F I S C A L   I M P A C T   R E P O R T

SPONSOR Campos | **ORIGINAL DATE** 02/27/13 | **LAST UPDATED** 03/02/13 | **HB**

SHORT TITLE Rural Investment Income Tax Credit | **SB** 542

ANALYST van Moorsel

REVENUE (dollars in thousands)

Estimated Revenue					Recurring or Nonrecurring	Fund Affected
FY13	FY14	FY15	FY16	FY17		
		($750.0)	($1,125.0)	($1,500.0)	Recurring	General Fund

(Parenthesis ( ) Indicate Revenue Decreases)

SOURCES OF INFORMATION
LFC Files

Responses Received From
Taxation and Revenue Department (TRD)
Department of Finance and Administration (DFA)

SUMMARY

Synopsis of Bill

Senate Bill 542 (SB 542) amends the Income Tax Act and the Corporate Income and Franchise Tax Act to create the rural investment income tax credit for the purpose of to encouraging residents of rural areas to invest in their communities, and creating new jobs and providing needed services of communities in rural areas of the state.

The credit may be claimed by a taxpayer who makes a qualified investment may claim the credit in an amount up to 25 percent of up to $100,000 of the qualified investment.

A taxpayer may claim the credit for up to two qualified investments in a taxable year, provided that each investment is in a different qualified business and the taxpayer hires at least three eligible employees for each qualified business. A taxpayer may claim the credit for qualified investments made in the same qualified business or successor of that business for not more than three taxable years, and the credit may not exceed $25 thousand. The annual cap on the credit is $750 thousand against PIT and $750 thousand against CIT respectively, for an aggregate cap of $1.5 million. The credit must be claimed within one year following the end of the year in which the investment was made, but a taxpayer may carry an approved credit forward for three years. Qualifying investments must be made before January 1, 2022.

To claim the credit, the qualified taxpayer must obtain a certificate of eligibility from the Economic Development Department (EDD). For purposes of this credit "qualified investment" means a cash investment in a qualified business for equity, but does not include an investment by a taxpayer if the taxpayer, a member of the taxpayer's immediate family or an entity affiliated with the taxpayer receives compensation from the qualified business in exchange for services provided to the qualified business within one year of investment in the qualified business.

The bill also amends the Tax Administration Act to allow the Taxation and Revenue Department (TRD) to release return information (not including a taxpayer's name, address or government-issued identification number) to the Revenue Stabilization and Tax Policy Committee, Legislative Finance Committee (LFC), and the EDD. This confidential information is to be used to facilitate the compilation of a report on the effectiveness of a tax credit or deduction.

FISCAL IMPLICATIONS

The TRD estimates the credit would first be claimed in FY15, and that claims against PIT would total 40 percent of the cap, and claims against CIT would total 60 percent of the cap, for a total general fund impact of $750 thousand. This impact would grow each year until reaching the statutory cap in FY17 and in subsequent years.

This bill may be counter to the LFC tax policy principle of adequacy, efficiency and equity. Due to the increasing cost of tax expenditures revenues may be insufficient to cover growing recurring appropriations.

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.

SIGNIFICANT ISSUES

The TRD notes SB 542 could also the disclosure of federal taxpayer information (FTI). Unauthorized access, disclosure, printing or publishing of FTI is prohibited by United States Code Title 26 Sections 7213, 7213A, 7431 and United State Code 18 Section 1030 and may result in disciplinary action or criminal prosecution or civil damages. Also, unauthorized access, disclosure, printing or publishing of state tax information is prohibited by NMSA 1978, 7-1-8. NMSA 1978, 7-1-76, also imposes criminal penalties for revealing certain taxpayer information.

This bill would address some of the above information disclosure issues by removing a taxpayer's name, address or government-issued identification number. However, the TRD notes the type of information requested should be in the aggregate, rather than in a taxpayer-by-taxpayer format detailing type of activity, as it might still be possible to identify an individual taxpayer.

PERFORMANCE IMPLICATIONS

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 and other information to determine whether the deduction is meeting its purpose.

Does the bill meet the Legislative Finance Committee tax policy principles?

1. **Adequacy**: Revenue should be adequate to fund needed government services.
2. **Efficiency**: Tax base should be as broad as possible and avoid excess reliance on one tax.
3. **Equity**: Different taxpayers should be treated fairly.
4. **Simplicity**: Collection should be simple and easily understood.
5. **Accountability**: Preferences should be easy to monitor and evaluate

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