LFC Requester:	Brendon Gray

AGENCY BILL ANALYSIS - 2025 REGULAR SESSION

SECTION I: GENERAL INFORMATION

{Indicate if analysis is on an original bill, amendment, substitute or a correction of a previous bill}

Date Prepared: January 27, 2025

Bill Number: SB 110

Check all that apply:

Original X Correction ____

Amendment ____ Substitute ____

Sponsor: **Sen. Peter Wirth**

Short Title: **LOCAL JOURNALIST EMPLOYMENT TAX CREDIT**

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SECTION II: FISCAL IMPACT

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY25	FY26		

(Parenthesis ( ) indicate expenditure decreases)

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY25	FY26	FY27		

(Parenthesis ( ) indicate revenue decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY25	FY26	FY27	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total						

(Parenthesis ( ) Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to:
Duplicates/Relates to Appropriation in the General Appropriation Act

SECTION III: NARRATIVE

This analysis is neither a formal Opinion nor an Advisory Letter issued by the New Mexico Department of Justice. This is a staff analysis in response to a committee or legislator's request. The analysis does not represent any official policy or legal position of the NM Department of Justice.

BILL SUMMARY

Synopsis: This bill proposes to create two new sections of the Income Tax Act and a refundable tax credit for individuals and for corporations that meet certain requirements based on the wages they pay to journalists that focus on New Mexico state and local news coverage. Though refundable, the credit is limited to the first fifty thousand dollars of wages paid and to seventy-five (75) journalists per taxpayer, and to four million dollars overall per tax year. It would go into effect for the tax year beginning 2025 and would end prior to the tax year beginning January 1, 2030.

There are two almost identical sections: one is titled the "LOCAL JOURNALIST EMPLOYMENT INCOME TAX CREDIT" and one is titled "LOCAL JOURNALIST EMPLOYMENT CORPORATE INCOME TAX CREDIT." Other than applying to income tax and corporate income tax respectively, the sections are the same.

To qualify, a taxpayer (individual or corporate) must own a local news organization and employ (at least one) journalist. The bill defines "journalist," "local news organization," and "wages". A journalist must be employed by a local news organization to work on state or local events, reside within fifty miles of the assigned coverage area, and work for at least a quarter of the taxable year for the local news organization. There are several requirements to be considered a local news organization, which include restrictions on ownership by publicly traded entities; limitations on income from political action committees, 501(c)(4) and 501(c)(6) entities as described by the Internal Revenue Code; transparency in beneficial ownership or board of directors; and at least two years of publishing the minimum number of articles specified in the bill.

The department of taxation and revenue ("TRD") would need to review applications and issue a certificate of eligibility to each taxpayer who is approved. The certificate specifies the amount of credit and which years the credit may be claimed.

FISCAL IMPLICATIONS

None

SIGNIFICANT ISSUES

One issue is the different treatment of digital-only and print publications, located at paragraph (J)(1)(c) of both Sections. "[I]n the case of print publications, has published at least one print publication per month over the previous twenty-four months and holds a valid United States postal service periodical permit *or* has at least thirty percent of its content dedicated to state or local news;" (emphasis added) vs. "[I]n the case of digital-only entities, has published at least four originally produced stories about the state or a local community per week over the previous twenty-four months *and* has at least fifty percent of its digital audience in New Mexico, averaged over a twelve-month period;" (emphasis added).

It appears that a digital publication is held to a higher standard of actual local news content than a print publication: a minimum of sixteen articles per month compared to a single monthly print publication with thirty percent local news. The "or" appears to allow a print publication with a monthly print edition and a USPS periodicals permit to qualify for the credit as long as it has a journalist working on local news. This seems to be a lower bar in terms of actual local content. In addition, there is no specified metric or standard for identifying where a digital audience is located. Aside from the measurement problem, this might have an unintended consequence in border areas of the state. For instance, the Four Corners area may have a local publication that discusses news of import to Farmington, Durango, and other communities throughout four different states. A digital publication based in New Mexico that exclusively and frequently publishes on important local issues and employs New Mexicans as journalists might lose this tax advantage, even if competing against a publication located in Colorado. Similar issues could arise in Las Cruces and Raton, and possibly other locations that arguably are in the most need of aid to local journalism. It would be helpful to clarify what exactly it means for a digital audience to be located in New Mexico (what is someone who commutes to New Mexico or *from* New Mexico considered?) and if there is a specific methodology that is standard or best for measuring the digital audience overall.

This provision could be construed as officially favoring one type of journalism over another, possibly implicating issues related to freedom of the press. This also seems to conflict slightly with the bill's lack of any similar distinction between or even mention of digital and printed work in the definition of what a "journalist" is.

A second issue is the requirement of a two-year history of publications. This seems to be for the purpose of establishing the bona fides of the local news organization before granting a tax credit. However, this eliminates the possibility of a tax credit for any start up publications—which may be significantly assisted by such a credit—as well as eliminating it for an existing publication that does not quite meet the criteria but is interested in using the credit to expand local news coverage. Presumably, the purpose of this bill is to provide that type of support, but as written it could have the effect of simply giving further advantage to entrenched players. It could be viewed as problematic to create a tax benefit that cannot apply to a new news organization, thus putting any newly created entity at an automatic disadvantage. Without that requirement, a new venture would have the ability to substantially reduce expenses, especially as the credit is refundable, enabling the new entity to get a refund even with no tax liability.

PERFORMANCE IMPLICATIONS

None.

ADMINISTRATIVE IMPLICATIONS

It is possible that this type of rebate would require the NMDOJ to review if a rebate is over $20,000 based on the existing tax code at Section 7-1-29 NMSA 1978.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

SB 111 appears to be a companion bill, as it creates a local new printer income tax credit and local new printer corporate income tax credit, following a similar format to SB 110.

SB110 proposes to create two new sections of the Income Tax Act and a refundable tax credit for individuals and for corporations that meet certain requirements based on the wages they pay to journalists that focus on New Mexico state and local news coverage. There may be a conflict between SB110 and SB111. Under SB110 a local news organization may qualify for the tax credit if it has published or produced news stories over the previous twenty-four months while under SB111 a local news organization may qualify for the tax credit if it has published or produced news stories over the previous thirty-six months.

Similarly, the qualifications of digital-only entity are different in the two bills: under SB110 a digital-only entity was defined as one who has published at least four originally produced stories about the state or a local community per week over the previous twenty-four months while under SB111 a digital-only entity was defined as one who has published at least five originally produced stories about the state or a local community per week over the previous thirty-six months.

TECHNICAL ISSUES
None.

OTHER SUBSTANTIVE ISSUES
None.

ALTERNATIVES
None.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL
Status Quo.

AMENDMENTS
None yet.