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FISCAL IMPACT REPORT

ORIGINAL DATE 2/4/15
LAST UPDATED 3/17/15 **HB** _____
SPONSOR Wirth

SHORT TITLE Agricultural Use Of Land For Taxes **SB** 330
ANALYST Graeser

REVENUE (dollars in thousands)

Estimated Revenue					Recurring or Nonrecurring	Fund Affected
FY15	FY16	FY17	FY18	FY19		
	NFI	NFI	NFI	NFI	Recurring	General Fund
	**	**	**	**	Recurring	State, County, Muni, Special District Operating Levies
	**	**	**	**	Recurring	State, County, Muni, Special District Debt Levies

(Parenthesis () indicate revenue decreases

** For both debt and operating levies, the underlying jurisdictions are largely held harmless to this increase in exempted value. There may be short-term effects on debt.

SOURCES OF INFORMATION

LFC Files

Responses Received From

New Mexico Department of Agriculture (NMDA)

New Mexico Taxation and Revenue Department, Property Tax Division (TRD/PTD)

SUMMARY

Synopsis of Bill

Senate Bill 330 expands the definition of agricultural use for property tax valuation purposes. The term “agricultural use” would include two new uses:

- pursuant to an agreement with an agency of the state or federal government or as required by state or federal law, improves the capacity of the land to support agriculture
- pursuant to an agreement with an agency of the state or federal government provides ecological services for public benefit through land management practices that promote soil and water conservation, forest and rangeland health and critical wildlife habitats.

For both changes, the land must have been used for traditional agriculture production or received set-aside payments from a soil conservation program of the federal government in one or more of the three years preceding the year in which the determination is made.

The bill's provisions are applicable to the 2016 property tax years, with property payments affected in November 2016 (FY 2017). The effective date of the act is not stated – assume 90 days after adjournment or June 19, 2015.

FISCAL IMPLICATIONS

This amendment is largely technical. The fiscal impact will be very small. Because of the way in which both operating and debt rates are determined, the provisions of this bill will have an equally small impact on State, County, Municipal and Special District levies, except in the year in which a determination is made. The primary impact will be shifting property tax levies from the advantaged class to all other taxpayers. However, the major impact of this bill would be to allow landowners who have previously qualified for the agricultural special valuation method to retain that benefit, even if their land was no longer agriculturally productive, but had been converted to other, similar uses.

This bill may be counter to the LFC tax policy principles of adequacy, efficiency, accountability and equity. Because of the nature of the property tax, this bill invokes issues of equity more than adequacy.

SIGNIFICANT ISSUES

Section 7-36-20 NMSA 1978 establishes the general rule for valuing land used primarily for agricultural purposes. This general rule requires that agricultural land value shall be based on the land's capacity to produce agricultural products. To the extent that allowing land to remain fallow for a year or two can improve its productive capacity, the extension of the term "agricultural use" to include land left fallow pursuant to an agreement with the state or federal government causes no problems.

NMDA, however, points out that using agricultural land to promote rangeland health and provide wildlife habitats makes it difficult to determine the value of the land based on its ability to produce agricultural products.

Specifically, NMDA notes, "Agriculture land is valued based on the capacity to produce. Properties that qualify by providing ecological services for public benefit would have no agricultural production from which a property value could be derived."

NMDA further notes, "It is undefined what agreements or requirements of law would qualify for the special method of valuation. Given the focus of state and federal assistance programs on wildlife habitat and watershed health, a situation exists where a property enrolled in state or federal wildlife habitat or watershed improvement programs could qualify for the special method of valuation. Thus, land that is no longer used primarily for agricultural production may qualify for the special method of valuation."

OTHER SUBSTANTIVE ISSUES

Article VIII, Section 1 of the New Mexico Constitution -- Levy to be proportionate to value; uniform and equal taxes; percentage of value taxed; limitation on annual valuation increases is very clear that special methods of valuation are permitted:

- A. ... taxes levied upon tangible property shall be in proportion to the value thereof, and taxes shall be equal and uniform upon subjects of taxation of the same class.

B. ...different methods may be provided by law to determine value of different kinds of property...

The intent, therefore, of this bill may be to use the value of fallow land or land used as wildlife habitat as determined the last time the land was used for agricultural production or received federal set-aside payments. Any other valuation method would violate the equal and uniform requirement, because the land in question is in the same class as productive agricultural land.

CONFLICTS

SB 330 is in conflict with CS/SB 112 and CS/HB 112, which are nearly duplicates. These latter bills expand the definition of “agricultural use” to include the resting of land to maintain its capacity to produce agricultural products or to rest land used in the previous tax year for a purpose identified in Section 7-36-20 if the resting of land is concurrent with and a direct result of at least moderate drought conditions confirmed by the United States Department of Agriculture for the portion of the county within which the land is located.

HB 112 and SB 112 also implicitly direct the County assessor to use the value derived the last time the land was used for agricultural production. The “last time” is indeterminate in these bills, and could extend as long as moderate drought conditions apply. SB 330, on the other hand, permits the alternative use to last only for three years and still have the alternative use qualify the land for the special agricultural method.

LG/je