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## FISCAL IMPACT REPORT

ORIGINAL DATE 1/23/08  
 SPONSOR Feldman LAST UPDATED 1/23/08 HB \_\_\_\_\_  
 SHORT TITLE Solar Market Development Eligibility SB 100  
 ANALYST Francis

### REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Non-Rec	Fund Affected
FY08	FY09	FY10		
	(180.0)	(258.0)	Recurring	General Fund

(Parenthesis ( ) Indicate Revenue Decreases)

### SOURCES OF INFORMATION

LFC Files  
 Taxation and Revenue Department

#### Responses Received From

Energy Minerals and Natural Resources Department (EMNRD)  
 Economic Development Department (EDD)

### SUMMARY

#### Synopsis of Bill

Senate Bill 100 makes several changes to the solar market development tax credit that was enacted in 2006:

- Changes the definition of ownership to include a limited liability company or other business association and allows the credit based on percentage of ownership
- Allows the credit to be refundable if the taxpayer has a modified gross income of less than 150 percent of federal poverty
- Addresses couples filing separately

The changes are effective for tax years beginning on or after January 1, 2008.

### FISCAL IMPLICATIONS

TRD provided the fiscal impact based on reported credits from EMNRD. The credit is still well under the maximum amount EMNRD is allowed to certify in a single year. The impact of making the credit refundable for taxpayers with modified gross income of less than 150 percent of federal poverty level is deemed to have an insignificant impact.

	2006	2007	2008	2009	2010	2011	2012
<b>Present law:</b>							
Growth rate			9%	10%	10%	10%	10%
Total credits approved	-	552,000	600,000	660,000	726,000	798,600	878,460
	60%	20%	10%	5%	3%	2%	2%
Credit claims	-	331,200	470,400	571,200	655,200	734,160	331,392
<b>Amounts claimed by fiscal year</b>		-	<b>331,200</b>	<b>470,400</b>	<b>571,200</b>	<b>655,200</b>	<b>734,160</b>
<b>SB 100: (2008 Session)</b>							
Increased claims by businesses <1>			1.5	1.5	1.5	1.5	1.5
Total credits approved	-	552,000	900,000	990,000	1,089,000	1,197,900	1,317,690
Credit claims	60%	20%	10%	5%	3%	3%	3%
Credit claims	-	331,200	650,400	829,200	969,000	1,094,340	498,828
<b>Amounts claimed by fiscal year</b>		<b>90,000</b>	<b>331,200</b>	<b>650,400</b>	<b>829,200</b>	<b>969,000</b>	<b>1,094,340</b>
<b>Difference</b>			-	<b>(180,000)</b>	<b>(258,000)</b>	<b>(313,800)</b>	<b>(360,180)</b>

Source: TRD

## SIGNIFICANT ISSUES

SB100 broadens the scope of eligible taxpayers to include limited liability companies and other business associations which the taxpayer owns. This would allow builders and developers to apply for the credit when they include solar systems in their projects. EMNRD reports that this would keep the price of a home with solar lower for the consumer than if the consumer were to add the system him or herself. This will also increase the number of systems installed. For example, Mesa del Sol has committed to sustainable building which presumably will include some solar systems. Their plan is to have over 8,000 houses built which they will have builders build. Since the aggregate credit is restricted to no more than \$5 million—\$2 million for solar thermal systems and \$3 million for photovoltaic systems—there is little risk to the state since the fiscal impact shows the credit reaching the limit but its not inconceivable that one developer could apply for most or all of the credits in a given year.

EDD reports that expanding the credit would make the state more attractive for solar system manufacturers because the credit is supporting market demand.

According to EMNRD, SB 100 would make it easier for low income citizens to participate in this tax credit, by providing a direct refund for excess tax credit that would otherwise be received over several years as carry forward tax credit due to low tax liability. Examples of system types that may be within reach of low income citizens would be solar domestic hot water and solar air heating systems. Once installed, the solar systems would provide the benefits of essential heat during the colder fall-winter-spring seasons and also reduce the utility bills of low income citizens. Small solar photovoltaic systems for electricity may also be within reach. However, as the chart below shows, for a family of four 150 percent of the poverty level is just under \$31,000 making the investment unreachable for most families.

<b>2007 Federal Poverty Level (FPL)</b>	
Family Size	150%
1 \$	15,324
2	20,544
3	25,764
4	30,974
5	36,204
6	41,424
7	46,644
8	51,864
8 +	add \$3,400

**TECHNICAL ISSUES**

There is no definition of “business association” or “owner” and could be construed to refer to many types of associations and ownership, including share holding. There may also be a need to clarify that the credit will be awarded based on proportional ownership.

TRD reports a technical issue on page 2, lines 12 & 13, section B, “the amount of the solar credit shall not be more than 30 percent” is subsequently negated by existing language in lines 14-17.

**ADMINISTRATIVE IMPLICATIONS**

According to EMNRD, the solar system certification rule (3.3.28 NMAC), would need to be amended to clarify eligibility.

**WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL**

If SB100 does not become law, the credit may not be fully utilized until 2011 and limited liability companies and other business associations would not be able to receive the credit.

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