FISCAL IMPACT REPORT

SPONSOR	HTRC
LAST UPDATED	2/11/24
ORIGINAL DATE	2/5/24
SHORT TITLE	Adjust Income Tax Brackets
BILL NUMBER	CS/House Bill 252/HTRCS/ aSTBTC
ANALYST	Ismael Torres/Faubion/ Gray/Graeser

REVENUE*
(dollars in thousands)

Type	FY24	FY25	FY26	FY27	FY28	Recurring or Nonrecurring	Fund Affected
Sections 1-4 & 11: Energy Storage Deduction		($2,000.0)	($2,000.0)	($2,000.0)	($2,000.0)	Recurring	General Fund
Section 5: PIT Brackets		($79,500.0)	($159,000)	($170,000)	($176,000)	Recurring	General Fund
Section 6: Angel Investment Credit		$0	$0	($2,000.0)	($2,000.0)	Recurring	General Fund
Section 7: Rural Healthcare Practitioner Credit		($11,630.0)	($11,630.0)	($11,630.0)	($11,630.0)	Recurring	General Fund
Section 8: Capital Gains Deduction		$0	$61,000.0	$63,000.0	$65,000.0	Recurring	General Fund
Section 9: Fire Recovery Credit		($5,000.0)	($5,000.0)	($5,000.0)	($5,000.0)	Recurring	General Fund
Section 10: CIT Rate		$0	$16,100.0	$16,400.0	$17,000.0	Recurring	General Fund
Section 12: Home Modification GRT Deduction		($372.0)	($390.0)	($407.0)	($435.0)	Recurring	General Fund
Section 13: Childcare Provider GRT Deduction		($4,188.0)	($4,228.0)	($4,421.0)	($4,558.0)	Recurring	General Fund
Section 14: Calf Canyon Fire Legal Services Gross Receipts		($5,000.0)	($5,000.0)	($5,000.0)	($5,000.0)	Recurring	General Fund
Section 15: Dyed Agricultural Diesel Fuel Tax Deduction		($10,000.0)	($10,000.0)	($10,000.0)	($10,000.0)	Recurring	General Fund
Sections 16 - 22: Severance Tax Exemption for Certain Projects		Indeterminate but minimally negative	Indeterminate but minimally negative	Indeterminate but minimally negative	Indeterminate but minimally negative	Recurring	General Fund
Section 23: Special Needs Adopted Child Tax Credit		($800.0)	($800.0)	($800.0)	($800.0)	Recurring	General Fund

REVENUE*
(dollars in thousands)

Type	FY24	FY25	FY26	FY27	FY28	Recurring or Nonrecurring	Fund Affected
Section 24: Teacher-Purchased Supplies Tax Credit		($325.0)	($650.0)	($650.0)	($650.0)	Recurring	General Fund
Sections 25 - 26: Geothermal Heat Pump Tax		($8,000.0)	($8,000.0)	($8,000.0)	($8,000.0)	Recurring	General Fund
Sections 27-30: Clean Car Income Tax Credit		($30,000.0)	($45,000.0)	($50,000.0)	($56,000.0)	Recurring	General Fund
Section 31: Electric Generation Tax Sunset		Indeterminate	($5,000)	($5,000)	($10,000)	Recurring	General Fund
Section 32: Armed Service Retirement Pay Tax Sunset		($990.0)	($1,000.0)	($1,010.0)	($12,120.0)	Recurring	General Fund
Section 33, 34, 39: Geothermal Electricity Tax Credit		($3,870.0)	($5,050.0)	($6,190.0)	($7,420.0)	Recurring	General Fund
Sections 35 - 36: Advanced Energy Equipment Tax Credit		($25,000)	($25,000)	($25,000)	($25,000)	Recurring	General Fund
Section 37: Corporate Income Tax Liability			$1,000.0	$1,100.0	$1,100.0	Recurring	General Fund
Section 38: Solar Market Development Tax Credit Changes	($2,000.0)	($32,100.0)	($18,000.0)	($18,000.0)	($18,000.0)	Recurring	General Fund
Section 40: Health Care Services Gross Receipts		No fiscal impact	No fiscal impact	No fiscal impact	No fiscal impact	Recurring	General Fund
Total General Fund	**($2,000.0)**	**($217,675)**	**($227,548)**	**($244,608)**	**($272,513)**	**Recurring**	**General Fund**
Section 12: Home Modification GRT Deduction		($190.0)	($190.0)	($200.0)	($210.0)	Recurring	Local Governments
Section 13: Childcare Provider GRT Deduction		($5,021.5)	($5,142.0)	($5,301.4)	($5,465.8)	Recurring	Local Governments
Section 14: Calf Canyon Fire Legal Services Gross Receipts		($2,000)	($2,000)	($2,000)	($2,000)	Recurring	Local Governments
Section 15: Dyed Agricultural Diesel Fuel Tax Deduction		($4,000)	($4,000)	($4,000)	($4,000)	Recurring	Local Governments
Sections 33, 34, 39: Geothermal Electricity Tax Credit		$750.0	$1,380.0	$1,800.0	$2,090.0	Recurring	Local Governments
Total Local Govs.		**($10,461.5)**	**($9,952.0)**	**($9,701.4)**	**($9,585.8)**	**Recurring**	**Local Governments**

REVENUE*
(dollars in thousands)

Type	FY24	FY25	FY26	FY27	FY28	Recurring or Nonrecurring	Fund Affected
Sections 16-22: Severance Tax Exemptions for Certain Projects		($4,300)	($4,300)	($4,300)	($4,300)	Recurring	Severance Tax Bonding Fund
Sections 16-22: Severance Tax Exemptions for Certain Projects		Losses of at least ($3,600)	Losses of at least ($3,600)	Losses of at least ($3,600)	Losses of at least ($3,600)	Recurring	Senior Capital Outlay Capacity
Sections 16-22: Severance Tax Exemptions for Certain Projects		Losses of at least ($1,800)	Losses of at least ($1,800)	Losses of at least ($1,800)	Losses of at least ($1,800)	Recurring	Supplemental Capital Outlay Capacity
Sections 16-22: Severance Tax Exemptions for Certain Projects		Losses of up to ($4,300)	Losses of up to ($4,300	Losses of up to ($4,300	Losses of up to ($4,300	Recurring	Severance Tax Permanent Fund

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

See "Administrative Implications" below for additional operational impacts.

Sources of Information

LFC Files

Agency Analysis Received From
Taxation and Revenue Department (TRD)
Energy, Minerals and Natural Resources (ENMRD)
Office of the Attorney General (NMAG)
Department of Finance and Administration (DFA)
Health Care Authority (HCA)
Department of Health (DOH)
Economic Development Department (EDD)
Regulation and Licensing Department (RLD)
Office of the Superintendent of Insurance (OSI)

SUMMARY

Synopsis of HTRC Substitute for House Bill 252 as Amended by STBTC

The following narrative reflects the most current version of this bill, as substituted by the House Taxation and Revenue Committee (HTRC) and amended by the Senate Tax, Business, and Transportation Committee (STBTC).

Sections 1 through 4 and 11: IRBs and Energy Storage Tax Deduction. This section adds energy storage facilities to the authority granted municipalities and counties for negotiating an industrial revenue bond (IRB). This parallels the authority granted these jurisdictions to negotiate an IRB for solar and wind production projects and for renewable energy transmission facilities. The section also provides a gross receipts tax deduction for sales of energy storage equipment to governments. There is a sunset of July 1, 2044 for the GRT deductions in the bill, both for this new deduction and the existing deductions for solar and wind equipment. The effective date of this bill is July 1, 2024.

Section 5: Personal 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, 2025, and the rate change is applicable for taxable years beginning on or after January 1, 2025.

Section 6: Angel Investment Tax Credit. This section allows a taxpayer to claim the angel investment credit for a qualified investment made after January 1, 2024, and before December 31, 2030, extending the period for five years beyond the current expiration of December 31, 2025. This bill does not contain an effective date and, as a result, would go into effect 90 days after the Legislature adjourns, or May 15, 2024, if enacted.

Section 7: Rural Healthcare 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. This section 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, 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 health care practitioner tax credit. The bill also amends the definition of "rural" for the rural health care practitioner credit, tying it to U.S. Department of Health and Human Services definitions instead of as identified by the New Mexico Department of Health. This section does not contain an effective date, and as a result, would go into effect May 15, 2024, (90 days after the Legislature adjourns) if signed. The provisions in this bill apply to taxable years beginning on or after January 1, 2024.

Section 8: 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 goes into effect January 1, 2025, and applies to taxable years beginning on or after January 1, 2025.

Section 9: Fire Recovery Tax Credit. Establishes an income tax credit for taxpayers whose homes were destroyed in a wildfire between 2021 and 2023. The tax credit is equal to the full amount of the construction costs of a qualified, permanently constructed home or manufactured home up to $50 thousand per home and can be used against taxpayer's tax liability for up to three years. Qualified homes are defined to be those constructed on the same property as the destroyed home less any compensation received pursuant to the federal Hermit's Peak/Calf Canyon Fire Assistance Act and insurance compensation, though application for those funds is not required to receive state assistance. The Construction Industries Division would promulgate rules and forms to quality people for the tax credit. The credit is applicable beginning in tax year 2024.

Section 10: Corporate Income Tax Rate. This section creates a single corporate income tax rate of 5.9 percent, replacing the two-tiered marginal rate structure of 4.8 percent for taxable income under $500 thousand and 5.9 percent for taxable income of $500 thousand or more. The effective date of this bill is January 1, 2025. The provisions in this bill apply to taxable years beginning on or after January 1, 2025.

Section 12: Medicaid Home Modification GRT Deduction. This section provides a gross receipts tax deduction on home renovations like ramps and in-shower bars for those on Medicaid. The modification, including purchase and installation, must be necessary to ensure the health, welfare, and safety of the recipient, or to enhance the recipient's access to their home environment, including to increase the recipient's ability to act independently. The effective date of this section is July 1, 2024, and sunsets for modifications installed after July 1, 2034.

Section 13: Childcare Provider GRT Deduction. This section creates a new gross receipts tax (GRT) deduction for the sale of childcare assistance through either a licensed childcare assistance program or a for-profit prekindergarten provider. For licensed childcare assistance services, the provider's receipts must be pursuant to a contract or grant with the Early Childhood Education and Care Department and through a licensed childcare assistance program. For a for-profit prekindergarten provider, the services must be pursuant to the Prekindergarten Act. The effective date of this section is July 1, 2024.

Section 14: Calf Canyon Fire Legal Services Gross Receipts. This section provides a gross receipts tax deduction for the sale of legal services, “rendered to and at the request of a person eligible to receive compensation pursuant to the federal Hermit’s Peak/Calf Canyon Fire Assistance Act,” so long as those legal services are directly related to the person receiving compensation. The maximum aggregate amount of tax credits that may be allowed in a fiscal year is $5 million. The effective date of this section is July 1, 2024.

Section 15: Dyed Agricultural Diesel Fuel Tax Deduction. This section creates a gross receipts tax credit for the sale and use of dyed special fuels when used for agricultural purposes. The maximum aggregate amount of tax credits that may be allowed in a fiscal year is $10 million. The effective date of this section is July 1, 2024, and the section has a sunset date of July 1, 2029.

Sections 16-22: Severance Tax Exemption for Certain Projects. This section provides for an exclusion to the Oil and Gas Severance Tax for oil and natural gas severed from a stripper well and sold from a production compliance project during the first 10 years of production following the completion of the project, or until the date the total amount of tax that would have been imposed but for this exemption equals the cost of the production compliance project, whichever occurs first. The effective date of this section is July 1, 2024.

Section 23: Special Needs Adopted Child Tax Credit. This section increases the special needs adopted child tax credit from $1,000 to $1,500. The bill also requires TRD to include the utilization data in the annual Tax Expenditure Report. The increase in credit is applicable for tax years beginning January 1, 2024.

Section 24: Teacher-Purchased Supplies Tax Credit. This section creates an income tax deduction for school supplies purchased by a public school teacher of up to $500 in tax year 2024 and $1,000 in tax years 2025 through 2028. The school supplies must be used for educational uses in the teacher’s classroom and by the teacher’s students. The tax credit applies to tax years 2024 through tax year 2028.

Sections 25-26: Geothermal Heat Pump Tax Credit. This section reinstates and expands the geothermal ground-coupled heat pump tax credits. The credit rate remains at 30 percent of costs, with a maximum of $9,000 tax credit per installation. The cap for the credit is increased from $2 million to $4 million, for an aggregate cap of $8 million. The provisions of this section apply to tax years beginning after January 1, 2024, and the section has a sunset date of December 31, 2034.

Sections 27-30: Clean Car Income Tax Credits. This section creates two new refundable personal and corporate income tax credits for a six-year period beginning in tax year 2024 through tax year 2029. First, the bill creates the refundable electric vehicle income tax credit for each electric vehicle (EV) purchase and second, creates an electric vehicle charging unit income tax credit to cover the cost of purchasing and installing an electric vehicle charging unit. The credit amounts for each year is as follows:

Tax Year	2024 - 2026	2027	2028	2029
New electric vehicle	$3,000	$2,220	$1,470	$960
New plug-in hybrid electric vehicle or fuel cell vehicle	$2,500	$1,850	$1,225	$800
Previously owned electric vehicle	$2,500	$1,850	$1,225	$800
Previously owned plug-in hybrid electric vehicle or fuel cell vehicle	$2,000	$1,480	$980	$640
Direct Current Fast Charger or Fuel Cell Charging Unit	Lesser of $25,000 or the cost to purchase and install			
All Other Electric Vehicle Charging Units	Lesser of $400 or the cost to purchase and install			

New 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. Previously owned vehicles with a market value of $25 thousand or less are eligible. The effective date of this section is January 1, 2024, with the credit sunsetting after tax year 2029.

Section 31: Electric Generation Tax Sunset. This section removes the sunset of a provision that permits certain electrical energy generators to use a single sales factor in calculating the amount of corporate income tax. Advantaged producers are those that do not require a certificate of convenience and necessity from the Public Regulation Commission. This category of electrical generation includes all the independent power producers, including Pattern Energy's Sun Zia project and other wind and other utility scale solar projects in the state. This section does not contain an effective date and, as a result, would go into effect 90 days after the Legislature adjourns, or May 15, 2024, if enacted.

Section 32: Armed Service Retirement Pay Tax Sunset. This section amends the Income Tax Act to remove the sunset date on the armed forces retirement pay income tax 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. This bill also adds surviving spouses of armed forces retirees to this exemption. The effective date of this section is January 1, 2025.

Sections 33, 34, 39: Geothermal Electricity Tax Credit. This section creates PIT and CIT credits equal to 1.5 cents per kilowatt-hour of electricity generated and has a cap of $5 million for both PIT and CIT. The credits created in this section are not refundable but may be carried forward for three years. This section also creates GRT and compensation tax deductions for geothermal electricity generation facility costs. The effective date of this section is January 1, 2025, and its provisions are applicable to tax years beginning on or after January 1, 2025. This section has a sunset date of July 1, 2032.

Sections 35-36: Advanced Energy Equipment Tax Credit. This section creates the advanced energy equipment income tax credit. This credit will be based on qualified expenditures for a qualified manufacturing facility in New Mexico. "Qualified expenditures" are those required to create an "advanced energy product" that qualifies for the federal tax credit under Section 45X of the Internal Revenue Code (IRC), such as solar and wind energy components. This credit will be available starting January 1, 2025, and sunsetting for projects installed after December 31, 2032. The credit is the lesser of 20 percent of the qualified expenditures or $25 million. The total annual aggregate amount of advanced energy equipment income tax credits and advanced energy equipment corporate income tax credits that may be certified in a calendar year shall not exceed

$25 million.

This credit can be sold, exchanged, or otherwise transferred to another taxpayer. The parties shall notify TRD within 10 days of the transaction. If the taxpayer decides to claim the credit on a tax return, the taxpayer must claim the credit within one taxable year of the end of the calendar year in which EMNRD provides the final certification. Any unused portions of the credit can be carried forward for five years.

If after getting this credit, the taxpayer or a successor in business ceases operations for at least 180 consecutive days within a two-year period after the credit is claimed, any amount of credit that has not been claimed will be extinguished. The taxpayer will be given 30 days after the 180 days to pay the tax liability that the credit was previously applied to.

The effective date of this bill is January 1, 2025, applicable to taxable years beginning on or after January 1, 2025. This credit has a delayed repeal of January 1, 2034.

Section 37: Corporate Income Tax Liability. This section amends the Corporate Income Tax Act to add "subpart F" into the corporate income tax (CIT) taxable base and modifies which filers can file as a water's-edge group. The effective date of this section is January 1, 2025.

Section 38: Solar Market Development Tax Credit Changes. This section increases the aggregate cap of available tax credits for solar system purchase and installation to $30 million from $12 million for years 2024 to 2032. The section allows taxpayers who were eligible between 2020 to 2023 but did not receive a certificate due to the cap to apply or reapply for a certificate. The cap on this supplemental opportunity is $20 million. The bill also provides that taxpayers who install an eligible solar system on a property held by that taxpayer in leasehold from federally recognized Native American nations, tribes, or pueblos will be eligible for the tax credit. This section does not contain an effective date and, as a result, would go into effect 90 days after the Legislature adjourns, or May 15, 2024, if enacted.

Section 40: Health Care Services Gross Receipts. This section specifies that receipts from a copayment or deductible paid by an insured or enrollee may be deducted from the gross receipts only if the services are within the scope of practice of the health care practitioner.

FISCAL IMPLICATIONS

This bill creates or expands tax expenditures. 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 and 11: IRBs and Energy Storage Tax Deduction. 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 143 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, 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: Personal Income Tax Brackets. The impact of the proposed changes to the income tax brackets was estimated using tax years 2021-2022 tax return data for New Mexico taxpayers. Using the University of New Mexico's Bureau of Business and Economic Research (BBER) January 2024 forecast, the Taxation and Revenue Department (TRD) indexed the data to tax year 2025 and then grew the estimate annually by BBER's New Mexico's wage and salary growth.

Section 6: Angel Investment Tax Credit. Extending the angel investment tax credit sunset to December 31, 2030, will cost the general fund up to $2 million each additional year because the credit is capped at that level.

Section 7: Rural Healthcare Practitioner Tax Credit. TRD used the information provided in the New Mexico Health Care Workforce Committee annual report for 2022 and 2023 to determine 5,372 healthcare practitioners are estimated to become newly eligible for the credit under the provisions of this bill. 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 the Department of Workforce Solutions' occupation and wage data.

Section 8: Capital Gains Deduction. The Taxation and Revenue Department (TRD) used tax return data for taxpayers claiming the capital gain deduction from tax year 2020 to tax year 2022 to estimate the fiscal impact of the bill. The agency notes its data does not provide insight into whether the source of net capital gain income is from the sale of a business allocated or apportioned to New Mexico.

Section 9: Fire Recovery Tax Credit. The latest report estimates 430 homes were destroyed in the Hermit's Peak/Calf Canyon fires, though estimates range as high as 500. Over 200 homes were reported to be destroyed by the McBride Fire. The bill would also include any other fires that destroyed homes during the allowable period. If each home received the maximum $50 thousand credit per home lost, the total cost of the credit could be $35 million. Given the annual cap of $5 million, it could take seven years for all credits to be paid, given the queue is formed and all taxpayers eventually receive the full amount of the credit. However, the cost is likely less than the maximum amount because not all taxpayers have sufficient tax liability for the full impact to apply.

Section 10: Corporate Income Tax Rate. Currently, there are two corporate income tax (CIT) rates: 4.8 percent for corporations making less than $500 thousand; and 5.9 percent on income above $500 thousand. According to the 2023 *Tax Expenditure Report*, there were approximately 72.7 thousand corporate income taxpayers in tax year 2020. Of those, 68 thousand had $0 or less in taxable income and did not pay any corporate income tax and 4,200 taxpayers made less than $500 thousand in income and paid the 4.8 percent rate currently in statute, accounting for only 6.4 percent of total corporate income taxes paid. The remaining 474 taxpayers made over $500 thousand in income and paid 5.9 percent on income above $500 thousand.

The Taxation and Revenue Department (TRD) used CIT tax return data from fiscal years 2021 through 2023 and provided a positive range estimate to highlight the uncertainty of the magnitude of the impact. LFC provided a point estimate that was within the TRD range. That estimate is reflected in the “Revenue” table at the top of this analysis.

Section 12: Medicaid Home Modification GRT Deduction. This analysis uses estimates from both the Health Care Authority (HCA) and TRD. This represents a revenue loss for the general fund revenue, in federal fund revenues, and local government revenue. LFC applied a 7.5 percent growth rate for the out-years.

Section 13: Childcare 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 $9.2 million to the general fund from the deduction of GRT on licensed childcare assistance programs and contracts or grants through ECECD. However, ECECD estimated the impact using an 8 percent GRT rate and assumed the entirety would impact the general fund. The “Revenue” table at the top of this analysis uses the ECECD analysis of gross revenues from the current year-to-date awards and applies the year-to-date FY24 average effective statewide rate in municipalities of 8.027 percent and distributes the rounded costs to the state (3.65 percent) and local governments (the remaining 4.377 percent). The consensus revenue estimate for the gross receipts tax growth rate published December 2023 was used for out-year modeling.

Section 14: Calf Canyon Legal Services GRT. The federal Hermit’s Peak/Calf Canyon Fire Assistance Act provides $3.95 billion to compensate claimants impacted by the Hermit’s Peak/Calf Canyon Fire. The “Revenue” table estimates at the top of this analysis approximate about 90 percent of the available compensation is recovered through an attorney’s services, due to the experience of the Fire Victim Trust in California which exhibited such service utilization rates. Further, the analysis assumes 20 percent attorney fees, as is limited in the federal act.

According to the Federal Emergency Management Agency (FEMA) website, $311 million has already been paid in compensation as of Jan. 11, 2024, with another $1 billion expected to be paid by Jan. 1, 2025. The remainder of the funds are assumed to be paid out over the following two years as claims must be submitted no later than November 14, 2024, and November 14, 2025, for amended claims. Additionally, FEMA has an overall 180-day timeline to make compensation determinations.

Given those amounts and timelines, LFC staff used an effective statewide GRT rate of 7.03 percent and an effective state general fund rate of 4.18 percent to estimate the impacts of SB174. The estimates from the Taxation and Revenue Department using a similar analysis is the basis for the range when compared with LFC estimates. The cap of $5 million is expected to be reached each year. The local government impacts were estimated assuming the cap is reached and the GRT is collected at a 60 percent state and 40 percent local split, as is the current FY24 statewide average.

Section 15: Dyed Diesel GRT Deduction. TRD estimated the fiscal costs of an uncapped dyed diesel GRT deduction as reflected in the below table:

Estimated Revenue Impact*					R or NR**	Fund(s) Affected
FY2024	FY2025	FY2026	FY2027	FY2028		
--	($38,900)	($40,400)	($41,500)	($43,700)	R	General Fund
--	($26,000)	($26,900)	($27,700)	($29,200)	R	Local Governments

This estimate, therefore, assumes the cap of $10 million will be met in each fiscal year the deduction is available. The local government impacts were estimated assuming the cap is reached and the GRT is collected at a 60 percent state and 40 percent local split, as is the current FY24 statewide average.

Sections 16-22: Severance Tax Exemption for Certain Projects. The estimates in the "Revenue" table at the top of this analysis reflect LFC analysis of the reduced revenue impact to the bonding fund and its impacts on senior and supplemental severance tax bonding capacity. General fund fiscal impacts will be dependent on capital outlay and investment earnings.

Section 23: Special Needs Adopted Child Tax Credit. The current cost of $1,000 per child tax credit is published in the annual Tax Expenditure Report. TRD averaged the amount of credits claimed for the last three fiscal years as reported in the 2023 Tax Expenditure Report. This average was then increased by the 50 percent increase in the credit amount.

Section 24: Teacher-Purchased Supplies Tax Credit. The proposed bill 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 some of their own money on classroom supplies without reimbursement. The Taxation and Revenue Department (TRD) applied that percentage to the estimated 23,094 public school teachers in New Mexico during the academic year 2022-2023 to calculate that approximately 21,708 teachers might claim the deduction. The lost revenue to the general fund is based on wage of a $63,580, the estimated average wage of a New Mexico public school teacher in the academic year 2022-2023, and an effective tax rate of 3 percent for a taxable income between $50 thousand and $75 thousand.

The fiscal impact increases from FY25 to FY26 because the bill proposes a deduction limited to

$500 for tax year 2024 and $1,000 for tax year 2025 and onwards. The impact is estimated to be constant.

Sections 25-26: Geothermal Heat Pump Tax Credit. This analysis presents the maximum total costs to the state because of the uncertainty in estimating costs. This uncertainty is exacerbated because geothermal heat pumps are an emerging technology. Further, increasing the cap from $2 million to $16 million may incentivize more consumers to opt-in to the credit, increasing the cost.

Each of these systems costs close to or more than the $30 thousand creditable cost maximum. To reach the $8 million aggregate cap, approximately 900 installations per year would have to be installed with each installation costing $30 thousand.

TRD has provided an estimate of the fiscal impact as follows:

Estimated Revenue Impact*					R or NR**	Fund(s) Affected
FY2024	FY2025	FY2026	FY2027	FY2028		
--	($1,150)	($1,160)	($1,170)	($1,170)	R	General Fund

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

Sections 27-30: Clean Car Income Tax Credits. The fiscal estimate for this section 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 electric vehicle sales in New Mexico growing at over 50 percent year-over-year in FY26-FY28.

This section defines an electric vehicle to include vehicles that run exclusively on a battery (also called battery electric vehicles or BEVs), 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), and those fueled with hydrogen gas (fuel cell electric vehicles or FCEVs). The table below shows the forecasted number of registered BEVs and PHEV's for the next several years. NMDOT does not expect any FCEV sales in New Mexico for at least five years.

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, noncommercial vehicles registered in New Mexico (NM) as of June 30, 2023.

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

FISCAL IMPLICATIONS

LFC analysis assumes New Mexico will match national growth projections, growing to over 800 DC stations by 2028. Other investments in the state are publicly funded and not eligible to receive the charging unit credit.

Section 31: Electric Generation Tax Sunset. The provisions of this section would affect all independent power producers, including Pattern Energy which recently announced plans to bring 3.5 gigawatts of wind energy to market by 2026. The cost of this one project, including the SunZia transmission line, will be an announced $10 billion[2]. This analysis made an estimate of the sales, property, and payroll factors to reach the estimated impact in the table is shown as ($5,000.0) based on planned expansions or installations already announced.

Section 32: Armed Service Retirement Pay Tax Sunset. Taxation and Revenue Department analysis shows, by making permanent the $30 thousand military retirement exemption for an armed forces retiree that is currently scheduled to sunset after tax year 2026, this section will reduce general fund revenue by a recurring $12.1 million starting in fiscal year 2028. The revenue decrease for FY28 is currently factored into the December 2023 Consensus Revenue Estimating Group (CREG) forecast. Therefore, while the fiscal impact notes a loss in general fund revenue above, this loss is already considered in the CREG's December 2023 projections for FY28. The December 2023 CREG forecast adjusted this estimate based on tax year 2022 returns reported in the 2023 Tax Expenditure Report.

This section expands the population eligible to claim the exemption to surviving spouses of an armed forces retiree. The Statistical Report on the Military Retirement System provides an aggregate number of retirees and survivor beneficiaries by state. As of September 30, 2021, New Mexico had 20,806 reported retirees and 2,812 survivor beneficiaries. TRD assumes an additional 2,812 surviving spouses will claim the exemption beginning in tax year 2024 (See “Technical Issues”). The impact will increase 1 percent annually based on the average retirement exemption impact to tax liability.

To the extent the legislation causes more military retirees to move to New Mexico and military retiree population growth is positive versus flat or negative, the fiscal impact will be larger. The revenue impact does not consider any potential positive impact, such as gross receipts tax revenue, that may result from growth in the military retiree population.

Sections 33, 34, 39: Geothermal Electricity Tax Credit. The fiscal estimate assumes the installation of 10 MW annual with a 90 percent duty cycle and middle estimates of capital expenses, fixed operations and maintenance expenses, and levelized cost of energy as demonstrated by data from the National Renewable Energy Laboratory.

Sections 35-36: Advanced Energy Equipment Credit. TRD expects an average of one company per year to qualify for the full maximum $25 million:

Publicly available press releases indicate three manufacturing facilities may qualify for

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[2] See story on page A-8 of January 23, 2024, *Santa Fe New Mexican*.

> the credit in the near term. Their qualification is based on their proposed manufacturing output aligning with the eligibility for the federal credit under Section 45X of the IRC. They are the Arcosa wind-tower production facility in Belen; Hota Industrial Manufacturing Company's auto-parts manufacturing plant in Santa Teresa, and the Maxeon Solar Technologies' solar cell production facility in Albuquerque. Arcosa planned investment is $55 million to $60 million with deliveries of wind-towers from 2024 through 2028. Hota plans mass production in 2025 with a reported investment of $99 million. Maxeon is expected to open its manufacturing facility also in 2025 with a reported investment of $1 billion.[3]

The agency also notes:

> The bill only caps the credit that may be claimed by each taxpayer per project; it is therefore possible that, if more than one taxpayer claims a credit in any year, the fiscal impact could be higher in one fiscal year over the other. TRD also assumes that any taxpayer receiving the credit that is not immediately able to use the full value of the credit in the initial taxable year will sell or transfer the credit to take immediate advantage of its full value and will not carry forward any amount of the credit.
>
> Although the fiscal impact is based on three known projects, these projects will potentially support other manufacturing suppliers in New Mexico, expanding the numbers of taxpayers eligible for the credit during the lifetime of the credit's availability.

Section 37: Corporate Income Tax Liability. The revenue impact for this section was estimated by the Taxation and Revenue Department (TRD) using tax return data from fiscal years 2021 to 2023. The agency notes:

> CIT is an extremely challenging revenue to forecast in times of relative stability. Given the variable economic conditions that may impact CIT taxpayers, the estimate has been presented as a positive range to emphasize the uncertainty of the magnitude of the impact. Using the December 2023 Consensus Revenue Estimating Group (CREG) forecast, the average range impact is grown by the current growth rate for gross CIT.

Section 38: Solar Market Development Tax Credit Changes. EMNRD expects the full $20 million supplemental opportunity to be used. This must be applied as a credit for the 2023 tax year and the amended tax return must be filed within 12 months of the certificate being issued by EMNRD. The effective date of this section is May 15, 2024, and EMNRD will, for practical purposes, issue all supplemental certificates for 2020 through 2023 by the end of 2024. These supplemental certificates must be claimed on amended 2023 tax returns by December 31, 2024. For this estimate, the full amount of the $20 million supplemental cap is shown as FY25 costs.

Section 40: Health Care Services Gross Receipts. This section clarifies language in an existing statute and does not have a fiscal impact.

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[3] https://mediaroom.maxeon.com/2023-08-10-Maxeon-Solar-Technologies-Selects-Albuquerque,-New-Mexico-as-Site-for- New-3-Gigawatt-Solar-Cell-and-Panel-Manufacturing-Facility.

FISCAL IMPLICATIONS

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.

TRD notes the following:

> PIT represents a consistent source of revenue for many states. For New Mexico, PIT is approximately 25 percent of the state's recurring general fund revenue. While this revenue source is susceptible to economic downturns, it is also positively responsive to economic expansions. New Mexico is one of 41 states, along with the District of Columbia, that impose a broad-based PIT (New Hampshire and Washington do not tax wage and salary income). Like several states, New Mexico computes its income tax based on the federal definition of taxable income and ties to other statues in the federal tax code. This is referred to as "conformity" to the federal tax code. 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.

Sections 1 through 4 and 11: IRBs and Energy Storage Tax Deduction. 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 section. It is likely the provisions of this section 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 (Section 7-9-54 NMSA 1978).

Section 5: Personal 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 liability 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.

The proposed brackets changes maintain the so-called "marriage penalty." This results in married filers moving into higher income tax brackets at lower incomes than single filers and therefore paying more taxes on the same income.

TRD notes the following:

> The last substantial amendment to the PIT brackets was passed in 2005, though the changes made by that amendment were not fully implemented until tax year 2008. In 2019, HB6 added an additional 5.9 percent top income bracket to each filing status,

effective from tax year 2021. As New Mexico PIT brackets are not indexed to inflation, taxpayers have gradually moved into higher tax brackets, a phenomenon described as "bracket creep", despite the fact that their "real income", or the purchasing power of their income, has not changed. Over time, the effective PIT rate, which is the average tax rate paid by a taxpayer on their total gross income, has therefore increased. The federal personal income tax indexes both the standard deduction and tax brackets. The revisions proposed in this section will adjust New Mexico's PIT brackets for inflation since 2008.

Section 6: Angel Investment Tax Credit. The Economic Development Department said extending the sunset date for the angel investment tax credit will enable the continuation of an incentive for New Mexico taxpayers to invest in New Mexico businesses. TRD notes that this credit is meant to encourage taxpayers to invest in the state with an assumed benefit to the economy of the state. While any taxpayer may apply for this credit, most of the financial benefit of this credit will be realized by high earning individuals. The broader economic benefit to the state of these investments, which may include additional jobs, wages, and economic development, is hard to measure though and it is unclear if it exceeds the loss of PIT revenue.

Section 7: Rural Healthcare 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 FY23, approximately 2,100 rural healthcare providers claimed the credit, costing approximately $7.3 million, according to the 2023 New Mexico Tax Expenditure Report. The Health Care Authority (previously the Human Services Department) and the Department of Health note that expanding this tax credit to additional practitioners may encourage more licensed providers to practice in rural areas of New Mexico. As a result, this proposal could help address health care workforce shortages, which would ultimately improve access to care.

Section 8: 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.[4]

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.

[4] Center for Budget and Policy Priorities

Section 9: Fire Recovery Tax Credit. The 2022 fire season was one of New Mexico's worst, with both the largest wildfire—Calf Canyon/Hermit's Peak—and second largest wildfire—Black—in state history. While the Black Fire in the Gila National Forest primarily impacted wilderness, hundreds of houses were lost in the Calf Canyon fire northwest of Las Vegas and the McBride fire east of Ruidoso. This section is intended to compensate the homeowners affected but, given the availability of federal compensation and the socioeconomic demographics of the regions affected, it is difficult to predict whether and how those homeowners will access the benefit.

The U.S. Census Bureau sets the average household income in San Miguel County at $43.5 thousand, over $15 thousand less than the state average of $58.7 thousand, and it is difficult to predict whether lower income homeowners would be able to secure the upfront financing to rebuild their homes and take advantage of the tax credit. Further, the tax burden on these lower income homeowners might not be sufficient to make the tax credit of much value.

Delays in being able to access federal funds for Calf Canyon Fire losses has led to two lawsuits against FEMA. Any federal compensation for home loss would be deducted from the tax credit but should accessing federal assistance continue to be burdensome and slow, some residents might forgo federal assistance, knowing they can claim a credit against their state taxes. In effect, this would mean state dollars were supplanting federal dollars.

Should the credit from this section prove popular, it could indirectly trigger high construction demand and higher construction costs. This could drive up housing costs in a region with a population that is poorer than the state average. Further, while the tax credit might prove unattractive to lower income homeowners, the credit, which is not limited to the value of the lost home, could encourage those with greater means to seek higher-cost replacements. Those households with higher tax burden, are also more likely to be attracted to the tax credit.

Section 10: Corporate Income Tax Rate. This section would place smaller income companies on par with larger corporations regarding their tax liability. TRD analysis notes that:

> 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.'[5] 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.

Section 12: Medicaid Home Modification GRT Deduction. ALTSD has provided some background:

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[5] https://taxfoundation.org/publications/state-corporate-income-tax-rates-and-brackets/

> This proposed legislation offers financial benefits to providers of home and community-based service recipients who perform environmental modifications, including much of the population that ALTSD serves. This GRT deduction will: 1) incentivize providers to engage in environmental modification services for Medicaid providers and 2) leverage federal funds.

Section 13: Childcare Provider GRT Deduction. The Early Childhood Education and Care Department (ECECD) notes that for Childcare Assistance programs, GRT may be passed on to families who live at or below the federal poverty line, often resulting in a burdensome monthly payment for families who already struggle to afford childcare. In addition, ECECD has received feedback in stakeholder roundtables that the collection of gross receipts taxes from for-profit childcare providers and PreK providers creates an unlevel playing field between for profit and non-profit and government entities.

Section 14: Calf Canyon Legal Services GRT. TRD notes:

> A key policy issue is that tax deductions may not be applied retroactively. As payments under the Act have already started, legal fees incurred prior to the effective date of this section would have been subject to GRT. Because gross receipts taxes are due monthly, in most cases, the tax would already have been paid. Under the New Mexico Constitution, and applicable case law, a tax deduction may not be retroactive. Therefore, the proposed tax deduction for the sale of legal services directly related to recovering compensation for individuals who were eligible to receive compensation from the Act can only apply to receipts received on or after the effective date of this section.
>
> Taxpayers choose which deductions to claim and are not required to claim a deduction just because it is available to them. For example, after recent enactment of a new GRT deduction for feminine hygiene products, TRD received complaints that some retailers were still charging GRT on those products. It is possible that some lawyers will not claim the deduction and will continue to pass GRT along to their clients on the services rendered.

Section 15: Dyed Diesel GRT Deduction. 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, 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.

Sections 16-22: Severance Tax Exemption for Certain Projects. Overall, the legislation would incentivize marginally producing wells to continue operations rather than being plugged. Because stripper wells create more environmental and fiscal legacy concerns for the agency, the bill could result in future financial liability for the State Land Office with respect to the plugging and remediation of these wells when companies are unable or unwilling to close out operations and appropriately cleanup sites. Plugging, remediation, and reclamation costs at times could exceed the minimal additional royalty revenue received by the agency.

Section 23: Special Needs Adopted Child Tax Credit. TRD notes the following policy issues:

> The increase to the special needs adopted tax credit will continue to erode horizontal equity in the state income taxes. By basing the credit on the number of qualifying children, taxpayers with the 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 the number of special needs children they adopt.
>
> However, the special needs adopted tax credit provides economic aid to families whose adopted children may require specialized long-term care and supports those children remaining in a family setting. In addition, as the definition of special needs adopted child includes "difficult to place child," this credit may incentivize more individuals to adopt children who need more specialized attention. The credit amount has not been increased since it was enacted in 2007, thus the increase to $1,500 from $1,000 per child provides some inflation relief for the cost of raising special needs children. As well as being a moral good, keeping special needs children in a family setting may reduce social costs over the long-term by reducing social, economic, and psychological problems that children who remain unadopted, or in foster care, may experience.

Section 24: Teacher-Purchased Supplies Tax Credit. TRD notes that this section may not benefit taxpayers who are able to deduct or exempt most of their income under current law. For example, teachers employed through tribal school may not fall under the qualifications for this benefit. The agency also points out that this section "appears to be legitimizing in the tax code the use of teacher's personal resources to support classroom supply needs. It is generally recognized that teachers' salaries nationwide are not sufficient given the relative importance of their jobs, and it is not ideal that they are spending from their own limited salaries to support their teaching. Other mechanisms outside of the tax code such as sufficient budget funding for school districts and their associated schools may be more appropriate in targeting this public education policy issue."

Sections 25-26: Geothermal Heat Pump Tax Credit. EMNRD notes:

> Since the previous geothermal ground-coupled heat pump tax credit's expiry, New Mexicans have gained access to other tax incentives to install heat pumps. There is a provision for ground-coupled heat pumps in the 2021 Sustainable Building Tax Credit, as well as in federal energy tax credits. There are also rebates offered by several New Mexico utilities. EMNRD also expects to be able to offer rebates for heat pump systems through several upcoming programs authorized by the federal Inflation Reduction Act.

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.

Sections 27-30: Clean Car Income Tax Credits. These income tax credits are intended to incentivize the purchase or lease of electric vehicles and electric vehicle charging units.

SIGNIFICANT ISSUES

Section 31: Electric Generation Tax Sunset. TRD notes:

> The Public Utility Act of New Mexico is a comprehensive set of laws that governs the regulation of public utilities in the state. It establishes the framework for the oversight, operation, and regulation of utilities that provide essential services such as electricity, natural gas, water, and telecommunications. The Act empowers the New Mexico Public Regulation Commission (NMPRC) to regulate and oversee public utilities to ensure that they operate in the best interest of the public. Electricity sold to New Mexico public utilities from generating stations is subject to this Act. The single sales factor election only applies to electricity generation at facilities that do not require NMPRC approval prior to commencing construction or operation' companies that are selling out-of-state do not require these approvals, and thus can elect the manufacturing single sales factor.
>
> In general, corporations in New Mexico are required to apportion a share of their income to New Mexico for Corporate Income Tax purposes based on three factors. These three factors are the corporation's share of property, employment, and sales within New Mexico. Current law temporarily allows an exception to this three-factor apportionment formula for certain corporations receiving income from electricity generation facilities. Instead, those taxpayers are allowed to apportion income to New Mexico based only on their sales, and not on their property or employment.

The agency also notes that "the removal of the sunset will maintain the erosion of horizontal equity among corporate tax filers who though equal in all other respects, i.e., taxable income, payroll, property and sales factors, are not eligible to elect the single sales factor."

Section 32: Armed Service Retirement Pay Tax Sunset. The sunset repeal will not have any effect until FY28 when the current exemption is due to expire; 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.

Sections 33, 34, 39: Geothermal Electricity Tax Credit. EMNRD notes:

> Geothermal electricity in New Mexico is likely to be a critical component to transitioning the state to a renewable energy future which maintains (or improves) reliability and affordability. Geothermal electricity production is reliable, baseload power that is dispatchable at any time, produces near-zero carbon emissions, and has a small physical footprint.

Sections 35-36: Advanced Energy Equipment Credit. This section is a companion to the federal Advanced Manufacturing Production Credit, which is available to taxpayers involved in the manufacturing of specific components or systems related to renewable energy, energy conservation, or carbon capture and storage. The federal credit aims to incentivize the domestic production and sales of advanced energy technologies.

Section 37: Corporate Income Tax Liability. TRD analysis notes that subpart F of the IRC was enacted in 1960s to prevent the deferral of taxation on certain income types of controlled foreign corporations.

Section 38: Solar Market Development Tax Credit Changes. EMNRD notes that the New Solar Market Development Tax Credit has been popular. Since inception in 2020 a total of 12 thousand taxpayers, less than 0.5 percent of all PIT taxpayers over that period, have used the credit to defray the cost of installing residential solar systems.

Section 40: Health Care Services Gross Receipts. This section will ensure that taxpayers have distinct and industry-accurate definitions for both types of deductible amounts.

PERFORMANCE IMPLICATIONS

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.

Sections 1 through 4 and 11: IRBs and Energy Storage Tax Deduction. 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 section.

Section 5: Personal Income Tax Brackets. None.

Section 6: Angel Investment 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 7: Rural Healthcare 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 8: Capital Gains Deduction. 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 deduction and other information to determine whether the deduction is meeting its purpose. The deduction is reported annually in the Tax Expenditure Report.

Section 9: Fire Recovery 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: Corporate Income Tax Rate. None.

Section 12: Medicaid Home Modification GRT Deduction. 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 deduction and other information to determine whether the deduction is meeting its purpose. TRD suggests adding language stating this deduction is required to be separately reported. The effectiveness of this deduction will be unknown without the requirement to state the new deduction separately.

Section 13: Childcare 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 14: Calf Canyon Legal Services GRT. None.

Section 15: Dyed Diesel GRT Deduction. None.

***Sections 16-22: Severance Tax Exemption for Certain* Projects.** None.

Section 23: Special Needs Adopted Child Tax Credit. None.

Section 24: Teacher-Purchased Supplies Tax Credit. TRD notes the purpose of doubling the deduction amount from tax year 2024 to tax year 2025 is unclear. TRD suggests the deduction be the same amount for all tax years, which would simplify cost of implementation because it would require no additional implementation changes in tax year 2025.

Sections 25-26: Geothermal Heat Pump Tax Credit. None.

Sections 27-30: Clean Car Income Tax Credits. None.

Section 31: Electric Generation Tax Sunset. None.

Section 32: Armed Service Retirement Pay Tax Sunset. 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. TRD would report utilization data in its annual Tax Expenditure Report.

Sections 33, 34, 39: Geothermal Electricity Tax Credit. EMNRD notes that adding certification obligations to the agency without additional staff may slow down processing for all

PERFORMANCE IMPLICATIONS

tax credits.

Sections 35-36: Advanced Energy Equipment Credit. 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 credit and other information to determine whether the credit is meeting its purpose. Even if the bill is amended to require TRD to include the costs of this credit in the annual Tax Expenditure Report, the sparsity of claims and claimants would require redacting the data for confidentiality. There may be a means of disclosing costs and benefits on a regular basis, but disclosure is not required in the bill. (See 7-1-29(G) NMSA 1978 which allows public inspection of records of refunds or rebates in excess of $10 thousand.)

Section 37: Corporate Income Tax Liability. None.

Section 38: Solar Market Development Tax Credit Changes. EMNRD notes that increasing the cap and allowing a $20 million supplemental "lookback" opportunity will create a one-year spike in applications which will require additional staff resources.

Section 40: Health Care Services Gross Receipts. None.

ADMINISTRATIVE IMPLICATIONS

In general, TRD would have significant difficulty implementing some changes proposed in this bill by July 1, 2024.

The General Appropriation Act of 2024 appropriates $2 million to TRD to implement tax and motor code changes mandated in legislation. This section includes all other agency administrative and operational implications.

Sections 1 through 4 and 11: IRBs and Energy Storage Tax Deduction. None.

Section 5: Personal Income Tax Brackets. None.

Section 6: Angel Investment Tax Credit. None.

Section 7: Rural Healthcare Practitioner Tax Credit. The eligibility expansion proposed in this section could increase the number of applications submitted to the DOH for the Rural Health Care Practitioner Tax Credit Program, and without adequate staff to process the increased applications, a Full-Time Equivalent be needed to process the increase in tax credit applications.

Section 8: Capital Gains Deduction. None.

Section 9: Fire Recovery Tax Credit. None.

Section 10: Corporate Income Tax Rate. None.

Section 12: Medicaid Home Modification GRT Deduction. None.

Section 13: Childcare Provider GRT Deduction. None.

Section 14: Calf Canyon Legal Services GRT. None.

Section 15: Dyed Diesel GRT Deduction. None.

Sections 16-22: Severance Tax Exemption for Certain Projects. None.

Section 23: Special Needs Adopted Child Tax Credit. None.

Section 24: Teacher-Purchased Supplies Tax Credit. None.

Sections 25-26: Geothermal Heat Pump Tax Credit. None.

Sections 27-30: Clean Car Income Tax Credits. None.

Section 31: Electric Generation Tax Sunset. None.

Section 32: Armed Service Retirement Pay Tax Sunset. None.

Sections 33, 34, 39: Geothermal Electricity Tax Credit. None.

Sections 35-36: Advanced Energy Equipment Credit. None.

Section 37: Corporate Income Tax Liability. None.

Section 38: Solar Market Development Tax Credit Changes. None.

Section 40: Health Care Services Gross Receipts. None.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

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

Sections 1 through 4 and 11: IRBs and Energy Storage Tax Deduction. House Bill 143 and Senate Bill 232.

Section 5: Personal Income Tax Brackets. None.

Section 6: Angel Investment Tax Credit. House Bill 83.

Section 7: Rural Healthcare Practitioner Tax Credit. House Bill 163.

Section 8: Capital Gains Deduction. House Bill 37.
Section 9: Fire Recovery Tax Credit. House Bill 10.

Section 10: Corporate Income Tax Rate. Senate Bill 119 and House Bill 216.

Section 12: Medicaid Home Modification GRT Deduction. House Bill 93.

Section 13: Childcare Provider GRT Deduction. House Bill 166.

Section 14: Calf Canyon Legal Services GRT. Senate Bill 174.

Section 15: Dyed Diesel GRT Deduction. Senate Bill 118.

Sections 16-22: Severance Tax Exemption for Certain Projects. Senate Bill 64.

Section 23: Special Needs Adopted Child Tax Credit. Senate Bill 117.

Section 24: Teacher-Purchased Supplies Tax Credit. Senate Bill 171.

Sections 25-26: Geothermal Heat Pump Tax Credit. Senate Bill 40.

Sections 27-30: Clean Car Income Tax Credits. House Bill 140.

Section 31: Electric Generation Tax Sunset. House Bill 118.

Section 32: Armed Service Retirement Pay Tax Sunset. Senate Bill 56.

Sections 33, 34, 39: Geothermal Electricity Tax Credit. Senate Bill 58.

Sections 35-36: Advanced Energy Equipment Credit. House Bill 274.

Section 37: Corporate Income Tax Liability. Senate Bill 181.

Section 38: Solar Market Development Tax Credit Changes. Senate Bill 121.

Section 40: Health Care Services Gross Receipts. Senate Bill 36.

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