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

SPONSOR Garcia, M.J. **ORIGINAL DATE** 01/30/12 **LAST UPDATED** **HB**

SHORT TITLE Sustainable Energy Investment Tax Credit **SB** 142

ANALYST Smith

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY12	**FY13**	**FY14**		
	(205.0)	(307.0)	Recurring	General Fund

(Parenthesis ( ) Indicate Revenue Decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY12	FY13	FY14	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total		27.2	20.0	47.2	Recurring	Taxation and Revenue Department

(Parenthesis ( ) Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From
Taxation and Revenue Department (TRD)

SUMMARY

This bill creates the sustainable energy technology investment tax credit under both the Income Tax and Corporate Income Tax. A taxpayer who makes a qualified investment may claim a credit in an amount not to exceed twenty-five percent of not more than one hundred thousand dollars of the qualified investment. The credit may be claimed for not more than two qualified investments in different qualified businesses in a taxable year. A taxpayer may not claim the credit for qualified investments in the same qualified business or successor of that business for more than three taxable years. The credit may not exceed twenty-five thousand dollars for each qualified investment by the taxpayer. This credit is to be deducted from the taxpayer's income tax liability, and any unused portion of the credit may not be refunded or transferred, but may be carried forward for three consecutive years.

Effective Date: Not specified; 90 days following adjournment (May 16, 2012); Applicable to tax years beginning on or after January 1, 2012.

FISCAL IMPLICATIONS

This estimate uses data from a comparable tax credit, the Angel Investment Tax Credit, to calculate an expected average qualified investment amount, average credit, and growth in the number of applicants.

This bill proposes a tax credit with a structure and purpose similar to the Angel Investment Tax Credit. That credit resulted in an average investment of $27,300 and an average credit of $6,825. The number of taxpayers claiming the Angel Investment Tax Credit grew from 16 in taxable year 2007 to 44 in 2010. This analysis assumes that the average investment and growth in claims will mirror what happened with Angel.

It should be noted that the credit proposed by this bill varies from Angel in both its scope and its applicability. Although this bill restricts its credit to investments in sustainable energy technology, it also expands the credit such that businesses can now qualify for it under the Corporate Income and Franchise Tax Act. This means that more entities could participate under the proposed tax credit but that fewer types of investments would qualify than under Angel. The effects of these changes are assumed by this analysis to offset.

This analysis begins by assuming an average investment of $27,300 by 30 individuals and businesses for an average credit of $6,825 each. The estimate then assumes strong initial growth in the number of applicants for the credit which quickly slows over the following years.

SIGNIFICANT ISSUES

TRD notes that this bill provides incentives for investment in fledgling sustainable energy technology businesses through non-refundable credits to qualified investors through the personal income tax and corporate income tax. Because qualified businesses are limited to those with gross revenues of $5 million or less, the incentive might not entice investment from venture capitalists that typically look for more established enterprises to invest in. Also, this credit appears to apply to some of the same types of technologies that are eligible for the Advanced Energy Tax Credit. It is not clear why a new credit is needed to subsidize the same industry. The proposal adds significant complexity and creates the possibility of a “double-dip” for these different credits.

ADMINISTRATIVE IMPLICATIONS

Depending on the amount of utilization of the credit, this bill could impose significant administrative costs on the Taxation and Revenue Department and on the Economic Development Department. The bill requires extensive documentation and reporting by both Departments. Managing the maximum aggregate tax credits will require some rules, to account for the taxpayers who receive certificates from the economic development department but are not allowed the credit because we have reached the aggregate maximum. A tracking system would need to be set up for both the $2 million aggregate cap and the 3 year carry forward. The Department’s ITD estimates implementation would take roughly 160 hours at a cost of $3,200.

TECHNICAL ISSUES

On page 7, line 6, “fiscal year ending” should be changed to “taxable year”. This appears also on page 13, line 10. The definition of sustainable energy technology includes “has a long-term production and commercialization potential.” There is no practical way for administrators to enforce compliance with these criteria. The bill authorizes the release of tax return information which would be in conflict with the confidentiality provisions of Section 7-1-8. Thus, in practice, the Taxation Department would be unable to provide this information.

OTHER SUBSTANTIVE ISSUES

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

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

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