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FISCAL IMPACT REPORT

SPONSOR: Heaton DATE TYPED: 02/11/03 HB 233/aHENRC

SHORT TITLE: Water Technology Assistance Tax Credit Act SB _____

ANALYST: Gilbert

REVENUE

Estimated Revenue		Subsequent Years Impact	Recurring or Non-Rec	Fund Affected
FY03	FY04			
	\$(3,000.0)	\$(7,000.0)	Recurring	County and Local Funds

(Parenthesis () Indicate Revenue Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From

New Mexico Department of Agriculture (NMDA)
 Taxation and Revenue Department (TRD)
 Office of the State Engineer (OSE)
 Energy, Minerals, and Natural Resources Department (EMNRD)

SUMMARY

Synopsis of HENRC Amendment

In Section 7(B) on page 8, line 12, pertaining to qualified expenditures, the maximum allowed for employee salaries and wages, fringe benefits and employer payroll taxes is reduced from 75% to a maximum of 25%.

Synopsis of Original Bill

House Bill 233, the Water Technology Assistance Tax Credit Act, provides a 100% gross receipts tax credit for qualified expenditures to national laboratories and their contractors to provide technical assistance to various New Mexico entities to help resolve water issues. Qualified expenditures include: payroll expenses, administrative costs (capped at 75% of payroll expenses), in-state travel expenses, contractor supplies and services, and expenses related to the operation of the water assistance council. The amount of qualified expenditure eligible for credit is limited to \$100.0 per partner for a calendar year for technical assistance (information sharing,

lab testing and educational outreach), and \$400.0 per partner for a calendar year for technology development (field testing, model development, engineering services).

The total annual credit amount, per national laboratory, is limited to \$7.0 million per year.

Significant Issues

HB 233 creates a “water assistance council” to provide program oversight and to assist the national laboratory in identifying critical water needs of the state and potential beneficiaries of the program.

To claim the credit, a national laboratory must submit to the Taxation and Revenue Department (TRD) a quarterly report listing partners assisted, certification from both the laboratory and the partner that the assistance could not be obtained for a reasonable cost from private industry, qualified expenditures attributed to each partner, description of assistance provided, and the name of the provider(s).

FISCAL IMPLICATIONS

According to TRD, the FY 2004 impact is not likely to exceed \$3.0 million since it will take time for national laboratories to establish relationships with partners and to receive approvals on water assistance credit applications.

Laboratories may need 2-3 years to operate at a level sufficient to utilize the entire annual tax credit limit of \$7.0 million for the subsequent years impact listed in the revenue table.

ADMINISTRATIVE IMPLICATIONS

TRD is assigned an oversight role in the proposal. According to TRD, they have no special expertise in the area of water resource development assistance. TRD also has no personnel available to verify information contained in the required quarterly reports.

TRD will be required to rely on manual processes to record credit applications and approvals. As such, TRD will not be able to perform true oversight of this program. In addition, since the statute contains almost no performance criteria and no sanctions for non-compliance, TRD has no objective basis for evaluating or enforcing performance.

TECHNICAL ISSUES

Section 6.A. (4)(b) indicates that the tax credit “shall not impact a local government tax distribution.” In the case of Sandia National Laboratory located in the City of Albuquerque, the gross receipts tax rate is 5.8125%. The city’s part is 1.0625% and the county’s part is 0.2500%. It is unclear whether the qualifying taxpayer would need to continue paying the city and county share.

OTHER SUBSTANTIVE ISSUES

The National Laboratories have experts and technologies that can be applied to improve the beneficial use of New Mexico’s water. Intel has improved the water efficiency of its manufacturing facility with assistance from Sandia National Laboratory. Intel has managed to

double production with the same allocation of water rights by utilizing recycling, filtration and heat recovery technologies.

According to the TRD, this bill raises a number of concerns:

- The laboratory may contract with outside entities to aid in the provision of water technology assistance, so some of the subsidy flows from the lab to contractors. Thus the laboratory, rather than acting solely as a provider of technical assistance, essentially becomes an administrator of a state-funded assistance program responsible for allocating state funds. A direct appropriation to the relevant state agency to operate this program by contract is a less expensive means of funding this program and would provide closer oversight.
- The proposed rate of subsidy is 100% up to the specified caps. Thus, the state is providing the majority of the funding for the targeted activities.
- This law has a narrowly targeted number of beneficiaries. Targeting preferential tax treatment to specific entities increases complexity and sets precedents that other taxpayers can use to obtain similar tax preferences. By reducing the tax base, the large number of exemptions and deductions in the gross receipts tax statutes reduces the revenue that can be generated, puts pressure on state and local budgets, and puts upward pressure on tax rates.
- This proposal is similar to the current “Laboratory Partnership with Small Business Tax Credit Act” which provides a tax credit to the lab for providing technical assistance to small businesses in the state. The laboratory reports providing technical assistance to 300 New Mexico small businesses annually, at a cost of nearly \$1.5 million to the state.

AMENDMENTS

The Office of the State Engineer recommends the following amendments to HB 233:

- Suggest replacing “create new water sources...and improving water management” on page 2, lines 8-9, with “improve water conservation and utilization to provide for greater efficiency in the management of New Mexico’s finite water resources.”
- Suggest replacing “create new sources of water...improving water management” on page 5, lines 22-23, with “improve water conservation and utilization to provide for greater efficiency in the management of New Mexico’s finite water resources.”
- Suggest replacing “create new sources of water” on page 6, line 4, with “improve the conservation and utilization of existing sources of water.”
- Suggest replacing “creation of new sources of water within New Mexico” on page 6, line 10, with “improving the conservation and utilization of New Mexico’s water resources.”

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The New Mexico Department of Agriculture (NMDA) recommends the following amendment to HB 233:

- Section 4, page 10, line 15, add (14) Director of the New Mexico Acequia Association (15) Executive Director of the New Mexico Association of Soil and Water Conservation Districts (16) President of the New Mexico Water Resources Association.

RLG/prr:sb