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## FISCAL IMPACT REPORT

ORIGINAL DATE 2/22/07  
 LAST UPDATED 3/07/07      HB 995/aHTRC

SPONSOR Stewart

SHORT TITLE Solar Energy As Property Tax Improvements      SB \_\_\_\_\_

ANALYST Francis

### REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Non-Rec	Fund Affected
FY07	FY08	FY09		
	Indeterminate		Recurring	Local Governments
	*See Narrative			

(Parenthesis ( ) Indicate Revenue Decreases)

### SOURCES OF INFORMATION

LFC Files

#### Responses Received From

Taxation and Revenue Department (TRD)

Department of Finance and Administration (DFA)

Energy Minerals and Natural Resource Department (EMNRD)

### SUMMARY

#### Synopsis of HTRC Amendment

The House Taxation and Revenue Committee amended House Bill 995 clarifying that eligible installations are those installed after July 1, 2007. TRD has identified some potential constitutional issues regarding equity with this amendment (See “Technical Issues”).

#### Synopsis of Original Bill

House Bill 995 amends the property tax code to exclude solar installations from the calculation of increases in property value. Current law would include solar installations as “physical improvements” when calculating increases in valuation, which are limited to 3 percent. Solar installation includes solar panels, dark colored water tanks exposed to sunlight and non-vented trombe wall. According to Wikipedia, an online minimally edited encyclopedia, a trombe wall is “a sun-facing wall built from material that can act as a thermal mass (such as stone, concrete, adobe or water tanks), combined with an air space, insulated glazing and vents to form a large solar thermal collector.”

The effective date is for property tax years beginning January 1, 2007.

### **FISCAL IMPLICATIONS**

According to the Taxation and Revenue Department (TRD), there were about \$2.7 million in claims for the solar system installation tax credit. However, it is uncertain how much solar installations affect property valuation done by county assessors, who look for new construction and changes of ownership before improvements. The HTRC amendment clarifies this so that assessors do not have to value installations prior to July 1, 2007.

Assuming \$3 million as the total additional value, the property tax valuation, one-third of valuation, would be \$1 million. The way property taxes are administered this could mean a decrease statewide of \$25 to \$50 thousand dollars in property tax revenue *or* a shift of this much to other taxpayers.

### **SIGNIFICANT ISSUES**

Department of Finance and Administration reports that this may end up increasing tax rates on those households that cannot afford expensive solar installations since their property tax rates would likely go up as assessed value goes down.

Energy Minerals and Natural Resources Department (EMNRD):

HB 995 would provide a benefit to residential solar system owners by not including added solar systems as a physical improvement for purposes of property tax valuations. The action of offsetting a home's fossil fuel energy consumption, reducing pollution, and reducing greenhouse gas emissions would not be met with increased property taxes.

Due to the high capital cost and visual presence of solar systems on a home, solar systems have often been singled out as physical improvements to the home warranting an increase in its property taxes. However, from the homeowner perspective, the solar system provides an alternative source for heating or electricity

The forms of energy identified---space heat, hot water, electricity---can be provided by the eligible solar systems implied in HB 995: solar thermal systems, photovoltaic, and passive solar architecture (trombe wall only). Windows (direct gain) and greenhouses (sunspace) would not be eligible. One solar thermal system type is singled out as eligible: batch water heaters.

### **PERFORMANCE IMPLICATIONS**

EMNRD:

New Mexico taxpayers supported solar development in 2006 with an investment of \$2.7 million, through the Solar Market Development Tax Credit. It is not clear if this large group of "early adopter" taxpayers will be included in the benefits of HB 995 or if they will pay increased property taxes. With the effective date being 1-1-07, taxpayers now becoming eligible for the new state solar tax credit for a 2006 solar installation might face property tax increases in 2007 or later. It is not known if other timeframes in 7-36-21.2 NMSA 1978 provide protection from property tax increases. This benefit should apply to all residential properties now being evaluated for property taxes.

## OTHER SUBSTANTIVE ISSUES

TRD points out that this may set a precedent that could be used to justify other exemptions from the property tax valuation.

TRD:

Article VIII, Section 1, Constitution of New Mexico states that:

A. Except as provided in Subsection B of this section, taxes levied upon tangible property shall be in proportion to the value thereof, and taxes shall be equal and uniform upon subjects of taxation of the same class. Different methods may be provided by law to determine value of different kinds of property, but the percentage of value against which tax rates are assessed shall not exceed thirty-three and one-third percent.

B. The legislature shall provide by law for the valuation of residential property for property taxation purposes in a manner that limits annual valuation increases in valuation of residential property. The limitation may be applied to classes of residential property taxpayers based on owner-occupancy age or income. . . .”

The proposed measure would allow solar-energy improvements added to properties on July 1, 2007, but not to solar equipment added prior to July 1, 2007. Owners who installed solar equipment in, for example, June, 2007, may complain that the proposed measure is unfair, and that it violates provisions of Article VIII of the Constitution.

## OTHER ISSUES

TRD reports that “exempting solar systems from property taxation may set a precedent for exempting other types of improvements from property taxation. In addition to adding complexity to the already complex process of property valuation, this raises concerns about the fairness of the system.”

## ALTERNATIVES

EMNRD reports that this should also be applied to commercial property to encourage adoption of solar improvements by large buildings.

The problem of increased property taxes due to solar physical improvements is preventing the implementation of significant commercial systems in New Mexico.

Companies offering large rooftop solar photovoltaic systems are going to other states, even though New Mexico has the advantage of a better solar resource.

HB 995 does not include small wind turbines or geothermal heat pump systems, which also provide clean energy and offset fossil-fuel consumption, as eligible systems. It appears that the eligible systems are those that can be incorporated with a home’s existing architecture.