

1 SENATE BILL 121

2 **56TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2024**

3 INTRODUCED BY

4 Mimi Stewart

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10 AN ACT

11 RELATING TO TAXATION; AMENDING OWNERSHIP ELIGIBILITY  
12 REQUIREMENTS FOR THE NEW SOLAR MARKET DEVELOPMENT INCOME TAX  
13 CREDIT; INCREASING THE ANNUAL AGGREGATE AMOUNT OF CREDITS THAT  
14 MAY BE CERTIFIED IN CERTAIN CALENDAR YEARS.

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

17 SECTION 1. Section 7-2-18.31 NMSA 1978 (being Laws 2020,  
18 Chapter 13, Section 1, as amended) is amended to read:

19 "7-2-18.31. NEW SOLAR MARKET DEVELOPMENT INCOME TAX  
20 CREDIT.--

21 A. For taxable years prior to January 1, 2032, a  
22 taxpayer who is not a dependent of another individual and who,  
23 on or after March 1, 2020, purchases and installs a solar  
24 thermal system or a photovoltaic system in a residence,  
25 business or agricultural enterprise in New Mexico owned by that

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1 taxpayer or by a federally recognized Indian nation, tribe or  
2 pueblo and held in leasehold by that taxpayer may apply for,  
3 and the department may allow, a credit against the taxpayer's  
4 tax liability imposed pursuant to the Income Tax Act in an  
5 amount provided in Subsection C of this section. The tax  
6 credit provided by this section may be referred to as the "new  
7 solar market development income tax credit".

8 B. The purpose of the new solar market development  
9 income tax credit is to encourage the installation of solar  
10 thermal and photovoltaic systems in residences, businesses and  
11 agricultural enterprises.

12 C. The department may allow a new solar market  
13 development income tax credit of ten percent of the purchase  
14 and installation costs of a solar thermal or photovoltaic  
15 system.

16 D. The new solar market development income tax  
17 credit shall not exceed six thousand dollars (\$6,000) per  
18 taxpayer per taxable year. The department shall allow a tax  
19 credit only for solar thermal and photovoltaic systems  
20 certified pursuant to Subsection E of this section.

21 E. Subject to the limitation provided in Subsection  
22 F of this section, a taxpayer shall apply for certification of  
23 eligibility for the new solar market development income tax  
24 credit from the energy, minerals and natural resources  
25 department on forms and in the manner prescribed by that

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1 department. ~~[The aggregate amount of credits that may be~~  
2 ~~certified as eligible in any calendar year is twelve million~~  
3 ~~dollars (\$12,000,000).]~~ Completed applications shall be  
4 considered in the order received. ~~[Applications for~~  
5 ~~certification received after this limitation has been met in a~~  
6 ~~calendar year shall not be approved.]~~ The application shall  
7 include proof of purchase and installation of a solar thermal  
8 or photovoltaic system, that the system meets technical  
9 specifications and requirements relating to safety, code and  
10 standards compliance, solar collector orientation and sun  
11 exposure, minimum system sizes, system applications and lists  
12 of eligible components and any additional information that the  
13 energy, minerals and natural resources department may require  
14 to determine eligibility for the credit. A dated certificate  
15 of eligibility shall be issued to the taxpayer providing the  
16 amount of the new solar market development income tax credit  
17 for which the taxpayer is eligible and the taxable year in  
18 which the credit may be claimed. A certificate of eligibility  
19 for a new solar market development income tax credit may be  
20 sold, exchanged or otherwise transferred to another taxpayer  
21 for the full value of the credit. The parties to such a  
22 transaction shall notify the department of the sale, exchange  
23 or transfer within ten days of the sale, exchange or transfer.

24 F. The aggregate amount of credits that may be  
25 certified pursuant to Subsection E of this section is as

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1 follows, and applications for certification received after  
2 these limitations have been met shall not be approved:

3 (1) for calendar years 2020 through 2023,  
4 twelve million dollars (\$12,000,000) for each calendar year;  
5 provided that if this limitation has been met for any of those  
6 calendar years, an additional twenty million dollars  
7 (\$20,000,000) in credits may be certified for all of those  
8 calendar years; and provided further that credits certified  
9 pursuant to this paragraph shall be claimed only for taxable  
10 year 2023; and

11 (2) for calendar years 2024 and thereafter,  
12 thirty million dollars (\$30,000,000).

13 ~~[F.]~~ G. A taxpayer may claim a new solar market  
14 development income tax credit for the taxable year in which the  
15 taxpayer purchases and installs a solar thermal or photovoltaic  
16 system. To receive a new solar market development income tax  
17 credit, a taxpayer shall apply to the department on forms and  
18 in the manner prescribed by the department within twelve months  
19 following the calendar year in which the system was installed;  
20 provided that, for a taxpayer that receives a certificate of  
21 eligibility pursuant to Paragraph (1) of Subsection F of this  
22 section, the taxpayer shall apply to the department within  
23 twelve months following the calendar year in which the  
24 certification is made. The application shall include a  
25 certification made pursuant to Subsection E of this section.

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1           ~~[G.]~~ H. That portion of a new solar market  
2 development income tax credit that exceeds a taxpayer's tax  
3 liability in the taxable year in which the credit is claimed  
4 shall be refunded to the taxpayer.

5           ~~[H.]~~ I. Married individuals filing separate returns  
6 for a taxable year for which they could have filed a joint  
7 return may each claim only one-half of the new solar market  
8 development income tax credit that would have been claimed on a  
9 joint return.

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

20           ~~[J.]~~ K. A taxpayer allowed a tax credit pursuant to  
21 this section shall report the amount of the credit to the  
22 taxation and revenue department in a manner required by that  
23 department.

24           ~~[K.]~~ L. The taxation and revenue department shall  
25 compile an annual report on the new solar market development

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

8 ~~[E.]~~ M. As used in this section:

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

12 (2) "solar thermal system" means an energy  
13 system that collects or absorbs solar energy for conversion  
14 into heat for the purposes of space heating, space cooling or  
15 water heating."

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