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FISCAL IMPACT REPORT

SPONSOR <u>Duhigg</u>	LAST UPDATED <u>2/13/2025</u>	ORIGINAL DATE <u>2/4/2025</u>
SHORT TITLE <u>Consumer Solar Protection Act</u>	BILL NUMBER <u>Senate Bill 65/aSTBTC</u>	ANALYST <u>Ortega</u>

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT*

(dollars in thousands)

Agency/Program	FY25	FY26	FY27	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Administrative Office of the Courts	Indeterminate but minimal	Indeterminate but minimal	Indeterminate but minimal			General Fund

Parentheses () indicate expenditure decreases.

*Amounts reflect most recent analysis of this legislation.

Sources of Information

LFC Files

Agency Analysis Received From

Administrative Office of the Courts (AOC)

Public Regulation Commission (PRC)

Agency Analysis was Solicited but Not Received From

New Mexico Attorney General (NMAG)

Energy, Minerals and Natural Resources Department (EMNRD)

Regulation and Licensing Department (RLD)

SUMMARY

Synopsis of STBTC Amendment

The Senate Tax, Business and Transportation Committee amendment to Senate Bill 65 (SB65) changes language on page 4, line 11, striking the word “ninety” and replacing with “one hundred eighty,” doubling the length of time the financier is restricted from penalizing the buyer.

Synopsis of Original Bill

Senate Bill 65 (SB65) establishes the Consumer Solar Protection Act, detailing regulations for financial contracts related to residential solar energy systems and setting forth duties and limitations for sellers and installers. SB65 requires that all necessary permits be approved and displayed before the installation of a residential solar energy system. The bill prohibits sellers from creating or accessing a consumer’s email account in connection with sales or financing, misrepresenting solar systems as part of a government or utility program or as free, or making claims about tax credits unless they are qualified to give tax advice and provide written documentation.

Additionally, the bill mandates that sellers provide paper copies of electronic documents upon request and prohibits sellers and installers from requesting or accepting power of attorney from consumers. It also establishes that payments are not due until the system is operational and restricts penalties or negative credit reporting for nonoperational systems. Finally, the bill creates a private right of action, allowing consumers to seek damages of at least \$1,000 for violations, with potential damages and attorney fees tripled for willful violations.

This bill does not contain an effective date and, as a result, would go into effect 90 days after the Legislature adjourns if enacted, or June 20, 2025.

FISCAL IMPLICATIONS

SB65 does not include an appropriation for its implementation but may have a fiscal impact on state agencies responsible for enforcement and the judicial system. The Administrative Office of the Courts (AOC) anticipates a minimal administrative cost for updating, distributing, and documenting statutory changes. However, the broader fiscal impact on the judiciary will depend on the number of civil actions and appeals arising from claims of statutory violations, including damages, injunctive relief, and attorney fees.

The bill establishes a private right of action, allowing consumers to seek damages for violations, which could lead to increased litigation. If the volume of cases is significant, courts may require additional resources to manage the increased workload, including additional staffing and administrative support. While the exact fiscal impact is uncertain, any significant increase in litigation could lead to additional budget requests from the judiciary for case management and processing.

SIGNIFICANT ISSUES

According to the AOC, in response to concerns about deceptive practices in the consumer solar energy market, various states and consumer protection groups have taken steps to strengthen regulations. In 2024, Washington and Utah enacted laws aimed at increasing transparency in solar contracts and protecting consumers from misleading sales tactics. Washington's Solar Consumer Protection Act requires clear disclosures of costs and system performance expectations, while Utah's Home Solar Energy Amendments impose waiting periods and refund grace periods to protect consumers. Other states, including Texas in 2021 and Arizona in 2015, have implemented solar consumer protection laws.

AOC notes that SB65 introduces similar protections in New Mexico, but there are notable differences between its provisions and existing state law under the Unfair Practices Act (UPA) (Section 57-12-10(B) NMSA 1978). Unlike the UPA, which only allows a judge discretion in awarding up to three times actual damages for willful violations, SB65 mandates triple damages if a violation is proven willful. Additionally, while the UPA allows courts to award attorney fees and costs to defendants when a claim is found to be groundless, SB65 does not contain a similar provision for residential solar energy system sellers. AOC highlights that this distinction could lead to increased litigation risks for sellers and installers, potentially affecting the market for residential solar energy systems in New Mexico.

PERFORMANCE IMPLICATIONS

AOC included the following statement:

The courts are participating in performance-based budgeting. This bill may have an impact on the measures of the district courts in the following areas:

- Cases disposed of as a percent of cases filed.
- Percent change in case filings by case type.

AO/rl/SR/sgs/rl/sgs