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FISCAL IMPACT REPORT

ORIGINAL DATE 2/18/07

SPONSOR Feldman LAST UPDATED _____ HB _____

SHORT TITLE Solar Market Tax Credit Eligible Properties SB 795

ANALYST Francis

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Non-Rec	Fund Affected
FY07	FY08	FY09		
	(667.0)	(1,089.0)	Recurring	General Fund

(Parenthesis () Indicate Revenue Decreases)

SOURCES OF INFORMATION

LFC Files
Taxation and Revenue Department

Responses Received From
Energy Minerals and Natural Resources Department (EMNRD)

SUMMARY

Synopsis of Bill

Senate Bill 795 amends the solar market development tax credit in the following ways:

- Clarifies that the residence, business or agricultural enterprise where a solar thermal or photovoltaic system is installed can be owned by the taxpayer or a limited liability or other business association of which the taxpayer is an owner.
- Makes the solar credit refundable for low income taxpayers defined as those with modified adjusted gross income of less than 150 percent of the federal poverty level.
- Clarifies that husband and wife that file separately are only entitled to half of the credit each.

The effective date is January 1, 2007.

FISCAL IMPLICATIONS

The fiscal impact estimated by the Taxation and Revenue Department (TRD) is \$667 thousand in

FY08 growing to \$1.1 million in FY09. The estimate is based on assumptions about the adoption rate of the two solar systems. Recent history suggests that the growth rate has been an extraordinary 30 percent. TRD has not completed their formal analysis but has provided preliminary information. There is an increase in the claims due to eligibility being broadened to include buildings owned by businesses. Depending on the interpretation of the expanded scope, there may be significantly more credits claimed than assumed here. See technical issues below for more information.

Table 1: Fiscal Impacts

	2006	2007	2008	2009	2010
Present law:					
Growth rate			30%	30%	
Total credits approved	150,000	2,223,228	2,890,196	3,757,255	
	60%	20%	10%	5%	3%
Credit claims	90,000	1,363,937	2,193,763	3,062,215	
Amounts claimed by fiscal year		90,000	1,363,937	2,193,763	3,062,215
SB 795: (2007 Session)					
Increased claims by businesses <1>		1.5	1.5	1.5	
Total credits approved	150,000	3,334,841	4,335,294	5,000,000	
Credit claims	60%	20%	10%	5%	3%
Credit claims	90,000	2,030,905	3,283,145	4,208,043	
Amounts claimed by fiscal year		90,000	2,030,905	3,283,145	4,208,043
Difference			(666,968)	(1,089,382)	(1,145,828)

Source: TRD

SIGNIFICANT ISSUES

According to data from TRD, a typical solar system that is eligible for the credit costs almost \$25 thousand. Even with a 30 percent refundable credit, taxpayers with modified gross income of less than 150 percent of the federal poverty level will likely be unable to purchase and install a solar system.

EMNRD:

The first provision of SB 795 will allow builders and developers that form limited liability companies to include solar in speculation projects and, by using the tax credit as the builder/developer, keep the price of the home lower for the consumer. Solar systems become more accessible to New Mexico citizens when they are included in home mortgages because it does not require a homeowner to pay out-of-pocket or secure a short-term loan and the cash flow of mortgage plus the utility bill is typically lowered. By allowing homebuilders to receive this credit, the number of solar systems that are installed should increase, thereby meeting the original objectives of the Solar Market Development Tax Credit.

The second provision could make it easier for low income citizens to participate in this tax credit, making it more comprehensive and equitable.

TECHNICAL ISSUES

The intent of the new language appears to allow, as EMNRD suggests above, builders and developers to form limited liability companies which will increase the adoption of solar systems but the phrase “other business associations” (page 2, line 11) is vague and open to a broader interpretation. An investor in a company that installs a solar system would be eligible for the credit regardless of the amount of the investment. In an extremely loose interpretation, any shareholder of a company could qualify for the credit as an owner.

Another technical issue is there is no provision for prorating the credit by the share of ownership. It is not inconceivable that several owners could apply for the full credit amount. An amendment to clarify the terms of the credit is advised. Below is an example of language from SB607 that illustrates this issue:

C. A taxpayer who otherwise qualifies for and claims a credit pursuant to this section for blended biodiesel fuel on which special fuel excise tax has been paid by a partnership or other business association of which the taxpayer is a member may claim a credit only in proportion to the taxpayer's interest in the partnership or business association. The total credit claimed in the aggregate by all members of the partnership or business association shall not exceed the amount of credit

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