F I S C A L   I M P A C T   R E P O R T

		ORIGINAL DATE	2/8/09		
SPONSOR	Lujan, B.	**LAST UPDATED**	2/16/09	**HB**	405/aHBIC
SHORT TITLE	Renewable Energy Production Tax Credit Caps			**SB**	
				ANALYST	Francis

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Non-Rec	Fund Affected
FY09	**FY10**	**FY11**		
	None	None	Recurring	General Fund
	* See Narrative for Out-year Impacts			

(Parenthesis ( ) Indicate Revenue Decreases)

SOURCES OF INFORMATION
LFC Files

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

SUMMARY

Synopsis of HBIC Amendment

The House Business and Industry Committee amended House Bill 405 shrinking the years of sufficient energy capacity from ten to three and clarifying that it is three years from the date that the electricity generator begins producing electricity. It also stipulates that biomass facilities must have the biomass under contract and solar facilities must have the land required under contract.

Synopsis of Original Bill

House bill 405 amends the Renewable Production Tax Credit (RPTC) by:

- increasing the 500,000 megawatt hour (MWh) cap for solar energy to 1 million MWh
- adding a new 200,000 MWh for biomass energy from feedlots and dairy farms
- amending the definitions of qualified energy generator and qualified energy resource to restrict the credit to those facilities that can show at least 10 years of energy supply.

The changes are effective for tax year 2010 and beyond.

FISCAL IMPLICATIONS

The HBIC amendment is not expected to change the fiscal impact but if more biomass facilities qualify because of the shorter time horizon for electricity production this will increase the fiscal impact.

TRD reports the fiscal impact will be a reduction in general fund revenue of $1.2 million in FY12 and $3.0 million reduction in FY13. EMNRD reported that it will take this much time for a solar facility to take advantage of the credits. There is currently no plan for dairy or feedstock biomass electric generators (though there are plans for other uses of the dairy and feedstock waste such as liquefied fuel but those uses do not qualify for the RPTC).

However, there is a risk that the credit may be used more quickly. In 2007 and based on EMNRD analysis, TRD assumed a gradual growth of the renewable energy production tax credit when in fact it reached the 2 million MWh cap in the first year because of wind energy. Given the current fiscal environment, it may be prudent to make the change effective for tax years 2011 rather than 2009. This would not change the fiscal impact and more closely match the industry projections.

SIGNIFICANT ISSUES

HB 405 amended provides the credit for facilities with at least a three year time horizon rather than 10 years. Biomass facilities are required to have the biomass supply under contract or owned.

There have been several announcements of solar fields in the last year. Just two weeks ago, PNM issued a press release that they had overwhelming response to the requests for proposal for solar and other resources. They received proposals from 12 companies and 14 sites. A recent plant constructed in Nevada and took about 18 months to complete.

EMNRD:

HB 405 provides additional incentives for solar energy and biomass energy that would promote the use of the state's abundant renewable energy resources, stimulate local and

The Legislative Finance Committee has adopted the following principles to guide responsible and effective tax policy decisions:

1. ***Adequacy:*** *revenue should be adequate to fund government services.*
2. ***Efficiency:*** *tax base should be as broad as possible to minimize rates and the structure should minimize economic distortion and avoid excessive reliance on any single tax.*
3. ***Equity****: taxes should be fairly applied across similarly situated taxpayers and across taxpayers with different income levels.*
4. ***Simplicity****: taxes should be as simple as possible to encourage compliance and minimize administrative and audit costs.*
5. ***Accountability/Transparency:*** *Deductions, credits and exemptions should be easy to monitor and evaluate and be subject to periodic review.*

More information about the LFC tax policy principles will soon be available on the LFC website at www.nmlegis.gov/lcs/lfc

rural economies, reduce air pollution and help curb global warming. The full benefits of developing New Mexico's solar and biomass energy resources will involve some large projects and many small projects. The increased production from the state's renewable resources will work in tandem with the solar manufacturers that have moved into New Mexico (such as Schott and Advent) to help create a hub in the southwest for the solar industry.

Limited credits could be suddenly exhausted by one or two large facilities. Raising the limit will allow more projects to proceed with confidence that incentives will be available.

NMED:

The State's coal-fired power plants emit contaminants into the air including oxides of nitrogen, sulfur dioxide, particulates, mercury and carbon dioxide. Those pollutants adversely impact public health, visibility and the global climate. Because HB 405 provides incentives for renewable energy production, it could help to obviate the need to construct new conventional coal-fired power plants that emit more air pollution.

The Environment Department's Air Quality Bureau has a legislative performance measure to reduce annual statewide greenhouse gas emissions to a target level. Similarly, the Governor's Accountability and Performance Contract contains goals for reduction of greenhouse gas emissions. Finally, the Governor's Executive Order on Climate Change also contains goals for reduction of greenhouse gas emissions to 2000 levels by 2012, 10 percent below that by 2020 and 75 percent below 2000 levels by 2050. This Executive Order also requires the Energy, Minerals and Natural Resources Department to establish financial incentives for distributed and centralized renewable energy.

TECHNICAL ISSUES

The changes to the two definitions clarify current law by moving the definition of the methodology to the generator definition.

ALTERNATIVES

Due to the uncertain fiscal environment over the next two years and given that the likelihood that an electric generator will not be able to come on line prior to FY12, it may be prudent to change the effective date to tax years beginning January 1, 2011. This would protect the state from an earlier than projected fiscal impact.

NF/mt:mc