

HOUSE BILL 593

54TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2019

INTRODUCED BY

Abbas Akhil and Debra M. Sariñana and Nathan P. Small

Pursuant to House Rule 24-1, this document incorporates amendments that have been adopted prior to consideration of this measure by the House. It is a tool to show the amendments in context and is not to be used for the purpose of amendments.

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

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property of a person that purchases electricity at retail after January 1, 2019 and before January 1, 2025 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 an energy system per property, per year, shall be eligible for the credit. The credit provided by this section may be referred to as the "energy storage system income tax credit".

HENRC→~~B. The purpose of the energy storage system income tax credit is to encourage research, development and installation of electricity storage facilities.~~←HENRC

HENRC→~~C.~~ B.←HENRC The taxation and revenue department shall allow an energy storage system income tax credit only for an installed system that is certified by the energy, minerals and natural resources department. The energy storage system income tax credit shall not exceed the lesser of:

- (1) five thousand dollars (\$5,000) for an energy storage system installed on residential property;
- (2) one hundred fifty thousand dollars (\$150,000) for an energy storage system installed on commercial property; or
- (3) thirty percent of the total cost to purchase and install an energy storage system, regardless of the type of property.

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HENRC→~~D.~~ C.←HENRC The taxation and revenue department shall allow a maximum annual aggregate of two million dollars (\$2,000,000) in energy storage system income tax credits and energy storage system corporate income tax credits, pursuant to Section 2 of this 2019 act, per fiscal year HENRC→~~on a first-come, first-served basis~~←HENRC.

Completed applications for the credit shall be considered in the order received by the taxation and revenue department. If the maximum annual aggregate is met in a fiscal year, the taxation and revenue department shall notify the energy, minerals and natural resources department that no other energy storage systems may be certified for that fiscal year.

HENRC→~~E.~~ D.←HENRC A taxpayer may claim an energy storage system income tax credit for the taxable year in which the taxpayer installs an energy storage system. To receive the tax credit, a taxpayer shall apply to the taxation and revenue department on forms and in the manner prescribed by that department. The application shall include the certification made by the energy, minerals and natural resources department pursuant to Subsection HENRC→~~F.~~ H←HENRC of this section.

HENRC→~~F.~~ E.←HENRC That portion of an energy storage system income tax credit that exceeds a taxpayer's income tax liability for the taxable year in which the credit is claimed shall not be refundable and shall not be carried forward to any other taxable year.

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HENRC→~~G.~~ ~~F.~~←HENRC Married individuals filing separate returns for a taxable year for which they could have filed a joint return may each claim only one-half of the energy storage system income tax credit that would have been claimed on a joint return.

HENRC→~~H.~~ ~~G.~~←HENRC A taxpayer may be allocated the right to claim an energy storage system income tax credit in proportion to the taxpayer's ownership interest if the taxpayer owns an interest in a business entity that is taxed for federal income tax purposes as a partnership or limited liability company and that business entity has met all of the requirements to be eligible for the credit. The total credit claimed by all members of the partnership or a limited liability company shall not exceed the allowable credit pursuant to Subsection HENRC→~~G~~ ~~B~~←HENRC of this section.

HENRC→~~I.~~ ~~H.~~←HENRC The energy, minerals and natural resources department shall adopt rules establishing procedures to provide certification of an energy storage system installed on a taxpayer's property for purposes of obtaining an energy storage system income tax credit, including a process for providing notice to taxpayers if the maximum annual aggregate amount pursuant to Subsection HENRC→~~D~~ ~~C~~←HENRC of this section has been met. Completed applications for certification shall be considered in the order received by the energy, minerals and natural resources department.

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HENRC→~~J.~~ I.←HENRC A taxpayer allowed a tax credit pursuant to this section shall report the amount of the credit to the taxation and revenue department in a manner required by that department.

HENRC→~~K.~~ J.←HENRC The taxation and revenue department shall compile an annual report on the energy storage system income tax credit that shall include the number of taxpayers approved by the energy, minerals and natural resources department to receive the credit, the number and aggregate amount of credits approved and applied against income tax liability and any other information necessary to evaluate the effectiveness of the credit. The taxation and revenue department shall present the annual report to the revenue stabilization and tax policy committee and the legislative finance committee with an analysis of the effectiveness and cost of the tax credit and whether the tax credit is performing the purpose for which it was created.

HENRC→~~L.~~ K.←HENRC As used in this section, "energy storage system" means a system used to store electrical energy, or mechanical, chemical or thermal energy that was once electrical energy, for use as electrical energy at a later time."

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

"[NEW MATERIAL] ENERGY STORAGE SYSTEM CORPORATE INCOME TAX

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CREDIT.--

A. A taxpayer that files a New Mexico corporate income tax return and installs an energy storage system on the taxpayer's property after January 1, 2019 and before January 1, 2025 may apply for, and the department may allow, a credit against the taxpayer's tax liability imposed pursuant to the Corporate Income and Franchise Tax Act subject to the provisions of this section. The tax credit provided by this section may be referred to as the "energy storage system corporate income tax credit".

HENRC→~~B. The purpose of the energy storage system corporate income tax credit is to encourage research, development and installation of electricity storage facilities.~~←HENRC

HENRC→~~C.~~ ~~B.~~←HENRC The taxation and revenue department shall allow an energy storage system corporate income tax credit only for an installed system that is certified by the energy, minerals and natural resources department. The energy storage system corporate income tax credit shall not exceed the lesser of:

(1) HENRC→~~fifty thousand dollars (\$50,000)~~ ~~one~~ hundred fifty thousand dollars (\$150,000)←HENRC for an energy storage system installed on the taxpayer's property; or

(2) thirty percent of the total cost of installation of the energy storage system, regardless of the

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type of property.

HENRC→~~D.~~ C.←HENRC The taxation and revenue department shall allow a maximum annual aggregate of two million dollars (\$2,000,000) in energy storage system corporate income tax credits and energy storage system income tax credits, pursuant to Section 1 of this 2019 act, per fiscal year HENRC→~~on a first-come, first-served basis~~←HENRC.

Completed applications for the credit shall be considered in the order received by the taxation and revenue department. If the maximum annual aggregate is met in a fiscal year, the taxation and revenue department shall notify the energy, minerals and natural resources department that no other energy storage systems may be certified for that fiscal year.

HENRC→~~E.~~ D.←HENRC A taxpayer may claim an energy storage system corporate income tax credit for the taxable year in which the taxpayer installs an energy storage system. The taxation and revenue department shall not allow more than one energy storage system corporate income tax credit per year for each taxpayer. To receive the tax credit, a taxpayer shall apply to the taxation and revenue department on forms and in the manner prescribed by that department. The application shall include the certification made by the energy, minerals and natural resources department pursuant to Subsection HENRC→~~F.~~ G.←HENRC of this section.

HENRC→~~F.~~ E.←HENRC That portion of an energy
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storage system corporate income tax credit that exceeds a taxpayer's corporate income tax liability for the taxable year in which the credit is claimed shall not be refundable and shall not be carried forward to any other taxable year.

HENRC→~~G.~~ **F.**←HENRC The energy, minerals and natural resources department shall adopt rules establishing procedures to provide certification of an energy storage system installed on a taxpayer's property for purposes of obtaining an energy storage system corporate income tax credit, including a process for providing notice to taxpayers if the maximum annual aggregate amount pursuant to Subsection HENRC→~~D~~ **C**←HENRC of this section has been met. Completed applications for certification shall be considered in the order received by the energy, minerals and natural resources department.

HENRC→~~H.~~ **G.**←HENRC A taxpayer allowed a tax credit pursuant to this section shall report the amount of the credit to the taxation and revenue department in a manner required by that department.

HENRC→~~I.~~ **H.**←HENRC The taxation and revenue department shall compile an annual report on the energy storage system corporate income tax credit that shall include the number of taxpayers approved by the energy, minerals and natural resources department to receive the credit, the number and aggregate amount of credits approved and applied against corporate income tax liability and any other information

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necessary to evaluate the effectiveness of the credit. The taxation and revenue department shall present the annual report to the revenue stabilization and tax policy committee and the legislative finance committee with an analysis of the effectiveness and cost of the tax credit and whether the tax credit is performing the purpose for which it was created.

HENRC → ~~J.~~ **I.** ← HENRC As used in this section, "energy storage system" means a system used to store electrical energy, or mechanical, chemical or thermal energy that was once electrical energy, for use as electrical energy at a later time."

SECTION 3. DELAYED REPEAL.--Sections 1 and 2 of this act are repealed effective January 1, 2026.

SECTION 4. APPLICABILITY.--The provisions of this act apply to taxable years beginning on or after January 1, 2019.