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HOUSE BILL 36

53RD LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2018

INTRODUCED BY

Carl Trujillo and Patricio Ruiloba and Debbie A. Rodella

AN ACT

RELATING TO TAXATION; REINSTATING THE SOLAR MARKET DEVELOPMENT
TAX CREDIT; CREATING SEPARATE AGGREGATE CAPS FOR BUSINESSES AND
RESIDENCES.

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

SECTION 1. Section 7-2-18.14 NMSA 1978 (being Laws 2006,
Chapter 93, Section 1, as amended) is amended to read:

"7-2-18.14. SOLAR MARKET DEVELOPMENT TAX CREDIT--
RESIDENTIAL AND [~~SMALL~~] BUSINESS SOLAR THERMAL AND PHOTOVOLTAIC
MARKET DEVELOPMENT TAX CREDIT.--

A. Except as provided in Subsection [~~E~~] D of this
section, a taxpayer who files an individual New Mexico income
tax return for a taxable year beginning on or after January 1,
~~[2006]~~ 2018 and who purchases and installs after January 1,
~~[2006 but before December 31, 2016]~~ 2018 a solar thermal system

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1 or a photovoltaic system in a residence, business or
2 agricultural enterprise in New Mexico owned by that taxpayer
3 may apply for, and the department may allow, a solar market
4 development tax credit of up to ten percent of the purchase and
5 installation costs of the system; provided that the power from
6 the system is used primarily for consumption on the site where
7 the system is installed. The tax credit allowed pursuant to
8 this section may be referred to as the "solar market
9 development tax credit".

10 B. The total solar market development tax credit
11 allowed for either a photovoltaic system or a solar thermal
12 system shall not exceed:

13 (1) nine thousand dollars (\$9,000) for a
14 system installed in a business or agricultural enterprise; and

15 (2) four thousand dollars (\$4,000) for a
16 system installed in a residence.

17 C. To receive a solar market development tax
18 credit, a taxpayer shall apply to the department on forms and
19 in the manner prescribed by the department. [~~shall allow solar~~
20 market development tax credits only for solar thermal systems
21 and photovoltaic systems certified by the energy, minerals and
22 natural resources department] The application shall include a
23 certification made pursuant to Subsection G of this section.
24 If the taxpayer is a business or agricultural enterprise, the
25 application shall include the taxpayer's federal employer

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1 identification number.

2 ~~[G.]~~ D. Solar market development tax credits may
3 not be claimed or allowed for ~~[(1)]~~ a heating system for a
4 swimming pool or a hot tub ~~[or~~

5 ~~(2) a commercial or industrial photovoltaic~~
6 ~~system other than an agricultural photovoltaic system on a farm~~
7 ~~or ranch that is not connected to an electric utility~~
8 ~~transmission or distribution system].~~

9 ~~[D.]~~ E. The department may allow a maximum annual
10 aggregate of:

11 (1) ~~[two million dollars (\$2,000,000)]~~ one
12 million five hundred thousand dollars (\$1,500,000) in solar
13 market development tax credits for solar thermal or
14 photovoltaic systems installed in business or agricultural
15 enterprises in New Mexico; and

16 (2) ~~[three million dollars (\$3,000,000)]~~ three
17 million five hundred thousand dollars (\$3,500,000) in solar
18 market development tax credits for solar thermal or
19 photovoltaic systems installed in residences in New Mexico.

20 ~~[E.]~~ F. A portion of the solar market development
21 tax credit that remains unused in a taxable year may be carried
22 forward for a maximum of ten consecutive taxable years
23 following the taxable year in which the credit originates until
24 fully expended.

25 ~~[F. Prior to July 1, 2006]~~ G. The energy, minerals

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1 and natural resources department shall adopt rules establishing
2 procedures to provide certification of solar thermal systems
3 and photovoltaic systems for purposes of obtaining a solar
4 market development tax credit. The rules shall address
5 technical specifications and requirements relating to safety,
6 code and standards compliance, solar collector orientation and
7 sun exposure, minimum system sizes, system applications and
8 lists of eligible components. The energy, minerals and natural
9 resources department may modify the specifications and
10 requirements as necessary to maintain a high level of system
11 quality and performance.

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

15 I. The department shall compile an annual report on
16 the solar market development tax credit that shall include the
17 number of taxpayers approved by the department to receive the
18 credit, the aggregate amount of credits approved and any other
19 information necessary to evaluate the effectiveness of the
20 credit. Each year that the credit is in effect, the department
21 shall compile and present the annual reports to the revenue
22 stabilization and tax policy committee and the legislative
23 finance committee with an analysis of the effectiveness and
24 cost of the tax credit.

25 [~~G.~~] J. As used in this section:

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underscored material = new
[bracketed material] = delete

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

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

8 SECTION 2. TEMPORARY PROVISION--EXHAUSTION OF CREDITS.--

9 A. If a taxpayer has met the eligibility
10 requirements to apply for and claim a solar market development
11 tax credit pursuant to Section 7-2-18.14 NMSA 1978 for a period
12 prior to the effective date of this act, the taxpayer may
13 claim, and the taxation and revenue department may approve, the
14 credit for those periods, including amounts that may be carried
15 forward pursuant to that section as it was in effect prior to
16 the effective date of this act.

17 B. If a taxpayer has claimed and been awarded a
18 solar market development tax credit pursuant to Section
19 7-2-18.14 NMSA 1978 but a portion of the credit claimed remains
20 unused, the taxpayer may claim the unused portion, including
21 amounts that could have been carried forward pursuant to that
22 section as it was in effect prior to the effective date of this
23 act.