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FISCAL IMPACT REPORT

ORIGINAL DATE 2/4/2022

SPONSOR SCONC LAST UPDATED _____ HB _____

SHORT TITLE Continue Chile Labor Incentive Program SB 157/SCONCS

ANALYST Fischer

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY22	FY23		
\$2,200.0		Recurring	General Fund (Appropriation Contingency Fund)

(Parenthesis () Indicate Expenditure Decreases)

Conflicts with Appropriations in the General Appropriation Act

SOURCES OF INFORMATION

LFC Files

Responses Received From

New Mexico Department of Agriculture (NMDA)

SUMMARY

Synopsis of Bill

The Senate Conservation Committee Substitute for Senate Bill 157 appropriates \$2.2 million from the appropriation contingency fund of the general fund to the New Mexico Department of Agriculture at New Mexico State University to continue its chile labor incentive program through fiscal year 2023. There is no effective date of this bill. It is assumed that the effective date is 90 days following adjournment of the Legislature.

FISCAL IMPLICATIONS

The appropriation of \$2.2 million contained in this bill is a recurring expense to the general fund. Any unexpended or unencumbered balance remaining at the end of fiscal year 2023 shall revert to the appropriation contingency fund of the general fund. Although Senate Bill 157 does not specify future appropriations, establishing a new grant program could create an expectation that the program will continue in future fiscal years, therefore this cost is scored as recurring.

The appropriations in Senate Bill 157 are from the appropriation contingency fund. Those funds are part of the state's allocation from the American Rescue Plan Act's state fiscal recovery fund. House Bill 2 state budget as passed out of the House of Representatives already appropriates all of the \$1.07 billion state fiscal recovery funds. As such, those appropriations would need to be reduced by \$2.2 million if Senate Bill 157 passes.

SIGNIFICANT ISSUES

The Senate Conservation Committee Substitute for Senate Bill directs \$2.2 million to NMDA to increase the hourly wages of laborers who work in chile growing and production. The bill requires NMDA to require the farmer and processor employers to provide payroll ledgers for the previous chile growing season and the period of application that display the laborers' names, dates and hours worked and the hourly wage that was paid and the incentive increase in the hourly wage per worker compared to the previous chile growing season. The bill also requires NMDA to report to the governor and Legislative Finance Committee by December 1, 2022 and 2023 on the employers that received chile labor incentive program funds, how each of those employers raised regular hourly wages for their chile workers and the recovery of funds not paid to workers.

The chile labor incentive program was created by NMDA and the governor to provide wage supplements to seasonal laborers working on chile farms and in chile processing. The program was a response to labor shortages brought on by the Covid-19 pandemic. The governor allocated \$5 million of the state fiscal recovery funds from the American Rescue Plan Act to New Mexico State University in August 2021 for the program.

The chile industry typically employs a seasonal workforce of 3,000 workers and was facing a 45 percent labor shortage, 1,350 fewer seasonal employees than normally required. The Chile Association through the NMDA reported the average wage paid to laborers was approximately \$15 an hour. Through the incentive program, chile growers, labor contractors, and processors enhance wages for laborers up to a maximum of \$19.50 an hour. The maximum premium payment could not exceed \$4.50 per hour. The deadline for all applications and claims was set at February 28, 2022.

In early December 2021, the program was terminated pursuant to the state Supreme Court's decision that the Legislature and not the governor had appropriating authority over the state fiscal recovery funds. Before program termination, the incentive program supported enhanced wages for over 3,000 workers, distributing \$2.8 million to qualified participants.

Incentive payments were reimbursements by NMDA upon receipt of a completed application and all required documentation. Growers, labor contractors, and processors could submit claims to NMDA weekly, monthly, or on a season-end basis. NMDA reports that the appropriations contained in SB157 would allow back claims for labor expenses incurred through January 31, 2022, or upon full utilization of allocated funds.

ADMINISTRATIVE IMPLICATIONS

The New Mexico Department of Agriculture estimated it would incur costs of \$90 thousand in salary and fringe benefits to administer the program.