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

ORIGINAL DATE 2/4/16

SPONSOR Ivey-Soto/Gentry **LAST UPDATED** ______ **HB** ______

SHORT TITLE Extend time period for Advanced Energy Income Tax Credits and Deductions **SB** 233

ANALYST Graeser

REVENUE (dollars in thousands)

Estimated Revenue					Recurring or Nonrecurring	Fund Affected
FY16	**FY17**	**FY18**	**FY19**	**FY20**		
	($3,000.0)	($3,000.0)	($3,000.0)	($3,000.0)	Recurring	General Fund

Parenthesis ( ) indicate revenue decreases

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY16	FY17	FY18	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total	32.0	0	0	32.0	Nonrecurring	TRD operating

Parenthesis ( ) indicate expenditure decreases

SOURCES OF INFORMATION

LFC Files

Responses Received From
Taxation and Revenue Department (TRD)
Public Regulation Commission (PRC)
Energy, Minerals and Natural Resources Dept. (EMNRD)

SUMMARY

Synopsis of Bill

Senate Bill 233 reduces the total allowable advanced energy tax credits per qualified generating facility from $60 million to $1 million; the advanced energy deduction ceiling is similarly lowered from $60 million to $1 million. The bill also extends the delayed repeal date of December 31, 2015 to December 31, 2020 for the time that construction of the generating facility must begin to qualify for the tax credits and deduction.

There are three advanced energy tax credits: the advanced energy income tax credit (7-2-18.25), the advanced energy corporate income tax credit (7-2A-25) and the advanced energy combined reporting tax credit (7-9G-2). It is not clear if amounts claimed of advanced energy deduction (7-9-114, applying to both gross receipts and compensating taxes)—referred to as a tax benefit—are to be counted under the cap for advanced energy tax credits.

A qualified generating facility includes solar thermal, solar photovoltaic, geothermal, certain recycled energy and new or repowered coal-based electric generating facilities.

There is no effective date of this bill. It is assumed that the new effective date is 90 days after this session ends (May 18, 2016). The provisions of the bill effectively sunset for projects that do not begin construction by December 31, 2020.

FISCAL IMPLICATIONS

The Taxation and Revenue Department (TRD) evaluated direct taxpayer data to estimate the fiscal impact of this bill. According to the 2015 Tax Expenditure Report (TER) the credit is not widely used; reporting information is redacted because less than three taxpayers claimed the credit. According to the 2015 Tax Expenditure Report, claims exceeded $5 million only in FY 2013, when total credits were $5.4 million The estimate assumes three projects per year would apply for credits or deductions at a maximum of $1,000,000 per project.

This bill may be counter to the LFC tax policy principle of adequacy, efficiency and equity. Due to the increasing cost of tax expenditures revenues may be insufficient to cover growing recurring appropriations.

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.

PERFORMANCE IMPLICATIONS

The LFC tax policy of accountability is met with the bill's requirement to report annually to an interim legislative committee regarding the data compiled from the reports from taxpayers taking the deduction and other information to determine whether the deduction is meeting its purpose. However, because fewer than three taxpayers per year have claimed these credits and deductions, a report to the legislature is not informative either as to cost or to benefits.

ADMINISTRATIVE IMPLICATIONS

Minimal Impact: The bill does not impact the financial distribution process, but the credit may be subject to the financial disclosure requirements per Governmental Accounting Standards Board (GASB) Statement No.77. GASB 77 disclosure statements are effective for financial statements for periods beginning after December 15, 2015. An assessment of the credit against the tax abatement criteria specified in GASB 77 will need to be performed by TRD. If the credit meets the criteria, then the disclosure is required in TRD's financial statements.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

SB 233 relates to SB 104 and HB 175 as these bills all provide tax credits for qualified generating facilities.

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

LG/jle