F I S C A L   I M P A C T   R E P O R T

SPONSOR Salazar
ORIGINAL DATE 02/08/10
LAST UPDATED 02/15/10
HB 252/aHTRC

SHORT TITLE Solar Energy System Lease Gross Receipts
SB

ANALYST Gutierrez

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Non-Rec	Fund Affected
FY10	FY11	FY12		
	(Indeterminate)	(Indeterminate)	Recurring	General Fund
	(Indeterminate)	(Indeterminate)	Recurring	Local Governments

(Parenthesis ( ) Indicate Revenue Decreases)

SOURCES OF INFORMATION
LFC Files

Responses Received From
Energy, Minerals and Natural Resources Department (EMNRD)
Taxation and Revenue Department (TRD)

SUMMARY

Synopsis of HTRC Amendment

The House Taxation and Revenue Committee amendment to House Bill 252 allows receipts from the lease of solar energy systems to be deducted from the gross receipts tax from July 1, 2011 through June 30, 2016.

Synopsis of Original Bill

House Bill 252 amends the deduction of solar energy systems from the gross receipts tax to include the lease of the systems. Currently the deduction is for receipts from the sale and installation of solar energy systems.

The effective date of this bill's provisions is July 1, 2010.

FISCAL IMPLICATIONS

LFC notes that while individual deductions from the gross receipts tax may have small fiscal impacts, their cumulative effect significantly narrows the gross receipts tax base. Narrowing the gross receipts tax base increases revenue volatility and requires a higher tax rate to generate the same amount of revenue.

The bill will reduce local government gross receipts tax collections. Many of New Mexico's local governments are highly dependent on gross receipts tax revenue.

TRD:

> The Department does not have any accurate information available to make a reliable estimate for the expansion of the solar energy system deduction proposed in this bill. This is a rapidly evolving industry and the speed at which it will grow or the methods by which the systems will be sold, leased, or financed are also rapidly evolving. The cost of this deduction including the proposed expansion has the possibility to increase rapidly in years to come. For example one new business that leases solar systems, SolarCity, claims to have 4,500 residential and commercial installations in California, Arizona, and Oregon.[1] They expected 40% growth in 2009 and forecast 250% growth in 2010. They recently expanded their operations into Colorado, and plan to expand into five additional states in 2010. Because SolarCity is a private company their revenues are not known. Under SolarCity's model the leases run for 15 years; the company designs, installs, and maintains the system. Because they also own the system they receive any accompanying federal tax credits or state incentives.

SIGNIFICANT ISSUES

According to a July new release by PNM, PNM plans to use a combination of solar, wind, biogas and purchases of renewable energy credits to meet the 2010 state requirement for renewable energy. In a filing made with the N.M. Public Regulation Commission, PNM indicated those resources also will lay the groundwork for meeting a higher requirement in 2011. The 2010 requirement is that 6 percent of energy be generated from renewable resources. In 2011, it increases to 10 percent.

According to solarindustrymag.com, PNM is seeking permission from the New Mexico Public Regulation Commission to launch a program in which PNM would own a solar capacity but it would be sited on property owned by participating customers. PNM would pay participating customers lease payments in return for hosting a PNM-owned solar PV system.

If PNM were to pay lease payments to the customers in return for hosting a PNM-owned solar system, then there would be no impact to the general fund or local governments from this bill. This is because PNM would be leasing the space on the customers building, not leasing the actual solar system. However, if the customer were to own the solar system and lease the system to PNM, then the impact to the general fund and local governments under this bill could be substantial.

BLG/svb:mew

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[1] http://www.usatoday.com/money/companies/management/entre/2009-11-09-solarcity09_CV_N.htm

The Legislative Finance Committee has adopted the following principles to guide responsible and effective tax policy decisions:

1. ***Adequacy:*** *revenue should be adequate to fund government services.*
2. ***Efficiency:*** *tax base should be as broad as possible to minimize rates and the structure should minimize economic distortion and avoid excessive reliance on any single tax.*
3. ***Equity****: taxes should be fairly applied across similarly situated taxpayers and across taxpayers with different income levels.*
4. ***Simplicity****: taxes should be as simple as possible to encourage compliance and minimize administrative and audit costs.*
5. ***Accountability/Transparency:*** *Deductions, credits and exemptions should be easy to monitor and evaluate and be subject to periodic review.*

More information about the LFC tax policy principles will soon be available on the LFC website at www.nmlegis.gov/lcs/lfc