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## FISCAL IMPACT REPORT

ORIGINAL DATE 02/26/09

SPONSOR Sharer LAST UPDATED \_\_\_\_\_ HB \_\_\_\_\_

SHORT TITLE Internet Investment Tax Credit SB 618

ANALYST Gutierrez

### REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Non-Rec	Fund Affected
FY09	FY10	FY11		
	(Indeterminate)	(Indeterminate)	Recurring	General Fund

(Parenthesis ( ) Indicate Revenue Decreases)

### ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY09	FY10	FY11	3 Year Total Cost	Recurring or Non-Rec	Fund Affected
<b>Total</b>	\$30.0	*\$200.0	*\$200.0	*\$430.0	Recurring	General Fund

(Parenthesis ( ) Indicate Expenditure Decreases)

\*Estimated staff requirements for DoIT, see narrative.

### SOURCES OF INFORMATION

LFC Files

#### Responses Received From

Taxation and Revenue Department (TRD)

Public Regulation Commission (PRC)

Department of Information Technology (DoIT)

### SUMMARY

#### Synopsis of Bill

Senate Bill 618 adds a new section of Chapter 7 NMSA 1978 to provide a tax credit for those who hold an interest in a qualified rural high-speed broadband internet or wireless internet service in a county other than a class A county. A taxpayer may apply for the credit by submitting to TRD a certificate issued by DoIT, documentation showing the taxpayer's interest in the qualified rural high-speed broadband internet or wireless internet service identified in the certificate. And other information the TRD requests to determine the amount of tax credit due to the taxpayer. The credit may be claimed against the taxpayer's gross receipts, compensating or

withholding tax due to the state. If the credit exceeds the liability, the remaining amount may be carried forward for up to five years. The taxpayer must apply for approval for a credit within 1 year following the end of the calendar year in which the costs are incurred.

For the certificate of eligibility, DoIT shall:

1. determine if the facility is qualified
2. require that the requestor provide DoIT with the information necessary to assess whether the requestor's facility meets the criteria to be qualified
3. issue a certificate within 180 days after receiving all information
4. issue rules governing the procedure for administering the provisions of this bill

The provisions of this act apply to taxable years beginning on or after January 1, 2010.

### **FISCAL IMPLICATIONS**

This bill does not provide an appropriation.

TRD:

The Department is unable to provide a fiscal impact as the rules to determine the amount of credit for each taxpayer are not specified in the bill.

DoIT:

Fiscal implications for the DoIT are difficult to determine at this time. There are several issues for consideration, not the least of which is the lack of qualified staff respective to business organization types and structures necessary to make a determination of eligibility. Such staff would require sufficient knowledge of the technology and the economics of such matters to grant such an application. Besides the lack of qualified staff, the fiscal impact also directly relates to the volume and complexity of eligibility requests. The proposed business process requires not only dedicated staff; it demands purchase of a new technology system to satisfy the requirements of the bill. Furthermore, the bill contains no appropriation for any potential additional costs such as mileage and per-diem should the evaluation process require site visits.

### **SIGNIFICANT ISSUES**

Since DoIt operates and leases broadband and wireless internet as one of the largest customers in the state, it might be a conflict of interest for them to regulate development through tax policy.

DoIt is expected to receive a large federal grant from the federal stimulus package and might actually compete with companies seeking tax credit certificates.

There is no direction in the bill as to whether funds received from a federal subsidy, grant or development loan and expended for these purposes could be claimed for the tax credit or not.

This bill introduces a new business process to the DoIT operations structure. Specific roles and procedures for such business processes should include an appeals process that will require definition and authority. Such new business processes would have to be available by January 1, 2010.

Many of the applicants will be telephone companies currently under various levels of regulation by PRC. The DoIT and the PRC may need to collaborate and ensure that certain technical definitions utilized by both organizations are consistent.

## PERFORMANCE IMPLICATIONS

DoIT:

Staff pulled to work on this matter would significantly deplete DoIT's resources; it could also lead to errors in granting such credits as there are no experienced staff currently available and the bill does not appropriate any dollars to enhance DoIT capabilities.

## ADMINISTRATIVE IMPLICATIONS

This bill will have a low IT impact on TRD. A new business credit will need to be added to the GenTax CRS program.

DoIT:

The bill does not include an appropriation for any additional costs related to the proposed new business process. The administrative implications would be extensive as passage would create an unfunded mandate which would be difficult to accomplish given the scarcity of resources. DoIT estimates an initial cost of \$30,000.00 to develop/procure a system to process eligibility requests. Additionally, staff costs would need to include appropriations for at least 2 economists and 2 technology staff members familiar with the types of certification that might be needed.

## TECHNICAL ISSUES

This bill does not specify the rules or the information to be used by TRD in computing the amount of credit.

## OTHER SUBSTANTIVE ISSUES

PRC:

Many of the applicants will be telephone companies currently under various levels of regulation by the PRC. The PRC is not mentioned in the bill and its role, if any, is undefined by the proposal.

BLG/svb

***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](http://www.nmlegis.gov/lcs/lfc)***