

1 HOUSE BILL 593

2 **54TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2019**

3 INTRODUCED BY

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

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10 AN ACT

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

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

16 SECTION 1. A new section of the Income Tax Act is enacted
17 to read:

18 "[NEW MATERIAL] ENERGY STORAGE SYSTEM INCOME TAX CREDIT.--

19 A. A taxpayer who is not a dependent of another
20 individual and who installs an energy storage system on the
21 property of a person that purchases electricity at retail after
22 January 1, 2019 and before January 1, 2025 may apply for, and
23 the department may allow, a credit against the taxpayer's tax
24 liability imposed pursuant to the Income Tax Act subject to the
25 provisions of this section. No more than one installation of

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

4 B. The purpose of the energy storage system income
5 tax credit is to encourage research, development and
6 installation of electricity storage facilities.

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

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

14 (2) one hundred fifty thousand dollars
15 (\$150,000) for an energy storage system installed on commercial
16 property; or

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

20 D. The taxation and revenue department shall allow
21 a maximum annual aggregate of two million dollars (\$2,000,000)
22 in energy storage system income tax credits and energy storage
23 system corporate income tax credits, pursuant to Section 2 of
24 this 2019 act, per fiscal year on a first-come, first-served
25 basis. Completed applications for the credit shall be

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

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

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

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

24 H. A taxpayer may be allocated the right to claim
25 an energy storage system income tax credit in proportion to the

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1 taxpayer's ownership interest if the taxpayer owns an interest
2 in a business entity that is taxed for federal income tax
3 purposes as a partnership or limited liability company and that
4 business entity has met all of the requirements to be eligible
5 for the credit. The total credit claimed by all members of the
6 partnership or a limited liability company shall not exceed the
7 allowable credit pursuant to Subsection C of this section.

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

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

21 K. The taxation and revenue department shall
22 compile an annual report on the energy storage system income
23 tax credit that shall include the number of taxpayers approved
24 by the energy, minerals and natural resources department to
25 receive the credit, the number and aggregate amount of credits

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1 approved and applied against income tax liability and any other
2 information necessary to evaluate the effectiveness of the
3 credit. The taxation and revenue department shall present the
4 annual report to the revenue stabilization and tax policy
5 committee and the legislative finance committee with an
6 analysis of the effectiveness and cost of the tax credit and
7 whether the tax credit is performing the purpose for which it
8 was created.

9 L. 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."

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

15 "[NEW MATERIAL] ENERGY STORAGE SYSTEM CORPORATE INCOME TAX
16 CREDIT.--

17 A. A taxpayer that files a New Mexico corporate
18 income tax return and installs an energy storage system on the
19 taxpayer's property after January 1, 2019 and before January 1,
20 2025 may apply for, and the department may allow, a credit
21 against the taxpayer's tax liability imposed pursuant to the
22 Corporate Income and Franchise Tax Act subject to the
23 provisions of this section. The tax credit provided by this
24 section may be referred to as the "energy storage system
25 corporate income tax credit".

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1 B. The purpose of the energy storage system
2 corporate income tax credit is to encourage research,
3 development and installation of electricity storage facilities.

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

9 (1) fifty thousand dollars (\$50,000) for an
10 energy storage system installed on the taxpayer's property; or

11 (2) thirty percent of the total cost of
12 installation of the energy storage system, regardless of the
13 type of property.

14 D. The taxation and revenue department shall allow
15 a maximum annual aggregate of two million dollars (\$2,000,000)
16 in energy storage system corporate income tax credits and
17 energy storage system income tax credits, pursuant to Section 1
18 of this 2019 act, per fiscal year on a first-come, first-served
19 basis. Completed applications for the credit shall be
20 considered in the order received by the taxation and revenue
21 department. If the maximum annual aggregate is met in a fiscal
22 year, the taxation and revenue department shall notify the
23 energy, minerals and natural resources department that no other
24 energy storage systems may be certified for that fiscal year.

25 E. A taxpayer may claim an energy storage system

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1 corporate income tax credit for the taxable year in which the
2 taxpayer installs an energy storage system. The taxation and
3 revenue department shall not allow more than one energy storage
4 system corporate income tax credit per year for each taxpayer.
5 To receive the tax credit, a taxpayer shall apply to the
6 taxation and revenue department on forms and in the manner
7 prescribed by that department. The application shall include
8 the certification made by the energy, minerals and natural
9 resources department pursuant to Subsection G of this section.

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

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

25 H. A taxpayer allowed a tax credit pursuant to this

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1 section shall report the amount of the credit to the taxation
2 and revenue department in a manner required by that department.

3 I. The taxation and revenue department shall
4 compile an annual report on the energy storage system corporate
5 income tax credit that shall include the number of taxpayers
6 approved by the energy, minerals and natural resources
7 department to receive the credit, the number and aggregate
8 amount of credits approved and applied against corporate income
9 tax liability and any other information necessary to evaluate
10 the effectiveness of the credit. The taxation and revenue
11 department shall present the annual report to the revenue
12 stabilization and tax policy committee and the legislative
13 finance committee with an analysis of the effectiveness and
14 cost of the tax credit and whether the tax credit is performing
15 the purpose for which it was created.

16 J. As used in this section, "energy storage system"
17 means a system used to store electrical energy, or mechanical,
18 chemical or thermal energy that was once electrical energy, for
19 use as electrical energy at a later time."

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

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