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| LFC Requester: | Martinez |
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**AGENCY BILL ANALYSIS
2021 REGULAR SESSION**

WITHIN 24 HOURS OF BILL POSTING, EMAIL ANALYSIS TO:

LFC@NMLEGIS.GOV

and

DFA@STATE.NM.US

{Include the bill no. in the email subject line, e.g., HB2, and only attach one bill analysis and related documentation per email message}

SECTION I: GENERAL INFORMATION

{Indicate if analysis is on an original bill, amendment, substitute or a correction of a previous bill}

Check all that apply:
Original **Amendment**
Correction **Substitute**

Date 3/5/2021
Bill No: SB72

Sponsor: Steven P. Neville
ELECTRIC GENERATION
Short Title: PROJECT REQUIREMENTS

Agency Name and Code PED-924
Number: _____
Person Writing John Sena
Phone: 505-570-7816 **Email** John.Sena@state.nm.us

SECTION II: FISCAL IMPACT

APPROPRIATION (dollars in thousands)

| Appropriation | | Recurring or Nonrecurring | Fund Affected |
|---------------|------|---------------------------|---------------|
| FY21 | FY22 | | |
| | | | |
| | | | |

(Parenthesis () Indicate Expenditure Decreases)

REVENUE (dollars in thousands)

| Estimated Revenue | | | Recurring or Nonrecurring | Fund Affected |
|-------------------|------|------|---------------------------|---------------|
| FY21 | FY22 | FY23 | | |
| | | | | |
| | | | | |

(Parenthesis () Indicate Expenditure Decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

| | FY21 | FY22 | FY23 | 3 Year Total Cost | Recurring or Nonrecurring | Fund Affected |
|--------------|-------------|-------------|-------------|------------------------------|--------------------------------------|--------------------------|
| Total | | | | | | |

(Parenthesis () Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to: HB105
Duplicates/Relates to Appropriation in the General Appropriation Act

SECTION III: NARRATIVE

BILL SUMMARY

Synopsis: Senate Bill 72 (SB72) would change the method for determining annual in-lieu tax payments for an electric generation or transmission facility project as it pertains to Industrial Revenue Bonds (IRB). SB72 also provides for the sharing of in-lieu tax payments among counties, municipalities and certain school districts. Lastly, SB72 clarifies that certain payments to the state for an electric transmission project are to be made by the person proposing the electric transmission project.

This bill has an emergency clause.

FISCAL IMPLICATIONS

SB72 provides that a municipality or county is not to acquire any electricity generation or transmission facility project unless the school district in which the project is located will receive the same amount, or greater, of annual in-lieu tax payments as would have been received in property taxes for the fully developed project had the project not been acquired.

School districts within the municipality or county in which the project is located are to receive annual in-lieu tax payments provided that the annual in-lieu tax payments must be: (a) payable to the school districts for the period the municipality or county owns and leases the project, (b) in an aggregate amount equal to the amount received by the municipality or county multiplied by the percentage determined by dividing the average of the operating, capital improvement and bond mills imposed by the school districts in the municipality or county as of the date of issuance of the industrial revenue bonds by the average of the mills imposed by all entities levying taxes on property in the municipality or county as of such date, (c) shared among the school districts located within the municipality or county equally (if there is more than one school district in such municipality or county), and (d) not less than the amount due to the school districts in the tax year immediately preceding the issuance of the bonds from the property included in a project, had such project not been created.

The fiscal impact of the provisions of this bill are largely indeterminate, since the impacts depend on negotiations concerning the amount of in-lieu of property taxes to be shared, the location of the project, the depreciated value of the project over time (roughly a 25-year straight-line depreciation schedule) and the number of school districts in the sponsoring municipality or county.

SIGNIFICANT ISSUES

The New Mexico Energy Minerals and Natural Resources Department (EMNRD) has provided some background information about how this bill came to be:

In 2020, the Legislature passed House Bill 50 (HB50), amending the Industrial Revenue Bond Act to make certain transmission line construction projects eligible for industrial revenue bonds. In the process of passing HB50, the bill was amended on the Senate Floor to hold school districts harmless, stipulating that school districts receive annual in-lieu tax payments in the same or greater amounts as they would have received from property taxes for a fully developed project had an IRB not been issued. One impact of this provision is that school districts no longer have the ability to negotiate alongside municipalities and counties over tax in-lieu payments, and this has had the apparent effect of reducing the likelihood that municipalities and counties will engage with transmission and renewable generation developers on their own. Transmission developers are reluctant to engage in projects without the benefits that an IRB provides.

SB72 would repair this situation by essentially removing the 2020 amendment. SB72 also ties the issuance of an IRB to in-lieu tax payments for school districts and assures that school districts will continue to receive in-lieu tax payments throughout the duration of the bond period. In addition, SB72 establishes a standardized mechanism for calculating those payments.

PERFORMANCE IMPLICATIONS

ADMINISTRATIVE IMPLICATIONS

For the most part, there are no administrative consequences for any state agency or entity. The calculation of the amount of in-lieu tax payments for each of the school districts involved in a municipality or county with an IRB electric transmission project would be calculated by the accountants for the project or the financial staff of the sponsoring municipality or county. TRD/PTD has assisted in the past in calculating the depreciable asset value to help the local sponsoring municipality or county divide in-lieu tax payments accurately and appropriately.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

This bill is a duplicate of HB105.

TECHNICAL ISSUES

OTHER SUBSTANTIVE ISSUES

ALTERNATIVES

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

AMENDMENTS