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FISCAL IMPACT REPORT

SPONSOR Nava **ORIGINAL DATE** 02/15/09 **LAST UPDATED** 03/06/09 **HB** _____

SHORT TITLE Nonresident Federal Worker Property Taxes **SB** 272/aSCORC

ANALYST Francis

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Non-Rec Recurring	Fund Affected General fund
FY09	FY10	FY11		
		(\$1, 600.0)		

(Parenthesis () Indicate Revenue Decreases)

Relates to SB430, HB430
 Duplicates HB429

SOURCES OF INFORMATION

LFC Files

Responses Received From

Taxation and Revenue Department (TRD)
 NM Border Authority (NMBA)

SUMMARY

Synopsis of SCORC Amendment

The Senate Corporations and Transportation Committee amended Senate Bill 272 disallowing the tax credit for those taxpayers who deduct property tax from their federal taxable income.

Synopsis of Bill

Senate Bill 272 creates the “Nonresident Federal Law Enforcement Employee Tax Credit,” which is a credit against personal income tax liability for individuals who are employed at a federal law enforcement facility within 20 miles of the Mexican border. The credit is the lesser of out-of-state property tax on primary residence or \$1,975.00. The credit can only be claimed against the tax liability in the tax year and can only be used for three years from the employees hire date.

SB272 is effective for tax years 2010 through 2016.

FISCAL IMPLICATIONS

TRD:

Senate Memorial 60 (2008 session) states that a federal law enforcement agency has expressed interest in moving to the New Mexico border region, and would bring between 3,000 and 5,000 jobs. The revenue estimate assumes the agency moves to New Mexico and brings 4,000 jobs with a 25% turnover rate. 65% of the employees are assumed to live outside New Mexico. The average salary is assumed to be approximately \$50 thousand. Based upon information obtained from the Tax Foundation, 40% are assumed to itemize deductions and therefore to be ineligible for the credit. Additionally, approximately 3% of individuals are estimated to have sufficient tax liability to use the full credit; the remaining 97% would be able to use half the credit.

SIGNIFICANT ISSUES

This creates a credit against property taxes in another state even though there is already a deduction for taxes paid to other states as part of the personal income tax form. TRD reports that generally, wages earned in a state are taxable by that state and not the state where the taxpayer is a resident. New Mexico follows this rule, which reflects the fact that workers receive the benefit of public services in their place of employment. The proposed credit could largely remove any New Mexico tax on qualifying nonresidents.

The Border Authority claims that the federal agencies will not want to move to New Mexico because of the perception that taxes will be higher. It is true that Texas has no income tax but in El Paso, taxes on purchases (sales, gas, cigarettes, cars) and property are all higher than in Las Cruces, the closest metro area to the likely location of the Department of Homeland Security facility.

Major Taxes	Las Cruces	El Paso
Personal Income	0.049	
Sales	7.125	8.250
Property	0.009	0.031
Gasoline	0.170	0.200
Cigarettes	0.910	1.410
Motor Vehicle Excise	3.000	6.250

According to the Border Authority, there is increasing interest from several agencies within the federal Department of Homeland Security (DHS) to locate new facilities in New Mexico's border area. One agency, the Border Patrol, is considering the creation of a new national training facility in the Santa Teresa area, potentially employing hundreds of federal personnel. DHS is also considering the relocation and expansion of two federal facilities from the El Paso area, employing several hundred personnel.

ADMINISTRATIVE ISSUES

According to TRD, A new tax credit claim process will need to be created. Coordination with qualifying law enforcement agency facilities to develop audit procedures and provide employee education, which will take approximately 40 hours. Modify forms, instructions, and publications related to tax credits and the PIT tax program. 1/3 additional FTE required for the processes related to tracking, auditing, and monitoring credit claims. Due to high potential for fraudulent claims, extra care should be used to educate taxpayers who do not qualify.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

HB 429 as amended is a duplicate bill.

HB 430 creates an income tax credit for employees of manufacturing facilities within 20 miles of the border.

TECHNICAL ISSUES

TRD has highlighted the following technical issues:

The phrase “federal law enforcement agency that has qualified pursuant to this section for the calendar year” on page 2, lines 4-5 is unclear.

There is no definition of a “qualified federal law enforcement agency.” There is a definition of “facility” and it might be assumed that the “qualified federal law enforcement agency” is a federal law enforcement agency that has a facility in New Mexico that was constructed after January 1, 2010. The repeal section does not address carry-forward of any credit allowed prior to 2017.

NF/mc

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