

1 SENATE BILL 44

2 **55TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2022**

3 INTRODUCED BY

4 William P. Soules

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10 AN ACT

11 RELATING TO TAXATION; EXTENDING THE NEW SOLAR MARKET  
12 DEVELOPMENT INCOME TAX CREDIT; INCREASING THE ANNUAL AGGREGATE  
13 CAP FOR THE CREDIT; MAKING THE CREDIT REFUNDABLE.

14  
15 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

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

18 "7-2-18.31. NEW SOLAR MARKET DEVELOPMENT INCOME TAX  
19 CREDIT.--

20 A. For taxable years prior to January 1, [2028]  
21 2032, a taxpayer who is not a dependent of another individual  
22 and who, on or after March 1, 2020, purchases and installs a  
23 solar thermal system or a photovoltaic system in a residence,  
24 business or agricultural enterprise in New Mexico owned by that  
25 taxpayer, may apply for, and the department may allow, a credit

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1 against the taxpayer's tax liability imposed pursuant to the  
2 Income Tax Act in an amount provided in Subsection C of this  
3 section. The tax credit provided by this section may be  
4 referred to as the "new solar market development income tax  
5 credit".

6 B. The purpose of the new 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 department may allow a new solar market  
11 development income tax credit of ten percent of the purchase  
12 and installation costs of a solar thermal or photovoltaic  
13 system.

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

19 E. A taxpayer shall apply for certification of  
20 eligibility for the new solar market development income tax  
21 credit from the energy, minerals and natural resources  
22 department on forms and in the manner prescribed by that  
23 department. The aggregate amount of credits that may be  
24 certified as eligible in any calendar year is ~~[eight million~~  
25 ~~dollars (\$8,000,000)]~~ sixteen million dollars (\$16,000,000).

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1 Completed applications shall be considered in the order  
2 received. Applications for certification received after this  
3 limitation has been met in a calendar year shall not be  
4 approved. The application shall include proof of purchase and  
5 installation of a solar thermal or photovoltaic system, that  
6 the system meets technical specifications and requirements  
7 relating to safety, code and standards compliance, solar  
8 collector orientation and sun exposure, minimum system sizes,  
9 system applications and lists of eligible components and any  
10 additional information that the energy, minerals and natural  
11 resources department may require to determine eligibility for  
12 the credit. A dated certificate of eligibility shall be issued  
13 to the taxpayer providing the amount of the new solar market  
14 development income tax credit for which the taxpayer is  
15 eligible and the taxable year in which the credit may be  
16 claimed.

17 F. A taxpayer may claim a new solar market  
18 development income tax credit for the taxable year in which the  
19 taxpayer purchases and installs a solar thermal or photovoltaic  
20 system. To receive a new solar market development income tax  
21 credit, a taxpayer shall apply to the department on forms and  
22 in the manner prescribed by the department within twelve months  
23 following the calendar year in which the system was installed.  
24 The application shall include a certification made pursuant to  
25 Subsection E of this section.

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1           G. That portion of a new solar market development  
2 income tax credit that exceeds a taxpayer's tax liability in  
3 the taxable year in which the credit is claimed [~~may be carried~~  
4 ~~forward for a maximum of five consecutive taxable years~~] shall  
5 be refunded to the taxpayer.

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

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

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

23           K. The taxation and revenue department shall  
24 compile an annual report on the new solar market development  
25 income tax credit that shall include the number of taxpayers

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

7 L. As used in this section:

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

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

15 SECTION 2. APPLICABILITY.--The provisions of this act  
16 apply to taxable years beginning on or after January 1, 2022.