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FISCAL IMPACT REPORT

SPONSOR Balderas DATE TYPED 3-3-2005 HB 995

SHORT TITLE Biomass-Related Equipment Tax Deduction SB _____

ANALYST Taylor

REVENUE

Estimated Revenue		Subsequent Years Impact	Recurring or Non-Rec	Fund Affected
FY05	FY06			
	(\$9.0)	Increasing	Recurring	State General Fund
	(\$1.0)	Increasing	Recurring	Local Governments

(Parenthesis () Indicate Revenue Decreases)

SOURCES OF INFORMATION

LFC Files

Taxation and Revenue Department (TRD)

Energy Minerals and Natural Resources Department (EMNRD)

New Mexico Environment Department (NMED)

SUMMARY

House Bill 995 provides a compensating tax deduction for certain biomass-related materials and equipment. The deduction is equal to the value of: a) a biomass boiler, gasifier, furnace, turbine-generator, storage facility, feedstock processing or drying equipment, feedstock trailer or inter-connection transformer; and b) biomass materials used for processing into biopower, biofuels or biobased products.

PERFORMANCE IMPLICATIONS

The environment department reported that this deduction to could impact their performance measure related to improving visibility. Their comment is replicated here:

Burning biomass in a controlled incinerator will result in fewer air emissions than if the biomass was burned through wildfire, prescribed fire or crop management. Reducing smoke emissions from burning could help the department make progress on its performance measure to improve visibility throughout the state.

The environment department 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. Implementation of HB 995 will help the state achieve these renewable energy goals and better address regional haze in New Mexico's national parks and wilderness areas.

The Energy, Minerals and Natural Resources Department's report indicated these performance impacts:

HB 995 will support further development of biomass energy resources in New Mexico. Promotion, development, and implementation of renewable energy programs, including biomass programs, are key parts of the strategic plan of EMNRD's Energy Conservation and Management Division. This bill will enhance EMNRD's performance in this area. It will also indirectly benefit EMNRD's efforts to restore forest health, reduce wildfires and diversify the state's energy portfolio.

FISCAL IMPLICATIONS

The Taxation and Revenue Department is still investigating possible fiscal implications for the bill. Their preliminary analysis indicates that the bill would have no fiscal impact in FY05, and a small negative impact in FY06. The FY06 estimate indicates a \$10 thousand dollar revenue loss. Note, based on a 5 percent compensating tax rate, this implies that the value of equipment and materials eligible for the deduction would be approximately \$200 thousand.

There is a small local government impact because part of the compensating tax is shared.

ADMINISTRATIVE IMPLICATIONS

TRD analysis included this administrative impact statement: Compensating tax changes are much easier to implement if they take effect on July 1 or January 1 because that is when new filers' packet is sent out informing taxpayers of statutory changes.

TECHNICAL ISSUES

TRD' analysis included this explanation of compensating taxes: Compensating tax applies to the value of tangible personal property that is (1) manufactured by the person using the property in the state; (2) acquired outside the state in a transaction that would have been subject to gross receipts tax had it occurred within the state, or (3) acquired in a transaction that was not originally subject to tax but, because of subsequent use of the property should have been subject to tax. Thus the proposal would exclude from tax all transactions that meet these criteria. It would not exclude transactions that are currently subject to the gross receipts tax.

The environment department suggested the following amendment: Page 1, line 21, after the word "trailer" add ", composting equipment, mulching equipment"

OTHER SUBSTANTIVE ISSUES

The New Mexico Environment Department's analysis reported the following issues:

A tax deduction will encourage the use of biomass for the creation of power, fuels or products.

Biomass burning to generate power has been proposed in numerous locations throughout the state. Agricultural and forest-related materials can be burned to generate power. These materials might otherwise be burned as part of field clearing, range management or as part of a prescribed or wild fire. Air pollution emissions from biomass burning processes are less than emissions from open burning of forest or agricultural materials. Additionally, the generation of power from biomass burning means that less power is necessary from other conventional sources of power that may have adverse effects to air quality.

The collection of landfill gas for production of energy is similarly beneficial. HB995 may encourage the collection of landfill gas that otherwise would not be collected. The bill may prioritize biomass burning over other environmentally beneficial practices such as composting and mulch generation. This may send the wrong signal to communities as to how best to handle vegetative materials. To clarify that biomass is not being promoted as the preferred solid waste management practice, the bill should be amended to allow tax deductions for composting and mulch generation.

The Energy, Minerals and Natural Resources Department submitted these issues:

Significant biomass resources exist in the state, including forest-related, agricultural, animal waste, solid woody waste materials, energy crops and trees, landfill gas, wastewater treatment gas, and segregated municipal solid waste. The vast majority of these resources is not being utilized, but could generate useful energy, jobs and revenues—especially in depressed rural areas. This bill encourages major investments in the equipment required to process the available biomass into energy and value added products.

Benefits from development of biomass resources include reducing or eliminating environmental impacts of current waste disposal practices; transforming waste and problematic materials into revenue sources; improvement of air and water quality; diversification of the state's energy portfolio; and creation and retention of local jobs in New Mexico's rural economy.

Most energy dollars spent on fossil fuels leave the community, whereas dollars spent on biomass energy stays in the community. Increased jobs and economic activity generate important local, state and federal tax revenues.

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