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

ORIGINAL DATE 1/30/07
SPONSOR Beffort **LAST UPDATED** 3/13/07 **HB**

SHORT TITLE Agricultural Water Conservation Tax Credits **SB** 291/aSCORC

ANALYST Francis

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Non-Rec	Fund Affected
FY07	FY08	FY09		
	($6,250.0)	($8,950.0)	Recurring	General Fund

(Parenthesis ( ) Indicate Revenue Decreases)

SOURCES OF INFORMATION
LFC Files
Taxation and Revenue Department (TRD)
Department of Agriculture Census of State and Local Agriculture

Responses Received From
Taxation and Revenue Department (TRD)

SUMMARY

Synopsis of SCORC Amendment

The Senate Corporations and Transportation Committee made several amendments to Senate bill 291. First, the amendment changes the responsibility for promulgating rules to the NM Department of Agriculture from the Soil and Water Conservation Commission but requires the latter's advice and consent. Second, the amendment defines "taxpayer" to include partnerships, limited liability corporations, or other pass-through entities and prorates the credit to share of ownership. Both of these provisions apply to the personal income tax and corporate income tax.

Synopsis of Original Bill

Senate Bill 291 allows a taxpayer to claim a credit against personal or corporate income tax liability of up to 75 percent of incurred expenses up to $10,000 for eligible improvements that conserve water used in agriculture. The taxpayer must own or lease the water right for the land, file an NM tax return, not be a dependent of another taxpayer and does not take the credit for both personal and corporate income tax.

An eligible improvement is one made after January 1, 2008, is consistent with a water conservation plan approved by the local soil and water conservation district, and designed to conserve water on farm, ranch or timber land. Co-owners of the land can receive pro-rata shares of the credit and the credit can be carried forward for five years if it exceeds the liability in the current year.

FISCAL IMPLICATIONS

The amendments by SCORC do not change the fiscal impact estimated in the original bill.

TRD:

Note: Fiscal impacts of the bill have been revised due to new information, not primarily because of the amendments.

According to the USDA's Census of Agriculture, *2003 Farm and Ranch Irrigation Survey* 2,500 New Mexico farms spent a total of $25.6 million on all types of investment in irrigation equipment, land improvement and computer technology in that year. For the U.S. as a whole, that figure had declined slightly over the previous five years. $6.2 million of the total was spent on water conservation investments. The estimate assumes that a substantial part of the remaining investment would qualify for the proposed credit, so that the total credit base of expenditures would be about $14 million in tax year 2008. Assuming the $14 million is spread over the 2,500 farms that had investments of any kind yields an average per farm of about $5,500. At a credit rate of 75 percent, this would yield potential credits of $4,125 per farm. Based on farm income information from the Census of Agriculture and income statistics from the federal income tax returns of New Mexico residents, it appears that the average farm operator will have between $1,000 and $2,000 of annual income tax liability. Thus, the average farm would not be able to take advantage of the full $4,1215 in credits in one year. The fiscal impact assumes that taxpayers will use 60 percent of the credits in the year in which they are generated, and the remainder are carried forward and used over the next four years. Credits earned in tax year 2008 are assumed to be claimed for the first time in the spring of 2009 when the tax returns for tax year 2008 are due. The same pattern is assumed in future years.

SIGNIFICANT ISSUES

Farm income tax liability is generally low due to the nature of the industry and the tax treatment of agriculture both at the state level and the federal level. The average farm had a net income of $19, 373 in 2002, according to the Department of Agriculture. Credits for expenditures such as irrigation equipment will have the effect of completely erasing tax liability in many cases.

NF/mt