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HOUSE BILL 36

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

INTRODUCED BY

Carl Trujillo

AN ACT

RELATING TO TAXATION; REINSTATING THE SOLAR MARKET DEVELOPMENT  
TAX CREDIT; CREATING SEPARATE AGGREGATE CAPS FOR BUSINESSES AND  
RESIDENCES.

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

SECTION 1. Section 7-2-18.14 NMSA 1978 (being Laws 2006,  
Chapter 93, Section 1, as amended) is amended to read:

"7-2-18.14. SOLAR MARKET DEVELOPMENT TAX CREDIT--  
RESIDENTIAL AND [SMALL] BUSINESS SOLAR THERMAL AND PHOTOVOLTAIC  
MARKET DEVELOPMENT TAX CREDIT.--

A. Except as provided in Subsection [E] D of this  
section, a taxpayer who files an individual New Mexico income  
tax return for a taxable year beginning on or after January 1,  
[2006] 2018 and who purchases and installs after January 1,  
[2006 but before December 31, 2016] 2018 a solar thermal system

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1 or a photovoltaic system in a residence, business or  
2 agricultural enterprise in New Mexico owned by that taxpayer  
3 may apply for, and the department may allow, a solar market  
4 development tax credit of up to ten percent of the purchase and  
5 installation costs of the system; provided that the power from  
6 the system is used primarily for consumption on the site where  
7 the system is installed. The tax credit allowed pursuant to  
8 this section may be referred to as the "solar market  
9 development tax credit".

10 B. The total solar market development tax credit  
11 allowed for either a photovoltaic system or a solar thermal  
12 system shall not exceed:

13 (1) nine thousand dollars (\$9,000) for a  
14 system installed in a business or agricultural enterprise; and

15 (2) four thousand dollars (\$4,000) for a  
16 system installed in a residence.

17 C. To receive a solar market development tax  
18 credit, a taxpayer shall apply to the department on forms and  
19 in the manner prescribed by the department. [~~shall allow solar~~  
20 market development tax credits only for solar thermal systems  
21 and photovoltaic systems certified by the energy, minerals and  
22 natural resources department] The application shall include a  
23 certification made pursuant to Subsection G of this section.  
24 If the taxpayer is a business or agricultural enterprise, the  
25 application shall include the taxpayer's federal employer

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1 identification number.

2 ~~[G.]~~ D. Solar market development tax credits may  
3 not be claimed or allowed for ~~[(1)]~~ a heating system for a  
4 swimming pool or a hot tub ~~[or~~

5 ~~(2) a commercial or industrial photovoltaic~~  
6 ~~system other than an agricultural photovoltaic system on a farm~~  
7 ~~or ranch that is not connected to an electric utility~~  
8 ~~transmission or distribution system].~~

9 ~~[D.]~~ E. The department may allow a maximum annual  
10 aggregate of:

11 (1) ~~[two million dollars (\$2,000,000)]~~ one  
12 million five hundred thousand dollars (\$1,500,000) in solar  
13 market development tax credits for solar thermal or  
14 photovoltaic systems installed in business or agricultural  
15 enterprises in New Mexico; and

16 (2) ~~[three million dollars (\$3,000,000)]~~ three  
17 million five hundred thousand dollars (\$3,500,000) in solar  
18 market development tax credits for solar thermal or  
19 photovoltaic systems installed in residences in New Mexico.

20 ~~[E.]~~ F. A portion of the solar market development  
21 tax credit that remains unused in a taxable year may be carried  
22 forward for a maximum of ten consecutive taxable years  
23 following the taxable year in which the credit originates until  
24 fully expended.

25 ~~[F. Prior to July 1, 2006]~~ G. The energy, minerals

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1 and natural resources department shall adopt rules establishing  
2 procedures to provide certification of solar thermal systems  
3 and photovoltaic systems for purposes of obtaining a solar  
4 market development tax credit. The rules shall address  
5 technical specifications and requirements relating to safety,  
6 code and standards compliance, solar collector orientation and  
7 sun exposure, minimum system sizes, system applications and  
8 lists of eligible components. The energy, minerals and natural  
9 resources department may modify the specifications and  
10 requirements as necessary to maintain a high level of system  
11 quality and performance.

12 H. A taxpayer allowed a tax credit pursuant to this  
13 section shall report the amount of the credit to the department  
14 in a manner required by the department.

15 I. The department shall compile an annual report on  
16 the solar market development tax credit that shall include the  
17 number of taxpayers approved by the department to receive the  
18 credit, the aggregate amount of credits approved and any other  
19 information necessary to evaluate the effectiveness of the  
20 credit. Each year that the credit is in effect, the department  
21 shall compile and present the annual reports to the revenue  
22 stabilization and tax policy committee and the legislative  
23 finance committee with an analysis of the effectiveness and  
24 cost of the tax credit.

25 [~~G.~~] J. As used in this section:

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

4 (2) "solar thermal system" means an energy  
5 system that collects or absorbs solar energy for conversion  
6 into heat for the purposes of space heating, space cooling or  
7 water heating."

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

9 A. If a taxpayer has met the eligibility  
10 requirements to apply for and claim a solar market development  
11 tax credit pursuant to Section 7-2-18.14 NMSA 1978 for a period  
12 prior to the effective date of this act, the taxpayer may  
13 claim, and the taxation and revenue department may approve, the  
14 credit for those periods, including amounts that may be carried  
15 forward pursuant to that section as it was in effect prior to  
16 the effective date of this act.

17 B. If a taxpayer has claimed and been awarded a  
18 solar market development tax credit pursuant to Section  
19 7-2-18.14 NMSA 1978 but a portion of the credit claimed remains  
20 unused, the taxpayer may claim the unused portion, including  
21 amounts that could have been carried forward pursuant to that  
22 section as it was in effect prior to the effective date of this  
23 act.