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HOUSE BILL 187

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

INTRODUCED BY

Joanne J. Ferrary

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, purchases and
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

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1 section. The tax credit provided by this section may be
2 referred to as the "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 purchase and install a photovoltaic system,
6 including engineering, permitting, interconnection, support
7 structure, racking, batteries, subcontracting costs and other
8 costs necessary to install a photovoltaic system on school
9 property. A tax credit shall be allowed only for photovoltaic
10 systems 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 total aggregate amount of
15 credits that may be certified as eligible is two hundred four
16 million dollars (\$204,000,000). Applications for certification
17 received after this amount is reached shall not be approved.
18 The application shall include proof of purchase and
19 installation of a photovoltaic system on a school property,
20 proof that the system meets technical specifications and
21 requirements relating to safety, code and standards compliance,
22 system applications appropriate to the school and lists of
23 eligible components and any additional information that the
24 energy, minerals and natural resources department may require
25 to determine eligibility for the credit. A dated certificate

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1 of eligibility shall be issued to the taxpayer providing the
2 amount of the school solar income tax credit for which the
3 taxpayer is eligible and the taxable year in which the credit
4 may be claimed. A certificate of eligibility for the tax
5 credit may be sold, exchanged or otherwise transferred to
6 another taxpayer for the full value of the credit. The parties
7 to such a transaction shall notify the department of the sale,
8 exchange or transfer within ten days of the sale, exchange or
9 transfer.

10 D. A taxpayer may claim the tax credit for the
11 taxable year in which the photovoltaic system is installed. To
12 receive the tax credit, the taxpayer shall apply to the
13 department on forms required by the department and shall have
14 up to twelve months following the time at which the relevant
15 utility gives permission to operate to apply. The application
16 shall include a certification made pursuant to Subsection C of
17 this section.

18 E. That portion of tax credit that exceeds a
19 taxpayer's tax liability in the taxable year in which the
20 credit is claimed shall be refunded to the taxpayer.

21 F. Married individuals filing separate returns for
22 a taxable year for which they could have filed a joint return
23 may each claim only one-half of the tax credit that would have
24 been claimed on a joint return.

25 G. A taxpayer may be allocated the right to claim

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1 the tax credit in proportion to the taxpayer's ownership
2 interest if the taxpayer owns an interest in a business entity
3 that is taxed for federal income tax purposes as a partnership
4 or limited liability company and that business entity has met
5 all of the requirements to be eligible for the credit. The
6 total credit claimed by all members of the partnership or
7 limited liability company shall not exceed the allowable credit
8 pursuant to this section.

9 H. A taxpayer allowed a tax credit pursuant to this
10 section shall report the amount of the credit to the department
11 in a manner required by the department.

12 I. The department shall compile an annual report on
13 the tax credit that shall include the number of taxpayers
14 approved by the department to receive the credit, the aggregate
15 amount of the credits approved and any other information
16 necessary to evaluate the credit. The department shall present
17 the report to the revenue stabilization and tax policy
18 committee and the legislative finance committee with an
19 analysis of the cost of the tax credit.

20 J. As used in this section:

21 (1) "photovoltaic system" means an energy
22 system that collects or absorbs sunlight for conversion into
23 electricity;

24 (2) "school" means that part of a school
25 district that is a single attendance center in which

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1 instruction is offered by one or more teachers and is
2 discernible as a building or group of buildings generally
3 recognized as either an elementary, middle, junior high or high
4 school or any combination of those and includes a charter
5 school; and

6 (3) "school property" means a school district
7 pursuant to the Public School Code."

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