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HOUSE BILL 34

55TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2022

INTRODUCED BY

Joanne J. Ferrary and William P. Soules and Tara L. Lujan

AN ACT

RELATING TO TAXATION; EXTENDING THE NEW SOLAR MARKET
DEVELOPMENT INCOME TAX CREDIT; INCREASING THE ANNUAL AGGREGATE
CAP FOR THE CREDIT; MAKING THE CREDIT REFUNDABLE.

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

SECTION 1. Section 7-2-18.31 NMSA 1978 (being Laws 2020,
Chapter 13, Section 1) is amended to read:

"7-2-18.31. NEW SOLAR MARKET DEVELOPMENT INCOME TAX
CREDIT.--

A. For taxable years prior to January 1, [2028]
2032, a taxpayer who is not a dependent of another individual
and who, on or after March 1, 2020, purchases and installs a
solar thermal system or a photovoltaic system in a residence,
business or agricultural enterprise in New Mexico owned by that
taxpayer, may apply for, and the department may allow, a credit

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1 against the taxpayer's tax liability imposed pursuant to the
2 Income Tax Act in an amount provided in Subsection C of this
3 section. The tax credit provided by this section may be
4 referred to as the "new solar market development income tax
5 credit".

6 B. The purpose of the new solar market development
7 income tax credit is to encourage the installation of solar
8 thermal and photovoltaic systems in residences, businesses and
9 agricultural enterprises.

10 C. The department may allow a new solar market
11 development income tax credit of ten percent of the purchase
12 and installation costs of a solar thermal or photovoltaic
13 system.

14 D. The new solar market development income tax
15 credit shall not exceed six thousand dollars (\$6,000) per
16 taxpayer per taxable year. The department shall allow a tax
17 credit only for solar thermal and photovoltaic systems
18 certified pursuant to Subsection E of this section.

19 E. A taxpayer shall apply for certification of
20 eligibility for the new solar market development income tax
21 credit from the energy, minerals and natural resources
22 department on forms and in the manner prescribed by that
23 department. The aggregate amount of credits that may be
24 certified as eligible in any calendar year is ~~[eight million~~
25 ~~dollars (\$8,000,000)]~~ sixteen million dollars (\$16,000,000).

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1 Completed applications shall be considered in the order
2 received. Applications for certification received after this
3 limitation has been met in a calendar year shall not be
4 approved. The application shall include proof of purchase and
5 installation of a solar thermal or photovoltaic system, that
6 the system meets technical specifications and requirements
7 relating to safety, code and standards compliance, solar
8 collector orientation and sun exposure, minimum system sizes,
9 system applications and lists of eligible components and any
10 additional information that the energy, minerals and natural
11 resources department may require to determine eligibility for
12 the credit. A dated certificate of eligibility shall be issued
13 to the taxpayer providing the amount of the new solar market
14 development income tax credit for which the taxpayer is
15 eligible and the taxable year in which the credit may be
16 claimed.

17 F. A taxpayer may claim a new solar market
18 development income tax credit for the taxable year in which the
19 taxpayer purchases and installs a solar thermal or photovoltaic
20 system. To receive a new solar market development income tax
21 credit, a taxpayer shall apply to the department on forms and
22 in the manner prescribed by the department within twelve months
23 following the calendar year in which the system was installed.
24 The application shall include a certification made pursuant to
25 Subsection E of this section.

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1 G. That portion of a new solar market development
2 income tax credit that exceeds a taxpayer's tax liability in
3 the taxable year in which the credit is claimed [~~may be carried~~
4 ~~forward for a maximum of five consecutive taxable years~~] shall
5 be refunded to the taxpayer.

6 H. Married individuals filing separate returns for
7 a taxable year for which they could have filed a joint return
8 may each claim only one-half of the new solar market
9 development income tax credit that would have been claimed on a
10 joint return.

11 I. A taxpayer may be allocated the right to claim a
12 new solar market development income tax credit in proportion to
13 the taxpayer's ownership interest if the taxpayer owns an
14 interest in a business entity that is taxed for federal income
15 tax purposes as a partnership or limited liability company and
16 that business entity has met all of the requirements to be
17 eligible for the credit. The total credit claimed by all
18 members of the partnership or limited liability company shall
19 not exceed the allowable credit pursuant to this section.

20 J. A taxpayer allowed a tax credit pursuant to this
21 section shall report the amount of the credit to the taxation
22 and revenue department in a manner required by that department.

23 K. The taxation and revenue department shall
24 compile an annual report on the new solar market development
25 income tax credit that shall include the number of taxpayers

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1 approved by the department to receive the credit, the aggregate
2 amount of credits approved and any other information necessary
3 to evaluate the credit. The department shall present the
4 report to the revenue stabilization and tax policy committee
5 and the legislative finance committee with an analysis of the
6 cost of the tax credit.

7 L. As used in this section:

8 (1) "photovoltaic system" means an energy
9 system that collects or absorbs sunlight for conversion into
10 electricity; and

11 (2) "solar thermal system" means an energy
12 system that collects or absorbs solar energy for conversion
13 into heat for the purposes of space heating, space cooling or
14 water heating."

15 SECTION 2. APPLICABILITY.--The provisions of this act
16 apply to taxable years beginning on or after January 1, 2022.