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## FISCAL IMPACT REPORT



SPONSOR: HTRC DATE TYPED: 02/12/02 HB 143, 373, 377/HTRCS

SHORT TITLE: Electric Generation Facilities Tax Incentives SB \_\_\_\_\_

ANALYST: Smith

### REVENUE

Estimated Revenue		Subsequent Years Impact	Recurring or Non-Rec	Fund Affected
FY02	FY03			
	(150.0)		Recurring	General Fund
	(4,000.0)		Recurring	General Fund
	See Narrative			Beneficiaries of the Property Tax
	(3,300.0)		Recurring	Local Governments

(Parenthesis ( ) Indicate Revenue Decreases)

### SOURCES OF INFORMATION

Taxation and Revenue Department (TRD)  
Energy, Minerals and Natural Resources Department (ENMRD)

### SUMMARY

#### Synopsis of Substitute Bill

House Taxation and Revenue Committee Substitute for House Bill 143, 373 and 377 amends the industrial revenue bond act and the county industrial revenue bond act to allow an electricity generation facility engaged in interstate commerce to qualify for IRBs under the definition of allowed projects. In addition, the proposed substitute also allows 501(c3) corporations to qualify for IRBs. However, IRB eligible electric facilities must also provide payments in lieu of taxes to the local school districts that would otherwise be impacted by the exemption from property taxes. The substitute then makes the entities owning these facilities eligible for the double-weighted sales election for apportioning corporate income tax. Lastly, the bill allows for a gross receipts deduction on wind energy generation equipment to government agencies.

## FISCAL IMPLICATIONS

TRD's assumptions for the estimate on electricity generation facilities are as follows:

- The qualifying language roughly translates into a facility that is engaged in interstate commerce
- The equivalent of one medium-size facility (100 MWe) per year is constructed in each part of the state—i.e. one in those counties currently eligible for the IRB and investment credit incentives and one in the counties currently ineligible.
- These facilities would be built even if the proposed incentives were not approved.
- These facilities all produce entirely for the wholesale market.
- Capital expenditures and employment figures were based on information from industry experts.
- The fuel used in the power plants is not assumed to represent an increase in annual sales by New Mexico producers and therefore does not generate additional oil and gas taxes. The amount of fuel consumed in these plants is small compared to total output of New Mexico producers

TRD notes that the estimate for the wind energy deduction assumes that the equivalent of one 200 megawatt (MWe) facility is constructed in a county eligible for IRB and investment credit incentives, and the facility would be built even if the proposed change in statute is not adopted. The capital cost of the facility is assumed to be \$200 million and the value of construction materials qualifying for deduction is 60% of total capital costs (\$120 million). The amount eligible for investment credit is largely limited due to the employment requirement of 7-9A-7.1 NMSA 1978. Therefore, the estimate assumes no investment credit claims. Capital expenditures amounts were based on information from industry representatives.

The Energy, Minerals and Natural Resources Department reports currently there is only one such facility in the state that would qualify, but they expect to see other facilities in the future.

## OTHER SUBSTANTIVE ISSUES

TRD notes that the legislation passed last year (Laws 2001, chapter 284) included eligibility for the double-weighted sales election for apportioning corporate income tax. But, because another bill amended the same section of statute and was signed after Senate Bill 739, the double-weighted sales provision was not compiled into the statutes. However according to a November 1, 2000 Attorney General Opinion (Opinion No. 00-05) “unless two laws covering the same subject matter are incompatible, the rules of statutory construction require that they be harmonized and construed together if possible.”

SS/njw