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HOUSE BILL 201

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

INTRODUCED BY

Abbas Akhil

AN ACT

RELATING TO ENERGY; CREATING THE ENERGY STORAGE SYSTEM INCOME TAX CREDIT; REQUIRING THE TAXATION AND REVENUE DEPARTMENT TO PROVIDE AN ANNUAL REPORT; REQUIRING THE ENERGY, MINERALS AND NATURAL RESOURCES DEPARTMENT TO PROVIDE AN ANNUAL REPORT; 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. For taxable years prior to January 1, 2026, a taxpayer who is not a dependent of another individual and who purchases or installs an energy storage system on the taxpayer's residential property may apply for, and the department may allow, a credit against the taxpayer's tax

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1 liability imposed pursuant to the Income Tax Act subject to the
2 provisions of Subsection C of this section.

3 B. No more than one purchase and installation of an
4 energy storage system per property, per year, shall be eligible
5 for the credit. The credit provided by this section may be
6 referred to as the "energy storage system income tax credit".

7 C. The department shall allow an energy storage
8 system income tax credit only for the purchase and installation
9 of an energy storage system that:

10 (1) is installed in a residence that is served
11 by a rural electric cooperative that uses time-of-use billing
12 to charge for peak and off-peak electric power use;

13 (2) is installed for use with a new or
14 existing photovoltaic system;

15 (3) is designed to provide five to ten
16 kilowatts of direct current;

17 (4) has a minimum of two hours of storage
18 capacity;

19 (5) is certified by the energy, minerals and
20 natural resources department pursuant to rules promulgated
21 pursuant to Subsection J of this section; and

22 (6) is installed in a manner that meets the
23 permitting requirements established by local ordinance or state
24 law.

25 D. The energy storage system income tax credit

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1 shall not exceed the lesser of:

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

4 (2) forty percent of the total cost to
5 purchase and install an energy storage system.

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

14 F. The department shall allow a maximum annual
15 aggregate of five hundred thousand dollars (\$500,000) in energy
16 storage system income tax credits per fiscal year. Completed
17 applications for the credit shall be considered in the order
18 received by the department. If the maximum annual aggregate is
19 met in a fiscal year, the department shall notify the energy,
20 minerals and natural resources department that no other energy
21 storage systems may be eligible for a tax credit for that
22 fiscal year.

23 G. That portion of an energy storage system income
24 tax credit that exceeds a taxpayer's income tax liability for
25 the taxable year in which the credit is claimed shall not be

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1 refundable and shall not be carried forward to any other
2 taxable year.

3 H. Married individuals filing separate returns for
4 a taxable year for which they could have filed a joint return
5 may each claim only one-half of the energy storage system
6 income tax credit that would have been claimed on a joint
7 return.

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

17 J. The energy, minerals and natural resources
18 department shall adopt rules establishing procedures to provide
19 certification of an energy storage system installed on a
20 taxpayer's property for purposes of obtaining an energy storage
21 system income tax credit, including a process for providing
22 notice to taxpayers if the maximum annual aggregate amount
23 pursuant to Subsection F of this section has been met.

24 Completed applications for certification shall be considered in
25 the order received by the energy, minerals and natural

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1 resources department.

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

5 L. The department shall compile an annual report on
6 the energy storage system income tax credit that shall include
7 the number of taxpayers approved by the energy, minerals and
8 natural resources department to receive the credit, the number
9 and aggregate amount of credits approved and applied against
10 income tax liability and any other information necessary to
11 evaluate the credit. The department shall present the annual
12 report to the revenue stabilization and tax policy committee
13 and the legislative finance committee with an analysis of the
14 cost of the tax credit.

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

20 SECTION 2. A new section of the Rural Electric
21 Cooperative Act is enacted to read:

22 "[NEW MATERIAL] ANNUAL REPORTS--EFFECTS OF ELECTRIC ENERGY
23 STORAGE SYSTEMS ON RURAL ELECTRIC COOPERATIVES--EFFECTS ON
24 STATEWIDE ELECTRIC SYSTEM.--

25 A. Beginning on January 1, 2021 and on each

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1 subsequent January 1 thereafter, a cooperative that uses time-
2 of-use billing to charge for peak and off-peak electric power
3 use shall report to the energy, minerals and natural resources
4 department the number of energy storage units that have been
5 installed at properties receiving residential electric power
6 from the cooperative in the preceding calendar year. In a year
7 that a cooperative reports that one or more energy storage
8 units have been installed, the cooperative shall also file a
9 report with the department regarding the degree those energy
10 storage units have contributed to the changes to the following:

- 11 (1) the reliability of the cooperative's
12 electric grid system;
- 13 (2) the operational or maintenance costs for
14 the cooperative's electric system;
- 15 (3) the capacity of the cooperative's electric
16 grid system to use renewable energy sources; and
- 17 (4) change in the demand for peak and off-peak
18 electric use from the cooperative's system.

19 B. The energy, minerals and natural resources
20 department shall compile an annual report based on the
21 cooperative reports filed pursuant to Subsection A of this
22 section regarding the estimated aggregate statewide changes to
23 the statewide electric system, including changes to the:

- 24 (1) reliability of the state's electric grid
25 system;

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(2) operational or maintenance costs for cooperatives in the state; and

(3) capacity of the state's electric grid system to use renewable energy sources.

C. The energy, minerals and natural resources department shall coordinate with the taxation and revenue department to present the annual report required pursuant to Subsection B of this section in conjunction with the presentation required pursuant to Subsection L of Section 1 of this 2020 act."

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

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