

1 SENATE BILL 432

2 **56TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2023**

3 INTRODUCED BY

4 Carrie Hamblen

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10 AN ACT

11 RELATING TO UTILITIES; ENACTING THE LOW-INCOME SOLAR ACT;  
12 REQUIRING EQUITABLE DISTRIBUTION OF BENEFITS OF ON-SITE  
13 SOLAR-GENERATED ENERGY GENERATED ON AFFORDABLE HOUSING;  
14 RESTRICTING SOME UTILITY FEES FOR SOLAR ON AFFORDABLE HOUSING;  
15 PROVIDING FOR PROMULGATION OF RELATED RULES; REGULATING THE TAX  
16 VALUATION OF SOLAR ENERGY SYSTEMS.

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

19 SECTION 1. A new section of the Public Utility Act is  
20 enacted to read:

21 "[NEW MATERIAL] SHORT TITLE.--Sections 1 through 5 of this  
22 act may be cited as the "Low-Income Solar Act"."

23 SECTION 2. A new section of the Public Utility Act is  
24 enacted to read:

25 "[NEW MATERIAL] DEFINITIONS.--As used in the Low-Income

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1 Solar Act:

2 A. "allocation" means a portion of the capacity  
3 from or the electricity that is produced by a low-income  
4 housing shared distributed generation system that is attributed  
5 to one of its users;

6 B. "low-income housing shared distributed  
7 generation system" means an energy system for the generation of  
8 electricity that:

9 (1) uses a renewable energy resource as its  
10 primary source of energy to generate electricity;

11 (2) is located on a qualifying low-income  
12 multifamily residential property;

13 (3) has a generating capacity that is designed  
14 to produce no more than one hundred twenty percent of the  
15 average metered historic usage or reasonably expected future  
16 usage of the qualifying low-income multifamily residential  
17 property;

18 (4) operates in parallel with the utility's  
19 transmission and distribution facilities;

20 (5) equitably allocates the capacity and  
21 associated production of the system to each of the individually  
22 metered units or common areas within the qualifying low-income  
23 multifamily residential property, or if the property is  
24 master-metered, equitably allocates benefits to residents;

25 (6) is intended primarily to offset part or

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1 all of the qualifying low-income multifamily residential  
2 property's requirements for electricity and is subject to the  
3 following maximum allocations:

4 (a) in the case of common-area meters or  
5 master meters, capacity that is sized to supply no more than  
6 one hundred twenty percent of the metered historic usage or  
7 reasonably expected future usage; and

8 (b) in the case of meters serving tenant  
9 units, a capacity of not more than ten kilowatts per unit; and

10 (7) is virtually net metered by the utility by  
11 allocating the virtual net metering credits either to common-  
12 area meters or to individually metered accounts, or to both,  
13 according to the allocation schedule provided by the system  
14 owner, that receive an allocation, without requiring the system  
15 to be physically interconnected with each accounts' meter;

16 C. "master meter" means a single electric meter  
17 used to measure electric usage for multiple tenants or units  
18 within a multi-unit building;

19 D. "net electricity" means the difference, which  
20 can be either positive, negative or zero, within a billing  
21 period between the electricity produced by a user's allocation  
22 from a low-income housing shared distributed generation system  
23 and the electricity that the utility delivered to that user;

24 E. "qualifying low-income multifamily residential  
25 property" means a multifamily residential property with at

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1 least five rental housing units that:

2 (1) contains one or more qualifying low-income  
3 residential buildings and is in a single low-income housing  
4 enterprise on contiguous or closely adjacent parcels of land,  
5 which parcels may be divided by a dedicated street, highway or  
6 public thoroughfare or railway, as long as they are otherwise  
7 closely adjacent and are operated as part of the same single  
8 low-income housing enterprise and are under common ownership;  
9 and

10 (2) consists of tenant housing units, which  
11 may be individually metered and the occupants of which may  
12 maintain individual utility customer accounts, along with  
13 common areas served by one or more common meters under the  
14 property owner's customer account; provided, however, that, in  
15 the case of a mixed-use property, any independent commercial  
16 units on the premises that are not appurtenant to the housing  
17 use are not considered to be a part of the qualifying low-  
18 income multifamily residential property;

19 F. "qualifying low-income residential building"  
20 means a residential rental building that participates in:

21 (1) a housing program defined in Section  
22 41411(a) of the federal Violence Against Women Act of 1994;

23 (2) a housing assistance program administered  
24 by the United States department of agriculture under Title 5 of  
25 the federal Housing Act of 1949;

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1 (3) a housing program administered by a  
2 tribally designated housing entity as defined in Section 4(22)  
3 of the federal Native American Housing Assistance and  
4 Self-Determination Act of 1996; or

5 (4) such other affordable housing programs as  
6 state or federal law may provide;

7 G. "qualifying low-income residential building  
8 project" means an energy facility that is located on and  
9 provides energy to a qualifying low-income multifamily  
10 residential property;

11 H. "system owner" means a landlord or third party  
12 that owns or controls any part of a low-income housing shared  
13 distributed generation system; "system owner" shall not be  
14 deemed to be a public utility based on its ownership of, or  
15 allocation of capacity or associated electricity production to,  
16 a low-income housing shared distributed generation system;

17 I. "user" means:

18 (1) the owner of a low-income housing shared  
19 distributed generation system;

20 (2) tenant meters or common-area meters that  
21 receive an allocation of the low-income housing shared  
22 distributed generation system's capacity or its associated  
23 electricity production, regardless of the legal ownership of  
24 the system; and

25 (3) a master meter operator that receives

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1 either an allocation of, or all of, the capacity or associated  
2 electricity production from a low-income housing shared  
3 distributed generation system and allocates the benefits to  
4 residential tenants in the form of additional property  
5 amenities or services, which are equitably accessible to all  
6 residents of the property, regardless of the legal ownership of  
7 the system; and

8 J. "virtual net metering" means a utility tariff  
9 arrangement that enables individually metered billing accounts  
10 of a qualifying low-income multifamily residential property to  
11 receive calculated bill credits for their allocated share of a  
12 qualifying low-income residential building project's energy  
13 generation."

14 SECTION 3. A new section of the Public Utility Act is  
15 enacted to read:

16 "[NEW MATERIAL] VIRTUAL NET METERING BILL CREDITS.--A  
17 utility shall provide virtual net metering bill credits equal  
18 to the full retail value of the kilowatt-hour to users of  
19 low-income housing shared distributed generation systems as  
20 follows:

21 A. the billing period for calculating virtual net  
22 metering bill credits shall be a monthly period;

23 B. to determine net electricity produced or  
24 delivered during the billing period, the utility shall use the  
25 following procedures:

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1 (1) for low-income housing shared distributed  
2 generation systems that serve only one meter, including a  
3 master meter, the utility shall measure, in kilowatt-hours, the  
4 net electricity produced or consumed by the user during the  
5 billing period, by using a meter that is capable of registering  
6 the flow of electricity in two directions; and

7 (2) for low-income housing shared distributed  
8 generation systems that serve individually metered accounts,  
9 including multiple master meters, the utility shall:

10 (a) measure, in kilowatt-hours, the  
11 total generation output of the system using a production meter,  
12 which shall be read at the end of the billing cycle;

13 (b) calculate the total kilowatt-hour  
14 output associated with each user's allocation; and

15 (c) calculate the net electricity  
16 produced or delivered by deducting the user's allocated total  
17 kilowatt-hour output from the user's total measured consumption  
18 in that billing period; and

19 C. the utility shall calculate each user's bill for  
20 the billing period as follows:

21 (1) if the user has net electricity delivered  
22 during a billing period, the user shall be billed only for the  
23 net electricity supplied by the utility under the applicable  
24 rates;

25 (2) if the user has net electricity produced

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1 during a billing period, the utility shall credit the user on  
2 the next bill for the excess kilowatt-hours generated, by  
3 crediting the customer for the net kilowatt-hours of  
4 electricity produced; provided that unused credits shall be  
5 carried forward from month to month; and provided further that  
6 if the user leaves the system, the user's unused credits for  
7 excess kilowatt-hours generated shall be paid to the user at  
8 the utility's avoided cost; and

9 (3) except as otherwise specified in this  
10 section, users shall be billed for service in accordance with  
11 the rate structure and monthly charges that the user would be  
12 assigned if the user had not been a user of a low-income  
13 housing shared distributed generation system."

14 SECTION 4. A new section of the Public Utility Act is  
15 enacted to read:

16 "[NEW MATERIAL] FEES--CHARGES--RATES.--

17 A. Except as explicitly provided in this section, a  
18 utility shall not charge a user any fee or charge that is  
19 different than that charged to other customers of the utility  
20 in the same rate class.

21 B. A utility shall not require a user to be placed  
22 in a rate class based on the user's status as a user of a  
23 low-income housing shared distributed generation system.  
24 However, a utility shall, regardless of actual electricity  
25 usage, allow owners or users of low-income housing shared

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1 distributed generation systems, at their option, to be placed  
2 in the utilities' residential or small commercial rate class.

3 C. A utility may charge the owner of a low-income  
4 housing shared distributed generation system for its reasonable  
5 costs to install a production meter to monitor the output of  
6 the low-income housing shared distributed generation system or  
7 for the actual and reasonable costs of any upgrades to the  
8 utility's distribution system that are required to make the net  
9 metering system compatible with the system of the utility."

10 SECTION 5. A new section of the Public Utility Act is  
11 enacted to read:

12 "[NEW MATERIAL] PUBLIC REGULATION COMMISSION--RULES.--By  
13 January 1, 2024, the commission shall adopt rules prescribing  
14 the form and substance for a low-income housing shared  
15 distributed generation system virtual net metering tariff or  
16 tariffs and a standard low-income housing shared distributed  
17 generation contract between the utility and the system owner.  
18 The rules shall include:

19 A. the particular provisions, limitations and  
20 responsibilities of owners and users of low-income housing  
21 shared distributed generation systems and the utility, which  
22 shall be included in a standard shared virtual net metering  
23 tariff;

24 B. a provision that allows allocation by the owner  
25 of the low-income housing shared net metering system, in

1 consultation with the owner of the qualifying low-income  
2 multifamily residential property, of the financial benefits of  
3 the electricity produced by the low-income housing shared  
4 distributed generation system to ensure that:

5 (1) in the case of individually metered tenant  
6 units, virtual net metering credits are allocated equitably  
7 among the tenant units based on each unit's size measured in  
8 square feet;

9 (2) in the case of master-metered buildings,  
10 benefits are in the form of additional property amenities or  
11 services equitably accessible to all residents of the property;  
12 and

13 (3) in either case, an equitable allocation to  
14 occupants shall not preclude any allocation of the generation  
15 output to common-area accounts;

16 C. the manner and frequency, which shall be at  
17 least annually, in which owners of low-income housing shared  
18 distributed generation systems may update utilities on the  
19 proper allocation of capacity and associated electricity  
20 production to various users;

21 D. how utilities shall meter and bill users,  
22 including the provision of bill credits, of low-income housing  
23 shared distributed generation systems; and

24 E. interconnection of low-income housing shared  
25 distributed generation systems without requiring individual

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1 meters to be directly interconnected to the low-income housing  
2 shared distributed generation system; interconnection  
3 procedures and time lines shall be consistent with those  
4 established for other distributed generation systems."

5 SECTION 6. A new section of Chapter 7 NMSA 1978 is  
6 enacted to read:

7 "[NEW MATERIAL] SOLAR ENERGY SYSTEMS--TAXATION--METHOD OF  
8 VALUATION.--

9 A. A solar energy system subject to valuation for  
10 property taxation purposes shall be valued at zero dollars  
11 (\$0.00).

12 B. As used in this section, "solar energy system"  
13 means a device that:

14 (1) is installed on residential property;

15 (2) includes equipment that is part of a  
16 system designed and installed to use, collect, store or  
17 distribute solar energy to provide electricity, heat or heated  
18 water to a residence where the device or equipment is  
19 installed;

20 (3) includes photovoltaic panels, solar  
21 thermal technology, energy storage equipment, mounting  
22 equipment, support structures, tracking equipment, monitoring  
23 equipment or other power condition equipment; and

24 (4) is used, produced, manufactured, held for  
25 sale, leased or maintained by a person for purposes of the

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1 person's profession, business or occupation."

2 SECTION 7. APPLICABILITY.--The provisions of Section 6 of  
3 this act apply to valuations for property tax purposes that are  
4 made on or after July 1, 2023.

5 SECTION 8. EFFECTIVE DATE.--The effective date of the  
6 provisions of this act is July 1, 2023.