GOVERNOR'S OFFICE OF
BUDGET AND PROGRAM PLANNING

Fiscal Note 2015 Biennium

Bill #	SB0138		**Title:**	Extend class 14 tax classification to all new generating and fuel facilities
Primary Sponsor:	Wittich, Art		**Status:**	As Introduced

- ☑ Significant Local Gov Impact
- ☐ Needs to be included in HB 2
- ☑ Technical Concerns
- ☐ Included in the Executive Budget
- ☑ Significant Long-Term Impacts
- ☐ Dedicated Revenue Form Attached

FISCAL SUMMARY

	FY 2014 Difference	FY 2015 Difference	FY 2016 Difference	FY 2017 Difference
Expenditures:				
General Fund	$0	$0	$0	$0
Revenue:				
General Fund	$0	$0	$0	$0
Net Impact-General Fund Balance:	$0	$0	$0	$0

Description of fiscal impact: SB 138 provides that all future electrical generation facilities, and fuels and gas production facilities (commencing after June 30, 2013) that meet certain requirements be classified as class 14 property with a 3% tax rate. This potentially would reduce the tax rate for applicable facilities' property that would otherwise be classified as class 7 (8% tax rate), class 9 (12% tax rate), and class 13 (6% tax rate), but based on the assumptions that follow, it is estimated that this bill has no fiscal impact to the state.

FISCAL ANALYSIS

Assumptions:

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1. It is assumed that in SB 138, the term "facility" used in section 3 (15-6-156(3)(a), MCA, as amended), and section 4 (15-6-157(4)(b), MCA, as amended), means "new facilities" and not upgrades to existing property (see technical note #1).
2. SB 138 indicates that "electrical generation facilities" has the meaning as exists in 15-6-156(3), MCA, which describes the facility as any property used to produce electricity and amends existing statute by striking references to biomass generation facilities, wind generation facilities, gasification facilities, etc. It is assumed this language is struck from statute because if such newly constructed facilities produce electricity, they would be classified as class 14 property.
3. SB 138 amends existing statute by including electrical generation facilities and liquid fuel or gaseous fuel production facilities as class 14 property if construction on these facilities has commenced after June 30,

2013. This potentially reduces the tax rate and taxable value of applicable facilities' property that would otherwise be classified as class 7 (8% tax rate), class 9 (12% tax rate), and class 13 (6% tax rate) from their current rates to the class 14 rate (3%).
4. Since the bill indicates that the classification as class 14 property pertains to facilities constructed after June 30, 2013, it is assumed that existing facilities will remain classified under statute as either class 7, 9, or 13 property.
5. There are no known significant electrical generation facilities or liquid fuel or gaseous fuel facilities projects that are set to commence construction after June 30, 2013. Therefore, there is no fiscal impact for the period from FY 2014 to FY 2017.

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6. The Department certifies eligibility of generation and transmission facilities for classification as class 14 property. SB 138 may slightly increase the number of applications for certification.
7. The increased applications could be processed by existing personnel within existing budgets.

Effect on County or Other Local Revenues or Expenditures:

1. 15-10-420, MCA, provides that the revenue that would otherwise be forgone due to the reduction in taxable value (from what it would be under current law) provided for by this bill is paid by other property taxpayers.

Long-Term Impacts:

1. In the long term, property that would have been classified as class 13, class 9, and class 7 property would be classified as class 14 under SB 138. This will lead to reduced revenue generated from the 95 statewide equalization mills, 1.5 vo-tech mills, and 6 university mills.

Technical Notes:

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1. SB 138 defines class 14 property to include: electrical generation facilities that have commenced construction after June 30, 2013. Given this provision, this fiscal note assumes only new facilities and not upgrades to existing facilities, is applicable. If this is not the intent of SB 138, it is unclear how the Department of Revenue should classify an electrical generation facility that upgrades an existing property after June 30, 2013.
2. SB 138 would result in older electrical generation facilities currently in class 13 at a 6% rate remaining in class 13, while similar facilities commenced after June 30, 2013 would be class 14 taxed at a 3% rate. Using revenue estimates with by-class growth rates and estimates from the tax data base to identify the proportion of property that is electrical generation, it is possible to calculate an alternate estimate of what might constitute "new facilities" embedded in the revenue forecasts. Using that approach, the loss of taxable value due to this bill is presented in the following table. The key assumptions in this case are that current generation facilities consist of existing property minus depreciation plus replacement/upgrades with adjustments for basis of assessment. If one assumes that ½ of growth is new facilities, the revenue losses work out as follows: (Note class 7 is excluded because it is not possible to identify likely electrical generation property from property class codes in the Base12 data set)

Impact of SB 138 If Half of Growth were New Electrical Generating Facilities					
Class 9	**TY 2012**	**TY 2013**	**TY 2014**	**TY 2015**	**TY 2016**
Market Value ($ mn)	$2,687.917	$2,853.656	$2,977.593	$3,106.914	$3,319.850
Growth Assumption	6.0%	6.2%	4.3%	4.3%	6.9%
Class Generation share	**36.9%**				
Growth Component ($ mn MV)	59.78	64.977	47.755	49.829	84.022
Market Adjustment	**50%**	**$32.489**	**$23.877**	**$24.914**	**$42.011**
Change in Class 9 TV	**Tax rate**	**Taxable Value**			
SB 138 as introduced	**3.0%**	$0.975	$0.716	$0.747	$1.260
Current Law	**12.0%**	$3.899	$2.865	$2.990	$5.041
Change in Taxable Value ($ mn)		**($2.924)**	**($2.149)**	**($2.242)**	**($3.781)**
Class 13	**TY 2012**	**TY 2013**	**TY 2014**	**TY 2015**	**TY 2016**
Market Value ($ mn)	**$3,492.135**	$3,607.376	$3,726.419	$3,849.391	$3,976.421
Growth Assumption	1.9%	3.3%	3.3%	3.3%	3.3%
Class Generation share	**65.5%**				
Growth Component ($ mn MV)	43.087	77.957	80.529	83.187	85.932
Market Adjustment	**50%**	**$38.978**	**$40.265**	**$41.593**	**$42.966**
Change in Class 12 TV	**Tax rate**	**Taxable Value**			
SB 138 as introduced	**3.0%**	$1.169	$1.208	$1.248	$1.289
Current Law	**6.0%**	$2.339	$2.416	$2.496	$2.578
Change in Taxable Value ($ mn)		**($1.169)**	**($1.208)**	**($1.248)**	**($1.289)**
Total Taxable Value Change ($ mn)		**($4.093)**	**($3.357)**	**($3.490)**	**($5.070)**

Foregone Revenue due to SB 138 by Fiscal Year of Impact					
Jurisdiction	**Avg. Mills**	**FY 2014**	**FY 2015**	**FY 2016**	**FY 2017**
95 mill General Fund	0.0958	$0	($321,659)	($334,421)	($485,802)
6 mill University SSR	0.006	$0	($20,141)	($20,941)	($30,420)
Local Governments	0.187	$0	($627,741)	($652,648)	($948,080)
Local Schools	0.206	$0	($691,522)	($718,960)	($1,044,409)

The reduction in taxable value under the alternative interpretation of the bill translates roughly into an annual reduction of general fund revenue and state special revenue for the university system. Local jurisdictions would not suffer a reduction but other taxpayers would make up the revenue shortfall under the provisions of 15-10-420, MCA.

3. The meaning of “generation facilities” cited in section 3 (15-6-156(1)(a), MCA, as amended is unclear because the term is not defined.

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4. The title of SB 138 indicates that it expands rulemaking authority, but the bill does not do so.

Sponsor’s Initials *Date* *Budget Director’s Initials* *Date*