

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

HOUSE BILL

57TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2025

INTRODUCED BY

DISCUSSION DRAFT

AN ACT

RELATING TO TAXATION; CREATING THE ENERGY STORAGE SYSTEM INCOME TAX CREDIT; CREATING THE ENERGY STORAGE SYSTEM CORPORATE 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] ENERGY STORAGE SYSTEM INCOME TAX CREDIT.--

A. For a taxable year prior to January 1, 2030, a taxpayer who is not a dependent of another individual and purchases and installs an energy storage system on the taxpayer's residential, commercial, industrial or agricultural property 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. The tax credit provided by

underscoring material = new
~~[bracketed material] = delete~~

underscored material = new
~~[bracketed material] = delete~~

1 this section may be referred to as the "energy storage system
2 income tax credit".

3 B. The department may allow an energy storage
4 system income tax credit of forty percent of the purchase and
5 installation costs of an energy storage system certified
6 pursuant to this section, up to a maximum amount of credit of
7 five thousand dollars (\$5,000) for a system installed on
8 residential property and one hundred fifty thousand dollars
9 (\$150,000) for a system installed on nonresidential property,
10 including commercial, industrial or agricultural property;
11 provided that no more than one system per property shall be
12 eligible for the credit. If the energy storage system is
13 installed with a system that generates energy, only the costs
14 related to the energy storage system shall be eligible for the
15 credit.

16 C. A taxpayer who seeks to claim the tax credit
17 provided by this section shall, within twelve months following
18 the calendar year in which the system becomes operational,
19 apply for certification of eligibility from the energy,
20 minerals and natural resources department on forms and in the
21 manner prescribed by that department. The aggregate amount of
22 credits that may be certified pursuant to this section and
23 Section 2 of this 2025 act for any calendar year is six million
24 dollars (\$6,000,000). The energy, minerals and natural
25 resources department shall publish to its website on a regular

.228901.3

underscoring material = new
~~[bracketed material] = delete~~

1 basis the annual aggregate amount of energy storage system
2 income tax credits and energy storage system corporate income
3 tax credits that have been certified pursuant to this 2025 act
4 for each calendar year in which credits are certified.

5 Completed applications shall be considered in the order
6 received. The application shall include proof of purchase and
7 installation of an energy storage system, that the system meets
8 technical specifications and requirements relating to safety,
9 code and standards compliance, lists of eligible components and
10 any additional information that the energy, minerals and
11 natural resources department may require to determine
12 eligibility for the credit.

13 D. If the energy, minerals and natural resources
14 department determines that a taxpayer meets the requirements to
15 claim a tax credit pursuant to this section, that department
16 shall issue a dated certificate of eligibility to the taxpayer
17 providing the amount of credit for which the taxpayer is
18 eligible and the taxable year for which the credit may be
19 claimed. If a taxpayer applies for and meets the requirements
20 for a tax credit pursuant to this section, but the maximum
21 aggregate amount of credits has been certified for that taxable
22 year, the energy, minerals and natural resources department
23 shall issue the taxpayer a certificate of eligibility for the
24 next taxable year in which there are available certifications.

25 E. To receive a tax credit provided by this

.228901.3

underscoring material = new
~~[bracketed material] = delete~~

1 section, a taxpayer shall claim the credit on forms and in the
2 manner prescribed by the department. The claim shall include a
3 certification of eligibility issued pursuant to this section.
4 A taxpayer shall not be allowed to claim the tax credit for the
5 purchase and installation of the same energy storage system for
6 which an energy storage system corporate income tax credit was
7 claimed pursuant to Section 2 of this 2025 act.

8 F. That portion of an energy storage system income
9 tax credit that exceeds a taxpayer's tax liability in the
10 taxable year in which the credit is claimed shall not be
11 refunded and may be carried forward for a maximum of five
12 consecutive taxable years.

13 G. Married individuals filing separate returns for
14 a taxable year for which they could have filed a joint return
15 may each claim only one-half of the energy storage system
16 income tax credit that would have been claimed on a joint
17 return.

18 H. A taxpayer may be allocated the right to claim
19 an energy storage system income tax credit in proportion to the
20 taxpayer's ownership interest if the taxpayer owns an interest
21 in a business entity that is taxed for federal income tax
22 purposes as a partnership, limited liability company or S
23 corporation and that business entity has met all of the
24 requirements to be eligible for the credit. The total credit
25 claimed by all members of the partnership, limited liability

.228901.3

underscored material = new
~~[bracketed material] = delete~~

1 company or S corporation shall not exceed the allowable credit
2 pursuant to this section.

3 I. A taxpayer allowed a tax credit pursuant to this
4 section shall report the amount of the credit to the department
5 in a manner required by the department.

6 J. The energy, minerals and natural resources
7 department shall provide to the taxation and revenue department
8 certification information for all taxpayers to whom
9 certificates are issued in a secure and regular manner as
10 agreed upon by both departments.

11 K. The department shall include the tax credit in
12 the tax expenditure budget compiled pursuant to Section 7-1-84
13 NMSA 1978.

14 L. As used in this section:

15 (1) "energy storage system" means a
16 stationary, commercially available, customer-sited system,
17 including a battery and a battery paired with on-site
18 generation, that is capable of retaining, storing and
19 delivering electrical energy by chemical, thermal, mechanical
20 or other means and:

21 (a) is installed as a stand-alone energy
22 storage system or is grid-tied; provided that if the system is
23 grid-tied, the system has the capability to provide grid
24 services via control and communication infrastructure;

25 (b) has been tested and certified by a

underscored material = new
[bracketed material] = delete

1 nationally recognized testing laboratory; and

2 (c) has a rating of three kilowatt-hours
3 or greater; and

4 (2) "residential property" means real property
5 located in New Mexico and improved by a permanent structure of
6 one to four living units that are used primarily or designed
7 and intended to be used primarily for permanent human
8 habitation."

9 SECTION 2. A new section of the Corporate Income and
10 Franchise Tax Act is enacted to read:

11 "[NEW MATERIAL] ENERGY STORAGE SYSTEM CORPORATE INCOME TAX
12 CREDIT.--

13 A. For a taxable year prior to January 1, 2030, a
14 taxpayer that purchases and installs an energy storage system
15 on the taxpayer's commercial, industrial or agricultural
16 property in New Mexico may apply for, and the department may
17 allow, a credit against the taxpayer's tax liability imposed
18 pursuant to the Corporate Income and Franchise Tax Act. The
19 tax credit provided by this section may be referred to as the
20 "energy storage system corporate income tax credit".

21 B. The department may allow an energy storage
22 system corporate income tax credit of forty percent of the
23 purchase and installation costs of an energy storage system
24 certified pursuant to this section, up to a maximum amount of
25 one hundred fifty thousand dollars (\$150,000) for a system

.228901.3

underscoring material = new
~~[bracketed material] = delete~~

1 installed on nonresidential property, including commercial,
2 industrial or agricultural property; provided that no more than
3 one system per property shall be eligible for the credit. If
4 the energy storage system is installed with a system that
5 generates energy, only the costs related to the energy storage
6 system shall be eligible for the credit.

7 C. A taxpayer that seeks to claim the tax credit
8 provided by this section shall, within twelve months following
9 the calendar year in which the system becomes operational,
10 apply for certification of eligibility from the energy,
11 minerals and natural resources department on forms and in the
12 manner prescribed by that department. The aggregate amount of
13 credits that may be certified pursuant to this section and
14 Section 1 of this 2025 act for any calendar year is six million
15 dollars (\$6,000,000). Completed applications shall be
16 considered in the order received. The application shall
17 include proof of purchase and installation of an energy storage
18 system, that the system meets technical specifications and
19 requirements relating to safety, code and standards compliance,
20 lists of eligible components and any additional information
21 that the energy, minerals and natural resources department may
22 require to determine eligibility for the credit.

23 D. If the energy, minerals and natural resources
24 department determines that a taxpayer meets the requirements to
25 claim a tax credit pursuant to this section, that department

.228901.3

underscoring material = new
~~[bracketed material] = delete~~

1 shall issue a dated certificate of eligibility to the taxpayer
2 providing the amount of credit for which the taxpayer is
3 eligible and the taxable year for which the credit may be
4 claimed. If a taxpayer applies for and meets the requirements
5 for a tax credit pursuant to this section, but the maximum
6 aggregate amount of credits has been certified for that taxable
7 year, the energy, minerals and natural resources department
8 shall issue the taxpayer a certificate of eligibility for the
9 next taxable year in which there are available certifications.

10 E. To receive a tax credit provided by this
11 section, a taxpayer shall claim the credit on forms and in the
12 manner prescribed by the department. The claim shall include a
13 certification of eligibility issued pursuant to this section.
14 A taxpayer shall not be allowed to claim the tax credit for the
15 purchase and installation of the same energy storage system for
16 which an energy storage system income tax credit was claimed
17 pursuant to Section 1 of this 2025 act.

18 F. That portion of an energy storage system income
19 tax credit that exceeds a taxpayer's tax liability in the
20 taxable year in which the credit is claimed shall not be
21 refunded and may be carried forward for a maximum of five
22 consecutive taxable years.

23 G. A taxpayer allowed a tax credit pursuant to this
24 section shall report the amount of the credit to the department
25 in a manner required by the department.

.228901.3

underscored material = new
~~[bracketed material] = delete~~

1 H. The energy, minerals and natural resources
2 department shall provide to the taxation and revenue department
3 certification information for all taxpayers to which
4 certificates are issued in a secure and regular manner as
5 agreed upon by both departments.

6 I. The department shall include the tax credit in
7 the tax expenditure budget compiled pursuant to Section 7-1-84
8 NMSA 1978.

9 J. As used in this section, "energy storage system"
10 means a stationary, commercially available, customer-sited
11 system, including a battery and a battery paired with on-site
12 generation, that is capable of retaining, storing and
13 delivering electrical energy by chemical, thermal, mechanical
14 or other means and:

15 (1) is installed as a stand-alone energy
16 storage system or is grid-tied; provided that if the system is
17 grid-tied, the system has the capability to provide grid
18 services via control and communication infrastructure;

19 (2) has been tested and certified by a
20 nationally recognized testing laboratory; and

21 (3) has a rating of three kilowatt-hours or
22 greater."

23 **SECTION 3. DELAYED REPEAL.**--This act is repealed
24 effective January 1, 2031.

25 **SECTION 4. APPLICABILITY.**--The provisions of this act

.228901.3

underscoring material = new
~~[bracketed material] = delete~~

1 apply to taxable years beginning on or after January 1, 2025.

2 - 10 -

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

.228901.3