

BILL ANALYSIS AND FISCAL IMPACT REPORT
Taxation and Revenue Department

February 8, 2025

Bill: HB-213 **Sponsor:** Representatives Joanne J. Ferrary, Kathleen Cates and Debra M. Sariñana

Short Title: School Solar Tax Credits

Description: This bill adds a new section to both the Income Tax Act and Corporate Income and Franchise Tax Act creating a new credit for taxable years prior to January 1, 2037 for installing a photovoltaic (PV) system on public school property or the property of a public post-secondary educational institution to provide electricity to the school’s buildings. The credit allowed is equal to 40% of the cost of installation of the system or the value of the system. A taxpayer wishing to claim this credit must apply for a certificate of eligibility from the Energy, Minerals and Natural Resources Department (EMNRD) in the taxable year that the solar panels of the photovoltaic system are installed. The total aggregate amount of school solar income tax credits and school solar corporate income tax credits that may be certified as eligible is \$300,000,000, and the maximum that may be certified for a calendar year prior to 2028 is \$100,000,000. Any portion of the tax credit that exceeds a taxpayer’s tax liability in the taxable year is to be refunded to the taxpayer and a certificate of eligibility for the credit may be sold, exchanged or transferred to another taxpayer for the full value of the credit.

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: Sara Grubbs

Estimated Revenue Impact*					R or NR**	Fund(s) Affected
FY2025	FY2026	FY2027	FY2028	FY2029		
--	(\$3,200- \$6,000)	(\$3,700- \$6,700)	(\$4,300- \$7,400)	(\$4,900- \$8,300)	R	General Fund

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

Methodology for Estimated Revenue Impact: Tax & Rev cannot anticipate how many taxpayers will install a PV system on school property, and therefore potentially claim a credit against their income tax liability or if the process to claim a credit and the amount of the final credit will incentivize taxpayers. Therefore, this analysis is based on the number of potential installations. Also, because the credit is refundable, the number of taxpayers that claim this credit will likely increase.

There are 941 schools recognized by the New Mexico Public Education Department¹ (PED). The Taxation and Revenue Department (Tax & Rev) assumes 896 of these schools qualify under this bill per Section 1 (L)(2) and (3) and section 2 (K)(2) and (3). This excludes home schools, off-site programs, and private schools. Additionally, there are 35 tribal-controlled or Bureau of Indian Education-operated schools on tribal land in New Mexico². Tax & Rev assumes there are a total of 931 schools eligible for the school solar income tax credit. This bill also includes public post-secondary educational institutions. There are 28 public post-secondary educational institutions in New Mexico not including satellite campuses³.

¹ [New Mexico Public Education Department \(state.nm.us\)](http://www.state.nm.us)

² [Bureau of Indian Education \(www.bie.edu\)](http://www.bie.edu)

³ <https://www.univstats.com/states/new-mexico/>

Per sections 1(B)(2), page 2 and 2(B)(2), page 7, the credit value is based on either 40% of the cost to install or the value of the system (see Technical Issues). According to the National Renewable Energy Laboratory (NREL), the Quarter 1 2022 percentage of stand-alone labor cost for the national benchmark commercial PV system is 9% of installation costs. When including engineering, permitting, interconnection, support structure, racking, batteries, subcontracting costs and other costs necessary to install a PV system on school property, this percentage increases to 40%⁴ of installation costs. Tax & Rev then assumes the average total cost of installing and purchasing a PV system at a New Mexico school is \$450,000⁵ excluding federal solar tax credits and other rebates⁶. Of this cost, 40% is eligible for the school solar tax credit and the installation cost is inflated annually by the average growth of national labor cost from 2019 to 2023 of 3.3%⁷. Tax & Rev also assumes an initial frequency of 37 projects (30 projects for public schools and 7 for post-secondary) per year grown by 12% per annum, the growth rate in the number of U.S. schools that installed a PV system from 2014 to 2022⁸. Tax & Rev assumes the value of the system is the cost of the PV system outside of installation costs as noted above. Tax & Rev assumes a 200 kW PV system will have an approximate value of \$200,000 per project⁹.

Due to the uncertainty of number of projects and what size of a credit per project, Tax & Rev presents the fiscal impact as a range.

Policy Issues: For public schools, an alternative solution to the issue raised in this bill would be to allow solar installations in public schools to be funded through the Public School Capital Outlay (PSCO) program. The PSCO program was established over 20 years ago to fund facility needs in public schools statewide. It is funded by supplemental severance tax bonds issued by the State Board of Finance. According to the December 2024 bonding capacity forecast issued by the SBOF, about \$820 million per year is available through this bonding program for public school facilities, with a total capacity of \$4.1 billion in the next five years. Because solar installations are not required to meet adequacy standards, they are not currently funded through the PSCO program. That could be accomplished by amending the Severance Tax Bonding Act.

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). Like several states, New Mexico computes its income tax based on the federal definition of taxable income and ties to other statutes in the federal tax code. This is referred to as "conformity" to the federal tax code. 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 tax incentive erodes both horizontal and vertical equity.

Tax incentives can support specific industries or promote desired social and economic actions, but the proliferation of more tax incentives has two primary effects. First, it creates special treatment and exceptions within the tax code, resulting in an expansion of tax expenditures and potentially narrowing the tax base. This, in turn, has a negative impact on the general fund, affecting overall revenue; Second, it

⁴ Q1 2023 update is unavailable at this time

⁵ U.S. Solar Photovoltaic System and Energy Storage Cost Benchmarks, With Minimum Sustainable Price Analysis: Q1 2022 (www.nrel.gov)

⁶ [Federal Solar Tax Credits for Businesses \(www.energy.gov\)](http://www.energy.gov)

⁷ [U.S. Bureau of Labor Statistics \(bls.gov\)](http://www.bls.gov); Labor Cost Index

⁸ [Brighter-Future -A-Study-on-Solar-in-U.S.-Schools-2020 \(generation180.org\)](http://www.generation180.org)

⁹ <https://www.getsunlead.com/articles/commercial-solar-panels/>

imposes a heavier compliance burden on both taxpayers and the Tax & Rev. The proliferation of tax incentives and the subsequent complexity they introduce do not align with the principles of sound tax policy. While tax incentives can serve a purpose, it is crucial to strike a balance that ensures fairness, simplicity, and effectiveness in the tax system.

Nationally, public K-12 districts spend approximately \$8 billion a year on energy bills. This is the second largest expense after teacher salaries¹⁰. Albuquerque Public Schools (APS) has an electric utility bill of over \$50,000 per day. The installation of PV systems can significantly reduce electricity costs. Atrisco Heritage Academy High School in Albuquerque spends about \$354,000 per year in utility expenses. The school completed the district's largest solar and battery storage project in 2022 with a total cost of \$3.2 million. It is expected to save the school district over \$3.5 million over the next 25 years. However, most PV systems installed at a school do not include battery storage and have lower levels of electricity consumption.

While public post-secondary educational institutions are eligible for this credit, the purchase of solar PV system may be cost prohibitive and could require appropriations from the state of New Mexico. This may result in fewer claims for this credit.

The typical lifespan of solar projects is around 30 years, providing school districts with decades of low-cost solar power. About 90% of schools enter into a power purchasing agreement (PPA) with a third party which allows the school to purchase power at a discounted rate over several decades.

The installation of PV systems also provides schools the opportunity to use solar technology to teach science and engineering skills to students at any school and further professional development of older students. The New York City Department of Education trains students on solar PV installation and offers internships for students to become solar PV installers¹¹.

The broader question of subsidizing solar energy implicates many economic factors, including job creation, impacts to established markets and environmental concerns. A credit is a tax expenditure that gives preferential tax treatment to certain taxpayers and while any taxpayer may apply for this credit, most of the financial benefit is realized by high wealth individuals. 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 bill does not require the taxpayer receiving the credit to have any connection with the school. Public schools are publicly owned, and charter schools may be in public or private leased facilities. It is unclear whether the bill envisions making solar energy available in leased space, where the taxpayer claiming the credit would own the building. Tax & Rev suggests that there should be a requirement for an agreement between a school and a taxpayer to purchase and install the system.

Depending on the recipient of the donation, allowing a credit for the value of the donation may constitute "double dipping". If the recipient of the donation is a 501(c)(3) corporation, for example, the donor would be entitled to take a deduction for the value of their donation. That deduction would be reflected in their taxable New Mexico income, which is based on their reportable federal income. So a taxpayer would have both a deduction and a credit for the same donation. Allowing one donation to qualify for two types

¹⁰ <https://betterbuildingssolutioncenter.energy.gov/sectors/k-12-school-districts>

¹¹ [Brighter-Future_-A-Study-on-Solar-in-U.S.-Schools-2020_\(generation180.org\)](#)

of tax incentive would be contrary to good tax policy.

Technical Issues: Sections 1(B), page 2 and 2(B), on pages 6 and 7 define the credit amount as forty percent of either “the cost to install” or “the value of the system.” Tax & Rev suggests the addition of the “the lessor of” after the word “of:” on page 2, line 5 and on page 7, line 1. EMNRD will need this clarification for certificating the credit amount.

The bill should be amended to clarify that a taxpayer cannot claim both this credit as well as the New Solar Market Development tax credit. That credit, created in Section 7-2-18.31 NMSA 1978, allows a credit of up to \$6,000 for installation of a PV system in residence, business or agricultural enterprise in New Mexico.

Other Issues: Tax & Rev notes that there are several terms not defined in the proposal. These are described further in the following paragraphs. These definitions may need further clarification and definition for EMNRD to certify the taxpayer’s project for eligibility.

The term “public post-secondary educational institution” is mentioned multiple times in this credit yet there is no definition. In the Post-Secondary Educational Institution Act there are definitions that may be beneficial to refer to or add in this bill: Section 21-23-3 NMSA 1978 “A. "career school" means a private post-secondary educational institution offering a formal educational curriculum in New Mexico for a fee to members of the general public beyond compulsory school age, terminating in a certificate, diploma, associate degree or comparable confirmation of completion of the curriculum.” In both Sections 1 and 2, page 6, line 2 and page 10, line 18 provide a definition for “public school”. Tax & Rev suggests it may be beneficial to change the definition to refer to the Public School Act Section 22-1-2(L) NMSA 1978 “L. "public school" means that part of a school district that is a single attendance center in which instruction is offered by one or more teachers and is discernible as a building or group of buildings generally recognized as either an elementary, middle, junior high or high school or any combination of those and includes a charter school.”

In both Sections 1 and 2, page 6 line 9 and page 10, line 25 provide a definition for “public school property”. Tax & Rev suggests it may be beneficial to change the definition to refer to the Public School Act Section 22-1-2(P) NMSA 1978 “P. "school building" means a public school, an administration building and related school structures or facilities, including teacher housing, that is owned, acquired or constructed by the school district as necessary to carry out the functions of the school district;”

“B. "college" or "university" means a private post-secondary educational institution offering a formal educational curriculum in New Mexico for a fee to members of the general public beyond compulsory school age, terminating in a baccalaureate, master's or doctoral degree or comparable confirmation of completion of the curriculum;”

“F. "post-secondary educational institution" includes an academic, vocational, technical, business, professional or other school, college or university or other organization or person offering or purporting to offer courses, instruction, training or education from a physical site in New Mexico, through distance education, correspondence or in person;”

“G. "private post-secondary educational institution" means a nonpublicly funded post-secondary educational institution that offers post-secondary education for a fee to members of the general public;”

Tax & Rev recommends that this credit be either refundable or transferrable, but not both. There is no clear reason why a taxpayer would ever need to transfer a tax credit if they can instead receive a refund if their credit amount exceeds tax liability for a given taxable year. Including both refund and transfer

unnecessarily complicates administration and programming of this credit in Gentax.

If transfer language is desired, Tax & Rev recommends that on page 5, subsection H, lines 2-6 and subsection H on page 9, lines 22–25 through page 10 line 1 be replaced with: “A certificate of eligibility for the tax credit may be sold, exchanged or otherwise transferred to another taxpayer for the full value of the credit. The parties to such a transaction shall notify the department of the sale, exchange or transfer within ten days of the sale, exchange or transfer in an electronic format prescribed by the department.”

Administrative & Compliance Impact: Tax & Rev will update forms, instructions and publications and make information system changes. Staff training to administer the credit will need to take place. 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

For Tax & Rev’s Information Technology Division (ITD), implementation will have a moderate impact of approximately 480 hours or 3 months for an estimated staff workload cost of \$31,987. The estimate includes an electronic data exchange between Tax & Rev and EMNRD.

Estimated Additional Operating Budget Impact*				R or NR**	Fund(s) or Agency Affected
FY2025	FY2026	FY2027	3 Year Total Cost		
--	\$5.1	--	\$5.1	NR	Tax & Rev – ASD - Operating
--	\$32	--	\$32	NR	Tax & Rev – ITD - Operating

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

Related Bills: Similar to HB-187 (2024 regular session)