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## FISCAL IMPACT REPORT

SPONSOR Beffort DATE TYPED 1/26/04 HB \_\_\_\_\_  
 SHORT TITLE National Lab Water Treatment Tax Credit SB 78  
 ANALYST Neel

### REVENUE

Estimated Revenue		Subsequent Years Impact	Recurring or Non-Rec	Fund Affected
FY04	FY05			
None	(1,000.0)	(2,000.0)	Recurring	General Fund

(Parenthesis ( ) Indicate Revenue Decreases)

### SOURCES OF INFORMATION

LFC Files

#### Responses Received From:

Taxation and Revenue Department (TRD)  
 Office of State Engineer (OSE)

#### No Responses Received From:

Department of Environment

### SUMMARY

#### Synopsis of Bill

Senate Bill 78 amends statute to provide a tax credit against gross receipts tax or compensating tax in an amount equal to qualified expenditures made to provide impaired water treatment assistance by a national laboratory. The annual amount of qualified expenditures eligible for credit is limited to \$25 thousand per partner (assisted party) for technical assistance (information sharing, lab testing and educational outreach), and \$75 thousand per partner for technology development (field testing, model development, engineering services). The total annual credit amount is limited to \$2 million per year.

### FISCAL IMPLICATIONS

In determining the fiscal impact, TRD notes that a few years will be required for essential partnerships to develop and to receive approval on water assistance credit applications before the

full \$2 million credit limit will be reached.

### **ADMINISTRATIVE IMPLICATIONS**

TRD notes that 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 its contractors. Thus the lab, rather than acting solely as a provider of technical assistance, essentially becomes the administrator of a state-funded assistance program. A direct appropriation to a relevant state agency to operate this program by contract is a less expensive means of funding this program and would provide closer oversight.

Impaired water given within the act includes, “water containing constituents or contaminants that make it unsuitable for common use, including heavy metals, toxic or hazardous chemicals or potentially toxic or hazardous chemicals, elevated levels of salts or sediments or other water requiring treatment for common agricultural, industrial, commercial, residential, recreational or potable use.” The State Engineer notes that many of these uses require permits to be issued by the Office of the State Engineer and expresses concern as follows:

There is a potential for the loss of Office of the State Engineer administrative jurisdiction over the waters of the state of New Mexico without issuance of proper legal permitting in place for the treatment, use, and potential reuse of impaired waters.

Likewise TRD notes that it has no special expertise in the area of impaired water treatment. Additionally, TRD states it does not have personnel available to verify information contained in the quarterly and annual reports. TRD will rely on manual processes to record credit applications and approvals. Essentially, TRD is not able to perform real 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.

### **AMENDMENTS**

The State Engineer provides the following clarifying amendment.  
Page 2 Line 9 and following;

(1) shall be rendered to a partner (responsible for) *with valid permits from the State Engineer, who shall be consulted prior to initiation of the project about any regulatory or other issues of concern, for the appropriation of water located in New Mexico, which partner certifies to the national laboratory that the impaired water treatment assistance provided is not otherwise available at a reasonable cost through private industry;*

SN/yr