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

SPONSOR Leavell **ORIGINAL DATE** 02/08/13 **LAST UPDATED** 02/28/13 **HB**

SHORT TITLE Renewable Energy Equipment Valuation **SB** 284/aSCORC/aSFC

ANALYST Smith

REVENUE (dollars in thousands)

Estimated Revenue					Recurring or Nonrecurring	Fund Affected
FY13	FY14	FY15	FY16	FY17		
	($429.0)	($406.0)	($384.0)	($361.0)	Recurring	Renewable Energy Asset Owners
	$429.0	$406.0	$384.0	$361.0	Recurring	Other G.O. Bond Property Tax Payers

(Parenthesis ( ) Indicate Revenue Decreases)

Duplicate to HB 330

SOURCES OF INFORMATION
LFC Files

Responses Received From
Taxation and Revenue Department (TRD) (Original Bill Only)
Energy Mineral and Natural Resources Department (EMNRD) (Original Bill Only)
Department of Finance and Administration (DFA)

SUMMARY

Synopsis of SFC Amendment

The Senate Finance Committee amendment to Senate Bill 284:

- Strikes the Senate Corporations and Transportation Committee amendment and therefore reinstates a depreciation deduction.
- Makes a technical correction to the sunset date.
- Allows the assets a 20 year depreciation schedule rather than a ten year schedule.
- Clarifies that there is a taxable floor of 20 percent after depreciation.

Synopsis of SCORC Amendment

The Senate Corporations and Transportation Committee amendment to Senate Bill 284 strikes the depreciation deduction from the taxable value calculation.

Synopsis of Original Bill

Senate Bill 284 amends Section 7-36-29 NMSA 1978, to provide for a specific method of valuation, through June 30, 2028, of renewable energy equipment that is subject to property taxation and is used for the generation, transmission or distribution of electric power or energy.

FISCAL IMPLICATIONS

The fiscal impacts have been reduced ten percent to account for the amendment.

The Legislative Finance Committee (LFC) analysis scores the revenue impacts differently than the Taxation and Revenue Department (TRD) analysis. The reason is the executive/legislative informal policy of not appropriating the maximizing the size of bond issues up to the constitutional limit. If the 1 percent cap was a binding constraint, the effect of this bill would reduce general obligation bond capacity for future issues. Given current practice, HB 330 shifts the burden on other property taxpayers.

The Property Tax Division reports that there is approximately $451,500,000 in fixed assets that would qualify for the special assessment method. Thus, the $372 million reduction of assessed value following the adoption of the bill would reduce total net taxable value by $124 million. State general obligation bonding capacity is determined as 1 percent of total net taxable value, thus it is reduced by 1 percent of this amount or $1.2 million. The decrease of assessed value would result in an increase of property tax levies, excluding voter approved mill rates and those mill rates already limited by caps, to compensate for the loss in the base, shifting property tax obligations to other taxpayers.

Estimating the cost of tax expenditures is difficult. Confidentiality requirements surrounding certain taxpayer information create uncertainty, and analysts must frequently interpret third-party data sources. The statutory criteria for a tax expenditure may be ambiguous, further complicating the initial cost estimate of the expenditure's fiscal impact. Once a tax expenditure has been approved, information constraints continue to create challenges in tracking the real costs (and benefits) of tax expenditures.

SIGNIFICANT ISSUES

The ten-year depreciation schedule is at odds with class life (reciprocal of annual depreciation schedules) represented by industry as well as conventional class life used on renewable electrical generation equipment by the IRS. Those are typically twenty-five or thirty years.

The Property Tax Division recognizes other justifiable factors including the typical twenty-year term of power purchase agreements in determining obsolescence and class life.

The ten-year class life stipulation in this legislation is at odds with the twenty-five year sustainability opinion required for the Production Tax Credits.

The vast majority of wind generation equipment as defined in this legislation was financed with Industrial Revenue Bonds and is therefore not on the tax rolls. The individual expirations of these bonds is not available to calculate if this legislation will have an effect after June 30, 2028.

PERFORMANCE IMPLICATIONS

The LFC tax policy of accountability is not met since the TRD is not required in the bill to report annually to an interim legislative committee regarding the data compiled from the reports from taxpayers taking the special valuation and other information to determine whether the deduction is meeting its purpose.

TECHNICAL ISSUES

Lines 9-11 on page 5 should be struck from the bill. And the subsections should be renumbered accordingly.

This bill does not contain a sunset date. The LFC recommends adding a sunset date.

Does the bill meet the Legislative Finance Committee tax policy principles?

1. **Adequacy**: Revenue should be adequate to fund needed government services.
2. **Efficiency**: Tax base should be as broad as possible and avoid excess reliance on one tax.
3. **Equity**: Different taxpayers should be treated fairly.
4. **Simplicity**: Collection should be simple and easily understood.
5. **Accountability**: Preferences should be easy to monitor and evaluate

SS/svb:blm