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LEGISLATIVE EDUCATION STUDY COMMITTEE
BILL ANALYSIS
56th Legislature, 2nd Session, 2024

Bill Number	<u>HB187/aHENRC</u>	Sponsor	<u>Ferrary</u>
Tracking Number	<u>.227225.1</u>	Committee Referrals	<u>HENRC/HTRC</u>
Short Title	<u>School Solar Tax Credit</u>		
Analyst	<u>Bedeaux</u>	Original Date	<u>1/26/2024</u>
		Last Updated	<u>1/30/2024</u>

BILL SUMMARY

Synopsis of HENRC Amendment

The House Energy, Environment, and Natural Resources Committee amendment to House Bill 187 (HB187/aHENRC) strikes requirements that taxpayers must “purchase” photovoltaic (PV) systems before they are installed on schools. To be eligible for the tax credit under HB187/aHENRC, taxpayers are only required *install* a PV system on a school property.

Synopsis of Original Bill

House Bill 187 (HB187) creates a new refundable tax credit called the “school solar income tax credit.” Any individual that pays personal income tax, referring generally to taxpayers who are not a dependent of another individual and some businesses, that purchase and install a PV system on school property may claim a credit equal to 40 percent of the total cost of the system, including the costs associated with engineering, permitting, and other associated costs. The total aggregate amount of credits that may be certified under the program is \$204 million. The tax credit would be available until January 1, 2036.

FISCAL IMPACT

HB187/aHENRC does not contain an appropriation.

PV systems are investments that can lead to long-term energy cost savings over their lifespans. Analysis from the Public School Facilities Authority (PSFA) from the 2023 legislative session estimated the cost of outfitting schools with PV systems would range from \$550 thousand to \$2 million per school, depending on the size of the school and the amount of energy the school wishes to produce using solar panels. Schools with PV systems could see a dramatic reduction to electricity utility costs. Information from the Operating Budget Management System (OBMS) shows public schools statewide spent a grand total of \$26 million on electricity in FY23.

School districts and charter schools are not considered “taxpayers” under the Income Tax Act. HB187/aHENRC would apply to individual persons as well as some businesses that are structured to pay personal income tax rather than corporate income tax.

HB187/aHENRC may result in individuals or businesses purchasing and donating PV systems to schools. Taxpayers may be able to claim a PV system as a charitable donation on their federal taxes, recouping the cost of the system up to 60 percent of their adjusted gross income. HB187/aHENRC does not prevent these taxpayers from also claiming a solar tax credit from the state up to 40 percent of the value of the system. It is possible that the combination of the federal deduction and the state tax credit could result in a net profit for taxpayers.

It also appears HB187/aHENRC would allow taxpayers to install a PV system on a school property, claim the tax credit, then lease or sell that system to the school. Solar companies may choose to pass their savings from the school solar income tax credit along to school districts, but HB187/aHENRC does not require them to do so.

The true fiscal impact of HB187/aHENRC depends on the number of taxpayers that claim the income tax credit. Table 1 estimates the potential fiscal impact of HB187/aHENRC over the next five fiscal years. Table 1 is based on the following assumptions:

- Each year, about 10 percent of New Mexico schools may contract with an individual or business to install a PV system (Line 1).
- The average cost of a PV system would be approximately \$1.3 million per school. Taxpayers will install these systems and claim the school solar tax credit for 40 percent of the value of each system, resulting in unrealized tax revenue to the state of approximately \$510 thousand per system (Line 2).
- PV systems would reduce electricity costs by approximately 75 percent in the schools where they are installed (Line 4).
- Taxpayers will enter lease-purchase agreements with schools for PV systems. Taxpayers will pass *a portion* of the savings from the solar income tax credit to schools, financing for 70 percent of the value of the system over a 20 year period (Line 5).

Under these assumptions, HB187/aHENRC could result in a net negative fiscal impact for public schools (Line 5). If PV systems are amortized over a 20 year period for 70 percent of their total value, the cost of lease payments (Line 4) would exceed savings from reduced electricity costs (Line 3). After 20 years as lease-purchase agreements expire, PV systems purchased at 70 percent of their total value would “pay themselves off” and schools would gain full ownership of their PV systems. At this point, utility savings could begin to exceed the amount that schools paid for their systems.

However, the school solar income tax credit would also result in unrealized revenue to the state totaling \$37.2 million per year (Line 2), compounding over time. By the end of FY29, the tax credit could result in a cumulative impact exceeding the \$204 million limit of the program; Table 1 estimates the cost to both the state in the form of unrealized revenue and to schools in the form of lease payments at \$206 million in FY29 (Line 7).

Table 1 – Hypothetical Impact of HB187/aHENRC
(in thousands)

	FY25	FY26	FY27	FY28	FY29
1 Assumed Number (Percent) of Schools with PV Systems	73 (10%)	147 (20%)	220 (30%)	294 (40%)	367 (50%)
2 Unrealized State Revenue (state income tax liability)	(\$37,230.0)	(\$37,230.0)	(\$37,230.0)	(\$37,230.0)	(\$37,230.0)
3 Annual Electricity Utility Savings for Schools with PV Systems	\$1,950.0	\$3,900.0	\$5,850.0	\$7,800.0	\$9,750.0
4 Cost of Leases for PV Systems	(\$3,257.6)	(\$6,559.9)	(\$9,817.5)	(\$13,119.8)	(\$16,377.4)
5 Net Impact to Public Schools (utility savings less lease costs)	(\$1,307.6)	(\$2,659.9)	(\$3,967.5)	(\$5,319.8)	(\$6,627.4)
6 NET IMPACT TO STATE (tax liability plus impact to schools)	(\$38,537.6)	(\$39,889.9)	(\$41,197.5)	(\$42,549.8)	(\$43,857.4)
7 CUMULATIVE NET IMPACT TO STATE	(\$38,537.6)	(\$78,427.5)	(\$119,625.0)	(\$162,174.8)	(\$206,032.1)

Source: LESC Files

HB187/aHENRC establishes a refundable tax credit; any amount of the credit above a taxpayer’s liability would be disbursed to the taxpayer as a refund.

HB187/aHENRC stands to greatly benefit taxpayers eligible for the credit. If a taxpayer is able to effectively pay 60 percent of the value of the system, then lease or sell the system to a school district for 70 percent of its value, the taxpayer stands to make a 10 percent profit off of the system at the expense of the state. This profit could increase if taxpayers decide to lease PV systems back to schools at higher costs, for example at 80, 90, or even 100 percent of the value of the system.

HB187/aHENRC contains a total program limit of \$204 million, but does not cap the amount individual taxpayers could receive and does not contain an annual cap.

SUBSTANTIVE ISSUES

Currently, the state does not provide funding to public schools for PV systems unless a legislator makes a direct appropriation to a school district or charter school for that purpose. For instance, in FY23, three schools in Albuquerque received appropriations totaling \$242 thousand in House Bill 505, the capital outlay bill, to “improve energy efficiency and water conservation, including...solar panels.”

PV systems fall outside of the statewide adequacy standards, a set of standards maintained by PSFA that govern the minimum requirements schools must meet to be “adequate” for students education. For this reason, PV systems are typically not funded when the Public School Capital Outlay Council awards funding for a school replacement. Some schools, like those in Albuquerque, Las Cruces, Santa Fe, and Rio Rancho, have opted to purchase PV systems at their own expense, but school districts with insufficient local revenue may currently be unable to afford the option. HB187/aHENRC may make PV systems more affordable for school districts, depending on whether taxpayers elect to donate PV systems or enter lease agreements that pass the tax credit savings along to schools. However, the state would bear bulk of the costs via the new tax credit.

Analysis from the Energy, Minerals, and Natural Resources Department (EMNRD) points out that it is unclear whether a taxpayer would be able to claim both the school solar income tax credit, any other existing tax credit such as the sustainable building tax credit, and a federal deduction for a charitable donation. If taxpayers are able to claim multiple credits and a charitable deduction, taxpayers stand to reduce the cost of their systems significantly.

ADMINISTRATIVE IMPLICATIONS

EMNRD would be responsible for administering the new tax credit. The department explains it would need to promulgate a new rule and may need additional FTE and information technology resources to effectively administer the new program.

TECHNICAL ISSUES

On page 5 of the bill, Paragraph 3 of Subsection J defines a “school property” by commuting the definition of a “school district” in the Public School Code. The Public School Code, at [Section 22-1-2 NMSA 1978](#), defines a school district as “an area of land established as a political subdivision of the state for the administration of public schools and segregated geographically for taxation and bonding purposes.” The definition refers to the entire geographic landmass over which a school district has administrative and taxation authority. School districts do not own the entirety of the land within their boundaries; calling all land within a school district “school property” is inaccurate and may result in difficulty in effectively administering the law. The Legislature should update the definition of “school property” to correctly refer to individual properties owned by school districts.

SOURCES OF INFORMATION

- LESC Files
- Energy, Minerals, and Natural Resources Department (EMNRD)

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