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FISCAL IMPACT REPORT

ORIGINAL DATE 2/1/06
 LAST UPDATED 2/15/06 HB _____

SPONSOR Cisneros

SHORT TITLE Renewable Energy Production Tax Credit Rate SB 469/aSCORC/aSFC

ANALYST Schardin

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Non-Rec	Fund Affected
FY06	FY07	FY08		
		(700.0)	Recurring	General Fund

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From

Energy Minerals and Natural Resources Department (EMNRD)

Department of Environment (DOE)

Taxation and Revenue Department (TRD)

SUMMARY

Synopsis of SFC Amendment

For the existing corporate income tax credit and proposed personal income tax credit, the amendment changes the definition of “biomass” to match the definition for “biomass material” found in Section 7-9-98 NMSA 1978, which provides a compensating tax deduction for biomass equipment and materials. By changing the definition of “biomass,” SB469 no longer conflicts with the House Taxation and Revenue Committee substitute for House Bill 82 (the omnibus tax bill).

The amendment also delays the effective date of these provisions from January 1, 2006 to January 1, 2008.

Synopsis of SCORC Amendment

The Senate Corporations Committee amendment to Senate Bill 469 creates a new renewable energy production tax credit that can be claimed against the personal income tax. The existing renewable energy production tax credit may only be claimed against corporate income tax.

All provisions of the new personal income tax credit exactly mirror the existing corporate income tax credit, as amended in Senate Bill 469.

The amendment also provides that both the personal and corporate income tax credits will be allowed to be carried forward up to 10 years, rather than the current five years.

Synopsis of Original Bill

Senate Bill 469 makes several amendments to the Renewable Energy Production Tax Credit. The amount of the credit for solar energy is increased from 1 to 2 cents for the first 200 thousand megawatt hours of production, and the amount of generating capacity a facility must have to claim the credit is reduced from 10 to 1 megawatt.

The bill also repeals amendments to the credit that were included in the omnibus tax bill of 2005 (HB 410) because they were signed one day before HB950, which contained identical amendments to the renewable energy production tax credit.

Provisions of the bill will become effective January 1, 2006.

FISCAL IMPLICATIONS

Under current law, the renewable energy production credit is capped by a provision that limits corporate income tax credits to 2 million megawatt hours per year (2 billion kilowatt hours). This means the credits are capped at \$20 million per year (2 billion kwh X \$0.01= \$20 million). Amending the bill so that solar projects receive 2 cents per kwh will increase the cap slightly: existing and planned wind projects in New Mexico will generate nearly 1.8 million megawatt hours, so the cap will rise to about \$22 million if the solar credit is increased to 2 cents. This additional fiscal impact will not occur for several years.

The Senate Corporations Committee amendment doubles the cap on the credit from about \$22 million to about \$44 million by allowing an additional 2 million megawatt hours per year to receive the credit. Again, this fiscal impact will not occur for several years.

The provisions of this bill will decrease general fund revenue somewhat, depending on how many solar operations claim a 2 cent credit, how many biomass operations producing between 1 and 10 megawatts become eligible to receive the credit, and how many personal income tax credits are claimed. TRD assumes that an additional 10 percent of the credits will be claimed each year.

SIGNIFICANT ISSUES

By creating a renewable energy production tax credit against the personal income tax, the Senate Corporations Committee amendment to Senate Bill 469 will allow businesses that do not have large corporate income tax liabilities to benefit from the credit.

In 2005, Governor Richardson signed the Climate Change and Greenhouse Gas Emission Reduction Executive Order (05-033), which called for reductions in greenhouse gases. New Mexico's fossil fuel electricity generation facilities are the largest source of greenhouse gases in New Mexico.

Lowering the capacity requirement from 10 to 1 megawatt will benefit small-scale biomass projects, especially those that use forest thinnings and dairy waste. Economic incentives to use forest thinnings and dairy waste reduce the likelihood of forest fires and groundwater contamination.

By doubling the production tax credit for solar energy, EMNRD reports that New Mexico will have the most aggressive large-scale solar power incentive in the country.

PERFORMANCE IMPLICATIONS

EMNRD reports that Senate Bill 469 will improve performance of the Energy Conservation and Management Division by promoting, developing and implementing renewable energy programs.

DOE reports that expansion of renewable energy generation could help the Air Quality Bureau achieve two performance measures related to improved visibility and air quality. Also, Governor Richardson's goals to make New Mexico the "Clean Energy State" and combat climate change will be helped by this bill.

ADMINISTRATIVE IMPLICATIONS

The Senate Corporations Committee amendment to Senate Bill 469 will create significant administrative impacts for TRD. New forms, instructions and procedures will be required to administer the personal income tax credit. The bill will require 0.5 additional FTE.

TECHNICAL ISSUES

The Senate Corporations Committee amendment to Senate Bill 469 will allow taxpayers to "double-dip" by receiving the credit for both personal and corporate income tax liabilities from the same power generation. The bill should be amended so that credits may not be claimed for the same power generation under both the personal and corporate income taxes.

SS/mt:nt:yr