

1 SENATE BILL 79

2 **53RD LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2018**

3 INTRODUCED BY

4 Mimi Stewart

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10 AN ACT

11 RELATING TO TAXATION; CREATING THE SOLAR MARKET DEVELOPMENT
12 INCOME TAX CREDIT; REPEALING THE EXPIRED SOLAR MARKET
13 DEVELOPMENT TAX CREDIT.

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

16 SECTION 1. Section 7-2-18.14 NMSA 1978 (being Laws 2006,
17 Chapter 93, Section 1, as amended) is repealed and a new
18 Section 7-2-18.14 NMSA 1978 is enacted to read:

19 "7-2-18.14. [NEW MATERIAL] SOLAR MARKET DEVELOPMENT
20 INCOME TAX CREDIT.--

21 A. A taxpayer who is not a dependent of another
22 individual and who purchases and installs a solar thermal
23 system or a photovoltaic system in a residence, business or
24 agricultural enterprise after January 1, 2018 may apply for,
25 and the department may allow, a credit against the taxpayer's

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1 tax liability imposed pursuant to the Income Tax Act in an
2 amount provided in Subsection C of this section. The tax
3 credit provided by this section may be referred to as the
4 "solar market development income tax credit".

5 B. The purpose of the solar market development
6 income tax credit is to encourage the installation of solar
7 thermal and photovoltaic systems in residences, businesses and
8 agricultural enterprises.

9 C. The department may allow a solar market
10 development income tax credit in the following amounts of the
11 purchase and installation costs of a solar thermal or
12 photovoltaic system:

13 (1) if the system is installed prior to
14 January 1, 2021, up to ten percent of the purchase and
15 installation costs of the system;

16 (2) if the system is installed on or after
17 January 1, 2021 and prior to January 1, 2024, up to nine
18 percent of the purchase and installation costs of the system;

19 (3) if the system is installed on or after
20 January 1, 2024 and prior to January 1, 2027, up to eight
21 percent of the purchase and installation costs of the system;

22 (4) if the system is installed on or after
23 January 1, 2027 and prior to January 1, 2030, up to seven
24 percent of the purchase and installation costs of the system;

25 and

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1 (5) if the system is installed on or after
2 January 1, 2030 and prior to January 1, 2033, up to six percent
3 of the purchase and installation costs of the system.

4 D. The solar market development income tax credit
5 shall not exceed nine thousand dollars (\$9,000). The
6 department shall allow a solar market development income tax
7 credit only for solar thermal and photovoltaic systems
8 certified pursuant to Subsection J of this section.

9 E. The department may allow a maximum annual
10 aggregate of five million dollars (\$5,000,000) in solar market
11 development income tax credits per year. Completed
12 applications for the credit shall be considered in the order
13 received by the department.

14 F. A taxpayer may claim a solar market development
15 income tax credit for the taxable year in which the taxpayer
16 purchases and installs a solar thermal or photovoltaic system.
17 To receive a solar market development income tax credit, a
18 taxpayer shall apply to the department on forms and in the
19 manner prescribed by the department within twelve months
20 following the calendar year in which the system was installed.
21 The application shall include a certification made pursuant to
22 Subsection J of this section.

23 G. That portion of a solar market development
24 income tax credit that exceeds a taxpayer's tax liability in
25 the taxable year in which the credit is claimed may be carried

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1 forward for a maximum of five consecutive taxable years.

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

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

16 J. The energy, minerals and natural resources
17 department shall adopt rules establishing procedures to provide
18 certification of solar thermal and photovoltaic systems for the
19 purposes of obtaining a solar market development income tax
20 credit. The rules shall address technical specifications and
21 requirements relating to safety, code and standards compliance,
22 solar collector orientation and sun exposure, minimum system
23 sizes, system applications and lists of eligible components.
24 The energy, minerals and natural resources department may
25 modify the specifications and requirements as necessary to

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1 maintain a high level of system quality and performance.

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

5 L. The taxation and revenue department shall
6 compile an annual report on the solar market development income
7 tax credit that shall include the number of taxpayers approved
8 by the department to receive the credit, the aggregate amount
9 of credits approved and any other information necessary to
10 evaluate the credit. The department shall present the report
11 to the revenue stabilization and tax policy committee and the
12 legislative finance committee with an analysis of the cost of
13 the tax credit and whether the tax credit is performing the
14 purpose for which it was created.

15 M. As used in this section:

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

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

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

24 A. If a taxpayer has met the eligibility
25 requirements to apply for and claim a solar market development

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1 tax credit pursuant to Section 7-2-18.14 NMSA 1978 as that
2 section was in effect on December 31, 2016, the taxpayer may
3 claim, and the taxation and revenue department may approve, the
4 credit for those periods, including amounts that may be carried
5 forward pursuant to Section 7-2-18.14 NMSA 1978 as that section
6 was in effect on December 31, 2016.

7 B. If a taxpayer has claimed and been awarded a
8 solar market development tax credit pursuant to Section
9 7-2-18.14 NMSA 1978 as that section was in effect on December
10 31, 2016, but a portion of the credit claimed remains unused,
11 the taxpayer may claim the unused portion, including amounts
12 that could have been carried forward pursuant to Section
13 7-2-18.14 NMSA 1978 as that section was in effect on December
14 31, 2016.

15 SECTION 3. APPLICABILITY.--The provisions of this act
16 apply to taxable years beginning on or after January 1, 2018.