BILL ANALYSIS AND FISCAL IMPACT REPORT
Taxation and Revenue Department

January 29, 2024

Bill: SB-121 **Sponsor:** Senator Mimi Stewart

Short Title: Solar Market Development Tax Credit Changes

Description: This bill amends the New Solar Market Development Income Tax Credit under Section 7-2-18.31 NMSA 1978 to allow for a taxpayer that leases a residence, business, or agricultural enterprise that is owned by a federally recognized Indian Nation, Tribe, or Pueblo to apply for the credit. This bill also amends the cap of the credit for calendar years 2020 through 2023 to allow an additional $20 million to be claimed for all of those calendar years. This increase would allow those individuals that lost the opportunity to claim this credit based on the current $12 million statutory cap a one-time opportunity to claim the credit. Starting for calendar years 2024 through December 31, 2031, the cap per calendar year is increased from $12 million to $30 million.

Effective Date: Not specified; 90 days following adjournment (May 15, 2024).

Taxation and Revenue Department Analyst: Asif Rasool

Estimated Revenue Impact*					R or NR**	Fund(s) Affected
FY2024	FY2025	FY2026	FY2027	FY2028		
($2,000)	($32,100)	($18,000)	($18,000)	($18,000)	R	General Fund

* In thousands of dollars. Parentheses () indicate a revenue loss. ** Recurring (R) or Non-Recurring (NR).

Methodology for Estimated Revenue Impact: The average cost per watt for installing a residential solar panel system in New Mexico ranges from $2.79 to $3.77, excluding federal solar tax credits and other rebates[1]. Commercial solar PV projects typically have a lower cost per watt due to economies of scale. The average payback period for a residential system is 10.2 years, and the typical lifespan of solar projects is around 30 years, providing homeowners with decades of "free" solar power.

In the past decade, the solar industry in the United States has experienced remarkable growth, boasting an average annual rate of 24%[2]. This growth resulted in the total solar capacity exceeding 110 gigawatts in 2022. Notably, solar energy accounted for 45% of the new electricity-generating capacity additions in the country during the same year. Of the overall solar capacity installed in the U.S., more than 20% can be attributed to residential installations. This segment has witnessed significant expansion in recent years, with approximately 3.6 million installations recorded in 2022. In New Mexico, the credit cap of $12 million was reached in FY2022 and FY2023. The Taxation and Revenue Department (Tax & Rev) assumed a consumer demand of $17 million in tax credits in tax year 2022 given the $12 million certification cap was reached and the need to extend $20 million in additional credits for calendar years 2020 to 2023. Tax and Rev projected that New Mexico would experience a similar growth rate in the solar market, consistent with the national average of 24% and thereby hit the new $30 million certification cap in tax year 2025. The fiscal impact is the difference between the current cap of $12 million and the new cap of $30 million.

The additional $20 million of credits for the prior years of 2020 through 2023 must be claimed for taxable

[1] A Quick Guide To IRS Form 5695 (greenlancer.com)
[2] Residential solar market in the U.S. - statistics & facts | Statista

year 2023. As noted in "Other Issues" below, taxpayers will begin to file their 2023 tax returns this January and may need to amend the return at a later date. The effective date of May 15, 2024, means applications for the credit and tax returns with the credit cannot occur until that time. Tax & Rev assumes that $2 million in credits from the $20 million will impact FY2024 and the remaining will impact FY2025. However, the alternative would be for taxpayers who were denied the credit in prior years due to the cap being reached to claim the credit for taxable year 2024; in that case, they would not receive the relief until filing in early 2025, an undesirable delay.

Policy Issues: Personal income tax (PIT) represents a consistent source of revenue for many states. For New Mexico, PIT is approximately 25% of the state's recurring general fund revenue. While this revenue source is susceptible to economic downturns, it is also positively responsive to economic expansions. New Mexico is one of 41 states, along with the District of Columbia, that impose a broad-based PIT (New Hampshire and Washington do not tax wage and salary income). The PIT is an important tax policy tool that has the potential to further both horizontal equity, by ensuring the same statutes apply to all taxpayers, and vertical equity, by ensuring the tax burden is based on taxpayers' ability to pay. This solar market incentive erodes horizontal equity as this is only eligible to taxpayers who own a home or business and can afford the investment of a solar system.

The inclusion of a residence or business owned by a federally recognized Indian nation, tribe or pueblo increases horizontal equity by increasing the number of taxpayers eligible to claim the credit. The current version of the credit requires proof that a residential solar installation is owned by the taxpayer. This requirement inadvertently left out residences on tribal trust land, and this bill corrects that issue.

The broader question of subsidizing solar energy has many economic factors to consider including job creation, impacts to established markets and environmental concerns. A credit is a tax expenditure that gives preferential tax treatment to certain taxpayers. Some economists would argue that energy costs should reflect the associated cost impacts or benefits to the environment. Thus, solar energy which can be expensive to start-up, should be given tax incentives due to its low environmental impact and health and social benefits for the current and future populations. The long-term environmental, health and social benefits outweigh the short-term revenue cost. New job opportunities are associated with solar energy generation, such as solar photovoltaic installers, engineers and managers.

Credit applications being denied in prior years only as a result of the credit certification cap being reached has been a frustrating experience for taxpayers. This bill will allow individuals who purchased a system prior to tax year 2024, under the impression that they would get a state credit for their purchase, to be made whole.

Technical Issues: The additional caps in subsection F(1), on page 4, need clarification, as it is unclear whether the additional $20 million applies to each tax year listed (2020 through 2023) or if it pertains to the total for all the years mentioned. Tax & Rev understands the intent of the bill is for $20 million to be made available in total, not $20 million for each fiscal year for $80 million in total. But without clarification, if the $20 million intended is received, taxpayers may dispute credit denials.

Other Issues: To enhance process efficiency and reduce internal risk, Tax & Rev suggests inserting the following text on page 3, line 18, immediately after the word "claimed": "The Energy Minerals and Natural Resources Department shall regularly provide the department with electronically issued certificates of eligibility at agreed-upon intervals."

Administrative & Compliance Impact: Tax & Rev will make information system changes and update forms, instructions, publications. These changes will be included in annual tax year changes.