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HOUSE BILL 176

**57TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2025**

INTRODUCED BY

Harlan Vincent and Luis M. Terrazas and Rebecca Dow

AN ACT

RELATING TO TAXATION; CREATING THE BACKUP POWER GENERATOR  
INCOME TAX CREDIT.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. A new section of the Income Tax Act is enacted  
to read:

"[NEW MATERIAL] BACKUP POWER GENERATOR INCOME TAX  
CREDIT.--

A. For taxable years prior to January 1, 2035, a  
taxpayer who is not a dependent of another individual and who,  
on or after March 1, 2025, purchases and permanently installs  
in New Mexico a backup power generator may claim a credit  
against the taxpayer's tax liability imposed pursuant to the  
Income Tax Act in an amount provided in Subsection B of this  
section. The tax credit provided by this section may be

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1 referred to as the "backup power generator income tax credit".

2 B. The amount of credit that may be allowed shall  
3 be in an amount equal to fifty percent of the purchase and  
4 installation costs of the backup power generator.

5 C. A taxpayer shall apply for certification of  
6 eligibility for the credit from the energy, minerals and  
7 natural resources department on forms and in the manner  
8 prescribed by that department. Except as provided in  
9 Subsections F and G of this section, only one tax credit shall  
10 be certified per taxpayer. The total annual aggregate amount  
11 of credits that may be certified in any calendar year is five  
12 million dollars (\$5,000,000). Completed applications shall be  
13 considered in the order received. Applications for  
14 certification received after this limitation has been met in a  
15 calendar year shall not be approved for that calendar year, but  
16 shall be considered for certification in the following calendar  
17 year. The application shall include proof that the taxpayer is  
18 eligible for certification. For taxpayers approved to receive  
19 the credit, the energy, minerals and natural resources  
20 department shall issue a certificate of eligibility stating the  
21 amount of credit to which the taxpayer is entitled and the  
22 taxable year in which the credit may be claimed. The  
23 certificate of eligibility shall be numbered for identification  
24 and declare the date of issuance and the amount of the tax  
25 credit allowed.

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1           D. A taxpayer may claim the credit for the taxable  
2 year in which the taxpayer purchases and permanently installs a  
3 backup power generator. To receive the credit, the taxpayer  
4 shall apply to the department on forms and in the manner  
5 prescribed by the department. The application shall include a  
6 certification made pursuant to Subsection C of this section.

7           E. That portion of a credit that exceeds a  
8 taxpayer's tax liability in the taxable year in which the  
9 credit is claimed shall be refunded to the taxpayer.

10          F. Married individuals filing separate returns for  
11 a taxable year for which they could have filed a joint return  
12 may each claim only one-half of the credit that would have been  
13 claimed on a joint return.

14          G. A taxpayer may be allocated the right to claim  
15 the credit in proportion to the taxpayer's ownership interest  
16 if the taxpayer owns an interest in a business entity that is  
17 taxed for federal income tax purposes as a partnership or  
18 limited liability company and that business entity has met all  
19 of the requirements to be eligible for the credit. The total  
20 credit claimed by all members of the partnership or limited  
21 liability company shall not exceed the maximum amount of the  
22 credit allowed pursuant to this section.

23          H. A taxpayer allowed the credit shall report the  
24 amount of the credit to the department in a manner required by  
25 the department.

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I. The credit provided by this section shall be included in the tax expenditure budget pursuant to Section 7-1-84 NMSA 1978, including the total annual aggregate cost of the credit.

J. As used in this section, "backup power generator" means a device that automatically provides temporary or permanent power when the main power source fails."

SECTION 2. DELAYED REPEAL.--Section 1 of this act is repealed effective January 1, 2035.

SECTION 3. APPLICABILITY.--The provisions of this act apply to taxable years beginning on or after January 1, 2025.