BILL ANALYSIS AND FISCAL IMPACT REPORT
Taxation and Revenue Department

February 7, 2025

Bill: HB-211 **Sponsors:** Representatives Joanne J. Ferrary, Kathleen Cates, Marianna Anaya and Debra M. Sariñana

Short Title: Solar Market Tax Credit Changes

Description:
- **Section 1:** This bill amends the new solar market income tax credit, Section 7-2-18.31 NMSA 1978, to include third parties who install a photovoltaic system on a property and sell the electricity generated to the property owner; to provide double the photovoltaic system credit (20% of the purchase and installation costs) for those systems that have storage capacity of at least 15 kilowatt hours (khw); and to fix at $30 million the aggregate amount of Income Tax and Corporate Income Tax (see Section 2) credits that may be certified in a calendar year.
- **Section 2** creates a new solar market development corporate income tax credit which mirrors the language and requirements of the income tax credit, with which it also shares an aggregate credit certification cap.

Effective Date: Not specified; 90 days following adjournment (June 20, 2025). Applicable to taxable years beginning on or after January 1, 2025.

Taxation and Revenue Department Analyst: Lucinda Sydow

Estimated Revenue Impact*					R or NR**	Fund(s) Affected
FY2025	FY2026	FY2027	FY2028	FY2029		
--	No impact – see narrative				R	General Fund

* In thousands of dollars. Parentheses ( ) indicate a revenue loss. ** Recurring (R) or Non-Recurring (NR).

Methodology for Estimated Revenue Impact: The bill combines the current $30 million aggregate calendar cap for new solar market credits under both Personal Income Tax (PIT) credits and the new Corporate Income Tax (CIT) credit. As the current PIT aggregate calendar amount is at $30 million this will not impact the revenue loss to the General Fund. It may, however, shift where the loss of General Fund is coming from, with a new portion coming from CIT and less from PIT. The impact is the same to the General Fund. The Consensus Revenue Estimating Group (CREG) currently assumes the loss of revenue in its December 2024 forecast from the increase in the cap to $30 million from 2024 legislation.

Policy Issues: Personal income tax (PIT) represents a consistent source of revenue for many states. For New Mexico, PIT is approximately 25% of the state's recurring general fund revenue. While this revenue source is susceptible to economic downturns, it is also positively responsive to economic expansions. New Mexico is one of 41 states, along with the District of Columbia, that impose a broad-based PIT (New Hampshire and Washington do not tax wage and salary income). The PIT is an important tax policy tool that has the potential to further both horizontal equity, by ensuring the same statutes apply to all taxpayers, and vertical equity, by ensuring the tax burden is based on taxpayers' ability to pay. This solar market incentive erodes horizontal equity as this is only eligible to taxpayers who own a home or business and can afford the investment of a solar system. The horizontal equity is further eroded with the inclusion of taxpayers who are third parties installing photovoltaic systems and selling electricity on properties that are not their own.

Corporate income tax (CIT) is a volatile source of revenue for many states. Providing additional corporate tax incentives increases volatility. Similar to PIT, for corporate tax filers, a tax credit can erode horizontal equity by basing this credit on corporate decisions, thus corporate taxpayers in similar industries are no longer treated equally.

Combining the aggregate credit cap for both PIT and CIT at the same amount of $30 million may erode the share available for PIT filers. Additionally, a new class of eligible installations, systems installed on property of other owners, and allowing a credit of 20% for photovoltaic systems that have at least 15 kwh of solar storage capacity may further increase the demand for the credit. But as the aggregate cap stays at $30 million, an evaluation can be performed of the impact of the changes and the rate of credit claiming among the different classes of solar installations.

While tax incentives can support specific industries or promote desired social and economic behaviors, the growing number of such incentives complicate the tax code. Introducing more tax incentives has two main consequences: (1) it creates special treatment and exceptions within the code, leading to increased tax expenditures and a narrower tax base, which negatively impacts the general fund; and (2) it imposes a heavier compliance burden on both taxpayers and Tax & Rev. Increasing complexity and exceptions in the tax code is generally not in line with sound tax policy.

The broader question of subsidizing solar energy has many economic factors to consider including job creation, impacts to established markets and environmental concerns. A credit is a tax expenditure that gives preferential tax treatment to certain taxpayers. Some economists would argue that energy costs should reflect the associated cost impacts or benefits to the environment. Thus, solar energy which can be expensive to start-up, should be given tax incentives due to its low environmental impact and health and social benefits for the current and future populations. The long-term environmental, health and social benefits outweigh the short-term revenue cost. New job opportunities are associated with solar energy generation, such as solar photovoltaic installers, engineers and managers.

The credit has a defined sunset date. Tax & Rev supports sunset dates for policymakers to review the impact of tax expenditures before extending them.

Technical Issues:

[Sections 1 and 2] Tax & Rev notes conflicting language in section 1, subsection D, page 4, lines 10-12 and in the new credit for CIT, in Section 2, subsection D, page 9 lines 24-25 through page 10, line 1. The provision in these sections allows for the sale, exchange, or transfer of the certificate of eligibility for the tax credit before the installation is made. This provision conflicts with the certification requirement that requires the installation be complete. It also represents an agreement between parties without an official tax credit certification to reference. Taxpayers will still be obligated to notify Tax & Rev of an official "sale, exchange, or transfer within 10 days of the sale, exchange or transfer." Tax & Rev suggests removing this provision in both sections.

Other Issues: **[Sections 1 and 2]** To enhance process efficiency and reduce internal risk, Tax & Rev suggests inserting the following text in Section 1 on page 4, line 4, and in Section 2 on page 9, line 18, immediately after the word "claimed": "The Energy Minerals and Natural Resources Department shall regularly provide the department with electronically issued certificates of eligibility at agreed-upon intervals."

Tax & Rev notes that the credit language currently 7-2-18.31 NMSA 1978 contains a purpose statement in subsection B, page 2, lines 14-17. A similar purpose statement was not included in the new proposed CIT credit. Additionally, in Section 1, subsection B, nonprofit organizations were added to the list of installation sites. These purpose statements are not crucial to the administration of the credits but relay policy intent which is important in evaluating the credits. By omitting the purpose statement in the new CIT credit, the two companion credits are not consistent,

Administrative & Compliance Impact: Tax & Rev will need to update forms, instructions, and publications and make information system changes. This implementation will be included in the annual tax year changes.

Tax & Rev's Administrative Services Division (ASD) will test credit sourcing and perform other systems testing. It is anticipated this work will take approximately 40 hours split between 2 FTE of a pay band 70 and a pay band 80 at a cost of approximately $2,500. Pay band 70 hours are estimated at time and ½ due to extra hours worked required for implementation.

This bill will have a moderate impact on Tax & Rev's Information Technology Division (ITD) of approximately 480 hours or three months for an estimated staff workload cost of $31,987.

Estimated Additional Operating Budget Impact*				**R or NR****	**Fund(s) or Agency Affected**
FY2025	**FY2026**	**FY2027**	**3 Year Total Cost**		
--	$2.5	--	$2.5	NR	Tax & Rev – ASD - Operating
--	$32.0	--	$32.0	NR	Tax & Rev – ITD – Staff workload

* In thousands of dollars. Parentheses ( ) indicate a cost saving. ** Recurring (R) or Non-Recurring (NR).