

HOUSE TAXATION AND REVENUE COMMITTEE SUBSTITUTE FOR
HOUSE BILL 211

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

AN ACT

RELATING TO TAXATION; AMENDING THE ELIGIBILITY AND APPLICATION
REQUIREMENTS OF THE NEW SOLAR MARKET DEVELOPMENT INCOME TAX
CREDIT; INCREASING THE AMOUNT OF CREDIT ALLOWED FOR SOLAR
SYSTEMS WITH AT LEAST FIFTEEN KILOWATT-HOURS OF STORAGE
CAPACITY; CREATING THE NEW SOLAR MARKET DEVELOPMENT CORPORATE
INCOME TAX CREDIT.

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, as amended) is amended to read:

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

A. For taxable years prior to January 1, 2032, a
taxpayer who is not a dependent of another individual and who
~~[on or after March 1, 2020]~~ purchases and installs a solar

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underscored material = new
[bracketed material] = delete

1 thermal system or a photovoltaic system in a residence,
2 business or agricultural enterprise in New Mexico owned by that
3 taxpayer or by a federally recognized Indian nation, tribe or
4 pueblo and held in leasehold by that taxpayer, or a taxpayer
5 who is not a dependent of another individual and who installs a
6 photovoltaic system on a property in New Mexico and sells
7 electricity from that system pursuant to a power purchase
8 agreement to the owner or occupant of that property, may apply
9 for, and the department may allow, a credit against the
10 taxpayer's tax liability imposed pursuant to the Income Tax Act
11 in an amount provided in Subsection C of this section. The tax
12 credit provided by this section may be referred to as the "new
13 solar market development income tax credit".

14 B. The purpose of the new solar market development
15 income tax credit is to encourage the installation of solar
16 thermal and photovoltaic systems in residences, businesses,
17 nonprofit organizations and agricultural enterprises.

18 C. The department may allow a new solar market
19 development income tax credit of ten percent of the purchase
20 and installation costs of a solar thermal or photovoltaic
21 system or twenty percent of the purchase and installation costs
22 of a photovoltaic system that has at least fifteen kilowatt-
23 hours of solar storage capacity.

24 D. The new solar market development income tax
25 credit shall not exceed six thousand dollars (\$6,000) per

1 ~~[taxpayer]~~ property per taxable year, unless the tax credit is
2 for a photovoltaic system that has at least fifteen kilowatt-
3 hours of solar storage capacity, in which case the tax credit
4 shall not exceed twelve thousand dollars (\$12,000) per property
5 per taxable year. The department shall allow a tax credit only
6 for solar thermal and photovoltaic systems certified pursuant
7 to Subsection E of this section.

8 E. Subject to the limitation provided in Subsection
9 F of this section, a taxpayer shall apply for certification of
10 eligibility for the new solar market development income tax
11 credit from the energy, minerals and natural resources
12 department on forms and in the manner prescribed by that
13 department. Completed applications shall be considered in the
14 order received. The application shall include proof of
15 purchase and installation of a solar thermal or photovoltaic
16 system, that the system meets technical specifications and
17 requirements relating to safety, code and standards compliance,
18 that the system has passed inspection by an inspector certified
19 by the political subdivision of the state in which the system
20 is located, if required by that political subdivision, a power
21 purchase agreement, if applicable, solar collector orientation
22 and sun exposure, minimum system sizes, system applications and
23 lists of eligible components and any additional information
24 that the energy, minerals and natural resources department may
25 require to determine eligibility for the credit. A dated

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1 certificate of eligibility shall be issued to the taxpayer
2 providing the amount of the new solar market development income
3 tax credit for which the taxpayer is eligible and the taxable
4 year in which the credit may be claimed. The energy, minerals
5 and natural resources department shall regularly provide the
6 department with electronically issued certificates of
7 eligibility at agreed-upon intervals. A certificate of
8 eligibility for a new solar market development income tax
9 credit may be sold, exchanged or otherwise transferred to
10 another taxpayer for the ~~[full value]~~ entire amount of the
11 credit. The parties to such a transaction shall notify the
12 department of the sale, exchange or transfer within ten days of
13 the sale, exchange or transfer. Nothing in this section
14 prohibits the sale, exchange or transfer from being agreed upon
15 before the installation is made.

16 F. The aggregate amount of credits that may be
17 certified ~~[pursuant to Subsection E of this section]~~ in a
18 calendar year is as follows ~~[and applications for certification~~
19 ~~received after these limitations have been met shall not be~~
20 ~~approved]:~~

21 (1) pursuant to Subsection E of this section,
22 for calendar years 2020 through 2023, twelve million dollars
23 (\$12,000,000) for each calendar year; provided that if this
24 limitation has been met for any of those calendar years, an
25 additional total of twenty million dollars (\$20,000,000) in

1 credits may be certified for all of those calendar years; and
2 provided further that credits certified pursuant to this
3 paragraph shall be claimed only for taxable year 2023; and

4 (2) pursuant to Subsection E of this section
5 and Subsection D of Section 2 of this 2025 act, for calendar
6 years 2024 and thereafter, thirty million dollars
7 (\$30,000,000). If a taxpayer applies for and meets the
8 requirements for the tax credit but the maximum aggregate
9 amount of credits has been certified for that taxable year, the
10 energy, minerals and natural resources department shall issue
11 the taxpayer a certificate of eligibility for the next taxable
12 year in which there are available certifications.

13 G. A taxpayer may claim a new solar market
14 development income tax credit for the taxable year in which the
15 taxpayer purchases and installs a solar thermal or photovoltaic
16 system. To receive a new solar market development income tax
17 credit, a taxpayer shall apply to the department on forms and
18 in the manner prescribed by the department within twelve months
19 following the calendar year in which the system was installed
20 ~~[provided that, for a taxpayer who receives a certificate of~~
21 ~~eligibility pursuant to Paragraph (1) of Subsection F of this~~
22 ~~section, the taxpayer shall apply to the department within~~
23 ~~twelve months following the calendar year in which the~~
24 ~~certification is made].~~ The application shall include a
25 certification made pursuant to Subsection E of this section.

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1 H. 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 shall be
4 refunded to the taxpayer.

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

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

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

22 L. The ~~[taxation and revenue department shall~~
23 ~~compile an annual report on the new solar market development~~
24 ~~income tax credit that shall include]~~ credit provided by this
25 section shall be included in the tax expenditure budget

1 pursuant to Section 7-1-84 NMSA 1978, including the total
 2 annual aggregate cost of the credit, the number of taxpayers
 3 approved by the department to receive the credit, the aggregate
 4 amount of credits approved and any other information necessary
 5 to evaluate the credit. [~~The department shall present the~~
 6 ~~report to the revenue stabilization and tax policy committee~~
 7 ~~and the legislative finance committee with an analysis of the~~
 8 ~~cost of the tax credit.]~~

9 M. A taxpayer who is provided a certificate of
 10 eligibility or claims a tax credit for a solar or photovoltaic
 11 system provided by another section of the Income Tax Act shall
 12 not be eligible for the tax credit provided by this section for
 13 the same solar or photovoltaic system.

14 [~~M.~~] N. As used in this section:

15 (1) "photovoltaic system" means an energy
 16 system that collects or absorbs sunlight for conversion into
 17 electricity; and

18 (2) "solar thermal system" means an energy
 19 system that collects or absorbs solar energy for conversion
 20 into heat for the purposes of space heating, space cooling or
 21 water heating."

22 **SECTION 2.** A new section of the Corporate Income and
 23 Franchise Tax Act is enacted to read:

24 "[NEW MATERIAL] NEW SOLAR MARKET DEVELOPMENT CORPORATE
 25 INCOME TAX CREDIT.--

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1 A. For taxable years prior to January 1, 2032, a
2 taxpayer that purchases and installs a solar thermal system or
3 a photovoltaic system in a business or agricultural enterprise
4 in New Mexico owned by that taxpayer or by a federally
5 recognized Indian nation, tribe or pueblo and held in leasehold
6 by that taxpayer, or a taxpayer that installs a photovoltaic
7 system on a property in New Mexico and sells electricity from
8 that system pursuant to a power purchase agreement to the owner
9 or occupant of that property, may apply for, and the department
10 may allow, a credit against the taxpayer's tax liability for
11 that taxable year imposed pursuant to the Corporate Income and
12 Franchise Tax Act in an amount provided in Subsection B of this
13 section. The tax credit provided by this section may be
14 referred to as the "new solar market development corporate
15 income tax credit".

16 B. The department may allow a new solar market
17 development corporate income tax credit of ten percent of the
18 purchase and installation costs of a solar thermal or
19 photovoltaic system or twenty percent of the purchase and
20 installation costs of a photovoltaic system that has at least
21 fifteen kilowatt-hours of solar storage capacity.

22 C. The new solar market development corporate
23 income tax credit shall not exceed six thousand dollars
24 (\$6,000) per property per taxable year, unless the tax credit
25 is for a photovoltaic system that has at least fifteen

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1 kilowatt-hours of solar storage capacity, in which case the tax
2 credit shall not exceed twelve thousand dollars (\$12,000) per
3 property per taxable year. The department shall allow a tax
4 credit only for solar thermal and photovoltaic systems
5 certified pursuant to Subsection D of this section.

6 D. Subject to the limitation provided in Subsection
7 E of this section, a taxpayer shall apply for certification of
8 eligibility for the new solar market development corporate
9 income tax credit from the energy, minerals and natural
10 resources department on forms and in the manner prescribed by
11 that department. Completed applications shall be considered in
12 the order received. The application shall include proof of
13 purchase and installation of a solar thermal or photovoltaic
14 system, that the system meets technical specifications and
15 requirements relating to safety, code and standards compliance,
16 that the system has passed inspection by an inspector certified
17 by the political subdivision of the state in which the system
18 is located, if required by that political subdivision, a power
19 purchase agreement, if applicable, solar collector orientation
20 and sun exposure, minimum system sizes, system applications and
21 lists of eligible components and any additional information
22 that the energy, minerals and natural resources department may
23 require to determine eligibility for the credit. A dated
24 certificate of eligibility shall be issued to the taxpayer
25 providing the amount of the new solar market development

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1 corporate income tax credit for which the taxpayer is eligible
2 and the taxable year in which the credit may be claimed. The
3 energy, minerals and natural resources department shall
4 regularly provide the department with electronically issued
5 certificates of eligibility at agreed-upon intervals. A
6 certificate of eligibility for a new solar market development
7 corporate income tax credit may be sold, exchanged or otherwise
8 transferred to another taxpayer for the entire amount of the
9 credit. The parties to such a transaction shall notify the
10 department of the sale, exchange or transfer within ten days of
11 the sale, exchange or transfer. Nothing in this section
12 prohibits the sale, exchange or transfer from being agreed upon
13 before the installation is made.

14 E. The aggregate amount of credits that may be
15 certified pursuant to Subsection D of this section and
16 Subsection E of Section 7-2-18.31 NMSA 1978 is thirty million
17 dollars (\$30,000,000). If a taxpayer applies for and meets the
18 requirements for the tax credit but the maximum aggregate
19 amount of credits has been certified for that taxable year, the
20 energy, minerals and natural resources department shall issue
21 the taxpayer a certificate of eligibility for the next taxable
22 year in which there are available certifications.

23 F. A taxpayer may claim a new solar market
24 development corporate income tax credit for the taxable year in
25 which the taxpayer purchases and installs a solar thermal or

1 photovoltaic system. To receive a new solar market development
2 corporate income tax credit, a taxpayer shall apply to the
3 department on forms and in the manner prescribed by the
4 department within twelve months following the calendar year in
5 which the system was installed. The application shall include
6 a certification made pursuant to Subsection D of this section.

7 G. That portion of a new solar market development
8 corporate income tax credit that exceeds a taxpayer's tax
9 liability in the taxable year in which the credit is claimed
10 shall be refunded to the taxpayer.

11 H. A taxpayer allowed a tax credit pursuant to this
12 section shall report the amount of the credit to the taxation
13 and revenue department in a manner required by that department.

14 I. The credit provided by this section shall be
15 included in the tax expenditure budget pursuant to Section
16 7-1-84 NMSA 1978, including the total annual aggregate cost of
17 the credit, the number of taxpayers approved by the department
18 to receive the credit, the aggregate amount of credits approved
19 and any other information necessary to evaluate the credit.

20 J. A taxpayer that is provided a certificate of
21 eligibility or claims a tax credit for a solar or photovoltaic
22 system provided by another section of the Corporate Income and
23 Franchise Tax Act shall not be eligible for the tax credit
24 provided by this section for the same solar or photovoltaic
25 system.

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1 K. As used in this section:

2 (1) "photovoltaic system" means an energy
3 system that collects or absorbs sunlight for conversion into
4 electricity; and

5 (2) "solar thermal system" means an energy
6 system that collects or absorbs solar energy for conversion
7 into heat for the purposes of space heating, space cooling or
8 water heating."

9 SECTION 3. APPLICABILITY.--The provisions of this act
10 apply to the purchase and installation of a solar thermal
11 system or a photovoltaic system in taxable years beginning on
12 or after January 1, 2025.