

HOUSE BILL 11

55TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2022

INTRODUCED BY

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This document may incorporate amendments proposed by a committee, but not yet adopted, as well as amendments that have been adopted during the current legislative session. The document is a tool to show amendments in context and cannot be used for the purpose of adding amendments to legislation.

FOR THE SCIENCE, TECHNOLOGY AND TELECOMMUNICATIONS COMMITTEE

AN ACT

RELATING TO ENERGY; CREATING THE ENERGY STORAGE SYSTEM INCOME TAX CREDIT; REQUIRING THE ENERGY, MINERALS AND NATURAL RESOURCES DEPARTMENT TO PROVIDE AN ANNUAL REPORT; PROVIDING FOR THE ESTABLISHMENT OF AN ENERGY STORAGE SYSTEM INCOME TAX CREDIT INSTALLATION WEBSITE BY THE ENERGY, MINERALS AND NATURAL RESOURCES DEPARTMENT; IMPOSING A FEE; REQUIRING REPORTS; MAKING AN APPROPRIATION.

.221312.2AIC January 25, 2022 (10:36am)

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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, 2025, a taxpayer who is not a dependent of another individual and who purchases or installs an energy storage system on the taxpayer's agricultural, business or residential property 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 Subsection C of this section. A tax credit may be applied for an energy storage system that is installed behind the meter that is connected to the power grid or installed on a property that is not connected to the grid.

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

C. The department shall allow an energy storage system income tax credit only for the purchase and installation of an energy storage system that HENRC→**is certified by the energy, minerals and natural resources department to**←HENRC :

(1) HENRC→**is**←HENRC HENRC→**be**←HENRC installed on an agricultural, business or residential property;

(2) HENRC→**is**←HENRC HENRC→**be**←HENRC installed for use with a new or existing photovoltaic system;

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HENRC→~~(3) is installed as a freestanding system;~~←HENRC

HENRC→~~(4)~~←HENRC HENRC→(3)←HENRC
HENRC→has←HENRC HENRC→have a rating of four kilowatts or greater with←HENRC a minimum of two hours of storage capacity←HENRC;

HENRC→~~(5)~~←HENRC HENRC→(4)←HENRC
HENRC→is←HENRC HENRC→be←HENRC installed in a manner that meets the permitting requirements established by local ordinance or state law; and

HENRC→~~(6) is installed in a manner so that it can be used as a shared resource with a utility when such control and communication infrastructure exists.~~←HENRC

HENRC→(5) be installed as a stand-alone energy storage system; or, if the energy storage system is grid-tied, the energy storage system has the capability to provide grid services if and when such control and communication infrastructure exists with the service provider.←HENRC

D. The energy storage system income tax credit shall be forty percent of the total cost to purchase and install the system, up to a maximum credit of five thousand dollars (\$5,000).

E. An energy storage system income tax credit shall apply to the components and installation costs that are specific to the storage system itself and shall not apply to

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equipment or installation costs for energy generation.

F. A taxpayer may claim an energy storage system income tax credit for the taxable year in which the taxpayer purchases and installs an energy storage system; provided that if the annual aggregate amount of energy storage system income tax credits established pursuant to Subsection G of this section has been met at the time of the claim, the department shall notify the taxpayer and the taxpayer may claim the credit in the following year. To receive the tax credit, a taxpayer shall apply to the department on forms and in the manner prescribed by the department showing the total cost of the energy storage system and installation and the date of installation. The application shall include HENRC→a certification pursuant to Subsection C of this section and←HENRC an identification number for the energy storage system installation provided by the energy, minerals and natural resources department.

G. The department shall allow a maximum annual aggregate of one million dollars (\$1,000,000) in energy storage system income tax HENRC→credits←HENRC HENRC→credit claims←HENRC per calendar year. Completed applications for the credit shall be considered in the order received by the department and recorded by installation date. If the maximum annual aggregate is met in a calendar year, the department shall post a notice on its website that no other energy storage systems may be eligible for a tax credit for that calendar

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year.

H. For 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, the applicant may carry forward the balance of the credit for a maximum of five consecutive years.

I. 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.

J. 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 limited liability company shall not exceed the allowable credit pursuant to Subsection D of this section.

K. The energy, minerals and natural resources department shall create a publicly available website that a taxpayer can use to report the following data:

- (1) the nine-digit zip code where an energy storage system is installed;
- (2) the size of the energy storage system in

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kilowatts and kilowatt-hours;

(3) the make and model number of the energy storage system;

(4) the total system and installation cost;
and

(5) the date of installation.

L. A taxpayer who has an energy storage system installed on the taxpayer's property and wishes to claim an energy storage system income tax credit pursuant to Subsection F of this section shall report the listed information on the website established pursuant to Subsection K of this section and pay a fee of one hundred dollars (\$100) to the energy, minerals and natural resources department. The energy, minerals and natural resources department shall provide the taxpayer with an identification number to be used on an application to the taxation and revenue department pursuant to Subsection F of this section. The fee shall be retained by the energy, minerals and natural resources department and is appropriated to that department to defray the costs of implementing Subsections K, L and M of this section.

M. By June 30, 2024 and by June 30, 2025, the energy, minerals and natural resources department shall submit a report to the legislative finance committee with the following information:

(1) the number of energy storage systems installed for which an energy storage system income tax credit

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was claimed for the previous taxable year;

(2) the make, model and size of each system installed, listed by the chronological date of installation; and

(3) the aggregate kilowatts and kilowatt-hours of the energy storage systems installed.

N. As used in this section, "energy storage system" means a battery used to store electrical energy for use or to displace energy at a later time."

SECTION 2. APPLICABILITY.--The provisions of this act apply to taxable years beginning on or after January 1, 2023.

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