FISCAL IMPACT REPORT

SPONSOR HTRC **DATE TYPED** 03/18/05 **HB** 950/HENRCS/HTRCS

SHORT TITLE Expand Renewable Energy Production Tax Credit **SB**

ANALYST Padilla-Jackson

REVENUE

Estimated Revenue		Subsequent Years Impact	Recurring or Non-Rec	Fund Affected
FY05	FY06			
($0.1)	($0.1)	Unknown	Recurring	General Fund

(Parenthesis ( ) Indicate Revenue Decreases)

Relates to House Bill 121

SOURCES OF INFORMATION
LFC Files

Responses Received From
New Mexico Environment Department (NMED) (no response for HTRC substitute)
Environment, Minerals & Natural Resources Department (EMNRD) (no response for HTRC substitute)
Taxation and Revenue Department (TRD)

SUMMARY

Synopsis of Bill

The House Taxation and Revenue Committee substitute for the House Energy and Natural Resources Committee substitute for House Bill 950 clarifies eligibility for the renewable energy production tax credit. Currently, a taxpayer would qualify for the tax credit if he or she “owns a qualified energy generator certified by the energy, minerals and natural resources department”. The bill would remove this condition and include the following eligibility criteria: A taxpayer if eligible is the taxpayer:

(1) holds title to a qualified energy generator; or

(2) leases property upon which a qualified energy generator operates from a county or municipality under authority of an industrial revenue bond; or

In addition, a taxpayer can be eligible for the credit if they hold title to a facility generating electricity from a qualified energy resource or one that leases such a facility from a county or municipality pursuant to an industrial revenue bond. The bill would also allow a taxpayer to be allocated all or a portion of the right to claim a renewable energy production tax credit (without regard to proportional ownership interests) if the taxpayer owns an interest in a business entity that is taxed for federal income tax purposes as a partnership as long as the interest owner holds at least a five percent share in the energy-generating business entity and the allocation was certified by EMNRD.

The amount of the tax credit is unchanged at $0.01 per kilowatt-hour of the first four hundred thousand megawatt-hours of electricity produced. However, the bill limits the total credit claimed by all taxpayers for a single qualified energy generator to $0.01 per kilowatt-hour.

Currently stated in law, if the amount of the tax credit exceeds the taxpayer's corporate income tax liability, the excess may be carried forward for up to five consecutive taxable years.

The provisions of this bill are applicable to taxable years beginning on or after January 1, 2005.

PERFORMANCE IMPLICATIONS

EMNRD believes that the expanded eligibility for the renewable energy production tax credit will support further development of renewable energy resources in New Mexico. They note that the promotion, development, and implementation of renewable energy programs are key parts of the EMNRD Energy Conservation and Management Division strategic plan and will therefore enhance performance in this area.

NMED submitted a State Implementation Plan to EPA in December 2003 pursuant to Section 309 of the federal Regional Haze Rule (40 CFR 51.309). According to this portion of the federal rule, the state is obligated to report every five years its progress in achieving the renewable energy goal of 10 percent of the regional power needs by 2005 and 20 percent by 2020. NMED believes that the implementation of House Bill 950 may help the state achieve these goals.

Additionally, one key performance measures for EMNRD air quality bureau is the improvement of visibility at all monitored locations in New Mexico. They believe that air pollutants from power plants contribute significantly to reductions in visibility and that implementation of renewable energy projects could reduce demand for energy derived from combustion of fossil fuel. This could reportedly potentially reduce air pollution and help the air quality bureau meet its target for improving visibility in New Mexico.

FISCAL IMPLICATIONS

TRD estimates that there will be no fiscal impact to this bill. They cite representatives from EMNRD, stating that the provisions of this bill correspond with rules they have developed under their rulemaking authority under present law. Thus, they believe that the provisions of the bill do not expand access to the renewable energy credit but merely codify practices the EMNRD is already putting into practice. Based on this interpretation of present law, the bill would have no fiscal impacts.

TRD cautions, however, that according to news reports, the state will soon have in excess of 400 megawatts of wind-powered electricity-generating capacity. Assuming an average availability factor of 50 percent, this capacity could generate $17.5 million worth of renewable energy tax credits per year. If all taxpayers were able to organize their holdings of these entities as required under the provisions of this bill, $17.5 million in corporate income tax credits could be claimed annually. However, they note that no credits were claimed in the most recent tax year, 2003.

EMNRD agrees that since existing legislation has maximum aggregate limits, the fiscal impact of this bill will not be significant. Though, they note that these limits will be reached faster.

ADMINISTRATIVE IMPLICATIONS

There are reportedly minimal impacts anticipated to EMNRD, as additional processing could be performed with existing staff. TRD is expected to be able to administer the proposed credits with current resources.

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