Fiscal impact reports (FIRs) are prepared by the Legislative Finance Committee (LFC) for standing finance committees of the NM Legislature. The LFC does not assume responsibility for the accuracy of these reports if they are used for other purposes.

Current FIRs (in HTML & Adobe PDF formats) are available on the NM Legislative Website (legis.state.nm.us). Adobe PDF versions include all attachments, whereas HTML versions may not. Previously issued FIRs and attachments may be obtained from the LFC in Suite 101 of the State Capitol Building North.

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

SPONSOR Leavell **ORIGINAL DATE** 02/17/11 **LAST UPDATED** **HB**

SHORT TITLE Solar Energy Systems Gross Receipts **SB** 234

ANALYST Golebiewski

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Non-Rec	Fund Affected
FY11	FY12	FY13		
	*	*	Recurring	Local Governments
	*	*	Recurring	General Fund

(Parenthesis ( ) Indicate Revenue Decreases)

*Please see Fiscal Implications section below

SOURCES OF INFORMATION
LFC Files

Responses Received From
Taxation and Revenue Department (TRD)
Economic Development Department (EDD)

SUMMARY

Synopsis of Bill

Senate Bill 234 expands the gross receipts tax deduction under Section 7-9-112 NMSA 1978 for the sale and installation of solar energy systems to cover leases of those systems. As used in the current deduction a “solar energy system” is a system used to provide space heat, hot water or electricity using solar panels that are not also windows, or using a dark-colored water tank exposed to sunlight, or using a non-vented trombe wall. The definition includes “all equipment necessary for the installation and operation” of the solar equipment.

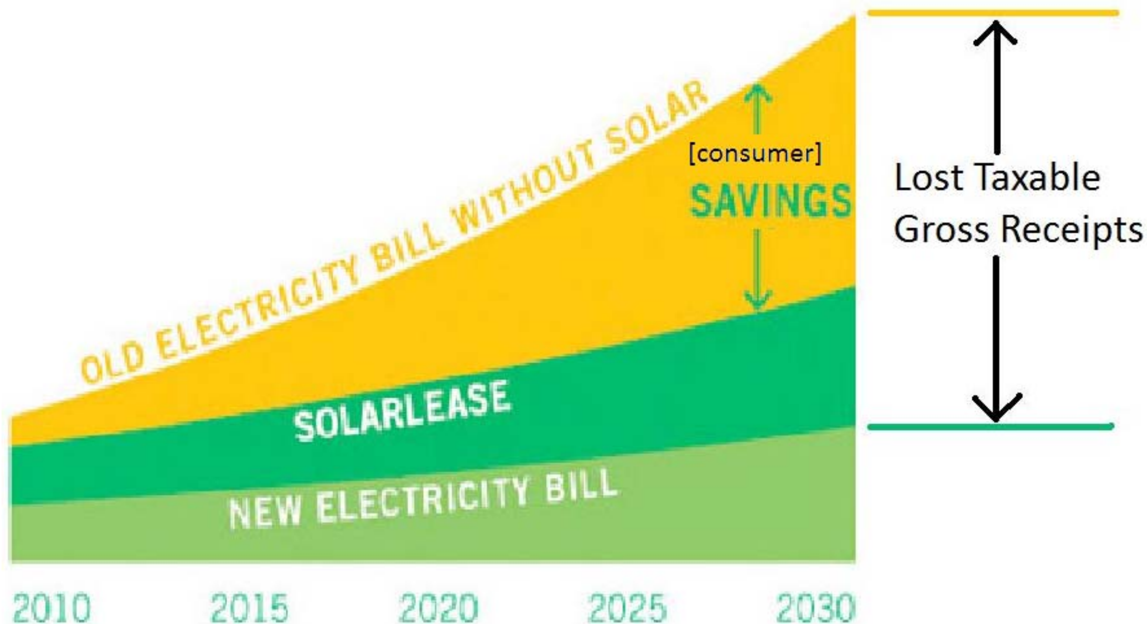
Currently the deduction is only available for solar energy systems that supply heat or electricity to the property in which it is installed. This bill would also expand the deduction to systems that supply or sell heat or electricity to a public utility.

FISCAL IMPLICATIONS

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 10,000 residential and commercial installations in Arizona, California, Colorado, Maryland, Oregon, Texas, and Washington D.C. They have expanded rapidly in recent years and expect further rapid expansion into other states. Because SolarCity is a private company their revenues are not known. Under SolarCity's SolarLease® model, the company designs, installs, and maintains the system while leasing it back to the residential or commercial customer. Because they also own the system they receive any accompanying federal tax credits or state incentives.

The graph below is an illustration from SolarCity's website explaining a customer's hypothetical cost savings under their SolarLease® model. It also shows the taxable gross receipts loss under the SolarLease® model with the proposed deduction. Under current law taxable receipts would consist of both receipts from the solar lease and from a customer's electricity bill. The proposal would make receipts from the solar lease deductible. With or without SB-234 the gross receipts tax revenue will be reduced, but with SB-234 only the bottom portion (receipts from the new electricity bill) would remain taxable.



SIGNIFICANT ISSUES

TRD:

> This bill will reduce the gross receipts tax base in order to achieve other public policy goals. There may be a potential for double dipping with this deduction and other incentives such as the advanced energy tax credit or the renewable energy tax credit.
>
> The proposed deduction expansion will be added to a number of other state and federal policies designed to subsidize the development of renewable energy. These proposals raise the question of what public benefits are associated with these facilities that justify the reduction of state revenues, often termed a "tax expenditure." Proponents of renewable energy point to environmental concerns such as reducing the potential for global warming. Much of these benefits would not accrue to the residents of New Mexico. Although these benefits are not unimportant to public policy, they may be more appropriately targeted by national rather than state-level policies.
>
> Meanwhile, to the extent that renewable energy generating facilities become a substitute for traditional power sources, the state's tax base is eroded by tax exclusions like the ones in this bill. Proponents of renewable energy argue that these benefits are only temporary and that the industry will eventually be able to compete without the subsidies. Nevertheless, the combination of all renewable energy incentives may have significant negative implications for the state's budget in the coming years. A sunset date may be prudent.

According to an article in New Mexico Business Weekly on August 31, 2010[1], the New Mexico Public Regulation Commission approved a final order that significantly scaled back PNM's plans for solar power generation. The PRC aimed to cut costs for PNM rate payers from the original plan that would have cost ratepayers about $40 million to a new plan which costs about $15 million. Under Senate Bill 234, this may translate into less solar energy supplied or sold to a public utility in New Mexico for the current period, but this has the potential to increase rapidly in the future.

TECHNICAL ISSUES

TRD:

> The deduction expanded by this bill meets the definition of an "economic development tax incentive" in Section 9-15-56 but this bill nor the original deduction follow the guidelines required in that Section.
>
> The deduction expanded by this bill meets the criteria of an "economic development tax incentive" as defined in the economic development tax incentive guidelines in Section 9-15-56 NMSA 1978, as a deduction with the purpose of "promoting economic development or offering an advantage to a particular industry or type of business to do business in New Mexico." However, this bill does not include all items required in that section.

[1] http://www.bizjournals.com/albuquerque/stories/2010/08/30/daily23.html

The economic development tax incentive guidelines require that the enabling statute for an economic development tax incentive shall include the following provisions:

1) a statement of purpose;
2) the designation of a responsible agency to establish measurable policy goals, track state expenditures, quantify the state's return on investment and report regularly to the interim revenue stabilization and tax policy committee and the legislative finance committee;
3) a requirement that the economic development department track job creation;
4) specific standards for the taxpayer to qualify for the incentive;
5) reporting requirements for the taxpayer;
6) a description of the financial obligation of the taxpayer if the specific standards are not met; and
7) a mandatory review of the incentive no more than every seven years.

JAG/bym

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