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FISCAL IMPACT REPORT

SPONSOR: Romero DATE TYPED: 03/06/03 HB _____

SHORT TITLE: Land Conservation Incentives Act SB 581/aSCORC

ANALYST: Neel

REVENUE

Estimated Revenue		Subsequent Years Impact	Recurring or Non-Rec	Fund Affected
FY03	FY04			
	(Insignificant)	(\$100.0)	Recurring	General Fund

(Parenthesis () Indicate Revenue Decreases)

Relates to:

HB 747, Land Conservation Incentives Act

SOURCES OF INFORMATION

LFC files

Responses Received From

Taxation and Revenue Department (TRD)
 Energy, Minerals and Natural Resources Department (EMNRD)
 Attorney General's Office (AG)
 State Land Office (SLO)

SUMMARY

Synopsis of SCONC Amendment

The Senate Conservation Committee Amendment reduces the allowable credit from the "fair market value" to 50 percent of the fair market value of land or interest in land that is conveyed for the purpose of open space. Additionally, the amendment stipulates that only one credit can be claimed per taxable year.

The fiscal impact has been reduced proportionally with the reduction in the tax credit.

Synopsis of Original Bill

Senate Bill 581 enacts the New Mexico “Land Conservation Incentives Act” (LCIA) which will permit land owners who donate an interest in real property to a government agency or qualifying charitable organization to claim a credit against their tax liability of up to \$100,000 over a 20 year period.

Significant Issues

The program will leverage public and private resources and will stretch limited funds available for land conservation activities. Local governments with open space protection programs will benefit directly by being able to offer property owners with an economic and land use choice by making it more feasible financially for a landowner to conserve land rather than sell it for development. Owners of farms and ranches will also benefit in their efforts to maintain family agricultural businesses.

FISCAL IMPLICATIONS

TRD notes the following assumptions in determining the fiscal impact:

TRD does not have detailed information on land donations. However, the potential impacts of the proposal could be significant. The Nature Conservancy--one of the organizations that would be eligible for donations under the proposal--reports receiving \$80 million in land donations nationwide in 2001. The potential for significant donations is increased by the fact that the proposed credits are in addition to a deduction from federal taxable income for the value of the donation. The combined value of the federal tax deduction and the credit could exceed the value of the land.

An average of 56 taxpayers paid in excess of \$100,000 in New Mexico personal income taxes in tax years 2000 and 2001. If only one taxpayer within this group donated land valued at \$100,000, the resulting impact on the General Fund would total \$107,700 – the value of the \$100,000 credit plus the \$7,700 reduction resulting from deducting income at a 7.7 percent marginal New Mexico income tax rate. Actual revenue loss resulting from the proposal could be substantially greater or smaller than the \$200,000 figure shown above.

ADMINISTRATIVE IMPLICATIONS

The LCIA will require the periodic convening of the committee established in the Natural Lands Protection Act (NLPA) in order to review applications for tax credits authorized by the act.

The Forestry Division has program management responsibilities for the Forest Legacy Program. This federally funded program affords landowners the opportunity to sell development rights for conservation purposes. There may be opportunities to link the Forest Legacy Program and LCIA for its tax provisions.

According to EMNRD, the fiscal impacts associated with the administration of the program are estimated to be \$24,000/year beginning in FY 05. Impacts would include approximately 25% of one FTE (estimated @ \$20,000/year) to coordinate the program and the per diem associated with meetings of the seven-member committee established under the Natural Lands Protection Act

(NMSA 1978, Section 75-5-4 A.) estimated to be \$4,000/year based upon a quarterly meeting schedule. If NLPA acquisitions were under consideration, the meetings would serve a dual purpose and the fiscal impact would be shared between the two programs.

OTHER SUBSTANTIVE ISSUES

Ten other states, including Colorado have similar programs in place; however, most programs have been enacted since 1998, therefore little tax return data is available. Two states have placed fiscal caps on the value of credits which can be approved; in Delaware the cap is \$10 million over the first ten years of the program, and in California the cap is \$100 million over the first five years. In North Carolina the tax credit limit is \$250,000 for individuals and \$500,000 for corporations, in South Carolina the tax credit is granted on a \$250 per acre basis with a maximum credit of \$52,500 per year. In Colorado the credit is transferable and can exceed an individual's tax liability, but is limited to \$20,000 per year. In a few other states the tax credit is limited to a percentage of the fair market value of the donation.

SN/prr