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FISCAL IMPACT REPORT

ORIGINAL DATE 02/09/10

SPONSOR Eichenberg **LAST UPDATED** _____ **HB** _____

SHORT TITLE Solar Installations As Personal Property **SB** 135

ANALYST Clifford

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Non-Rec	Fund Affected
FY10	FY11	FY12		
	(Indeterminate)	(Indeterminate)	Recurring	Property Tax Recipients

(Parenthesis () Indicate Revenue Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From

Taxation and Revenue Department (TRD)

SUMMARY

Synopsis of Bill

Senate Bill 135 would classify solar photovoltaic or solar thermal installations on residential property as tangible personal property for property tax purposes. It would also exempt such property from valuation as part of the taxable value of the real property on which it is installed.

Provisions apply to the 2010 tax year and subsequent.

FISCAL IMPLICATIONS

The proposal would have two sets of implications with fiscal impacts. It would prevent inclusion of solar equipment in property tax values at the time of installation. In addition, making solar installations exempt from real property valuation could have the effect of preventing a property from being re-assessed upon installation of solar equipment. Since many properties have had their assessed value limited due to the application of the "3 percent value limit," under present law when solar equipment is installed on such a property, it could trigger a re-assessment, bringing the entire property up to market value. The bill could prevent these properties from being re-assessed and therefore reduce the total net taxable value base. Local government

revenue impacts of such changes would be minimal, as tax rates adjust to offset the value decrease. Some shift of liabilities would occur, from taxpayers installing solar systems to other taxpayers. State General Obligation Bond capacity would fall by 1 percent of the change in net taxable value, which is 1/3 of the change in assessed value. These impacts are likely to be minimal however since solar installations may not trigger re-valuation in all cases, as noted by TRD.

TRD:

Fiscal impacts of the proposed legislation are likely to vary with a number of factors, including energy prices, property location and associated tax rates, and various other tax incentives available to home owners.

Under current law, solar systems are treated as additions to real property and subject to property taxation. In many cases they are not taxed, however, because a building permit is not always required for their installation. Assessors generally discover the property by reviewing building permits. To the extent that they are not assessed, additions of solar panels do not increase residential net taxable value and therefore impose no impact on tax collections. When a property that is equipped with solar panels is sold, however, the panels are reflected in the property's sale price and thus taxed indirectly.

Solar panel systems vary widely cost and range. Prices for a typical home installation can easily total \$35,000.¹ Suppose, for example, a solar panel that costs, say \$30,000 is installed and, taxed at one-third of that amount as required by law at an approximate 40 mill rate in Albuquerque. It would increase annual tax obligations of the associated property by \$400 (\$10,000 x \$40/\$1,000). It would also likely decrease its owner's energy costs by a similar amount. Hence in absence of legislation similar to the proposed measure, many homeowners would less likely to install solar energy than otherwise because the equipment would not justify its after-tax cost. It could therefore be argued that by encouraging solar panel purchases, the proposed measure would actually increase property tax obligations as the associated solar equipment is reflected in prices of residential property when it is sold.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

SB 135 provides a property tax exemption for solar installations. HB 132, SB 45, SB 46, SB 139, SB 160 and SB 217 all amend the same section of statute and therefore present possible conflicts.

TECHNICAL ISSUES

TRD notes:

Real property is typically defined in real estate literature as land and all property attached to the land -- houses, fences and various other improvements. Classifying solar installations as personal property for tax purposes is therefore inconsistent with the traditional definition of real property. TRD legal counsel advises that, based on review of

¹ <http://solarexpert.com/solar-electric-faqs.html>

case law regarding the subject, the practice of defining solar equipment as is done in the proposed legislation would not present legal problems.

TC/mew