

**NOTE: As provided in LFC policy, this report is intended only for use by the standing finance committees of the legislature. The Legislative Finance Committee does not assume responsibility for the accuracy of the information in this report when used in any other situation.**

**Only the most recent FIR version (in HTML & Adobe PDF formats) is available on the Legislative Website. The Adobe PDF version includes all attachments, whereas the HTML version does not. Previously issued FIRs and attachments may be obtained from the LFC's office in Suite 101 of the State Capitol Building North.**

## FISCAL IMPACT REPORT



SPONSOR: SCONCS DATE TYPED: 02/11/02 HB \_\_\_\_\_

SHORT TITLE: Electric Generation Facilities Tax Incentives SB CS/46/aSF1#1

ANALYST: Neel

### REVENUE

Estimated Revenue		Subsequent Years Impact	Recurring or Non-Rec	Fund Affected
FY02	FY03			
	(\$150.0)	(\$440.0)	Recurring	General Fund
	(\$200.0)	(\$600.0)	Recurring	Property Tax

(Parenthesis ( ) Indicate Revenue Decreases) In thousands

Relates to SB 46, SB 187, HB 143, and HB 233

### SOURCES OF INFORMATION

LFC files  
Taxation and Revenue Department (TRD)

### SUMMARY

#### Synopsis of SF1 #1 Amendment

The Senate Floor Amendment adds language to exclude electric generation facilities that require “both location approval and certificate of convenience prior to the construction or operation of the facility pursuant to the Public Utility Act and the Electric Industry Restructuring Act of 1999.”

#### Synopsis of Substitute Bill

The Senate Corporations and Transportation Committee Substitute for Senate Bill 46 amends the Industrial Revenue Bond Act and the County Industrial Revenue Bond Act to allow “electricity generation facilities that do not provide retail electric services to New Mexico customers” to qualify for IRBs under the definition of allowed projects. CS/SB 46 also amends the Uniform Division of

Income for Tax Purposes Act and the Investment Credit Act to include "electricity generation facilities that do not provide retail electric services to New Mexico customers" under the definition of manufacturing.

### Significant Issues

CS/SB 46 would expand incentives to power plants in any part of the state that were passed by the 2001 Legislature. Currently only a power plants in Lea, Eddy, Chavez, Luna, Roosevelt, Curry,

Hidalgo or Rio Arriba Counties is eligible for the following: (1) county industrial revenue bond financing; and (2) investment credit of 5% of the value of qualified investments. Additionally CS/SB 46 would limit the present law incentives to power plants that are not intended to provide retail service to New Mexico customers .

### **FISCAL IMPLICATIONS**

TRD notes the following assumptions in deriving the fiscal impact:

- (1) The equivalent of one medium-size facility (100 MWe) per year is constructed in each part of the state—i.e. one in those counties currently eligible for the IRB and investment credit incentives and one in the counties currently ineligible.
- (2) These facilities would be built even if the proposed incentives are not approved.
- (3) These facilities all produce entirely for the wholesale market.
- (4) Capital expenditures and employment figures were based on information from industry experts.
- (5) The fuel used in the power plants is not assumed to represent an increase in annual sales by New Mexico producers and therefore does not generate additional oil and gas taxes. The amount of fuel consumed in these plants is small compared to total output of New Mexico producers.

TRD also notes that there will be significant impact for property taxes due to the IRB provisions included in CS/SB 46. This impact will increase over time with additional electric generation facilities coming on line.

### **OTHER SUBSTANTIVE ISSUES**

TRD notes that the legislation passed last year (Laws 2001, chapter 284) included eligibility for the double-weighted sales election for apportioning corporate income tax. But, because another bill amended the same section of statute and was signed after Senate Bill 739, the double-weighted sales provision was not compiled into the statutes. However according to a November 1, 2000 Attorney General Opinion (Opinion No. 00-05) "unless two laws covering the same subject matter are incompatible, the rules of statutory construction require that they be harmonized and construed together if possible."

SN/ar/njw