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

		ORIGINAL DATE	2/19/09		
SPONSOR	Campos	**LAST UPDATED**		**HB**	
SHORT TITLE	Energy Generators Renewable Tax Credit			**SB**	530
				ANALYST	Francis

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Non-Rec	Fund Affected
FY09	**FY10**	**FY11**		
	None***		Recurring	General Fund

(Parenthesis ( ) Indicate Revenue Decreases)

***** SEE "FISCAL IMPLICATIONS" FOR GENERAL FUND REDUCTIONS IN FY12 and later.**

SOURCES OF INFORMATION
LFC Files

Responses Received From
Taxation and Revenue Department (TRD)
Energy Minerals and Natural Resource Department (EMNRD)

SUMMARY

Synopsis of Bill

Senate bill 530 changes the renewable energy production tax credit, raising the cap on the megawatt hours (MWh) allowed for the credit from 2 million to 3.2 million and establishes specific allocations: 900,000 MWh for solar energy, 600,000 MWh for biomass, and 1.7 million MWh for wind energy. Current law sets the cap at 2 million MWh with an additional 500,000 MWh for solar but no specific allocation. SB530 also makes changes to the definitions of qualified energy generator and qualified energy resource. The new definition shifts from a requirement that a qualified energy resource have *substantial* long term production potential to a requirement that the energy resource is "potentially available in sufficient quantities" of energy to run a plant for 10 years.

The new caps would be applied to tax years 2009 and subsequent.

FISCAL IMPLICATIONS

TRD calculated that the impact would be $3.9 million reduction in general fund revenue in FY12 and $5.7 million reduction in FY13. This impact grows as new biomass facilities are added. According to TRD:

> The revenue impact estimate is based upon information obtained from the New Mexico Energy, Minerals and Natural Resources Department (EMNRD) regarding expected future projects. In FY2012, two large solar facilities and a photovoltaic facility are expected to claim credits. The bill will also enable two planned 35MW biomass projects to claim credits when the facilities become operational. However, expected completion dates are uncertain. For purposes of this FIR it is assumed that one facility will become operational in early 2011. We assume the second facility becomes operational in early 2013. As a result, the fiscal impact will not appear until FY14, when General Fund revenues will be reduced by an additional $2.8 million annually.

SIGNIFICANT ISSUES

EMNRD:

> 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 in solar, however, could suddenly be exhausted by one or two large facilities. Moreover, fully subscribed credits in the combined wind and biomass category offer no realistic opportunity for any new facilities.

According to NMED, SB530 will affect pollution positively by increasing clean solar energy and negatively by encouraging biomass facilities:

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

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 SB 530 allows for increased tax credits for renewable energy production, it could increase the development rate of renewable energy sources and negate the need to construct new conventional coal-fired power plants that emit more air pollution. However, SB 530 will also incentivize the development of biomass energy production facilities, which generate significant 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 the 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

EMNRD:

SB 530 also proposes to modify a definitional requirement for "qualified energy resource" from a resource that is "available" in sufficient quantities to supply a generator for at least 10 years to one that is "potentially available" in such quantities (see page 7, line 2 and page 17, line 1). This is a significant change that would require EMNRD to certify poorly-planned and incomplete renewable energy projects. Potentially available resources would allow developers to pursue state government support for projects with poorly defined resources and insufficient legal agreements. A woody biomass project could demonstrate that trees are available within acceptable distance from the power plant, but would not have to provide an agreement for purchasing the trees. A wind or solar project could demonstrate that a high quality resource exists at certain lands, but would not have to provide an agreement for lease of the lands. The motive of renewable energy developers toward the tax credit would change from having a fully documented project that will proceed to construction and operation, as is the case now with EMNRD's certification process, to that of getting in the queue to tie up tax credits ahead of other developers. As a result, economic development benefits of the production tax credit would be greatly reduced by favoring projects that get certified, but not providing the green jobs that would accompany power plant operation.

CONFLICT, RELATIONSHIP

SB 530 conflicts with HB 405 which also makes changes to the renewable energy production credit caps.

SB237 is a related bill which increases the advanced energy tax credit for facility construction.

NF/mt