and three public meetings, the New Mexico Environmental Improvement Board (EIB) and the Albuquerque-Bernalillo County Air Quality Control Board (AQCB) voted to adopt the Clean Cars and Clean Trucks rule on November 16, 2023.
>
> Starting in calendar year 2026, 43 percent of all new passenger cars and light-duty trucks shipped to New Mexico auto dealerships by national auto manufacturers must be zero emission vehicles. Similarly, beginning in calendar year 2026, 15 percent of all new commercial heavy-duty trucks shipped to New Mexico auto dealerships by national auto manufacturers must be zero emission vehicles. These percentages gradually increase over time.
>
> New Mexico has invested over $11.5 million in electric vehicle charging stations from State and federal funding sources and received an additional $38 million in U.S. Department of Transportation federal grants. Starting in January 2024, New Mexicans who purchase a qualifying new or used electric vehicle will enjoy immediate savings of up to $7,500 at the point of sale. This federal change eliminates the need to wait until tax return season to receive the federal tax credit.
>
> While federal funding has largely concentrated on electric vehicle chargers along heavily trafficked interstate corridors, the administration will request $55 million this legislative session to build out a state-wide network for charging stations to improve infrastructure in rural New Mexico.

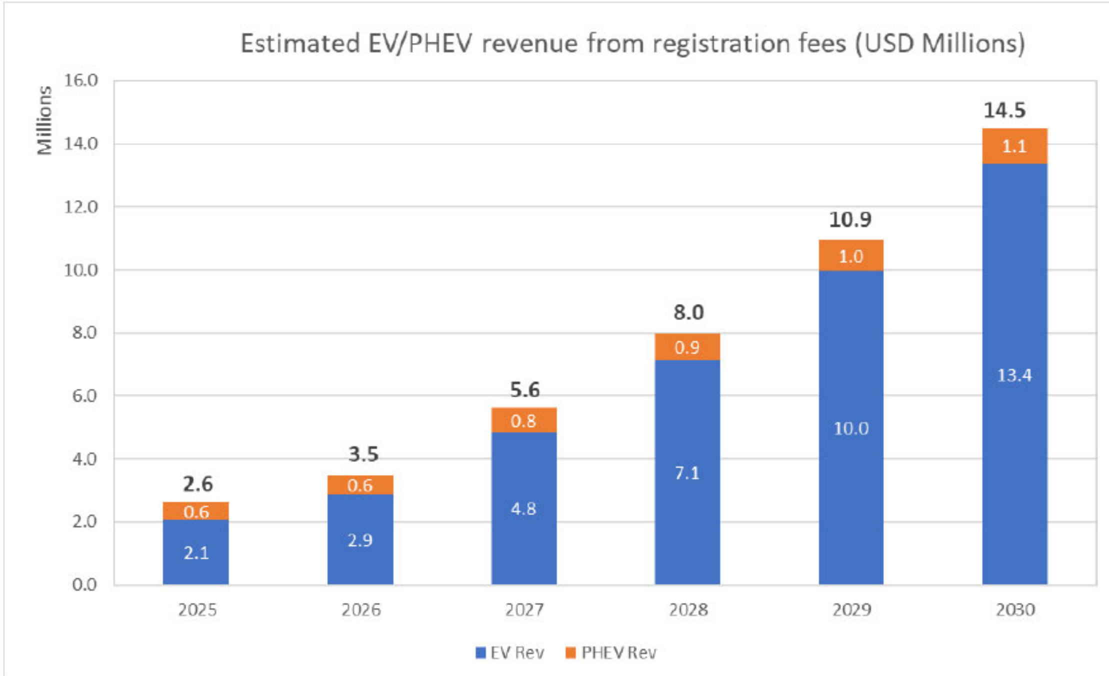
EMNRD notes the following:

> SB8 has the potential to enhance the state's existing initiatives in transportation decarbonization by encouraging the adoption of electric vehicles (EVs) and the installation of home chargers. Given that EVs currently come with a higher up-front price tag compared to traditional gas or diesel vehicles, the proposed tax credits in SB8 could serve as a valuable incentive, likely resulting in increased EV purchases across the state. Transportation emissions negatively impact New Mexico, and the adoption of new EV technology is a significant decarbonization opportunity. Once purchased, EVs are cheaper to own and maintain, resulting in significant benefit to car owners, especially low-income New Mexicans.

> While EMNRD is supportive of EV deployment and measures that will encourage EV adoption, the creation of a capped credit will, in EMNRD's experience, lead people who purchased cars expecting to claim a credit who are unable to obtain the credit because the cap was exceeded at the time of purchase or at the time they filed for it with EMNRD. The only way to avoid these issues is to set the cap sufficient high to meet anticipated uptake. Unfortunately, EV penetration in New Mexico is too low to evaluate whether $10 million is sufficient. HB140, an alternative clean car tax credit presented by the executive, does not have a cap and will be both easier to administer and provide a greater opportunity for New Mexicans to make use of this incentive.

EMNRD noted the following on analysis for Senate Bill 183, which duplicates the registration fee sections of this bill:

> Establishing a registration fee for electric vehicles (EVs) and plug-in hybrids (PHEVs) is one way to shore up New Mexico's state road fund as fuel economy of vehicles improves. Currently, gasoline-powered vehicles directly contribute to road maintenance through the state-imposed gas tax collected at the pump ($0.17 per gallon). Electric vehicles do not pay any gas tax, and even gasoline-powered vehicles pay less than they used to, as fuel economies have improved. Thus, other sources of funding for the state road fund are necessary. A registration fee would ensure that EV and PHEV drivers contribute to vital road repairs and infrastructure improvements.
>
> EMNRD has provided some preliminary, estimated impacts of the registration fees outlined in this bill. These forecasts are based on projected adoption rates modeled from the National Renewable Energy Laboratory's state alternative fuel vehicle registration data. In the table below, EMNRD assumes the adoption rate of new EVs accelerates in 2026 following the implementation of the Advanced Clean Cars Rule for Model Year 2027 vehicles. The assumptions below do not reflect definite impacts. However, EMNRD believes that substantial revenue – in the millions of dollars - would be collected via these fees, even in FY25.




A flat fee on electric vehicles may shift a disproportionate burden of replacing revenue on to EV users, as the per gallon assessment of taxes for the State Road Fund and the Transportation Project Fund naturally allows heavier internal combustion engine users of state roads to assume a proportional burden of the tax contributions. A flat annual fee will effectively overcharge EV users who don't drive much, and potentially undercharges those who drive more. That said, a flat fee is probably the most practical way to offset these road fund costs in the near term.

TRD notes the following for duplicated sections of this bill in Senate Bill 183:

Gasoline taxes play a crucial role in funding transportation infrastructure, such as roads and bridges. However, electric vehicles, as they do not consume gasoline, do not contribute to gasoline tax revenue. As a result, policymakers have begun exploring alternative methods to generate revenue for the maintenance and improvement of transportation infrastructure. One such approach is the introduction of registration fees specifically for electric vehicles.

Registration fees play a crucial role in ensuring that all vehicles, regardless of their fuel source, contribute their fair share towards road maintenance. With the increasing number of electric vehicles entering the market, it is essential to establish a sustainable funding mechanism for maintaining roads and bridges. By implementing registration fees, the loss of gasoline tax revenue can be offset, helping to maintain the necessary funding for infrastructure maintenance.

Imposing higher registration fees on electric vehicles could discourage their adoption and hinder efforts to reduce greenhouse gas emissions. Some may contend that electric vehicles are already subject to other fees and taxes, such as sales taxes and electricity taxes, and imposing additional fees may disincentivize people from transitioning to cleaner transportation options. A higher registration fee for vehicles which promote clean energy use, may seem to contradict efforts for Executive Order 2019-003[1] on Climate

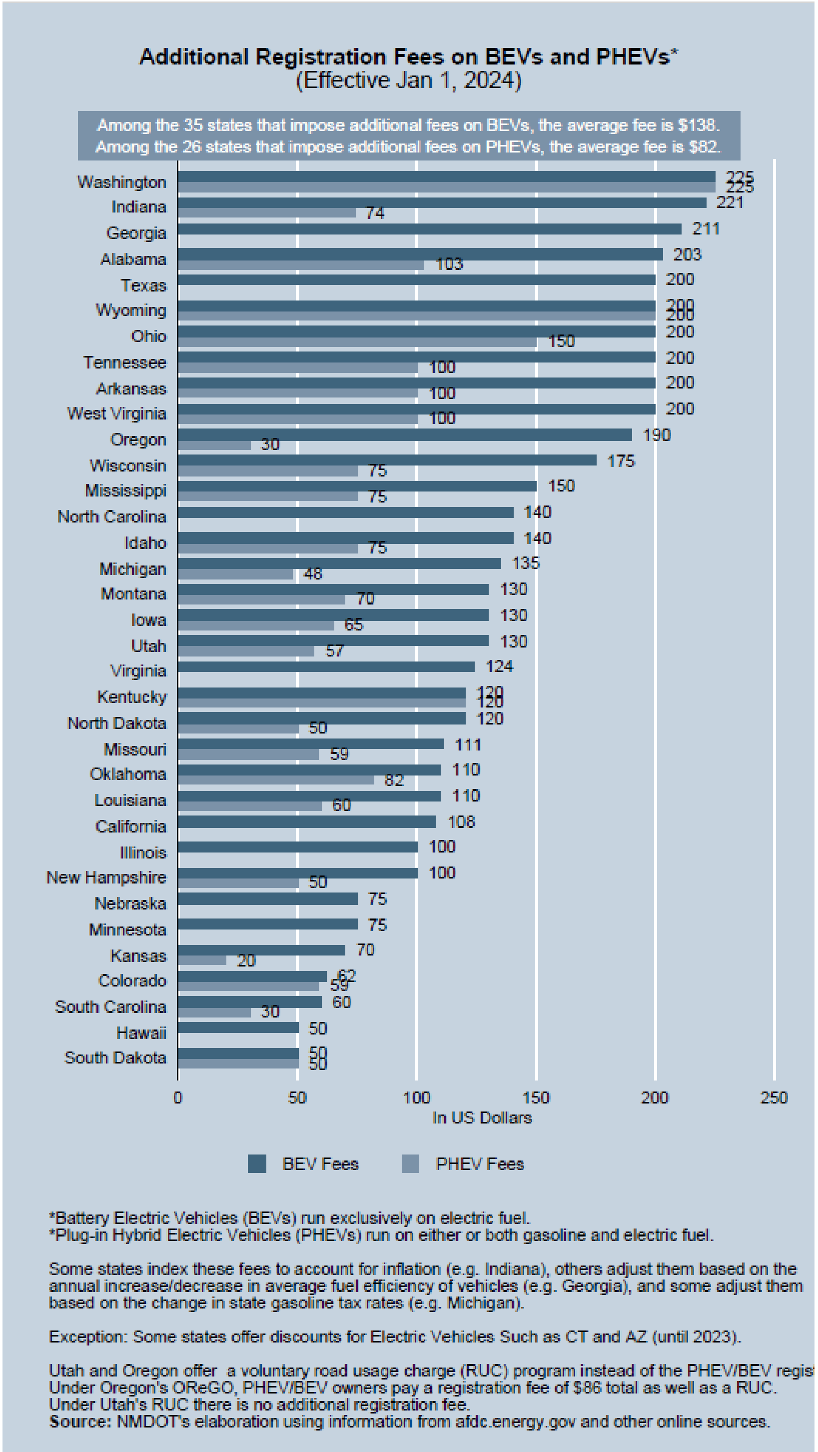
Change and Waste Prevention.

DOT notes the following:

This bill applies to PHEVs with an all-electric range of forty miles; however, the average all-electric range of PHEVs currently available is about twenty-nine miles. Approximately 20 percent of available PHEV models have an all-electric range of forty miles or greater. This means a significant portion of PHEVs currently available will not be eligible for the additional PHEV registration fee.

Owners of PHEVs and BEVs, due to the enormous fuel savings afforded by those vehicles, do not adequately contribute to the construction, maintenance and improvement of public roads and highways fuel via taxes in the same way as gasoline vehicle owners do. As the number of PHEVs and BEVs increase on the roads of New Mexico, funding from fuel taxes will grow increasingly inadequate for the necessary maintenance and improvement of New Mexico's roads and highways. The additional annual fees proposed in this bill introduce this mechanism.

As shown below, several other states have moved in this direction: Thirty-five states impose an additional annual fee on BEVs, and twenty-five states impose an additional fee on PHEVs.




## PERFORMANCE IMPLICATIONS

EMNRD notes the following:

> Adding another tax credit program to EMNRD's certification responsibilities without adding additional FTE and IT resources will slow down processing for all tax credit certifications, particularly the reinstated New Solar Market Development Tax Credit, the reinstated Sustainable Buildings tax credit and other tax credits that are administered by EMNRD.

The LFC tax policy of accountability is met because TRD is required in the bill 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.

## ADMINISTRATIVE IMPLICATIONS

The Energy, Minerals, and Natural Resources Department notes the following:

> SB8 tasks EMNRD with certifying both the electric vehicle tax credit and the electric vehicle charging unit tax credit, but does not contain an appropriation for the staff and IT resources for EMNRD which will be necessary to administer the program. EMNRD estimates that $86,300 in recurring funding would be necessary to hire one (1) FTE to develop rules for the program, administer it, and evaluate certification applications – that is, to effectively provide system reviews, certify vehicles and chargers for tax credit eligibility, collect data, and maintain a database of certifications.
>
> In addition, EMNRD would require $30 thousand in one-time IT, legal, and administrative expenditures to develop an electronic submission process for the applications and shepherd the new rule through the rulemaking process, and an additional $25 thousand in one-time funding to develop marketing and outreach materials to educate the public about the credit, its rules, and its availability.

For a similar bill, the Taxation and Revenue Department notes the following administration costs:

> TRD will make updates to forms, instructions, and publications. These changes will be included in the annual tax year changes. TRD's Administrative Services Division (ASD) will test credit sourcing and perform other systems testing. It is anticipated this work will take approximately 160 hours split between 2 Full-Time Equivalent (FTE) of a pay band 70 and a pay band 80 at a cost of approximately $12 thousand.
>
> Implementing this bill would significantly impact TRD's Information Technology Department (ITD), requiring approximately 1,400 hours of work, which is equivalent to about 9 months. Additionally, it is estimated that the contractual costs associated with this implementation would amount to approximately $308 thousand.

## CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

The registration fee portion of Senate Bill 8 duplicates Senate Bill 183. Senate Bill 8 conflicts with House Bill 140 which proposes different electric vehicle and charging unit tax credits. EMNRD provided the following comparison:

| Item | SB8 | HB140 |
|---|---:|---:|
| Sunset date | 2039 | 2030 |
| EV Credit | $3,250 | $3,000 (steps down to $2,220 in 2027; $960 in 2029) |
| PHEV Credit | $3,250 | $2000 (steps down to $1,480 in 2027, $640 in 2029) |
| Fuel Cell Tax Credit | None | $2000 (steps down to $1,480 in 2027, $640 in 2029) |
| Used Vehicle Credits | None | ½ of new vehicle credits |

| | | |
|---|---|---|
| Aggregate EV Credit Cap | $10 million | None |
| Max Vehicle Value | $55k | $55k ($25k for used) |
| Eligibility | Individuals and partnerships | Individuals, partnerships, and corporations |
| Residential Charger Tax Credit | $300 | $400 |
| Commercial Chargers | None | Up to $25,000 for DCFC/Hydrogen Fueling |
| Aggregate Charger Cap | $1 million | None |
| Registration Fees | $120/EV; $60/PHEV | None |

## OTHER SUBSTANTIVE ISSUES

In assessing all tax legislation, LFC staff considers whether the proposal is aligned with committee-adopted tax policy principles. Those five principles:

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

In addition, staff reviews whether the bill meets principles specific to tax expenditures. Those policies and how this bill addresses those issues:

| Tax Expenditure Policy Principle | Met? | Comments |
|---|---|---|
| **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. | × | This bill was not heard at any interim committees. |
| **Targeted**: The tax expenditure has a clearly stated purpose, long-term goals, and measurable annual targets designed to mark progress toward the goals.<br>Clearly stated purpose<br>Long-term goals<br>Measurable targets | × | The bill does not contain a purpose statement or any stated long-term goals or targets. |
| **Transparent:** The tax expenditure requires at least annual reporting by the recipients, the Taxation and Revenue Department, and other relevant agencies | ✓ | The credits will be reported in the Tax Expenditure Report, and a report is required to be submitted to legislative committees. |
| **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.<br>Public analysis<br>Expiration date | ✓ | There is a sunset on the credits and requires information to be published for public analysis. |
| **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.<br>Fulfills stated purpose<br>Passes "but for" test | ? | There is no stated purpose by which to measure the effectiveness or efficiency. |
| **Efficient:** The tax expenditure is the most cost-effective way to achieve the desired results. | ? | |
| Key: ✓ Met × Not Met ? Unclear | | |

JF/rl/ne/ss