

HOUSE TAXATION AND REVENUE COMMITTEE SUBSTITUTE FOR
HOUSE BILL 187

56TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2024

AN ACT

RELATING TO TAXATION; CREATING THE SCHOOL SOLAR INCOME TAX
CREDIT.

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

SECTION 1. A new section of the Income Tax Act is enacted
to read:

"~~[NEW MATERIAL]~~ SCHOOL SOLAR INCOME TAX CREDIT.--

A. For taxable years prior to January 1, 2036, a taxpayer who is not a dependent of another individual and who, on or after the effective date of this section, installs a photovoltaic system on school property for the purpose of providing electricity to a school building in New Mexico may apply for, and the department may allow, a credit against the taxpayer's tax liability imposed pursuant to the Income Tax Act in an amount provided in Subsection B of this section. The tax

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1 credit provided by this section may be referred to as the
2 "school solar income tax credit".

3 B. The amount of tax credit that may be allowed
4 shall be in an amount equal to forty percent of all costs
5 necessary to install a photovoltaic system, including
6 engineering, permitting, interconnection, support structure,
7 racking, batteries, subcontracting costs and other costs
8 necessary to install a photovoltaic system on school property.
9 A tax credit shall be allowed only for photovoltaic systems
10 certified pursuant to Subsection C of this section.

11 C. A taxpayer shall apply for certification of
12 eligibility for the tax credit from the energy, minerals and
13 natural resources department on forms and in the manner
14 prescribed by that department. The application shall include
15 proof of installation of a photovoltaic system on a school
16 property, proof that the system meets technical specifications
17 and requirements relating to safety, code and standards
18 compliance, system applications appropriate to the school and
19 lists of eligible components and any additional information
20 that the energy, minerals and natural resources department may
21 require to determine eligibility for the credit. A dated
22 certificate of eligibility shall be issued to the taxpayer
23 providing the amount of the school solar income tax credit for
24 which the taxpayer is eligible and the taxable year in which
25 the credit may be claimed. A certificate of eligibility for

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1 the tax credit may be sold, exchanged or otherwise transferred
2 to another taxpayer for the full value of the credit. The
3 parties to such a transaction shall notify the department of
4 the sale, exchange or transfer within ten days of the sale,
5 exchange or transfer.

6 D. The total aggregate amount of credits that may
7 be certified as eligible is two hundred four million dollars
8 (\$204,000,000). Applications for certification received after
9 this amount is reached shall not be approved. The maximum that
10 may be certified for a calendar year is as follows; provided
11 that if a taxpayer applies for and meets the requirements for a
12 tax credit pursuant to this section, but the maximum aggregate
13 amount of credits has been certified for that taxable year, the
14 energy, minerals and natural resources department shall issue
15 the taxpayer a certificate of eligibility for the next taxable
16 year in which there are available certifications:

17 (1) for calendar year 2024, twelve million
18 dollars (\$12,000,000);

19 (2) for calendar year 2025, twenty million
20 dollars (\$20,000,000);

21 (3) for each of calendar years 2026 and 2027,
22 thirty million dollars (\$30,000,000); and

23 (4) for calendar years 2028 through 2035,
24 there is no annual maximum.

25 E. A taxpayer may claim the tax credit for the

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1 taxable year in which the photovoltaic system is installed. To
2 receive the tax credit, the taxpayer shall apply to the
3 department on forms required by the department and shall have
4 up to twelve months following the time at which the relevant
5 utility gives permission to operate to apply. The application
6 shall include a certification made pursuant to Subsection C of
7 this section.

8 F. That portion of tax credit that exceeds a
9 taxpayer's tax liability in the taxable year in which the
10 credit is claimed shall be refunded to the taxpayer.

11 G. Married individuals filing separate returns for
12 a taxable year for which they could have filed a joint return
13 may each claim only one-half of the tax credit that would have
14 been claimed on a joint return.

15 H. A taxpayer may be allocated the right to claim
16 the tax credit in proportion to the taxpayer's ownership
17 interest if the taxpayer owns an interest in a business entity
18 that is taxed for federal income tax purposes as a partnership
19 or limited liability company and that business entity has met
20 all of the requirements to be eligible for the credit. The
21 total credit claimed by all members of the partnership or
22 limited liability company shall not exceed the allowable credit
23 pursuant to this section.

24 I. A taxpayer allowed a tax credit pursuant to this
25 section shall report the amount of the credit to the department

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1 in a manner required by the department.

2 J. The department shall compile an annual report on
3 the tax credit that shall include the number of taxpayers
4 approved by the department to receive the credit, the aggregate
5 amount of the credits approved and any other information
6 necessary to evaluate the credit. The department shall present
7 the report to the revenue stabilization and tax policy
8 committee and the legislative finance committee with an
9 analysis of the cost of the tax credit.

10 K. As used in this section:

11 (1) "photovoltaic system" means an energy
12 system that collects or absorbs sunlight for conversion into
13 electricity;

14 (2) "school" means that part of a school
15 district that is a single attendance center in which
16 instruction is offered by one or more teachers and is
17 discernible as a building or group of buildings generally
18 recognized as either an elementary, middle, junior high or high
19 school or any combination of those and includes a charter
20 school; and

21 (3) "school property" means real property
22 owned by a school district."

23 SECTION 2. APPLICABILITY.--The provisions of this act
24 apply to taxable years beginning on or after January 1, 2024.