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FISCAL IMPACT REPORT

ORIGINAL DATE 02/17/09

SPONSOR Garcia LAST UPDATED _____ HB 571

SHORT TITLE Chile Production Income Tax Credit SB _____

ANALYST Gutierrez

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Non-Rec	Fund Affected
FY09	FY10	FY11		
	(\$291.5)	(\$1,121.0)	Recurring	General Fund

(Parenthesis () Indicate Revenue Decreases)

Duplicates SB327

SOURCES OF INFORMATION

LFC Files

Responses Received From

Taxation and Revenue Department (TRD)

NM Department of Agriculture (NMAG)

SUMMARY

Synopsis of Bill

House Bill 571 creates a credit of \$200 per acre of chile planted that can be used to offset personal or corporate income tax liability. The credit can be carried forward for up to three years but is not refundable and is applied first before any other tax credit.

The credit is effective for tax years 2009, 2010 and 2011 only.

FISCAL IMPLICATIONS

The fiscal impact is based on 11,000 acres of chile production which reflects a decline from the 2007 reported acreage of 12,000. The credit is assumed to stop the decline in planting but not increase it so the fiscal impact is equal each year. TRD assumes that 50 percent of the credit will offset personal income tax liability in the first year and 50 percent in the second year and for corporate income tax 20 percent in the first year and 80 percent in the second. Finally, TRD assumed that 20 percent offsets corporate income tax and 80 percent offsets personal income tax.

Attachment A is the latest Department of Agriculture production report.

SIGNIFICANT ISSUES

NMAG:

The chile industry contributes great economic and cultural values to the state. Besides its long cultural tradition, it adds to the states' economy through 3,000 full time and 9,000 part time jobs. Chile contributes \$235 million to the states economy, down from \$400 million 3 years ago (NM chile association).

However, the industry is faced with many challenges. These include scarcity of labor, high labor costs, weather, and increased foreign competition from mexico, china, peru, and others. Because of this, in 2007 new mexico chile production declined for the third straight year, falling 33 percent below 2006. Harvested acreage has fallen from 16,200 acres in 2005 to 11,000 acres in 2007. The chile production income tax credit will help this vital industry remain viable and competitive.

ADMINISTRATIVE IMPLICATIONS

TRD:

Create a new tax credit claim form and a process. Coordinate with the farm service agency of the US Department of Agriculture to develop audit procedures. This will take approximately 40 hours. Modify forms, instructions, and publications related to tax credits and the PIT, CIT, PTE, and FID tax programs at minimal cost. 1/3 additional FTE would be needed to accommodate the manual processes related to approving and monitoring claims. A small impact to IT system changes.

Develop forms to qualify the taxpayer for the credit and a "tax credit document" to issue to the taxpayer. Add a line on both the NM CIT and NM PIT returns to show the amount of the credit being claimed. ACD may need to go verify that credit claims are valid and audit the documentation before approval. This will require more audit staff in the south since that is where the majority of the chile processors and producers are located. GenTax will need to be programmed to flag taxpayers who claim the credit against gross receipts, compensating, and withholding taxes to verify the balance, if any, in the event that the taxpayer claims the credit on income tax. Track the credit carry forward, which will require a database be maintained in the Revenue Processing Division of the Taxation and Revenue Department.

The Legislative Finance Committee has adopted the following principles to guide responsible and effective tax policy decisions:

- 1. Adequacy:*** revenue should be adequate to fund government services.
- 2. Efficiency:*** tax base should be as broad as possible to minimize rates and the structure should minimize economic distortion and avoid excessive reliance on any single tax.
- 3. Equity:*** taxes should be fairly applied across similarly situated taxpayers and across taxpayers with different income levels.
- 4. Simplicity:*** taxes should be as simple as possible to encourage compliance and minimize administrative and audit costs.
- 5. Accountability/Transparency:*** Deductions, credits and exemptions should be easy to monitor and evaluate and be subject to periodic review.

More information about the LFC tax policy principles will soon be available on the LFC website at www.nmlegis.gov/lcs/lfc

DUPLICATION

This bill duplicates Senate Bill 327.

TECHNICAL ISSUES

TRD:

The bill allows taxpayers who own an interest in a “business entity” that is a chile producer to claim an income tax credit. It also prohibits a taxpayer claiming an income tax credit from claiming a corporate income tax credit. (P. 2, line 25 through P. 3 line 4.) A taxpayer claiming a personal income tax credit would not be liable for corporate income tax. A shareholder in a corporation, as a taxpayer owning an interest in a business entity, would be able to take the credit on his or her personal income tax. The bill perhaps intended that a corporate income tax credit would not be taken by the corporation when the credit is taken by shareholders, but does not clearly state that

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