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HOUSE BILL 87

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

INTRODUCED BY

Carl Trujillo

AN ACT

RELATING TO TAXATION; CREATING THE SOLAR MARKET DEVELOPMENT  
INCOME TAX CREDIT; REPEALING THE EXPIRED SOLAR MARKET  
DEVELOPMENT TAX CREDIT.

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Chapter 93, Section 1, as amended) is repealed and a new  
Section 7-2-18.14 NMSA 1978 is enacted to read:

"7-2-18.14. [NEW MATERIAL] SOLAR MARKET DEVELOPMENT  
INCOME TAX CREDIT.--

A. A taxpayer who is not a dependent of another  
individual and who purchases and installs a solar thermal  
system or a photovoltaic system in a residence, business or  
agricultural enterprise after January 1, 2018 and prior to  
January 1, 2023 may apply for, and the department may allow, a

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1 credit of up to ten percent of the purchase and installation  
2 costs of the system against the taxpayer's tax liability  
3 imposed pursuant to the Income Tax Act. The tax credit  
4 provided by this section may be referred to as the "solar  
5 market development income tax credit".

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

10 C. The solar market development income tax credit  
11 shall not exceed nine thousand dollars (\$9,000). The  
12 department shall allow a solar market development income tax  
13 credit only for solar thermal and photovoltaic systems  
14 certified pursuant to Subsection I of this section.

15 D. The department may allow a maximum annual  
16 aggregate of five million dollars (\$5,000,000) in solar market  
17 development income tax credits per year. Completed  
18 applications for the credit shall be considered in the order  
19 received by the department.

20 E. A taxpayer may claim a solar market development  
21 income tax credit for the taxable year in which the taxpayer  
22 purchases and installs a solar thermal or photovoltaic system.  
23 To receive a solar market development income tax credit, a  
24 taxpayer shall apply to the department on forms and in the  
25 manner prescribed by the department within twelve months

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1 following the calendar year in which the system was installed.  
2 The application shall include a certification made pursuant to  
3 Subsection I of this section.

4 F. That portion of a solar market development  
5 income tax credit that exceeds a taxpayer's tax liability in  
6 the taxable year in which the credit is claimed may be carried  
7 forward for a maximum of five consecutive taxable years.

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

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

22 I. The energy, minerals and natural resources  
23 department shall adopt rules establishing procedures to provide  
24 certification of solar thermal and photovoltaic systems for the  
25 purposes of obtaining a solar market development income tax

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1 credit. The rules shall address technical specifications and  
2 requirements relating to safety, code and standards compliance,  
3 solar collector orientation and sun exposure, minimum system  
4 sizes, system applications and lists of eligible components.  
5 The energy, minerals and natural resources department may  
6 modify the specifications and requirements as necessary to  
7 maintain a high level of system quality and performance.

8 J. A taxpayer allowed a tax credit pursuant to this  
9 section shall report the amount of the credit to the taxation  
10 and revenue department in a manner required by that department.

11 K. The taxation and revenue department shall  
12 compile an annual report on the solar market development income  
13 tax credit that shall include the number of taxpayers approved  
14 by the department to receive the credit, the aggregate amount  
15 of credits approved and any other information necessary to  
16 evaluate the credit. The department shall present the annual  
17 report to the revenue stabilization and tax policy committee  
18 and the legislative finance committee with an analysis of the  
19 cost of the tax credit and whether the tax credit is performing  
20 the purpose for which it was created.

21 L. As used in this section:

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

25 (2) "solar thermal system" means an energy

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1 system that collects or absorbs solar energy for conversion  
2 into heat for the purposes of space heating, space cooling or  
3 water heating."

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

5 A. If a taxpayer has met the eligibility  
6 requirements to apply for and claim a solar market development  
7 tax credit pursuant to Section 7-2-18.14 NMSA 1978 as that  
8 section was in effect on December 31, 2016, the taxpayer may  
9 claim, and the taxation and revenue department may approve, the  
10 credit for those periods, including amounts that may be carried  
11 forward pursuant to Section 7-2-18.14 NMSA 1978 as that section  
12 was in effect on December 31, 2016.

13 B. If a taxpayer has claimed and been awarded a  
14 solar market development tax credit pursuant to Section  
15 7-2-18.14 NMSA 1978 as that section was in effect on December  
16 31, 2016, but a portion of the credit claimed remains unused,  
17 the taxpayer may claim the unused portion, including amounts  
18 that could have been carried forward pursuant to Section  
19 7-2-18.14 NMSA 1978 as that section was in effect on December  
20 31, 2016.

21 SECTION 3. APPLICABILITY.--The provisions of this act  
22 apply to taxable years beginning on or after January 1, 2018.