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FISCAL IMPACT REPORT

SPONSOR: McSorley DATE TYPED: 03/3/03 HB _____

SHORT TITLE: Clean Energy Act SB 865

ANALYST: Valenzuela

APPROPRIATION

Appropriation Contained		Estimated Additional Impact		Recurring or Non-Rec	Fund Affected
FY03	FY04	FY03	FY04		
	NFI	See Narrative			

(Parenthesis () Indicate Expenditure Decreases)

REVENUE

Estimated Revenue		Subsequent Years Impact	Recurring or Non-Rec	Fund Affected
FY03	FY04			
	FY05: \$6.5 million	\$6.5 million	Recurring	Clean Energy Fund
	FY10: \$15.5 million	\$15.5 million	Recurring	Clean Energy Fund

(Parenthesis () Indicate Revenue Decreases)

SOURCES OF INFORMATION

Office of the Attorney General
Energy, Minerals and Natural Resources Department

SUMMARY

Synopsis of Bill

Senate Bill 865 proposes enacting a new statute, the Clean Energy Act, that would authorize, on July 1, 2004, an assessment of \$0.0003/kWh on retail sales billed by public utilities, municipal utilities and distribution cooperatives. On July 1, 2009, the assessment will double to \$0.0006/kWh. The generated revenues will accrue to the clean energy fund, which would be appropriated to EMNRD. EMNRD will administer the fund in accordance with criteria defined in the bill and report to the LFC annually on its activities.

Significant Issues

As currently, the Act identifies the following discretionary recurring appropriations from the fund, totaling approximately \$9,800.0:

- \$ 300.0 est. Administrative overhead for EMNRD (5 percent maximum)
- \$ 500.0 Low-income energy assistance funding administered by the New Mexico Mortgage Finance Authority (minimum)
- \$ 1,000.0 Renewable energy or energy efficiency projects at state-owned buildings (maximum)
- \$ 4,000.0 Renewable energy or energy efficiency projects at universities, public schools, or local governments (maximum)
- \$ 4,000.0 Develop electric services for low-income communities or Indian nation, tribe or pueblo (maximum)

No state agency responded with revenue projections for the fund in its analysis of Senate Bill 865. The LFC projections, with assumptions, of the estimated revenue into the fund are provided in the table below:

	1993	1998	2003 (est.)	2009 (est.)
Utility Retail Sales Revenue (MWh) ¹	14,926,879	18,173,120	21,696,192 ²	25,902,253 ²
Percent Change (5-yr cumulative)	17.0 %	21.7%	19.4%	19.4%
Assessment amount per KWh			\$ 0.0003	\$ 0.0006
Estimated Revenue from Assessment			\$ 6,508.9	\$ 15,541.4
Earmarked Appropriation in the Act			<u>\$ 9,800.0</u>	<u>\$ 9,800.0</u>

As shown in the table, the intended effect of Senate Bill 865 would not occur until the assessment doubles to \$0.0006/KWh, which is slated to occur on January 1, 2009. In fact, the fund will be short by roughly \$3.2 million during the first years of implementation.

FISCAL IMPLICATIONS

Revenue generated will not revert to the general fund. This bill creates a new fund and provides for continuing appropriations. The LFC objects to including continuing appropriation language in the statutory provisions for newly created funds. Earmarking reduces the ability of the legislature to establish spending priorities.

ADMINISTRATIVE IMPLICATIONS

SB 865 does not define when utility companies would be required to transfer the assessment revenue to the state, whether on an monthly, quarterly or annual basis.

¹¹ "State Energy Profiles: New Mexico," U.S. Department of Energy, Energy Information Administration, <http://www.eia.doe.gov/>.

²² Estimate is based on averaging the historical cumulative percentage increases over the past 15 years.

RELATIONSHIP

Senate Bill 865 creates a fund similar to the systems benefit charge fund (Section 62-3A-13 NMSA 1978) that would be repealed if the Electric Utility Industry Restructuring Act is repealed by Senate Bill 718.

MFV/sb/njw