Prairie County Board of Commissioners Meeting

December 18th, 2024

Prairie County Court House Commissioners Room

217 West Park St Terry, MT 59349

www.prairiecounty.org

Prairie County Board of Commissioners Todd Devlin, Christine Keltner and Dennis Teske met in regular session at 9:00 a.m. In attendance Administrative Assistant Harry McNall and Road Supervisor Todd Henry and Brandon Duffey with Great West Engineering.

9:00 a.m. Pledge of Allegiance, call to order.

9:01 a.m. Commissioners joined the zoom call with the Federal Highway Administration (FHWA). The Memorandum of Agreement (MOA) has been signed and completed. The hold up is pier protection by US Fish and Wildlife, we are changing the design and doing a cost comparison. They plan on splitting the bid, one for the schedule and one as an option. The schedule would be the bridge decking, and approach. The pier would be the option and may be done at a later date.

9:40 a.m. Notice: Meeting with Doug Roehm at 10:00 a.m. was cancelled by Doug Roehm.

9:41 a.m. Commissioners talked with Road Supervisor Todd Henry about road conditions, grading and other related road department projects.

Greg Burger and Shane Eaton joined the meeting.

Shane Eaton stopped and spoke to the commissioners about roads, looking at 1967 ordinance on roads.

County Attorney Dan Rice joined the meeting.

Additional conversation about industrial development. Suggested making trip permits, or weight permits etc. Questions came up on bonding for road agreement. A short discussion on possible agreement with NextEra and what terms could be put into that agreement. Shane provided concerns about permitting with Federal Aviation Administration (FAA), Bureau of Land Management (BLM) and Department of Environmental Quality (DEQ) that could create a grandfathering condition for NextEra.

Dan Rice made the point that permits do not grandfather in a project, because this is not a county permit. He believes the negotiations with NextEra should continue and the growth plan should continue as well.

Shane Eaton: ask if the commissioners have sent a letter or will send a letter to the State Land Board? He also ask if Montana Association of Counties (MACo) has been sued during interim zoning? Any progress or research into litigation over interim zoning? No, the commissioners have not looked into this.

Dan Rice replied to the concerns of damages from interim zoning and cash judgements.

Shane Eaton: What is MACo's Interim zoning opinion on Missoula Counties Interim Zoning?

More discussion on zoning, NextEra and Glendive LLC.

11:06 a.m. Commissioners reviewed and discussed the Great West Engineering Task Order no. 2.

11:06 a.m. Commissioner Keltner made a motion to sign and accept the contract from Great West Engineering, "Task Order No. 2- Limited Update of the County Growth Policy, Prairie County Engineering Services On-Call Great West Engineering Project No. 1-20144", seconded by Commissioner Teske, "all in favor" motion passed.

11:08 a.m. Commissioners discussed the Contract from Carmody & Holliday Legal Services PLLC. The contract has concerns, as well as the fact we have an elected attorney already for the county. Discussion and the need and usefulness of legal advice from this legal service. Dan Rice relayed that we may have already gained fees from this company through the land planning boards conversations with them.

11:15 a.m. Commissioner Devlin entertaining a motion: Commissioner Devlin says he will not support a motion, and that he will confirm with the Land Planning Board we will use our elected legal advice for this project.

11:16 a.m. Commissioner Devlin made a motion to reverse the motion "a motion for the land planning board to hire Racheal Buzanowski, and Katie Holliday Attorneys at Law," made and passed on November 27th, 2024 meeting with the land planning board, seconded Commissioner Keltner, open for discussion, "all in favor" motion passed. All commissioners in favor.

11:30 a.m. County attorney Dan Rice provided commissioners with rules concerning public participation. He also talked to the commissioners about what is on the agenda and how items get put on agendas.

11:40 a.m. Commissioner Keltner made a motion to sign "the Zoning Compliance from DEQ Letter for the Stickle Project", seconded by Commissioner Teske, "all in favor" motion passed.

11:50 a.m. Commissioner Devlin read minutes from December 6th, 2024, commissioners meeting.

12:00 p.m. Commissioners went to the Board of Health meeting in the courtroom.

1:00 p.m. Commissioner Devlin continued to read minutes from December 6th, 2024, commissioners meeting.

1:11 p.m. Commissioner Keltner made a motion to accept the minutes from the December 6th, 2024, commissioners meeting as corrected, seconded by Commissioner Teske, "all in favor" motion passed.

1:12 p.m. Deputy Clerk & Recorder Aria Walters provided commissioners with claims.

Prairie County Voucher # 1072 $552.29

Prairie County Voucher # 1070 $13,003.05

Prairie County Voucher # 1071 $543.71

Journal Adjustments: 216, 224, 222, 221, 523

Commissioner Devlin made a motion to accept "RM88 for records that have met their retention dates according to Montana Code 7-5-2132 for Clerk & Recorders Office", seconded by Commissioner Keltner, "all in favor" motion passed.

1:35 p.m. Commissioner Teske made a motion to sign the letter to Tresure State Endowment Program Department of Commerce, seconded by Commissioner Keltner, "all in favor" motion passed.

1:36 p.m. Clerk & Recorder Shari Robertson talked with the commissioners about meal reimbursements.

1:40 p.m. Commissioner Teske made a motion to use $16, $19, $28 General Services Administration (GSA) rates for meal reimbursement, seconded by Commissioner Keltner, "all in favor" motion passed.

1:45 p.m. Commissioners read Resolution 25-15.

1:47 p.m. Shari addressed the commissioners over the use of the courtroom, procedures are not being followed and put on the calendar. The Clerk & Recorders office is not responsible for Land Planning Board agendas or any other board.

2:05 p.m. Commissioner Teske made a motion to accept **RESOLUTION No. 25-15 A RESOLUTION ESTABLISHING PUBLIC PARTICIPATION GUIDELINES FOR PUBLIC MEETINGS OF THE PRAIRIE COUNTY COMMISSIONERS AND BOARDS.,** seconded by Commissioner Keltner, "all in favor" motion passed.

2:10 p.m. Commissioner Devlin, Keltner and Teske signed the Treasurers Investment Report.

2:23 p.m. Commissioner Devlin read minutes from December 12th, commissioner and Land Planning Board scoping meeting.

2:29 p.m. Commissioner Keltner made a motion to accept the December 12th, 2024, Commissioner and Land Planning Board scoping meeting, as corrected, seconded by Commissioner Teske, "all in favor" motion passed.

2:30 p.m. Glen Heitz came and spoke to the commissioners about a broken window in the gallery at the Cameron Building. He said it would be $800 to $1200 depending on the size.

2:55 p.m. Attachments from email correspondence from commissioners added as attachments to stay in public meeting law requirements.

3:00 p.m. Public Comment.

Ron Reukauf, what is the reason for commissioners not taking tax abatements off the table? He gave his thoughts on wind turbines and not allowing them into the county.

Arron Martinson: Should the tax base be considered? The Terry Tribune coverage will make it harder for the scoping letter concerning tax revenue. Will the commissioner respond to the article in the paper? Commissioner Devlin said "when we get some hard numbers."

Lon Reukauf: He spoke with Terry Tribunes writer, and talked about putting a op-ed into the paper. He believes the numbers from NextEra represent the number of wind turbines on State and Federal Lands as well as the private.

Shane Eaton commented on Glendive Wind LLC letter concerning construction. He questions when does grandfathering come into place. He believes the letter is structured to allow NextEra and Glendive Wind LLC to get permitted and start into grandfathering.

Lucas Forcella with Crowley Fleck Attorneys with NextEra responded to Shane Eaton's Comment. Also commented about the strong feelings from each side, and that he feels there are strong benefits to the county.

Further discussion on wind turbines, and agreements etc.

Chele Harrington: Negotiation with the wind company, why would we negotiate with them? Take it or leave it offer.

Sheriff Lewis asks about the proposed property taxes, does that include impact fees?

3:30 p.m. Board Member Review of Appointments by the commissioners.

4:00 p.m. Deputy Clerk & Recorder Aria Walters spoke to the commissioners about the county website. Americans with disabilities Act added a ruling that all state and local government websites must be at a certain level of accessibility. We are not within that range. Could I get permission to start getting bids on website hosting for .gov website.

Commissioners agree Aria should continue to look into what it will cost and take to make a new .gov website.

4:30 p.m. Dale Tribby with the Greater Sage Grouse Environmental Impact Study update. He presented a draft consistency letter to the governor for the commissioners to consider. The deadline for comments from the Governor is January 7th, 2025.

4:47 p.m. Commissioner Keltner made a motion to have Dale Tribby send a draft copy for the commissioners to prepare to send to the Governor, seconded by Commissioner Teske, "all in favor" motion passed.

5:00 p.m. Commissioners are meeting with Land Planning Board.

Lon Reukauf. Visited with BLM about the process for Nepa that will happen for the wind turbines and transmission lines to go across public lands. There are cooperators to help with the process and submit comments etc on behalf of who they represent. This would require a cooperating agency status.

The land planning board will have a visit with Great West Engineering. As well as scoping letter completion. Tracy and Renee will help put together a list of who to mail the scoping letter out to.

Commissioner Devlin explained to the Land Planning Board that we will not be using outside attorneys as previously requested. We will be using the Elected County Attorney for these matters.

Commissioner, do you have any other updates? Nothing currently. But we will be putting the abatement on the agenda within the next couple of meetings.

Shane Eaton, isn't the document sent as an application or proposal?

Dan Rice: No, there is a form for abatements that must be submitted.

5:25 p.m. Meeting Was adjourned

Signed this 30th day of December 2024

Todd Devlin

Todd Devlin, Commissioner

ATTEST: Shari Robertson

Shari Robertson, Clerk & Recorder

Harry Mcnall

From: dteske@midrivers.com
Sent: Tuesday, December 17, 2024 9:39 PM
To: Dennis Teske; Harry Mcnall; Todd Devlin; keltner@midrivers.com; Dan Rice
Subject: Fwd: Prairie County ask of Dept of Revenue

-------- Original Message --------
Subject: Fwd: Prairie County ask of Dept of Revenue
Date: 2024-12-17 4:17 pm
From: Greg Kmetz <nolley@midrivers.com>
To: Dennis Teske <dteske@midrivers.com>

Dennis, Greg Kmetz here, I will include contact information for the Director of the Department of Revenue, I usually just text him & it is quickly handled, if you want me to do it I can but Shane has a reasonable request.
Branden Beaty
Cell 406-431-4079
Office 406-444-1900

> From: Jerry Schillinger <j8960@midrivers.com>
> Date: December 15, 2024 at 7:25:05 PM MST
> To: "Shane L. Eaton" <shaneetn@midrivers.com>, Bob Phalen
> <bobphalen@midrivers.com>, Brandon Ler <doublelfencing@gmail.com>,
> Greg Kmetz <nolley@midrivers.com>, kennethbogner@gmail.com, Gary Parry
> <gary.parry@legmt.gov>, Beth Hinebauch <bhineba@midrivers.com>
> Subject: RE: Prairie County ask of Dept of Revenue

>
> I'm in Helena for committee meetings Mon and Tuesday and should get a
> chance to meet with the deputy director of DOR as the director is not
> going to be in town. Jerry
>
> Sent from my Verizon, Samsung Galaxy smartphone
>
> -------- Original message --------
> From: "Shane L. Eaton" <shaneetn@midrivers.com>
> Date: 12/15/24 5:39 PM (GMT-07:00)
> To: Jerry Schillinger <j8960@midrivers.com>, Bob Phalen
> <bobphalen@midrivers.com>, Brandon Ler <doublelfencing@gmail.com>,
> Greg Kmetz <nolley@midrivers.com>, kennethbogner@gmail.com, Gary Parry
> <gary.parry@legmt.gov>, Beth Hinebauch <bhineba@midrivers.com>
> Subject: Prairie County ask of Dept of Revenue
>
> All,
>
> A matter has come to my attention that needs to be brought to your
> attention.
>

> Prairie County sent to State department of revenue, DOR, the financial
> impact statement from Nextera, which outlined the "expected" tax
> revenue to the county. We all called b.s. on the statement from the
> get go, and were lucky our commissioners sent this statement to the
> DOR to get a real, non-partisan break down of what to expect if
> Prairie County gets 170+ turbines.
>
> DOR has communicated, in some capacity to the Prairie County
> Commissioners, that DOR is worried about being sued by Nextera if they
> release the report that they put together for Prairie County. That is
> the question, why would DOR need to be trembling over litigation when
> releasing a tax estimate to a county?
>
> Article 2, Section 8,9 of State Constitution pretty much say that, "we
> the people have the right for our government to work for us and we
> have access to what they produce."
>
> My ask to you is please contact DOR and Prairie County Commissioners
> and find out what is going on; and get the report released to Prairie
> County. Also, ask any of your contacts in DOR or Executive Branch to
> make sure we are getting an unbiased report that has not been
> influenced. If there has been ANY whiff of influence by Nextera at
> the DOR or Executive branch level of this state, I ask that you guys
> act with swift and direct action.
>
> We all look forward to the assurance of an unbiased, accurate tax
> estimate from DOR, as this report will weight heavily on the decision
> of industrial development in Prairie County and the rest of Eastern
> MT. Thank you, and we are very fortunate to have you all looking out
> for us.
>
> Shane

Subject	**Re: zooning**
From	Lon Reukauf <lonreukauf@gmail.com>
To	<dteske@midrivers.com>
Cc	Harry Mcnall <h.mcnall@prairiecounty.org>, <keltner@midrivers.com>, Todd Devlin <mtdevlin@gmail.com>
Date	2024-12-17 7:50 pm

Good points.

On Tue, Dec 17, 2024 at 12:55 PM <dteske@midrivers.com> wrote:

1. It doesn't matter if you signed a lease or not, what we heard needs followed.
2. Many people have spoken about the wind project.
3. My concerns are: What does our county look like today?
   What will it look like in 25 years,
   projects life span?
4. NEXTera has a history of signing leases 5 years before that information becomes known to the counties and the population.
5. 2010 NEXTera entered Michigan leaving counties to scramble to play catchup.
6. NEXTera's Mode of Operation is the same now as it was 15 years ago.
7. NEXTera signed leases in Michigan 5 years before the county became aware of the wind project. That's an important detail about working relationships.
8. Video information by Kevon Martis. 2 hour video explains the dynamics about the issues to deal with.
9. Cash Bond needs to be $4.5 million, the cost of construction. Then needs re-assessed every two years for inflation.
10. The wind project can't bled across property lines with noise under 30 dBA, day or night, Keeping the tower away from homes: noise, health and welfare of our citizens and respect others property rights. 2 miles from homes.
11. Keep towers under 499' so NEXTera is able to gain FFA permit approval for the lighting system. NO LIGHTS WHEN AIRCRAFT ARE NOT IN THE AREA.
12. Keep minimum 3000 feet from property lines.
13. NEXTera provides cash bond of $15 million for future litigation. NO cash out of citizens or county pockets disputing wind projects infringements.
14. Add to Road policy: All haul roads or roads to see wind projects traffic will be built-up to the counties satisfaction prior to the projects construction.
15. All project traffic or haul roads will be maintained by NEXTera until construction is complete by county standards.
16. FFA must approve lighting system prior to projects construction.
17. Fiberglass shedding in NOT permissible. If shedding takes place NEXTera will take complete responsibility and will make the landowner whole to the land owners satisfaction.
18. NEXTera will make whole any land neighboring land owner no matter the distance of any effects such as shedding, fire and/or environment waste hazards.
19. On non-participating property land owner my wave their rights, at their own detriment.

Harry Mcnall

From: Christine Keltner <keltner@midrivers.com>
Sent: Wednesday, December 18, 2024 8:19 AM
To: Harry Mcnall
Subject: Fwd: Prairie County Milwaukee Bridge Coordination Call - DECEMBER

-------- Original Message --------
Subject: Prairie County Milwaukee Bridge Coordination Call - DECEMBER
Date: 2024-11-20 9:47 am
From: "Key, Jeffrey (FHWA)" <jeffrey.key@dot.gov>
To: "d.teske@prairiecounty.org" <d.teske@prairiecounty.org>, "keltner@midrivers.com" <keltner@midrivers.com>, Todd Devlin <mtdevlin@gmail.com>, Harry Mcnall <h.mcnall@prairiecounty.org>, "Siebrasse, Lindsey" <Lindsey.Siebrasse@mt.gov>, "Anseth, Becky" <BAnseth@mt.gov>, tburman <tburman@epedc.com>, "Adams, Talena (FHWA)" <talena.adams@dot.gov>
Cc: 'Brandon Duffey' <bduffey@greatwesteng.com>

Monthly coordination call for December.

Thanks!

Jeff

Microsoft Teams Need help? [1]

Join the meeting now [2]

Meeting ID: 229 064 242 099

Passcode: atXQCt

Dial in by phone

+1 509-931-1572,,767636297# [3] United States, Spokane

Find a local number [4]

Phone conference ID: 767 636 297#

For organizers: Meeting options [5] | Reset dial-in PIN [6]

The United States Department of Transportation

Org help [7]

Links:
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[1] https://aka.ms/JoinTeamsMeeting?omkt=en-US
[2]
https://teams.microsoft.com/l/meetup-join/19%3ameeting_YTE1ZDM0MjUtNTlkYi00YWEzLWE1OGUtOWVkMWIzZGY2NzM0%40thread.v2/0?context=%7b%22Tid%22%3a%22c4cd245b-44f0-4395-a1aa-3848d258f78b%22%2c%22Oid%22%3a%225211b8cc-33f0-43c0-b1b7-4f8d3edac8be%22%7d
[3] tel:+15099311572,,767636297
[4]
https://dialin.teams.microsoft.com/989331a8-d3e3-40a4-b706-8cf41671b2d3?id=767636297
[5]
https://teams.microsoft.com/meetingOptions/?organizerId=5211b8cc-33f0-43c0-b1b7-4f8d3edac8be&tenantId=c4cd245b-44f0-4395-a1aa-3848d258f78b&threadId=19_meeting_YTE1ZDM0MjUtNTlkYi00YWEzLWE1OGUtOWVkMWIzZGY2NzM0@thread.v2&messageId=0&language=en-US
[6] https://dialin.teams.microsoft.com/usp/pstnconferencing
[7] https://ocioclientcenter.dot.gov/esc

Production Tax Credit and Investment Tax Credit for Wind Energy

Leer en español(#spanish)

The Inflation Reduction Act (IRA)(https://www.congress.gov/bill/117th-congress/house-bill/5376/text), which became law on Aug. 16, 2022, extends and increases investment and production tax credits through 2024 for wind energy projects that begin construction prior to Jan. 1, 2025. In 2025, the tax credits for wind will be replaced with technology-neutral credits for low-carbon electricity generation, which in turn are slated to phase out in 2032, or when U.S. power sector greenhouse gas emissions decline to 25% of 2022 levels, whichever is later.

To receive the full production tax credit amount of 2.6 cents per kilowatt-hour or full investment tax credit of 30%, projects over 1 megawatt must satisfy apprenticeship and prevailing wage requirements. Facilities of under 1 megawatt are exempt from these requirements. The base credit amount for larger projects that do not meet the wage and apprenticeship requirements is 20% of the full credit amount.

Additionally, under the IRA, projects can receive stackable 10% (PTC) or 10 percentage point (ITC) bonus credits for either or both of the following:

- Meeting domestic content thresholds
- Locating facilities in fossil-fuel-dependent "energy communities".

Finally, for facilities under 5 megawatts, 1.8 gigawatts per year of additional allocated environmental justice bonus credits are available for:

- Locating facilities in low-income communities (10 percentage points)
- Locating facilities on Tribal lands. (10 percentage points)
- Locating facilities as part of a low-income residential building project (20 percentage points)
- Locating facilities as part of a low-income economic benefit project (20 percentage points).

The environmental justice bonus credits are stackable with the domestic content and energy community bonuses noted above but are not stackable with each other.

Renewable Energy Production Tax Credit (PTC)

The Production Tax Credit (PTC) allows owners and developers of wind energy facilities (land-based and offshore) to claim a federal income tax credit on every kilowatt-hour of electricity sold to an unrelated party for a period of 10 years after a facility is placed into service.

The IRA extends the renewable energy PTC through 2024; it previously expired for wind at the end of 2021. Wind energy projects placed into service after Dec. 31, 2021, that satisfy the new wage and apprenticeship requirements will receive an inflation-adjusted credit of 2.6 cents per kilowatt-hour for the first 10 years of electricity generation.

Residential Renewable Energy Tax Credit

Taxpayers who purchase and install a qualifying residential small wind electric system (100 kilowatts or less) may claim the Residential Renewable Energy Tax Credit for qualified expenditures on systems placed into service on or before Dec. 31, 2034. The law provides for a phase-down of this credit, as outlined below. Qualified expenditures include labor costs for on-site preparation, assembly, or original system installation, and for piping or wiring to interconnect a system to the home. The credit applies to existing homes, newly constructed homes, principal residences, and second homes but not rental properties. There is no maximum credit.

Business Energy Investment Tax Credit (ITC)

A federal income tax credit for capital investments in renewable energy projects, the ITC is a one-time credit based on the dollar amount of the investment and is earned when the equipment is placed into service.

Owners and developers of large land-based wind energy facilities can elect to claim the ITC instead of the PTC; however, the value of the credit depends on when the facility starts construction as well as other factors.

For projects beginning construction by Dec. 31, 2024, the IRA extends the ITC for up to 30% of the cost of installed equipment, subject to apprenticeship and prevailing wage requirements, and provides bonus credits for certain projects as noted above. This is significant for the offshore and distributed wind sectors, which are more capital-intensive and tend to benefit more from the up-front tax benefits than from the longer-term PTC.

Starting in 2025, the IRA will convert energy tax credits into emissions-based, technology-neutral tax credits available to all types of power facilities with zero or net-negative carbon emissions. It will begin phasing out either in 2032 or when total greenhouse gas emissions in the power sector decline to at least 75% below 2022 levels—whichever comes last.

Advanced Manufacturing Tax Credits

The IRA creates new advanced manufacturing production credits for companies that domestically manufacture and sell clean energy equipment in the United States between Dec. 31, 2022, and Dec. 31, 2032. Covered manufacturing for wind includes certain wind energy components, distributed wind inverters, critical minerals, and offshore wind vessels.

- For wind turbine components, the amount of the credit varies depending on the component type and is multiplied by the rated capacity of the turbine (in watts):

    - Blades: 2 cents times rated capacity
    - Nacelle: 5 cents times rated capacity
    - Tower: 3 cents times rated capacity
    - Fixed-bottom offshore wind energy platform: 2 cents times rated capacity
    - Floating offshore wind energy platform: 4 cents times rated capacity
    - Distributed wind inverters: 11 cents times rated capacity.
- For critical minerals, the credit is 10% of the cost incurred to produce the mineral.
- For offshore wind vessels, the credit is 10% of the vessel's sale price.

The advanced manufacturing production credit will be phased down beginning in 2030 and eliminated for components sold after 2032.

The IRA also reinstates a 30% Advanced Manufacturing ITC, providing $10 billion in credits to be competitively awarded to investments in property designed to produce or recycle clean energy components, including both facilities and major tooling. At least $4 billion in these credits must be awarded to investments made in energy communities(https://home.treasury.gov/news/press-releases/jy1383), and the full credit is subject to the same apprenticeship and prevailing wage requirements as noted above.

Components produced in facilities that received the manufacturing ITC are not eligible for the advanced manufacturing production credits.

More Information

Watch a recording of the September 2024 WINDExchange webinar Driving Investment in Wind Energy: An Introduction to Incentives and the Inflation Reduction Act (https://windexchange.energy.gov/webinars#7165) on YouTube.

For more information about federal incentives for developing and investing in wind power, resources for funding wind power, and opportunities to partner with DOE and other federal agencies, see the *U.S. Wind Industry Federal Incentives, Funding, and Partnership Opportunities (https://www.energy.gov/eere/wind/articles/us-wind-industry-federal-incentives-funding-and-partnership-opportunities-fact)* fact sheet.

Créditos Fiscales para la Producción e Inversión en Energía Eólica

La Ley de Reducción de la Inflación (IRA por sus siglas en inglés) (https://www.congress.gov/bill/117th-congress/house-bill/5376/text), que se convirtió en ley el 16 de agosto de 2022, extiende y aumenta los créditos fiscales a la inversión y la producción hasta 2024 para proyectos de energía eólica que comiencen a construirse antes del 1 de enero de 2025. En 2025, los créditos fiscales

The IRA's New and Expanded Tax Credits for Projects to Support Clean Energy Manufacturing and Recycling

AUGUST 22, 2022 | AMY ANTONIOLLI, EVGENY MAGIDENKO

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Projects that produce or recycle wind turbine blades, manufacture energy storage equipment, or refine or blend renewable or low-carbon fuels may qualify for up to a 30 percent tax credit under the Inflation Reduction Act (IRA). The IRA provides some significant wins for US manufacturers of renewable energy technology, expanding the advanced project credit and creating a new manufacturing production credit. The goal is to reduce carbon emissions as well as stimulate and quickly scale up domestic manufacturing to support the US clean energy economy.

Extension of the Advanced Energy Project Credit – IRA §13501 (§48C Credit)

The §48C Credit is computed as up to 30 percent of the qualified investment in property used in a "qualifying advanced energy project" that is certified by the US Department of Energy, and that is placed in service within two years from the date of issuance of such certification. The IRA expands the definition of a "qualifying advanced energy project" in the following key ways:

1. In addition to facilities that manufacture certain renewable energy components, the definition now includes facilities that also recycle qualifying property such as, for example, critical minerals, wind turbine blades, or solar panels.

2. Qualifying property and components now include products designed to be used to produce energy from water, along with those under the existing definition designed to be used to produce energy from the sun, wind, geothermal deposits, and other renewable resources.

3. The new list of qualifying property will include energy storage systems and components, grid modernization equipment and components, property designed to "capture, remove, use, or sequester carbon oxide emissions," equipment designed to "refine, electrolyze, or blend any fuel, chemical, or product which is renewable or low-carbon and low emission," products designed to produce energy conservation technologies, and technology, components, and materials for electric or fuel cell vehicles and their associated charging or refueling infrastructure, and hybrid vehicles (those with a weight rating of less than 14,000 pounds).

4. The expansion of §48C broadly encompasses all other such advanced energy property designed to reduce greenhouse gas emissions as may be determined by the US Internal Revenue Service (IRS) (including any property that re-equips existing infrastructure to reduce greenhouse gas emissions by at least 20 percent). This broad language creates an opportunity for new technologies to take advantage of these credits in the future.

The tax credits start at a base rate of 6 percent and increase to 30 percent for projects meeting prevailing wage and registered apprenticeship requirements. There are certain limitations on allocations of credits, including, for example, that the §48C credit is not available for qualified investments for which credits are allowed under §48 (energy credit), §48A (qualifying advanced coal project credit), §48B (qualifying gasification project credit), §48E (clean electricity investment credit), §45Q (carbon oxide sequestration credit), or §45V (clean hydrogen production credit).

Energy Communities: $4 billion in credits is earmarked for qualifying projects located in "energy communities," meaning communities in which, after December 31, 1999, a coal mine or a coal-fired electric generating unit has been closed.

Important Dates: Effective January 1, 2023, the Act expands §48C to provide additional allocations of $10 billion in tax credits.

How does this tax credit differ from a §45 credit? The credits are given for doing different things. The §45 credit is for producing electricity from specified renewable sources in specified types of facilities. The §48C credit is given for investing in eligible property designed to produce equipment used for producing energy from specified renewable sources or other specified purposes. For example, Taxpayer A might receive a §48C credit for investing in a new factory to manufacture wind turbine blades. Taxpayer B might qualify for a §45 credit by constructing a wind farm and producing electricity.

Advanced Manufacturing Production Credit – IRA §13502 (§45X Credit)

The IRA creates a new §45X production credit for each eligible solar and wind component that is produced domestically and sold to an unrelated party. Section 45X credits are based on the type of equipment or material manufactured, how much equipment or material is produced, and certain other criteria. The goal of §45X is to incentivize (1) building new facilities to support clean energy supply chains (2) at a globally competitive scale.

The §45X credit encourages innovation and efficiency because, for example, with respect to certain solar components, credits are tied to the productivity of a solar panel rather than its cost, encouraging companies to manufacture higher-efficiency panels rather than raise prices to increase credits.

The full tax credits are available only through the end of 2029 and drop by 25 percent per year to zero over the subsequent three years. This feature incentivizes rapid growth in manufacturing so companies may maximize the value of the credits they can receive before they drop in value.

Another provision that incentivizes companies to scale quickly is the direct payment feature. Tax credits under §45X (together with the clean hydrogen and carbon oxide sequestration credits) are available to for-profit enterprises as direct payments (*i.e.*, refundable credits) for the first five years they are claimed so companies can receive their full value even if it exceeds the amount of federal taxes they owe. We expect that the IRS will develop additional rules for how the §45X tax credits work.

Important Dates: The credits available under §45X the credit would apply to qualifying components produced and sold after December 31, 2022, and will decrease by 25 percent per year between 2030 and 2032, until they are fully phased out with respect to components sold after December 31, 2032.

Contacts

Amy Antoniolli
COUNSEL

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Douglas Holtz-Eakin is the President of the American Action Forum.

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Insight

October 3, 2023

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The Medicare Budget Implications of the Inflation Reduct· .ct

Gordon Gray, Douglas Holtz-Eakin, Kenneth Thorpe

Executive Summary

- The Inflation Reduction Act (IRA) contains two Medicare p.ovisio s – an "inflation tax" and drug price "negotiation" – that are estir save the program $266 billion from 2023–2031.
- Because Medicare is part of the unified federal budget, ... $266 ...ion in savings *from* Medicare do not equate to a $266 billion b ...nofit o program participants.
- Instead, the Medicare savings are simply another means of financing the IRA's $670 billion in clean energy tax credits and other spending on energy and the environment.

Introduction

The Inflation Reduction Act (IRA) has two primary policy initiatives: reforms to Medicare prescription drug policies and large-scale subsidies to clean (non-fossil) energy. In discussing the IRA, advocates typically keep the two separate, holding that the Medicare drug policy will yield savings for the Medicare program while clean energy subsidies will speed the transition to a

new energy portfolio. Yet the two are linked by the unified federal budget. This reviews the budget impact of the IRA and finds that of the $266 billion in Medicare savings the IRA's provisions will yield, none will benefit program participants and will instead be spent to subsidize the law's clean energy tax credits and other related spending – and leave a residual to be borrowed. (A rough calculation by Mark Merritt in a *Wall Street Journal* op-ed (https://www.wsj.com/articles/why-is-medicare-savings-paying-for-teslas-climate-change-health-care-inflation-reduction-act-1fa5de8c) reaches a similar conclusion.)

This is hardly the first time Medicare has been deployed as cover for another policy objective. Medicare savings were the largest pay-for in the budgeting for the Affordable Care Act (ACA). The Congressional Budget Office sent a letter (https://www.cbo.gov/sites/default/files/43471-hr6079_0.pdf) to House Speaker John Boehner, detailing the budget impact of repealing the Affordable Care Act. If Congress overturned the law, "spending for Medicare would increase by an estimated $716 billion over that 2013–2022 period." Similarly, the ACA also contained a 3.8 percent tax on net investment income that was advertised as a "Medicare surtax," suggesting that it would fund the program. In fact, it was never directed to the Medicare trust funds.

In more recent years, there has been large scale advocacy for "Medicare for All" when, in fact, the proposal was a *de novo* single-payer system that had nothing to do with Medicare (and would have resulted in the elimination of Medicare). The IRA continues this tradition of using Medicare savings to finance other spending initiatives, despite the clear financial pressures that Medicare faces in the near future and the insistence by many in the political arena that savings would benefit federal health programs and lower costs to the beneficiaries.

Budgetary Implications of the IRA

This study begins by documenting the budgetary implications of the IRA from 2023–2031. These are summarized in the table below. It is important to note that the budgetary estimates are based on the original Congressional Budget Office (CBO) cost estimate of the IRA as enacted, and more recent estimates from CBO and the Joint Committee on Taxation that reflect policy developments after enactment.[1] Most significant, the estimates presented here reflect more recent estimates of the energy and environmental tax credits, as well as minor changes to the Internal Revenue Service funding-related revenue collection.

From the perspective of Medicare, the IRA contains two key provisions. First is the Medicare Inflation Rebate – that is, the provision holding that 100 percent of any increase in the price of a drug above the general rate of inflation must be returned to the federal government as a rebate on that drug. This "inflation tax" in isolation is anticipated to generate $6.9 billion in revenue over the budget window (along with $56 billion in direct budget savings included in the $260 billion figure below).

The second and larger provision is from the drug price "negotiation" in which the Health and Human Services (HHS) secretary sets the maximum fair price (MFP) on selected drugs each year. The statute dictates that the MFP must be a maximum of between 40 and 70 percent of the average manufacturer's price (depending on how long the drug has been on the market), but that the secretary can negotiate the price lower. If the secretary concludes that the firm did not negotiate in good faith, she can levy a tax of 95 percent on the domestic sales (including non-federal sales) of the drug. (Notice that the 95 percent rate on the tax-inclusive price translates to a 1900 percent rate on the price received by the firm.) The negotiation regime takes effect in 2025 and this, along with savings attributed to other Medicare changes like the inflation rebate, amounts to the $260 billion in savings. (The minor bump in 2024 spending stems from capping the out-of-pocket costs of seniors at $2,000.)

Budgetary Impacts of the Inflation Reduction Act

($Millions)

	2023	2024	2025	2026	2027	2028	2029	2030	2031	2023-2031
Spending Provisions										
Energy and Environment	11	13,757	21,000	28,562	28,416	21,797	15,965	12,321	9,484	151,313
IRS Funding	3,823	3,380	4,870	6,148	7,796	9,906	12,417	14,772	15,088	78,198
ACA Subsidies	20,892	11,288	9,651	-8,548	-463	0	0	0	0	32,820
Medicaid Provisions	110	504	878	1,193	1,596	2,081	2,587	3,117	3,648	15,714
Other Health Provisions	-82	1,196	1,882	1,676	1,673	1,864	1,732	1,955	2,064	13,960
Medicare Provisions	-333	1,807	-14,038	-6,746	-26,874	-45,515	-47,823	-57,837	-62,286	-259,645
Spending Subtotal	24,421	31,932	24,243	22,285	12,144	-9,867	-15,122	-25,672	-32,002	32,360
Revenue Provisions										
15 Percent Minimum Tax	34,679	34,258	22,039	17,702	18,699	20,798	22,756	24,658	26,659	222,248
Stock Buyback Tax	5,697	7,875	8,070	8,581	8,882	8,838	8,603	8,500	8,641	73,687
Other Revenue Provisions	0	-100	-200	-300	17,366	25,898	9,153	-574	-584	50,659
Medicare Rebate	113	314	470	642	812	973	1,100	1,181	1,245	6,850
Aca Subsidies	1,297	-10,555	-10,586	-11,431	-154	132	53	6	0	-31,238
Energy and Environment	-14,470	-39,007	-54,307	-66,417	-72,514	-72,458	-70,653	-64,704	-63,917	-518,447
Revenue Subtotal	27,316	-7,215	-34,514	-51,223	-26,909	-15,819	-28,988	-30,933	-27,956	-196,241
Deficit (-) /Surplus (+)	2,895	-39,147	-58,757	-73,508	-39,053	-5,952	-13,866	-5,261	4,046	-228,601

(https://www.americanactionforum.org/wp-content/uploads/2023/10/Budget-Impacts-of-the-Inflation-Reduct-Act-Chart.png)

The other major feature of the IRA is the law's large amount of spending on energy and the environment, as well as tax credits for clean energy – a total of $518 billion over the budget window.

Diverting Medicare Savings to Clean Energy Subsidies

A slight re-arrangement of the table makes clear what is going on. The IRA's total spending over the 2023–2031 budget window indicates there is $141 billion in non-environment/non-energy spending and $322 billion in new taxes. In isolation, these yield a net surplus of $182 billion.

On the environment and energy side, there is $670 billion in spending and new tax credits, which more than consume the $182 billion net surplus and leave $488 billion in spending and credits to be financed. While the Medicare savings total $266 billion, the clean energy initiatives consume all of these savings (and leave a residual to be borrowed).

Conclusion

While it could be said, at least on paper, that the Inflation Reduction Act's Medicare provisions will save an estimated $266 billion from 2023–2031, this study finds that these savings will not benefit program beneficiaries. Medicare is part of the unified federal budget, and the savings the IRA will produce for the program will be offset – indeed, outweighed – by the law's $670 billion in clean energy tax credits and other spending on energy and the environment, and even leave a residual to be borrowed.

[1] See: https://www.cbo.gov/system/files/2022-09/PL117-169_9-7-22.pdf (https://www.cbo.gov/system/files/2022-09/PL117-169_9-7-22.pdf); https://www.taxnotes.com/tax-notes-today-federal/budgets/revised-ev-credit-estimate-further-raises-total-green-energy-costs/2023/06/05/7gtml (https://www.taxnotes.com/tax-notes-today-federal/budgets/revised-ev-credit-estimate-further-raises-total-green-energy-costs/2023/06/05/7gtml); https://www.cbo.gov/system/files/2023-05/hr3746_Letter_McCarthy.pdf

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(https://www.americanactionforum.org/experts/douglas-holtz-eakin)

Harry Mcnall

From: Roehm, Doug <droehm@mt.gov>
Sent: Wednesday, December 18, 2024 8:28 AM
To: Dan Rice; Dennis Teske - (dteske@midrivers.com); Harry Mcnall; mtdevlin@gmail.com; keltner@midrivers.com
Cc: Lay, Jason
Subject: RE: FW: RE: [EXTERNAL] Re: Taxable value

Mr. Rice and Commissioners:

I apologize for the late notice, but the department is not planning to participate in the conference call this morning. Instead we are in the process of putting together a written response. We hoped to have the document sent your way by today, but it's still in the final stages of review.

I do expect to have something final to you by the end of the week, but if that changes I will let you know.

Thank you,

Doug Roehm
Unit Manager
Centrally Assessed Property
Montana Department of Revenue
PO Box 7149 | Helena, MT 59604
Phone: (406) 444-2569 | Fax: (406) 444-6642
MTRevenue.gov

From: Dan Rice <pcatty@prairiecounty.org>
Sent: Thursday, December 12, 2024 3:14 PM
To: Dennis Teske - (dteske@midrivers.com) <dteske@midrivers.com>; Harry Mcnall <h.mcnall@prairiecounty.org>; Roehm, Doug <droehm@mt.gov>
Subject: Re: FW: RE: [EXTERNAL] Re: Taxable value

Hi Doug - since the discussion will be among a quorum of the Commissioners, during a meeting, anyone from the public (including Forcella) are entitled to attend. I plan to be present during the meeting as well. I don't believe this is adversarial or that the discussion requires legal representation - but you can certainly confirm with your legal. What I can advise, is that any discussion with 2+ Commissioners must be public and recorded per open meeting and related statutes. Let me know if you have any other questions that I can weigh in on. Thanks!

Daniel Z. Rice
Prairie County Attorney
P.O. Box 564
217 W. Park Street
Terry, Montana 59349
(406)635-4529
(406)635-2026 (Fax)

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On Thu, Dec 12, 2024 at 2:54 PM Harry Mcnall <h.mcnall@prairiecounty.org> wrote:

-----Original Message-----
From: Roehm, Doug <droehm@mt.gov>
Sent: Tuesday, December 10, 2024 9:41 AM
To: Harry Mcnall <h.mcnall@prairiecounty.org>
Cc: Dennnis Teske <Dteske@midrivers.com>; mtdevlin@gmail.com; keltner@midrivers.com
Subject: RE: RE: [EXTERNAL] Re: Taxable value

Mr. McNall:

What is the reasoning for including Lucas Forcella in this discussion? It was my understanding that this was an informal discussion between Prairie County and the department. If an attorney is present we will need to determine if we need to have our own legal representation present.

Thanks,

Doug Roehm
Unit Manager
Centrally Assessed Property
Montana Department of Revenue
PO Box 7149 | Helena, MT 59604
Phone: (406) 444-2569 |Fax: (406) 444-6642 MTRevenue.gov [mtrevenue.gov]

-----Original Message-----
From: Harry Mcnall <h.mcnall@prairiecounty.org>
Sent: Friday, December 6, 2024 10:14 AM
To: Roehm, Doug <droehm@mt.gov>
Cc: Dennnis Teske <Dteske@midrivers.com>; mtdevlin@gmail.com; keltner@midrivers.com
Subject: FW: RE: [EXTERNAL] Re: Taxable value

Doug,
This is Harry McNall, I am the Administrative Assistant to the Prairie County Commissioners. We have you on the Agenda for a Video Conference at 10:00 a.m. on December 18th, 2024. Please include the three commissioners the commissioners will be together so please end me the invite (h.mcnall@prairiecounty.org) and a invite to Lucas Forcella with Crowley Fleck Attorneys.

Thank you

-----Original Message-----
From: dteske@midrivers.com <dteske@midrivers.com>

Sent: Wednesday, December 4, 2024 3:43 PM
To: Todd Devlin <mtdevlin@gmail.com>; keltner@midrivers.com; Harry Mcnall <h.mcnall@prairiecounty.org>; Dan Rice <PCATTY@prairiecounty.org>; Clerk and Recorder <cr@prairiecounty.org>; lonreukauf@gmail.com; Renee Pirtz <rpirtz7@gmail.com>; Todd Henry <prairieco45@gmail.com>
Subject: Fwd: RE: [EXTERNAL] Re: Taxable value

-------- Original Message --------
Subject: RE: [EXTERNAL] Re: Taxable value
Date: 2024-12-04 10:50 am
From: Montana Department of Revenue in the Centrally Assessed Property
To: "dteske@midrivers.com" <dteske@midrivers.com>
Cc: "Lay, Jason" <Jason.Lay@mt.gov>

Commissioner Teske:

Thanks for giving us some time to review the Economic Impact Study you provided. We have had a chance to get through the study and think the most productive next step would be to schedule a conference call to discuss. Can you send along some time slots that would work for you and the rest of the commissioners over the next week or two for a meeting?

Look forward to hearing from you.

Thanks,

Doug Roehm
Unit Manager
Centrally Assessed Property
Montana Department of Revenue
PO Box 7149 | Helena, MT 59604
Phone: (406) 444-2569 |Fax: (406) 444-6642
https://urldefense.com/v3/__http://MTRevenue.gov__;!!GaaboA!oy2QZLL-lrFgE_rbUiZYaF-cMesEHIRmKtt6M0cqzMU-jMI9_TUiaFY4NLQYSDMi0uIb38w9rEyL4DEgmWe1$

-----Original Message-----
From: dteske@midrivers.com <dteske@midrivers.com>
Sent: Thursday, November 21, 2024 2:01 PM
To: Roehm, Doug <droehm@mt.gov>
Subject: Re: [EXTERNAL] Re: Taxable value

You help is greatly appreciated. We are trying give the best estimates for our citizens because there are so many unknowns.

We will look forward to hear from you.

Thanks again

Dennis Teske
Prairie County Commissioner

On 2024-11-21 1:04 pm, Roehm, Doug wrote:
> Commissioner Teske:
>
> We will be reviewing the economic impact analysis you forwarded over
> the next couple of weeks and will plan to get back in touch the second
> week of December. It is difficult to arrive at a concrete tax estimate
> for a project like this, especially at such an early stage of
> development, but we will provide what assistance we can.
>
> If you have any other information you think would be pertinent to our
> review, please send along.
>
> Thanks,
>
> Doug Roehm
> Unit Manager
> Centrally Assessed Property
> Montana Department of Revenue
> PO Box 7149 | Helena, MT 59604
> Phone: (406) 444-2569 |Fax: (406) 444-6642
> https://urldefense.com/v3/__http://MTRevenue.gov__;!!GaaboA!rSIdXHoaoZ
> t-vBA3P2supfan1BH2x77vKH7KwzQ9bsgEqVUJ7w8FDVmYx9xGa5yGwUjQElwI8EQg6U8$
>
> -----Original Message-----
> From: Roehm, Doug
> Sent: Monday, November 18, 2024 8:16 AM
> To: dteske@midrivers.com; Allen, John <JohnAllen@mt.gov>
> Subject: RE: [EXTERNAL] Re: Taxable value
>
> Dennis, let John and I touch base. We will get back to you soon.
>
> What does your timeline look like? When is the hearing where NEI
> approval will be discussed?
>
> Thanks,
>
> Doug Roehm
> Unit Manager
> Centrally Assessed Property
> Montana Department of Revenue
> PO Box 7149 | Helena, MT 59604
> Phone: (406) 444-2569 |Fax: (406) 444-6642
> https://urldefense.com/v3/__http://MTRevenue.gov__;!!GaaboA!rSIdXHoaoZ
> t-vBA3P2supfan1BH2x77vKH7KwzQ9bsgEqVUJ7w8FDVmYx9xGa5yGwUjQElwI8EQg6U8$
>
> -----Original Message-----
> From: dteske@midrivers.com <dteske@midrivers.com>
> Sent: Sunday, November 17, 2024 12:17 PM
> To: Roehm, Doug <droehm@mt.gov>; Allen, John <JohnAllen@mt.gov>

> Subject: [EXTERNAL] Re: Taxable value
>
> On 2024-11-15 1:34 pm, dteske@midrivers.com wrote:
>> Hello,
>>
>> I'm Dennis Teske Prairie County Commissioner.
>>
>> We have a Question on Centrally Accessed Property. Lisa Reiger sent
>> you a Economic Impact Analysis on the Wind Farm development proposed
>> in our county. For 75 towers Custer County receives $288,000, per
>> year. We are told by NEXTera that Prairie County would receive
>> $8,200,000 per year in property Taxes for 150 wind Towers. The
>> numbers don't add up.
>>
>> Could you gives us your best guesstimate for the Impact analysis you
>> received from us. What is the estimate the county would receive in
>> new property taxes? Any information you could provide would be very
>> helpful.
>>
>> Thank you
>>
>> Dennis Teske
>> Prairie County Commissioner
>> 406-749-9118 cell
>> D.teske@prairiecounty.org
>> dteske@midrivers.com
>
>
> PS: NEXTera values the wind turbines at $4,250,000 each and our county
> will have 150 towers. Transmission lines aren't finalized yet.
>
> Dennis Teske