

HOUSE TAXATION AND REVENUE COMMITTEE SUBSTITUTE FOR
HOUSE BILL 291

55TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2021

AN ACT

RELATING TO TAXATION; ADDING NEW BRACKETS TO THE INCOME TAX;
INCREASING AND INDEXING THE LOW-INCOME COMPREHENSIVE TAX
REBATE; INCREASING THE AMOUNT OF THE WORKING FAMILIES TAX
CREDIT; EXPANDING THE CREDIT TO CERTAIN RESIDENTS WHO ARE
INELIGIBLE FOR THE FEDERAL EARNED INCOME TAX CREDIT ON WHICH
THE WORKING FAMILIES TAX CREDIT IS BASED; LIMITING THE CAPITAL
GAINS DEDUCTION FROM NET INCOME FOR CERTAIN TAXPAYERS;
PROVIDING A THREE PERCENT LIMITATION ON INCREASES IN VALUATION
OF RESIDENTIAL PROPERTY TO PROPERTY THAT IS OCCUPIED BY THE
OWNER AS THE OWNER'S PRINCIPAL PLACE OF RESIDENCE; PROVIDING A
TEN PERCENT LIMITATION ON INCREASES IN VALUATION OF RESIDENTIAL
PROPERTY THAT IS NOT OCCUPIED BY THE OWNER AS THE OWNER'S
PRINCIPAL PLACE OF RESIDENCE.

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

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1 SECTION 1. Section 7-2-7 NMSA 1978 (being Laws 2005,
2 Chapter 104, Section 4, as amended) is amended to read:

3 "7-2-7. INDIVIDUAL INCOME TAX RATES.--The tax imposed by
4 Section 7-2-3 NMSA 1978 shall be at the following rates for any
5 taxable year beginning on or after January 1, [~~2021~~] 2022:

6 A. For married individuals filing separate returns:

7 If the taxable income is:	The tax shall be:
8 Not over \$4,000	1.7% of taxable income
9 Over \$4,000 but not over \$8,000	\$68.00 plus 3.2% of 10 excess over \$4,000
11 Over \$8,000 but not over \$12,000	\$196 plus 4.7% of excess 12 over \$8,000
13 Over \$12,000 but not over 14 [\$157,500] <u>\$100,000</u>	\$384 plus 4.9% of excess over \$12,000
15 <u>Over \$100,000 but not over \$157,500</u>	<u>\$4,696 plus 5.5% of</u> 16 <u>excess over \$100,000</u>
17 <u>Over \$157,500 but not over \$207,500</u>	[\$7,513.50] <u>\$7,858.50</u> 18 plus 5.9% of excess over 19 \$157,500
20 <u>Over \$207,500 but not over \$311,000</u>	<u>\$10,808.50 plus 6.2% of</u> 21 <u>excess over \$207,500</u>
22 <u>Over \$311,000</u>	<u>\$17,225.50 plus 6.5% of</u> 23 <u>excess over \$311,000.</u>

24 B. For heads of household, surviving spouses and
25 married individuals filing joint returns:

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1	If the taxable income is:	The tax shall be:
2	Not over \$8,000	1.7% of taxable income
3	Over \$8,000 but not over \$16,000	\$136 plus 3.2% of excess
4		over \$8,000
5	Over \$16,000 but not over \$24,000	\$392 plus 4.7% of excess
6		over \$16,000
7	Over \$24,000 but not over	\$768 plus 4.9% of excess
8	[\$315,000] <u>\$200,000</u>	over \$24,000
9	<u>Over \$200,000 but not over \$315,000</u>	<u>\$9,392 plus 5.5% of</u>
10		<u>excess over \$200,000</u>
11	Over \$315,000 <u>but not over \$415,000</u>	[\$15,027] <u>\$15,717</u> plus
12		5.9% of excess over
13		\$315,000
14	<u>Over \$415,000 but not over \$622,000</u>	<u>\$21,617 plus 6.2% of</u>
15		<u>excess over \$415,000</u>
16	<u>Over \$622,000</u>	<u>\$34,451 plus 6.5% of</u>
17		<u>excess over \$622,000.</u>

18 C. For single individuals and for estates and
 19 trusts:

20	If the taxable income is:	The tax shall be:
21	Not over \$5,500	1.7% of taxable income
22	Over \$5,500 but not over \$11,000	\$93.50 plus 3.2% of
23		excess over \$5,500
24	Over \$11,000 but not over \$16,000	\$269.50 plus 4.7% of
25		excess over \$11,000

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1	Over \$16,000 but not over	\$504.50 plus 4.9% of
2	[\$210,000] <u>\$135,000</u>	excess over \$16,000
3	<u>Over \$135,000 but not over \$210,000</u>	<u>\$6,335.50 plus 5.5% of</u>
4		<u>excess over \$135,000</u>
5	Over \$210,000 <u>but not over \$280,000</u>	[\$10,010.50] <u>\$10,460.50</u>
6		plus 5.9% of excess over
7		\$210,000
8	<u>Over \$280,000 but not over \$415,000</u>	<u>\$14,950.50 plus 6.2% of</u>
9		<u>excess over \$280,000</u>
10	<u>Over \$415,000</u>	<u>\$22,960.50 plus 6.5% of</u>
11		<u>excess over \$415,000.</u>

12 D. The tax on the sum of any lump-sum amounts
13 included in net income is an amount equal to five multiplied by
14 the difference between:

15 (1) the amount of tax due on the taxpayer's
16 taxable income; and

17 (2) the amount of tax that would be due on an
18 amount equal to the taxpayer's taxable income and twenty
19 percent of the taxpayer's lump-sum amounts included in net
20 income."

21 SECTION 2. Section 7-2-14 NMSA 1978 (being Laws 1972,
22 Chapter 20, Section 2, as amended) is amended to read:

23 "7-2-14. LOW-INCOME COMPREHENSIVE TAX REBATE.--

24 A. Except as otherwise provided in Subsection B of
25 this section, any resident who files an individual New Mexico

1 income tax return and who is not a dependent of another
2 individual may claim a tax rebate for a portion of state and
3 local taxes to which the resident has been subject during the
4 taxable year for which the return is filed. The tax rebate may
5 be claimed even though the resident has no income taxable under
6 the Income Tax Act. [~~A husband and wife~~] Married individuals
7 who file separate returns for a taxable year in which they
8 could have filed a joint return may each claim only one-half of
9 the tax rebate that would have been allowed on a joint return.

10 B. No claim for the tax rebate provided in this
11 section shall be filed by a resident who was an inmate of a
12 public institution for more than six months during the taxable
13 year for which the tax rebate could be claimed or who was not
14 physically present in New Mexico for at least six months during
15 the taxable year for which the tax rebate could be claimed.

16 C. For the purposes of this section, the total
17 number of exemptions for which a tax rebate may be claimed or
18 allowed is determined by adding the number of federal
19 exemptions allowable for federal income tax purposes for each
20 individual included in the return who is domiciled in New
21 Mexico plus two additional exemptions for each individual
22 domiciled in New Mexico included in the return who is sixty-
23 five years of age or older plus one additional exemption for
24 each individual domiciled in New Mexico included in the return
25 who, for federal income tax purposes, is blind plus one

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1 exemption for each minor child or stepchild of the resident who
 2 would be a dependent for federal income tax purposes if the
 3 public assistance contributing to the support of the child or
 4 stepchild was considered to have been contributed by the
 5 resident.

6 D. Except as provided in Subsection F of this
 7 section, the tax rebate provided for in this section may be
 8 claimed in the amount shown in the following table:

9	Modified gross	And the total number						
10	income is:	of exemptions is:						
11		But Not						6 or
12	Over	Over	1	2	3	4	5	More
13	[\$—0	\$—500	\$—120	\$—160	\$—200	\$—240	\$—280	\$—320
14	500	1,000	135	195	250	310	350	415
15	1,000	1,500	135	195	250	310	350	435
16	1,500	2,000	135	195	250	310	350	450
17	2,000	2,500	135	195	250	310	350	450
18	2,500	3,000	135	195	250	310	350	450
19	3,000	3,500	135	195	250	310	350	450
20	3,500	4,000	135	195	250	310	355	450
21	4,000	4,500	135	195	250	310	355	450
22	4,500	5,000	125	190	240	305	355	450
23	5,000	5,500	115	175	230	295	355	430
24	5,500	6,000	105	155	210	260	315	410
25	6,000	7,000	90	130	170	220	275	370

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1	7,000	8,000	80	115	145	180	225	295
2	8,000	9,000	70	105	135	170	195	240
3	9,000	10,000	65	95	115	145	175	205
4	10,000	11,000	60	80	100	130	155	185
5	11,000	12,000	55	70	90	110	135	160
6	12,000	13,000	50	65	85	100	115	140
7	13,000	14,000	50	65	85	100	115	140
8	14,000	15,000	45	60	75	90	105	120
9	15,000	16,000	40	55	70	85	95	110
10	16,000	17,000	35	50	65	80	85	105
11	17,000	18,000	30	45	60	70	80	95
12	18,000	19,000	25	35	50	60	70	80
13	19,000	20,000	20	30	40	50	60	65
14	20,000	21,000	15	25	30	40	50	55
15	21,000	22,000	10	20	25	35	40	45]
16	<u>\$ 0</u>	<u>\$ 1,000</u>	<u>\$ 195</u>	<u>\$ 260</u>	<u>\$ 325</u>	<u>\$ 390</u>	<u>\$ 455</u>	<u>\$ 520</u>
17	<u>1,000</u>	<u>1,500</u>	<u>220</u>	<u>315</u>	<u>405</u>	<u>505</u>	<u>570</u>	<u>675</u>
18	<u>1,500</u>	<u>2,500</u>	<u>220</u>	<u>315</u>	<u>405</u>	<u>505</u>	<u>570</u>	<u>705</u>
19	<u>2,500</u>	<u>7,500</u>	<u>220</u>	<u>315</u>	<u>405</u>	<u>505</u>	<u>570</u>	<u>730</u>
20	<u>7,500</u>	<u>8,000</u>	<u>205</u>	<u>310</u>	<u>390</u>	<u>495</u>	<u>575</u>	<u>730</u>
21	<u>8,000</u>	<u>9,000</u>	<u>185</u>	<u>285</u>	<u>375</u>	<u>480</u>	<u>575</u>	<u>700</u>
22	<u>9,000</u>	<u>10,000</u>	<u>170</u>	<u>250</u>	<u>340</u>	<u>425</u>	<u>510</u>	<u>665</u>
23	<u>10,000</u>	<u>11,500</u>	<u>145</u>	<u>210</u>	<u>275</u>	<u>360</u>	<u>445</u>	<u>600</u>
24	<u>11,500</u>	<u>13,000</u>	<u>130</u>	<u>185</u>	<u>235</u>	<u>295</u>	<u>365</u>	<u>480</u>
25	<u>13,000</u>	<u>14,500</u>	<u>115</u>	<u>170</u>	<u>220</u>	<u>275</u>	<u>315</u>	<u>390</u>

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1	<u>14,500</u>	<u>16,500</u>	<u>105</u>	<u>155</u>	<u>185</u>	<u>235</u>	<u>285</u>	<u>335</u>
2	<u>16,500</u>	<u>18,000</u>	<u>100</u>	<u>130</u>	<u>165</u>	<u>210</u>	<u>250</u>	<u>300</u>
3	<u>18,000</u>	<u>19,500</u>	<u>90</u>	<u>115</u>	<u>145</u>	<u>180</u>	<u>220</u>	<u>260</u>
4	<u>19,500</u>	<u>21,000</u>	<u>80</u>	<u>105</u>	<u>140</u>	<u>165</u>	<u>185</u>	<u>230</u>
5	<u>21,000</u>	<u>23,000</u>	<u>80</u>	<u>105</u>	<u>140</u>	<u>165</u>	<u>185</u>	<u>230</u>
6	<u>23,000</u>	<u>24,500</u>	<u>75</u>	<u>100</u>	<u>120</u>	<u>145</u>	<u>170</u>	<u>195</u>
7	<u>24,500</u>	<u>26,000</u>	<u>65</u>	<u>90</u>	<u>115</u>	<u>140</u>	<u>155</u>	<u>180</u>
8	<u>26,000</u>	<u>27,500</u>	<u>55</u>	<u>80</u>	<u>105</u>	<u>130</u>	<u>140</u>	<u>170</u>
9	<u>27,500</u>	<u>29,500</u>	<u>50</u>	<u>75</u>	<u>100</u>	<u>115</u>	<u>130</u>	<u>155</u>
10	<u>29,500</u>	<u>31,000</u>	<u>40</u>	<u>55</u>	<u>80</u>	<u>100</u>	<u>115</u>	<u>130</u>
11	<u>31,000</u>	<u>32,500</u>	<u>35</u>	<u>50</u>	<u>65</u>	<u>80</u>	<u>100</u>	<u>105</u>
12	<u>32,500</u>	<u>34,000</u>	<u>25</u>	<u>40</u>	<u>50</u>	<u>65</u>	<u>80</u>	<u>90</u>
13	<u>34,000</u>	<u>36,000</u>	<u>15</u>	<u>35</u>	<u>40</u>	<u>55</u>	<u>65</u>	<u>75</u> .

14 E. If a taxpayer's modified gross income is zero,
 15 the taxpayer may claim a credit in the amount shown in the
 16 first row of the table appropriate for the taxpayer's number of
 17 exemptions as adjusted by the provisions of Subsection F of
 18 this section.

19 F. For the 2022 taxable year and each subsequent
 20 taxable year, the amount of rebate shown in the table in
 21 Subsection D of this section shall be adjusted to account for
 22 inflation. The department shall make the adjustment by
 23 multiplying each amount of rebate by a fraction, the numerator
 24 of which is the consumer price index ending during the prior
 25 taxable year and the denominator of which is the consumer price

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1 index ending in tax year 2021. The result of the
2 multiplication shall be rounded down to the nearest one dollar
3 (\$1.00), except that if the result would be an amount less than
4 the corresponding amount for the preceding taxable year, then
5 no adjustment shall be made.

6 [F-] G. The tax rebates provided for in this
7 section may be deducted from the taxpayer's New Mexico income
8 tax liability for the taxable year. If the tax rebates exceed
9 the taxpayer's income tax liability, the excess shall be
10 refunded to the taxpayer.

11 [G-] H. For purposes of this section:

12 (1) "consumer price index" means the consumer
13 price index for all urban consumers published by the United
14 States department of labor for the month ending September 30;
15 and

16 (2) "dependent" means "dependent" as defined
17 by Section 152 of the Internal Revenue Code of 1986, as that
18 section may be amended or renumbered, but also includes any
19 minor child or stepchild of the resident who would be a
20 dependent for federal income tax purposes if the public
21 assistance contributing to the support of the child or
22 stepchild was considered to have been contributed by the
23 resident."

24 SECTION 3. Section 7-2-18.15 NMSA 1978 (being Laws 2007,
25 Chapter 45, Section 9, as amended) is amended to read:

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1 "7-2-18.15. WORKING FAMILIES TAX CREDIT.--

2 A. A taxpayer who is a resident and who files an
3 individual New Mexico income tax return may claim a credit in
4 an amount equal to ~~[seventeen]~~ twenty percent of the federal
5 earned income tax credit for which that ~~[individual]~~ taxpayer
6 is eligible for the same taxable year ~~[pursuant to Section 32~~
7 ~~of the Internal Revenue Code]~~ or would have been eligible but
8 for the identification number requirement pursuant to 26 U.S.C.
9 32(m), as that section may be amended or renumbered.

10 B. A taxpayer who is a resident and who files an
11 individual New Mexico tax return may claim a credit in an
12 amount equal to twenty percent of the federal earned income tax
13 credit for which that taxpayer would have been eligible for the
14 same taxable year but for the age requirement pursuant to
15 26 U.S.C. 32(c)(1)(A)(ii)(II), as that section may be amended
16 or renumbered; provided that the taxpayer is at least eighteen
17 years of age but has not reached the age of twenty-five.

18 C. The credit provided in this section may be
19 referred to as the "working families tax credit".

20 ~~[B.]~~ D. The working families tax credit may be
21 deducted from the income tax liability of an individual who
22 claims the credit and qualifies for the credit pursuant to this
23 section. If the credit exceeds the individual's income tax
24 liability for the taxable year, the excess shall be refunded to
25 the individual.

1 E. As used in this section, "federal earned income
 2 tax credit" means the tax credit allowed pursuant to 26 U.S.C.
 3 32, as that section may be amended or renumbered."

4 SECTION 4. Section 7-2-34 NMSA 1978 (being Laws 1999,
 5 Chapter 205, Section 1, as amended) is amended to read:

6 "7-2-34. DEDUCTION--NET CAPITAL GAIN INCOME.--

7 A. Except as provided in [~~Subsection C~~] Subsections
 8 B and D of this section, a taxpayer may claim a deduction from
 9 net income in an amount equal to the taxpayer's net capital
 10 gain income for the taxable year for which the deduction is
 11 being claimed, but not to exceed one thousand dollars (\$1,000).

12 B. Except as provided in Subsection D of this
 13 section, a taxpayer may claim a deduction from net income
 14 attributable to the sale of a New Mexico business in an amount
 15 equal to the greater of:

16 (1) the taxpayer's net capital gain income for
 17 the taxable year for which the deduction is being claimed, but
 18 not to exceed one thousand dollars (\$1,000); or

19 (2) forty percent of the taxpayer's net
 20 capital gain income for the taxable year for which the
 21 deduction is being claimed; provided that:

22 (a) the net capital gain from the sale
 23 does not exceed one million dollars (\$1,000,000);

24 (b) the business was the principal
 25 business of the taxpayer; and

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1 business with its principal place of business and one hundred
 2 percent of its tangible assets located in New Mexico."

3 SECTION 5. Section 7-36-21.2 NMSA 1978 (being Laws 2000,
 4 Chapter 10, Section 2, as amended) is amended to read:

5 "7-36-21.2. LIMITATION ON INCREASES IN VALUATION OF
 6 RESIDENTIAL PROPERTY.--

7 A. Except as provided in Subsections B through D of
 8 this section, residential property shall be valued at its
 9 current and correct value in accordance with the provisions of
 10 the Property Tax Code. [~~provided that~~]

11 B. For the 2001 [~~and subsequent~~] through 2023 tax
 12 years, the value of a property in any tax year shall not exceed
 13 the higher of one hundred three percent of the value in the tax
 14 year prior to the tax year in which the property is being
 15 valued or one hundred six and one-tenth percent of the value in
 16 the tax year two years prior to the tax year in which the
 17 property is being valued. [~~This limitation~~]

18 C. For the 2024 and subsequent tax years, the value
 19 of a residential property that is occupied by the owner as the
 20 owner's principal place of residence in any tax year shall not
 21 exceed the higher of one hundred three percent of the value in
 22 the tax year prior to the tax year in which the property is
 23 being valued or one hundred six and one-tenth percent of the
 24 value in the tax year two years prior to the tax year in which
 25 the property is being valued.

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1 D. For the 2024 and subsequent tax years, the value
2 of a residential property that is not occupied by the owner as
3 the owner's principal place of residence in any tax year shall
4 not exceed the higher of one hundred ten percent of the value
5 in the tax year prior to the tax year in which the property is
6 being valued or one hundred twenty-one percent of the value in
7 the tax year two years prior to the tax year in which the
8 property is being valued.

9 E. The limitations on increases in value [does]
10 pursuant to Subsections B through D of this section shall not
11 apply to:

12 (1) a residential property in the first tax
13 year that it is valued for property taxation purposes;

14 (2) any physical improvements, except for
15 solar energy system installations, made to the property during
16 the year immediately prior to the tax year or omitted in a
17 prior tax year; or

18 (3) valuation of a residential property in any
19 tax year in which:

20 (a) a change of ownership of the
21 property occurred in the year immediately prior to the tax year
22 for which the value of the property for property taxation
23 purposes is being determined; or

24 (b) the use or zoning of the property
25 has changed in the year prior to the tax year.

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1 ~~[B.]~~ F. If a change of ownership of residential
2 property occurred in the year immediately prior to the tax year
3 for which the value of the property for property taxation
4 purposes is being determined, the value of the property shall
5 be its current and correct value as determined pursuant to the
6 general valuation provisions of the Property Tax Code.

7 ~~[C.]~~ G. To assure that the values of residential
8 property for property taxation purposes are at current and
9 correct values in all counties prior to application of the
10 limitation in Subsection ~~[A]~~ B of this section, the department
11 shall determine for the 2000 tax year the sales ratio pursuant
12 to Section 7-36-18 NMSA 1978 or, if a sales ratio cannot be
13 determined pursuant to that section, conduct a sales-ratio
14 analysis using both independent appraisals by the department
15 and sales. If the sales ratio for a county for the 2000 tax
16 year is less than eighty-five, as measured by the median ratio
17 of value for property taxation purposes to sales price or
18 independent appraisal by the department, the county shall not
19 be subject to the limitations of Subsection ~~[A]~~ B of this
20 section and shall conduct a reassessment of residential
21 property in the county so that, by the 2003 tax year, the sales
22 ratio is at least eighty-five. After such reassessment, the
23 limitation on increases in valuation in this section shall
24 apply in those counties in the earlier of the 2004 tax year or
25 the first tax year following the tax year that the county has a

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1 sales ratio of eighty-five or higher, as measured by the median
2 ratio of value for property taxation purposes to sales value or
3 independent appraisal by the department. Thereafter, the
4 limitation on increases in valuation of residential property
5 for property taxation purposes in this section shall apply to
6 subsequent tax years in all counties.

7 ~~[D-]~~ H. The provisions of this section do not apply
8 to residential property for any tax year in which the property
9 is subject to the valuation limitation in Section 7-36-21.3
10 NMSA 1978.

11 ~~[E-]~~ I. As used in this section:

12 (1) "change of ownership" means a transfer to
13 a transferee by a transferor of all or any part of the
14 transferor's legal or equitable ownership interest in
15 residential property except for a transfer:

16 ~~[(1)]~~ (a) to a trustee for the
17 beneficial use of the spouse of the transferor or the surviving
18 spouse of a deceased transferor;

19 ~~[(2)]~~ (b) to the spouse of the
20 transferor that takes effect upon the death of the transferor;

21 ~~[(3)]~~ (c) that creates, transfers or
22 terminates, solely between spouses, any co-owner's interest;

23 ~~[(4)]~~ (d) to a child of the transferor,
24 who occupies the property as that person's principal residence
25 at the time of transfer; provided that the first subsequent tax

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1 year in which that person does not qualify for the head of
 2 household exemption on that property, a change of ownership
 3 shall be deemed to have occurred;

4 ~~[(5)]~~ (e) that confirms or corrects a
 5 previous transfer made by a document that was recorded in the
 6 real estate records of the county in which the real property is
 7 located;

8 ~~[(6)]~~ (f) for the purpose of quieting
 9 the title to real property or resolving a disputed location of
 10 a real property boundary;

11 ~~[(7)]~~ (g) to a revocable trust by the
 12 transferor with the transferor, the transferor's spouse or a
 13 child of the transferor as beneficiary; or

14 ~~[(8)]~~ (h) from a revocable trust
 15 described in [~~Paragraph (7) of this subsection~~] Subparagraph
 16 (g) of this paragraph back to the settlor or trustor or to the
 17 beneficiaries of the trust; and

18 [~~F. As used in this section~~]

19 (2) "solar energy system installation" means
 20 an installation that is used to provide space heat, hot water
 21 or electricity to the property in which it is installed and is:

22 ~~[(1)]~~ (a) an installation that uses
 23 solar panels that are not also windows;

24 ~~[(2)]~~ (b) a dark-colored water tank
 25 exposed to sunlight; or

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~~[(3)]~~ (c) a non-vented trombe wall."

SECTION 6. APPLICABILITY.--

A. The provisions of Sections 2 and 3 of this act apply to taxable years beginning on or after January 1, 2021.

B. The provisions of Section 4 of this act apply to taxable years beginning on or after January 1, 2022.

SECTION 7. EFFECTIVE DATE.--The effective date of the provisions of Section 1 of this act is January 1, 2022.

underscored material = new
~~[bracketed material]~~ = delete