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

		ORIGINAL DATE	01/25/13		
SPONSOR	Salazar, N.	**LAST UPDATED**		**HB**	128
SHORT TITLE	Solar Facility Gross Receipts Definitions			**SB**	
				ANALYST	van Moorsel

REVENUE (dollars in thousands)

Estimated Revenue					Recurring or Nonrecurring	Fund Affected
FY13	**FY14**	**FY15**	**FY16**	**FY17**		
	($283.3)	($255.0)	($229.5)	($206.5)	Recurring	General Fund
	($188.9)	($167.0)	($153.0)	($137.7)	Recurring	Local Governments

(Parenthesis ( ) Indicate Revenue Decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY13	**FY14**	**FY15**	**3 Year Total Cost**	**Recurring or Nonrecurring**	**Fund Affected**
Total	$15.0	$15.0		$30.0	Nonrecurring	Air Quality Permit Fund

(Parenthesis ( ) Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From
Department of Finance and Administration (DFA)
Environment Department (ED)
Energy, Minerals and Natural Resources Department (EMNRD)
Taxation and Revenue Department (TRD)

SUMMARY

Synopsis of Bill

House Bill 128 amends the Gross Receipts and Compensating Tax Act to amend the definitions of both a solar photovoltaic electric generating facility and a solar thermal electric generating facility to remove the requirements that a facility must have a name-plate capacity of one megawatt or more to qualify for the advanced energy deduction.

The deduction applies to qualified generating facilities that begin construction not later than December 31, 2015.

There is no effective date of this bill. It is assumed that the new effective date is 90 days after this session ends.

FISCAL IMPLICATIONS

This bill appears to change the intent of the advanced energy gross receipts tax (GRT) deduction. The existing statute contains a 1 megawatt threshold to limit deductions to expenses from utility scale facilities. Removing the threshold could open the deduction up to business or residential taxpayers. However, the Environment Department (NMED) charges a $5,000 application fee, or $2,500 for small businesses. This places an effective floor on the size of facilities given the assumption that the taxpayer will not choose to apply for the deduction if they will benefit less than $5,000 or $2,500.

The Taxation and Revenue Department reports that, based on the $5,000 application fee ($2,500 for small businesses) and the state average GRT rate of approximately 6.84%, the smallest facility cost that would give a tax benefit above the application fee is estimated to be just over $73,000 or $36,500 for small businesses. That equates to a minimum facility capacity that would be likely to apply of about 13 kW, or 5.9 kW for small businesses. The small business facility size is less than half of the size of the standard size because the cost of small facilities is higher per watt.

The Department of Finance and Administration notes that at least one builder in the Albuquerque area has expressed interest in removing the threshold criteria so as to qualify for the credit. This analysis assumes that the removal of the capacity threshold will allow more taxpayers to benefit from the credit, which will negatively impact general fund revenues.

This bill may be counter to the LFC tax policy principle of adequacy, efficiency and equity. Uncertainty in revenues means they may be insufficient to cover growing recurring appropriations.

SIGNIFICANT ISSUES

The advanced energy deduction permits the receipts from selling or leasing tangible personal property or services that are eligible generation plant costs to a person that holds an interest in a qualified generating facility to be deducted from gross receipts. The amendments in HB 128 would expand the amount of generating facilities that would qualify for the deduction.

The Advanced Energy Deduction is currently available primarily to companies providing utility-scale systems. Removing the size requirement for solar would open up system eligibility to commercial- and residential-scale projects. Individuals and small businesses would be able to use this incentive. Both photovoltaic and solar thermal electric are scalable technologies where the desired system capacity can be matched closely to the end use.

This bill could encourage increased investment of solar photovoltaic and thermal electrical generation. However, such investment could take away investment to other important areas, such as weatherization or lower cost efficiency (including waste reduction) improvements. From a tax policy perspective, this bill narrows the tax base.

PERFORMANCE IMPLICATIONS

The LFC tax policy of accountability is met with the bill's requirement to report 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.

ADMINISTATIVE IMPLICATIONS

According to the Environment Department, expansion of the Advanced Energy Tax Credit could greatly increase the number of commercial and residential photovoltaic projects requiring evaluation by the Environment Department for a determination of whether they qualify for the tax credit. Total cost to the Environment Department is estimated to be $30,000 of staff time to develop the rule revisions. The cost to process additional applications would be dependent on the number of applications received.

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

PvM/svb