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FISCAL IMPACT REPORT

SPONSOR Moore DATE TYPED 2-1-04 HB 276
 SHORT TITLE Produced Water to Rivers Tax Credit SB _____
 ANALYST Neel

REVENUE

Estimated Revenue		Subsequent Years Impact	Recurring or Non-Rec	Fund Affected
FY04	FY05			
	(10.0)	See Narrative	Recurring	General Fund

(Parenthesis () Indicate Revenue Decreases)

Relates to:

SB 12, Agricultural Water Conservation Tax Credit;
 HB 48, Agricultural Water Conservation Tax Credit;
 HB 60, Water Conservation Gross Receipts
 SB 47, Sandia National Laboratories Water Model
 SB 78, National Lab Water Treatment Tax Credit

SOURCES OF INFORMATION

LFC Files

Responses Received From

Taxation and Revenue Department (TRD)
 Energy Minerals and Natural Resources Department (EMNRD)
 New Mexico Environment Department (NMED)

SUMMARY

Synopsis of Bill

House Bill 276 provides for a tax credit for delivery of produced water to the Canadian River or the Cimarron River. It allows the taxpayer to claim a credit of \$1000 per acre-foot of produce water delivered to the Canadian River or to the Cimarron River. The bill requires permit approval and certification of the State Engineer and the Energy, Minerals and Natural Resources Department in order to claim the tax credit. The tax would be credited toward the taxpayer's corporate income tax liability and could be carried forward for up to three consecutive years. The

bill requires the state engineer to evaluate that the diversion of water does not impair existing water rights, is not contrary to the conservation of water within the state and is not detrimental to the public welfare.

Significant Issues

EMNRD states that recent coal gas development in the Raton Basin has given rise to large supplies of produced water, almost all of which is now injected back into deep formations. Coal gas wells initially produce large volumes of water. In order to produce the coal gas effectively, much of this water must be produced in order that the coal can be sufficiently "de-watered" to permit extraction of the natural gas from the coal. In the San Juan Basin this process has been going on for more than a decade, and much of the area has been de-watered to the extent that water production has been reduced over time. The Raton Basin, by contrast, is in an early stage of development and de-watering. Hence there is a source of significant amounts of produced water in the Canadian River watershed. The economic feasibility of processing it for delivery to the river system is unknown to EMNRD.

The amount of produced water that could qualify for a credit under this bill is potentially quite large. Water production in the Raton Basin is currently averaging in the vicinity of 26,000 barrels per day, equating to approximately 1,200 acre-feet per year.

The NMED noted that produced water is high in total dissolved solids and often contains other contaminants that could be detrimental to the state's aquatic ecosystems. Delivery of produced water to perennial rivers in New Mexico requires a federal Clean Water Act NPDES permit which includes New Mexico Environment Department certification that the discharge will not cause an impairment to the state's water quality. (CWA Section 401 and WQA Section 74-6-5, NMSA 1978).

FISCAL IMPLICATIONS

The proposal does not contain a limit on the total amount of credits that can be claimed, either by one taxpayer or by all taxpayers. This leaves open the possibility that a single taxpayer could "zero out" their tax liability, and also the potential for a large fiscal impact to the state.

ADMINISTRATIVE IMPLICATIONS

TRD notes that HB 276 would require the update of forms, instructions and publications related to the CIT and PTE tax programs. A new claim form must be created with a carryforward mechanism at a cost of approx \$1,000. Audit procedures will need to be developed. Manual review will be required for acceptance of the claim, verification of the carryforward, and tracking.

TECHNICAL ISSUES

TRD notes that On line 3 of page 3 of the bill, the first "for" should read "of

The AG suggests that deliveries might be made subject to the approval of the Environment Department.

SN/lg