

SENATE BILL

54TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2020

INTRODUCED BY

DISCUSSION DRAFT

AN ACT

RELATING TO CONSTRUCTION INDUSTRIES; AMENDING THE DEFINITION OF "CONTRACTOR" WITHIN THE CONSTRUCTION INDUSTRIES LICENSING ACT.

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

SECTION 1. Section 60-13-3 NMSA 1978 (being Laws 1978, Chapter 66, Section 1, as amended) is amended to read:

"60-13-3. DEFINITION--CONTRACTOR.--As used in the Construction Industries Licensing Act, "contractor":

A. means [~~any~~] a person who undertakes, offers to undertake by bid or other means or purports to have the capacity to undertake, by [~~himself~~] the person alone or through others, contracting. Contracting includes constructing, altering, repairing, installing, [~~or~~] demolishing, leveling, clearing or excavating any:

- (1) road, highway, bridge, parking area or

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- 1 related project;
- 2 (2) building, stadium or other structure;
- 3 (3) airport, subway or similar facility;
- 4 (4) park, trail, bridle path, athletic field,
- 5 golf course or similar facility;
- 6 (5) dam, reservoir, canal, ditch or similar
- 7 facility;
- 8 (6) sewerage or water treatment facility,
- 9 power generating plant, pump station, natural gas compressing
- 10 station or similar facility;
- 11 (7) sewerage, water, gas or other pipeline;
- 12 (8) transmission line;
- 13 (9) radio, television or other tower;
- 14 (10) water, oil or other storage tank;
- 15 (11) shaft, tunnel or mining appurtenance;
- 16 (12) [~~leveling or clearing~~] land;
- 17 (13) [~~excavating~~] earth;
- 18 (14) air conditioning, conduit, heating or
- 19 other similar mechanical works;
- 20 (15) electrical wiring, plumbing or plumbing
- 21 fixture, consumers' gas piping, gas appliances or water
- 22 conditioners; or
- 23 (16) similar work, structures or installations
- 24 [~~which~~] that are covered by applicable codes adopted under the
- 25 provisions of the Construction Industries Licensing Act;

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1 B. includes subcontractor and specialty contractor;

2 C. includes a construction manager who coordinates
3 and manages the building process; who is a member of the
4 construction team with the owner, architect, engineer and other
5 consultants required for the building project; and who utilizes
6 ~~[his]~~ the construction manager's skill and knowledge of general
7 contracting to develop schedules, prepare project construction
8 estimates, study labor conditions and advise concerning
9 construction; and

10 D. does not include:

11 (1) ~~[any]~~ a person who merely furnishes
12 materials or supplies at the site without fabricating them
13 into, or consuming them in the performance of, the work of a
14 contractor;

15 (2) ~~[any]~~ a person who drills, completes,
16 tests, abandons or operates ~~[any]~~ a petroleum, gas or water
17 well; ~~[or]~~ services equipment and structures used in the
18 production and handling of ~~[any]~~ a product incident to the
19 production of ~~[any]~~ petroleum, gas or water wells, excluding
20 ~~[any]~~ a person performing duties normally performed by
21 electrical, mechanical or general contractors; or ~~[who]~~
22 performs geophysical or similar exploration for oil, gas or
23 water;

24 (3) a public utility or rural electric
25 cooperative that constructs, reconstructs, operates or

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1 maintains its plant or renders authorized service by the
2 installation, alteration or repair of facilities, up to and
3 including the meters, which facilities are an integral part of
4 the operational system of the public utility or rural electric
5 cooperative; provided that the construction of a building by a
6 public utility or rural electric cooperative or the
7 installation or repair of [any] a consumer gas or electrical
8 appliance not an integral part of the operational system makes
9 a public utility or rural electric cooperative a contractor for
10 that purpose;

11 (4) a utility department of [any] a
12 municipality or local public body rendering authorized service
13 by the installation, alteration or repair of facilities, up to
14 and including the meters, which facilities are an integral part
15 of the operational system of the utility department of the
16 municipality;

17 (5) [any] a railroad company;

18 (6) a [~~telephone or telegraph~~]
19 telecommunications company or rural electric cooperative, or a
20 person working on behalf of a telecommunications company or a
21 rural electric cooperative, that installs, alters or repairs
22 electrical equipment and devices for the operation of signals
23 or the transmission of intelligence where that work is an
24 integral part of the operation of a communication system owned
25 and operated by a [~~telephone or telegraph~~] telecommunications

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1 company or rural electric cooperative in rendering authorized
2 service;

3 (7) a pipeline company that installs, alters
4 or repairs electrical equipment and devices for the operation
5 of signals or the transmission of intelligence where that
6 service is an integral part of the operation of the
7 communication system of that pipeline company and is not for
8 hire or for the use of the general public, or ~~[any]~~ a pipeline
9 company ~~[which]~~ that installs, alters or repairs plumbing
10 fixtures or gas piping where the work is an integral part of
11 installing and operating the system owned or operated by the
12 pipeline company in rendering its authorized service;

13 (8) ~~[any]~~ a mining company, gas company or oil
14 company that installs, alters or repairs its facilities,
15 including plumbing fixtures or gas piping, where the work is an
16 integral part of the installing or operating of a system owned
17 or operated by the mining company, gas company or oil company;
18 provided that the construction of a building by a mining
19 company, a gas company or an oil company is required to be done
20 in conformity with all other provisions of the Construction
21 Industries Licensing Act and with orders, rules, ~~[regulations]~~
22 standards and codes adopted pursuant to that act;

23 (9) a radio or television broadcaster who
24 installs, alters or repairs electrical equipment used for radio
25 or television broadcasting;

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1 (10) an individual who, [~~by himself~~] alone or
2 with the aid of others who are paid wages and who receive no
3 other form of compensation, builds or makes installations,
4 alterations or repairs in or to a single-family dwelling owned
5 and occupied or to be occupied by [~~him~~] the individual;
6 provided that the installation, building, alteration or repair
7 is required to be done in conformity with all other provisions
8 of the Construction Industries Licensing Act and with the
9 orders, rules, [~~regulations~~] standards and codes adopted
10 pursuant to that act;

11 (11) a person who acts on [~~his~~] the person's
12 own account to build or improve a single-family residence for
13 [~~his~~] the person's personal use, including the building or
14 improvement of a [~~free standing~~] freestanding storage building
15 located on that residential property; provided that the
16 construction or improvement is required to be done in
17 conformity with all other provisions of the Construction
18 Industries Licensing Act and with the orders, rules,
19 [~~regulations~~] standards and codes adopted pursuant to that act;
20 and provided further that [~~he~~] the person does not engage in
21 commercial construction;

22 (12) a person who, [~~by himself~~] alone or with
23 the aid of others who are paid wages and receive no other form
24 of compensation, builds or makes installations, repairs or
25 alterations in or to a building or other improvement on a farm

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1 or ranch owned, occupied or operated by ~~[him]~~ the person, or
2 makes installations of electrical wiring that are not to be
3 connected to electrical energy supplied from a power source
4 outside the premises of the farm or ranch owned, occupied or
5 operated by ~~[him]~~ the person; provided that the state codes and
6 ~~[any]~~ local codes adopted pursuant to Subsection F of Section
7 60-13-44 NMSA 1978 shall not require ~~[any]~~ permits or
8 inspections for such construction on a farm or ranch except for
9 electrical wiring to be connected to a power source outside the
10 premises;

11 (13) an individual who works only for wages;

12 (14) an individual who works on one
13 undertaking or project at a time that, in the aggregate or
14 singly, does not exceed seven thousand two hundred dollars
15 (\$7,200) compensation a year, the work being casual, minor or
16 inconsequential, such as handyman repairs; provided that this
17 exemption shall not apply to ~~[any]~~ an undertaking or a project
18 pertaining to the installation, connection or repair of
19 electrical wiring, plumbing or gas fitting as defined in
20 Section 60-13-32 NMSA 1978 and provided that:

21 (a) the work is not part of a larger or
22 major operation undertaken by the same individual or different
23 contractor;

24 (b) the individual does not advertise or
25 maintain a sign, card or other device ~~[which]~~ that would

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1 indicate to the public that [~~he~~] the individual is qualified to
2 engage in the business of contracting; and

3 (c) the individual files annually with
4 the division, on a form prescribed by the division, a
5 declaration substantially to the effect that [~~he~~] the
6 individual is not a contractor within the meaning of the
7 Construction Industries Licensing Act, that the work [~~he~~] the
8 individual performs is casual, minor or inconsequential and
9 will not include more than one undertaking or project at one
10 time and that the total amount of such contracts, in the
11 aggregate or singly, will not exceed seven thousand two hundred
12 dollars (\$7,200) compensation a year;

13 (15) [~~any~~] a person, firm or corporation that
14 installs fuel containers, appliances, furnaces and other
15 appurtenant apparatus as an incident to its primary business of
16 distributing liquefied petroleum fuel;

17 (16) a cable television or community antenna
18 television company that constructs, installs, alters or repairs
19 facilities, equipment, cables or lines for the provision of
20 television service or the carriage and transmission of
21 television or radio broadcast signals;

22 (17) [~~any~~] a weatherization project not
23 exceeding two thousand dollars (\$2,000) that has been approved
24 and is administered by a federal or state agency; or

25 (18) a person who performs work consisting of

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1 short-term depreciable improvements to commercial property to
2 provide needed repairs and maintenance for items not covered by
3 building codes adopted by the construction [~~industry~~]
4 industries commission if the total amount paid the person for
5 the work on a single undertaking, including materials, services
6 and wages of those who work for [~~him~~] the person, does not
7 exceed the sum of five thousand dollars (\$5,000)."

8 SECTION 2. EFFECTIVE DATE.--The effective date of the
9 provisions of this act is July 1, 2020.

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SENATE BILL

54TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2020

INTRODUCED BY

DISCUSSION DRAFT

AN ACT

MAKING AN APPROPRIATION TO THE PUBLIC EDUCATION DEPARTMENT FOR THE DEVELOPMENT AND SUPPORT OF ROBOTICS TEAMS IN MIDDLE SCHOOLS AND HIGH SCHOOLS AND FOR THE SUPPORT OF ROBOTICS TEAM COMPETITIONS.

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

SECTION 1. APPROPRIATION.--Two hundred fifty thousand dollars (\$250,000) is appropriated from the general fund to the public education department for expenditure in fiscal year 2021 for the development and support of robotics teams in middle schools and high schools and the support of robotics team competitions. Any unexpended or unencumbered balance remaining at the end of fiscal year 2021 shall revert to the general fund.

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HOUSE BILL

54TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2020

INTRODUCED BY

DISCUSSION DRAFT

AN ACT

RELATING TO TAXATION; CREATING THE ENERGY STORAGE SYSTEM INCOME TAX CREDIT AND ENERGY STORAGE SYSTEM CORPORATE INCOME TAX CREDIT; PROVIDING A DELAYED REPEAL.

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. A taxpayer who is not a dependent of another individual and who installs an energy storage system on the property of a person that purchases electricity at retail after January 1, 2020 and before January 1, 2026 may apply for, and the department may allow, a credit against the taxpayer's tax liability imposed pursuant to the Income Tax Act subject to the provisions of this section. No more than one installation of

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1 an energy storage system per property, per year, shall be
2 eligible for the credit. The credit provided by this section
3 may be referred to as the "energy storage system income tax
4 credit".

5 B. The department shall allow an energy storage
6 system income tax credit only for an installed system that is
7 certified by the energy, minerals and natural resources
8 department. The energy storage system income tax credit shall
9 not exceed the lesser of:

10 (1) five thousand dollars (\$5,000) for an
11 energy storage system installed on residential property;

12 (2) one hundred fifty thousand dollars
13 (\$150,000) for an energy storage system installed on commercial
14 property; or

15 (3) thirty percent of the total cost to
16 purchase and install an energy storage system, regardless of
17 the type of property.

18 C. The taxation and revenue department shall allow
19 a maximum annual aggregate of two million dollars (\$2,000,000)
20 in energy storage system income tax credits and energy storage
21 system corporate income tax credits, pursuant to Section 2 of
22 this 2020 act, per fiscal year. Completed applications for the
23 credit shall be considered in the order received by the
24 taxation and revenue department. If the maximum annual
25 aggregate is met in a fiscal year, the taxation and revenue

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1 department shall notify the energy, minerals and natural
2 resources department that no other energy storage systems may
3 be certified for that fiscal year.

4 D. A taxpayer may claim an energy storage system
5 income tax credit for the taxable year in which the taxpayer
6 installs an energy storage system. To receive the tax credit,
7 a taxpayer shall apply to the taxation and revenue department
8 on forms and in the manner prescribed by that department. The
9 application shall include the certification made by the energy,
10 minerals and natural resources department pursuant to
11 Subsection H of this section.

12 E. That portion of an energy storage system income
13 tax credit that exceeds a taxpayer's income tax liability for
14 the taxable year in which the credit is claimed shall not be
15 refundable and shall not be carried forward to any other
16 taxable year.

17 F. Married individuals filing separate returns for
18 a taxable year for which they could have filed a joint return
19 may each claim only one-half of the energy storage system
20 income tax credit that would have been claimed on a joint
21 return.

22 G. A taxpayer may be allocated the right to claim
23 an energy storage system income tax credit in proportion to the
24 taxpayer's ownership interest if the taxpayer owns an interest
25 in a business entity that is taxed for federal income tax

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1 purposes as a partnership or limited liability company and that
2 business entity has met all of the requirements to be eligible
3 for the credit. The total credit claimed by all members of the
4 partnership or limited liability company shall not exceed the
5 allowable credit pursuant to Subsection B of this section.

6 H. The energy, minerals and natural resources
7 department shall adopt rules establishing procedures to provide
8 certification of an energy storage system installed on a
9 taxpayer's property for purposes of obtaining an energy storage
10 system income tax credit, including a process for providing
11 notice to taxpayers if the maximum annual aggregate amount
12 pursuant to Subsection C of this section has been met.

13 Completed applications for certification shall be considered in
14 the order received by the energy, minerals and natural
15 resources department.

16 I. A taxpayer allowed a tax credit pursuant to this
17 section shall report the amount of the credit to the taxation
18 and revenue department in a manner required by that department.

19 J. The taxation and revenue department shall
20 compile an annual report on the energy storage system income
21 tax credit that shall include the number of taxpayers approved
22 by the energy, minerals and natural resources department to
23 receive the credit, the number and aggregate amount of credits
24 approved and applied against income tax liability and any other
25 information necessary to evaluate the credit. The taxation and

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1 revenue department shall present the annual report to the
2 revenue stabilization and tax policy committee and the
3 legislative finance committee with an analysis of the cost of
4 the tax credit.

5 K. As used in this section, "energy storage system"
6 means a system used to store electrical energy, or mechanical,
7 chemical or thermal energy that was once electrical energy, for
8 use as electrical energy at a later time or to displace energy
9 at a later time."

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

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

14 A. A taxpayer that files a New Mexico corporate
15 income tax return and installs an energy storage system on the
16 taxpayer's property after January 1, 2020 and before January 1,
17 2026 may apply for, and the department may allow, a credit
18 against the taxpayer's tax liability imposed pursuant to the
19 Corporate Income and Franchise Tax Act subject to the
20 provisions of this section. The tax credit provided by this
21 section may be referred to as the "energy storage system
22 corporate income tax credit".

23 B. The department shall allow an energy storage
24 system corporate income tax credit only for an installed system
25 that is certified by the energy, minerals and natural resources

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1 department. The energy storage system corporate income tax
2 credit shall not exceed the lesser of:

3 (1) one hundred fifty thousand dollars
4 (\$150,000) for an energy storage system installed on the
5 taxpayer's property; or

6 (2) thirty percent of the total cost of
7 installation of the energy storage system, regardless of the
8 type of property.

9 C. The taxation and revenue department shall allow
10 a maximum annual aggregate of two million dollars (\$2,000,000)
11 in energy storage system corporate income tax credits and
12 energy storage system income tax credits, pursuant to Section 1
13 of this 2020 act, per fiscal year. Completed applications for
14 the credit shall be considered in the order received by the
15 taxation and revenue department. If the maximum annual
16 aggregate is met in a fiscal year, the taxation and revenue
17 department shall notify the energy, minerals and natural
18 resources department that no other energy storage systems may
19 be certified for that fiscal year.

20 D. A taxpayer may claim an energy storage system
21 corporate income tax credit for the taxable year in which the
22 taxpayer installs an energy storage system. The taxation and
23 revenue department shall not allow more than one energy storage
24 system corporate income tax credit per year for each taxpayer.
25 To receive the tax credit, a taxpayer shall apply to the

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1 taxation and revenue department on forms and in the manner
2 prescribed by that department. The application shall include
3 the certification made by the energy, minerals and natural
4 resources department pursuant to Subsection F of this section.

5 E. That portion of an energy storage system
6 corporate income tax credit that exceeds a taxpayer's corporate
7 income tax liability for the taxable year in which the credit
8 is claimed shall not be refundable and shall not be carried
9 forward to any other taxable year.

10 F. The energy, minerals and natural resources
11 department shall adopt rules establishing procedures to provide
12 certification of an energy storage system installed on a
13 taxpayer's property for purposes of obtaining an energy storage
14 system corporate income tax credit, including a process for
15 providing notice to taxpayers if the maximum annual aggregate
16 amount pursuant to Subsection C of this section has been met.
17 Completed applications for certification shall be considered in
18 the order received by the energy, minerals and natural
19 resources department.

20 G. 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 H. The taxation and revenue department shall
24 compile an annual report on the energy storage system corporate
25 income tax credit that shall include the number of taxpayers

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1 approved by the energy, minerals and natural resources
2 department to receive the credit, the number and aggregate
3 amount of credits approved and applied against corporate income
4 tax liability and any other information necessary to evaluate
5 the credit. The taxation and revenue department shall present
6 the annual report to the revenue stabilization and tax policy
7 committee and the legislative finance committee with an
8 analysis of the cost of the tax credit.

9 I. As used in this section, "energy storage system"
10 means a system used to store electrical energy, or mechanical,
11 chemical or thermal energy that was once electrical energy, for
12 use as electrical energy at a later time or to displace energy
13 at a later time."

14 SECTION 3. DELAYED REPEAL.--Sections 1 and 2 of this act
15 are repealed effective January 1, 2027.

16 SECTION 4. APPLICABILITY.--The provisions of this act
17 apply to taxable years beginning on or after January 1, 2020.

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