

BILL ANALYSIS AND FISCAL IMPACT REPORT
Taxation and Revenue Department

February 5, 2024

Bill: HB-291 **Sponsor:** Representatives Yanira Gurrola, Kathleen Cates, Susan K. Herrera, and Eleanor Chavez

Short Title: Allow Water Reuse Requirements

Description: This bill enacts a new section of the Income Tax Act allowing a tax credit equal to up to 20% of the purchase and installation cost of a permitted rainwater or storm water catchment system purchased and installed by an individual after January 1, 2024, and before December 31, 2034. The credit may not exceed \$5,000 and the Taxation and Revenue Department (Tax & Rev) the maximum aggregate cap for these credits is \$2 million per year. Once issued, a credit may be sold, exchanged, or otherwise transferred. If claimed by the taxpayer, any portion of the credit that exceeds a taxpayer’s tax liability may be carried forward for a maximum of 10 consecutive taxable years.

Effective Date: Not specified; 90 days following adjournment (May 15, 2024). Applicable to taxable years beginning on or after January 1, 2024.

Taxation and Revenue Department Analyst: Asif Rasool

Estimated Revenue Impact*					R or NR**	Fund(s) Affected
FY2024	FY2025	FY2026	FY2027	FY2028		
--	(\$100 - Up to \$2,000)	(\$100 - Up to \$2,000)	(\$100 - Up to \$2,000)	(\$100 - Up to \$2,000)	R	General Fund

* In thousands of dollars. Parentheses () indicate a revenue loss. ** Recurring (R) or Non-Recurring (NR).

Methodology for Estimated Revenue Impact:

[Section 2]:

- **Cost of setting up rainwater catchment systems:**

The cost associated with different types of rainwater catchment systems can vary depending on several factors, including the system size, complexity, materials used, and installation requirements. Here are some general cost considerations for various types of rainwater catchment systems:

1. **Rain Barrels:** Rain barrels are one of the simplest and most affordable rainwater catchment systems. They typically range in size from 50 to 100 gallons and can be connected to downspouts to collect rainwater from rooftops. The cost of a rain barrel can vary between \$50 and \$200, depending on the material (plastic or wood), design, and additional features such as spigots or diverters.
2. **Above-Ground Cisterns:** Above-ground cisterns are larger storage containers that can hold several hundred to thousands of gallons of rainwater. These cisterns are often made of plastic, concrete, or metal. The cost of an above-ground cistern can range from a few hundred dollars for smaller capacities (e.g., 250-500 gallons) to several thousand dollars for larger capacities (e.g., 2,000-10,000 gallons). Additional expenses may include installation, plumbing connections, and accessories like filters and pumps.
3. **Underground Cisterns:** Underground cisterns are installed below the ground surface, providing a discreet and space-saving water storage option. These cisterns are typically made of durable

materials like concrete or plastic. Underground cisterns are more expensive due to excavation and installation costs. The cost can range from a few thousand dollars for smaller capacities to tens of thousands of dollars for larger capacities.

4. **Rainwater Harvesting Systems with Treatment:** Some rainwater catchment systems include water treatment components to ensure the collected rainwater is suitable for potable use. These systems may incorporate filters, UV disinfection, or other treatment methods. The cost of these systems can vary significantly depending on the complexity of the treatment setup and water quality requirements. It may range from a few thousand to tens of thousands of dollars.

Note: the costs provided above are general estimates and can vary depending on local market conditions, labor costs, and specific installation requirements. Additionally, expenses related to permits, site preparation, plumbing connections, and maintenance should be considered when budgeting for a rainwater catchment system.

Tax & Rev cannot provide a more precise estimation due to the lack of data on current investment in rainwater capture in New Mexico. The fiscal impact could vary between \$100 thousand to \$2 million.

[Section 4]: Tax & Rev defers to the Environment Department on fiscal impacts from matching funds language under Section 4.

Policy Issues: New Mexico has a challenging water situation due to its arid and semi-arid climate. As a result, rainwater harvesting plays a crucial role in water conservation efforts and supplementing water supplies. Rainwater harvesting in New Mexico involves collecting and storing rainwater that falls on rooftops, paved surfaces, or other catchment areas. This practice helps capture and utilize rainwater for various purposes, such as irrigation, gardening, livestock, and even indoor non-potable uses.

The state of New Mexico recognizes the importance of rainwater harvesting and has implemented policies to encourage its adoption. In 2007, the state passed a law that allows for the residential collection and use of rainwater. This law permits individuals to collect rainwater from rooftops for outdoor watering and other non-potable uses without obtaining a water right.

Many homeowners and businesses in New Mexico have embraced rainwater harvesting techniques to conserve water and reduce reliance on traditional water sources. Various methods are employed, including the use of rain barrels, cisterns, and underground storage tanks to collect and store rainwater.

However, the effectiveness of rainwater harvesting in New Mexico is influenced by the region's limited rainfall and the sporadic nature of precipitation. Annual rainfall varies across the state, with some areas receiving fewer than 10 inches (250 mm) annually. This means that the amount of rainwater that can be harvested may be relatively low compared to regions with higher rainfall.

To maximize the benefits of rainwater harvesting, it is important to employ effective water management practices, such as proper system design, rainwater filtration, and efficient water use techniques. Tax credits for rainwater catchment could be supported for the following reasons:

1. **Water Conservation:** Rainwater catchment helps conserve potable water resources by reducing reliance on traditional water sources such as groundwater or surface water. By capturing and utilizing rainwater, individuals and communities can reduce their demand for water from these sources, especially in regions with limited water availability or during drought conditions.
2. **Sustainable Water Management:** Rainwater catchment promotes sustainable water management

practices. Instead of letting rainwater runoff and potentially contribute to erosion or flooding, capturing, and storing rainwater allows for its controlled use for various purposes like irrigation, gardening, or non-potable indoor uses. This can help reduce the strain on municipal water supplies and promote a more resilient water infrastructure.

3. **Cost Savings:** Utilizing rainwater can lead to cost savings for individuals and businesses. By using harvested rainwater for activities like landscape irrigation or livestock watering, users can reduce their reliance on treated water sources, which often come with associated costs such as water bills. Over time, the investment in rainwater catchment systems can pay off through reduced water expenses.
4. **Environmental Benefits:** Rainwater catchment systems contribute to environmental sustainability. By reducing the demand for water from traditional sources, it helps alleviate the pressure on ecosystems, rivers, and aquifers. Additionally, using rainwater for outdoor irrigation can reduce the need for chemical fertilizers and detergents, which can have harmful effects on water quality and aquatic life.

Homeowners and businesses in New Mexico have embraced rainwater harvesting techniques. For conservation and cost savings alone, homeowners and businesses will strive to maintain their own personal and business interests. It is reasonable to assume that they would continue to do so even without the presence of this tax credit if investment in water catchment systems deliver a significant return on investment. The credit may unnecessarily distort economic activity in New Mexico by incentivizing economic activity that would occur even in the absence of the incentive and by providing state subsidies to a mature and profitable business sector. The credit will shorten the time period for an individual's savings to pay for the investment.

While tax incentives may support particular industries or encourage specific social and economic behaviors, the proliferation of such incentives complicates the tax code. Adding more tax incentives: (1) creates special treatment and exceptions to the code, growing tax expenditures or narrowing the tax base, with a negative impact on the General Fund; and, (2) increases the burden of compliance on both taxpayers and Tax & Rev. Adding complexity and exceptions to the tax code does not comport generally with the best tax policy.

Section 1 allows counties and municipalities to adopt ordinances requiring water harvesting and storage. The credit would defray some or all of the cost for residents of counties and municipalities that adopt such mandates. However, the bill does not restrict the type of water harvesting or storage system that the local government may require, and so the credit may offset only a small part of the cost. An additional unknown affecting the cost estimate is how many local governments may choose to adopt the mandate.

Technical Issues:

[Section 2]: This bill calls for RLD to adopt rules establishing procedures to provide certification of water harvesting systems on page 4, Subsection J. However, on page 3, Subsection C, Tax & Rev is tasked with the application process and management of the tax credit cap in Subsection D. It is suggested to avoid multiple certification and application points that RLD be the application, certification, and managers of the \$2 million dollar cap that is based on the application process. This would be similar in function to credits that have an application process with the Energy, Minerals, and Natural Resources Department. This can be accomplished by adding “regulations and licensing” before department on page 3 line 2; on page 3 line 6 before department; and page 3 line 10 before department.

Tax & Rev would also prefer that the following language be added on page 5, inserted as Subsection K “The regulations and licensing department shall determine whether an eligible taxpayers purchase, and

installation costs qualifies for the water harvesting income tax credit, and shall issue a certificate to each qualifying taxpayer. The certificate shall include the taxpayer’s name, the amount of the credit allowed, and a unique identification number. The regulation and licensing department shall provide the taxation and revenue department appropriate information for all eligible taxpayers to whom certificates are issued, The regulation and licensing department shall provide the department with the certificates of eligibility issued pursuant to this subsection in an electronic format at regularly agreed upon intervals.”

If the above changes are made, on page 3, lines 13 after the period through line 17 can be stricken. Page 5, Subsection K already includes this information, and the language aligns further with Tax & Rev being the department the credit is claimed with on a tax return.

Other Issues: As stated under “Technical Issues” above, as it unclear RLD’s precise role in certifying credits, key information for the Tax & Rev and the public will be a list of approved water harvesting systems.

With clarity on RLD certifying the credit noted in “Technical Issues”, Tax & Rev suggests that language be included which mandates RLD share certification data electronically. Below is suggested language:

Administrative & Compliance Impact: Tax & Rev will update forms, instructions, and publications and make information system changes. This bill will have a moderate impact on Tax & Rev’s Information Technology Division (ITD) of approximately 480 hours or about three months for an estimated staff workload cost of \$26,640. Tax & Rev’s Administrative Services Division (ASD) will require approximately 40 hours, split between two existing full-time employees for staff workload costs of \$2,900.

Based on the current bill language, this credit will be certified by Tax & Rev. Tax & Rev expects to be able to manage the impact of these changes, as outlined in this standalone bill.

However, if multiple bills introducing new tax credits are enacted into law, Tax & Rev will face a larger impact, requiring additional full-time employees (FTE) to process the increased volume of credit claims and transfers.

Estimated Additional Operating Budget Impact*				R or NR**	Fund(s) or Agency Affected
FY2024	FY2025	FY2026	3 Year Total Cost		
--	\$2.9	--	\$2.9	NR	Tax & Rev – ASD – operating
--	\$26.6	--	\$26.6	NR	Tax & Rev – ITD – staff workload

* In thousands of dollars. Parentheses () indicate a cost saving. ** Recurring (R) or Non-Recurring (NR).

Related Bills: None