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## FISCAL IMPACT REPORT

ORIGINAL DATE 01/27/14

SPONSOR Harper LAST UPDATED \_\_\_\_\_ HB 133

SHORT TITLE Solar Energy Equipment Tax Valuation SB \_\_\_\_\_

ANALYST Graeser

### REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY14	FY15	FY16		
		See Illustration below	Recurring	State General Obligation Bond Fund
		See Illustration below	Recurring	Other Property Tax Beneficiaries

(Parenthesis ( ) Indicate Revenue Decreases)

The impact of this proposal is highly uncertain for a number of reasons discussed below. However, the revenue losses attributable to this proposal will be highly concentrated in counties with solar installations. For property tax beneficiaries in these counties, the bill creates a recurring impact. The illustration indicates total statewide losses could be in the range of \$1.5 million annually through FY 2020, although declining after that date.

The bill imposes a very modest change in the workload of the central assessment bureau at the Taxation and Revenue Department’s Property Tax Division.

### SOURCES OF INFORMATION

LFC Files

#### Responses Received From

Public Regulation Commission (PRC)

Energy Mineral Natural Resource Department (EMNRD)

### SUMMARY

#### Synopsis of Bill

House Bill 133 amends the special method of assessing property used for the generation, transmission or distribution of electric power or energy, in particular when solar generation is at issue. The bill proposes that the assessed value of solar generation equipment, including related transformers, circuit breakers, switching and metering equipment, meteorological towers, hardware and software be determined based on cost less any “federal investment tax credit” then depreciated on a 20-year straight-line basis, with a minimum value (in perpetuity?) of 20 percent of the cost less federal credit.

The bill also makes some stylistic and editorial amendments to Section 7-36-29 NMSA 1978.

## FISCAL IMPLICATIONS

See significant issues below for discussion of uncertainty of which, if any, federal credits are to be deducted from the costs for the purpose of property tax assessment. In either case, property tax assessments will be less for credit-eligible properties than for other electrical-generating properties. Revenue losses will be highly localized to counties and school districts with large solar installations. PNM, a major investor-owned utility in New Mexico recently completed and dedicated the approximately 10 MW Manzano Solar Energy Center in Valencia County. The company has estimated that the total property tax increase for all beneficiaries will be about \$440,000. These estimates are approximately consistent, if we assume that the cost of the facility was about \$34 million (\$3.40 per KW) and the applicable tax rate, 38.349 mills.<sup>1</sup> If we assume that pursuant to this bill, the facility qualified for a 30 percent federal investment credit, the revenue loss from this one project to the beneficiaries would be approximately as follows:

<b>30 percent Federal Investment Credit – Impact on Beneficiaries</b>	
State	-\$4,700
County	-\$43,900
City	\$0
School	-\$47,000
Val Coll (1)	-\$6,900
Val Coll (2)	-\$2,900
Hospital	-\$9,500
MRGCD	-\$17,100
	-\$132,000

PNM reports that as of late 2011, the Las Lunas 5 MW Valencia County facility was the utility's largest in the State. The Los Lunas facility is two-and-a-half times larger than a similar facility dedicated in Albuquerque April 20, 2011. PNM apparently built three more solar facilities in 2011, one each in Deming, Alamogordo and Las Vegas. Each of the remaining three facilities was the same size as the Los Lunas Solar Energy Center. In 2013, the Manzano project was joined by a similarly sized facility in Otero County. By the end of 2013, PNM alone expects 42.5 MW of installed capacity. Other utilities in the state are also obliged to conform to the renewable portfolio requirements. In addition to the coops and investor-owned utilities in the state, [Green States Energy](#), an independent power producer (IPP), announced plans (April 2013) to build a 2.5MW ground-mount PV system in Roswell, New Mexico.

Over the next few years, in excess of 10 megawatts per year will be installed. New Mexico's renewable portfolio standard, currently requires 10 percent of energy produced for customers comes from renewable resources. The requirement jumps from 10 percent today to 15 percent in 2015 and to 20 percent by 2020. By 2020, at least 50 MW more of solar capacity will be required (assuming that PRC maintains the renewable standard). Assume for the sake of argument that utilities in the state will construct an average of 10 MW capacity annually for six years, costing an average of \$2.50 per watt, and subject to a 10 percent federal credit (the 30 percent credit apparently only applies to facilities installed and operational by January 1, 2014.) Beginning with the 2015 tax year, the average revenue impact to the beneficiaries will be an average

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<sup>1</sup> [http://www.co.valencia.nm.us/departments/assessor/Tax\\_Rates.html](http://www.co.valencia.nm.us/departments/assessor/Tax_Rates.html) and assuming the installation is in Las Lunas School District, outside of the Las Lunas municipal boundaries, non-residential property. The correlation is not exact, but is indicative.

(1,500). This will be highly localized impact in the areas of solar installation. It should be emphasized that this is not a revenue estimate but an order-of-magnitude calculation.

Allocate the TY2015 impact to FY16	Mill Rate	Impact in (\$1,000)						
		FY 2014	FY 2015	FY 2016	FY 2017	FY 2018	FY 2019	FY 2020
State Debt	1.36	\$65.2	\$66.1	\$66.2	\$65.7	\$64.6	\$63.2	
County Debt + Operating	12.64	\$606.2	\$614.1	\$615.5	\$610.7	\$600.0	\$587.8	
City Operating + Debt	0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	
School	13	\$623.5	\$631.6	\$633.0	\$628.1	\$617.1	\$604.5	
Special Districts	5	\$239.8	\$242.9	\$243.5	\$241.6	\$237.3	\$232.5	
	32	\$1,535	\$1,555	\$1,558	\$1,546	\$1,519	\$1,488	

The timing of the changes proposed in this bill is of concern, as well. Projects begun by the end of 2013 will be eligible for the 30 percent federal credit. With large construction projects, assessment for property tax purposes can be done for construction work in progress. Thus, a project that had begun by the end of 2013 could generate some partial assessment as of January 1, 2014. The payments for this assessment would be due in the fall of 2014 and the spring of 2015. The reduction in assessment attributable to this bill, however, would not be effective until May 21, 2014 and would not affect the TY2014 valuation. So the actual impact of this bill would be (1) uncertain, but highly localized to counties with projects; (2) uncertain as to amount, because of the difference between a 30 percent federal credit and a 10 percent federal credit; and (3) uncertain as to timing depending on the construction-work-in-progress (CWIP) provisions.

**SIGNIFICANT ISSUES**

The bill specifies that the value of a solar generation facility will be the cost less any “federal investment tax credit claimed.” This specification may be imprecise. There is a currently effective federal investment credit entitled, “Business Energy Investment Tax Credit” that provides a 30 percent of cost credit for solar, fuel cells, small wind and federal renewable electricity production tax credit PTC-eligible technologies and a 10 percent of cost tax credit for geothermal, microturbines and combined heat and power systems.

However, prior to enactment of the federal business energy investment tax credit, there was (and is) a federal renewable electricity production tax credit the federal business energy investment tax credit available under 26 USC § 48 was expanded significantly by the Energy Improvement and Extension Act of 2008 (H.R. 1424), enacted in October 2008. This law extended the duration -- by eight years -- of the existing credits for solar energy, fuel cells and microturbines; increased the credit amount for fuel cells; established new credits for small wind-energy systems, geothermal heat pumps, and combined heat and power (CHP) systems; allowed utilities to use the credits; and allowed taxpayers to take the credit against the alternative minimum tax (AMT), subject to certain limitations. The credit was further expanded by the American Recovery and Reinvestment Act of 2009, enacted in February 2009.

The American Recovery and Reinvestment Act of 2009 allows taxpayers eligible for the federal renewable electricity production tax credit (PTC -- 10 percent) to take the federal business energy investment tax credit (30 percent) instead of taking the PTC for new installations. In January 2013 the American Taxpayer Relief Act of 2013 (H.R. 8) revised the language governing the ability of PTC-eligible facilities to claim the ITC to allow projects that begin construction by the end of 2013 to qualify for the ITC. Prior to H.R. 8, the law required PTC-

eligible facilities to be placed in service by the end of 2013 (or 2012 in the case of wind) in order to qualify for the ITC.

(Note: info from [http://www.dsireusa.org/incentives/incentive.cfm?Incentive\\_Code=US02F](http://www.dsireusa.org/incentives/incentive.cfm?Incentive_Code=US02F))

Therefore, the specification on page 5, line 5 of the bills should be clarified as to which or both federal credits are at issue.

From a policy point of view, the cost net of the federal credit will enter the rate base and not the gross cost. Therefore, it seems fair that the generating company should only bear the burden of paying property taxes on the construction costs net of either of the relevant federal credits.

### **EFFECTIVE DATE**

Not stated -- May 21, 2014

### **ADMINISTRATIVE IMPLICATIONS**

TRD/PTD is directed in the bill to adopt regulations to implement the provisions of Section 7-36-29 NMSA 1978. This will probably be done by instruction to the central assessment bureau.

### **TECHNICAL ISSUES**

The specification on page 5, line 5 of the bill as “the federal investment tax credit claimed” should probably be changed to, “any federal renewable electricity production tax credit, federal business energy investment tax credit or similar federal investment tax credits enacted in the future specifically applicable to electrical energy generation transmission or distribution of electric power or energy.”

### **OTHER SUBSTANTIVE ISSUES**

The federal renewable electric production tax credits and the federal business energy investment tax credits also apply to fuel cells, microturbines, small wind-energy systems, geothermal heat pumps, and combined heat and power (CHP) systems. Fairness implies that these technologies should be included in this special method of valuation.

Ordinarily, the LFC cautions that tax expenditures generally violate the LFC tax policy principles of equity, efficiency and adequacy. However, this bill does not create tax expenditure within the common definition of tax expenditure. While the Counties have a nominal right to property taxes determined on a gross basis, the equitable base, and the base used in determining the proper rates that the utility can and should charge customers, is the cost less any applicable federal credits.

### **WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL**

Ratepayers could end up bearing an unfair burden of property taxes relative to the net costs of solar generation equipment included in the rate base.

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