

HOUSE BILL 32

56TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2023

INTRODUCED BY

Debra M. Sariñana and Mimi Stewart

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.

AN ACT

RELATING TO TAXATION; CREATING THE ENERGY STORAGE SYSTEM INCOME TAX CREDIT.

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, 2028, a

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taxpayer who is not a dependent of another individual and who, on or after March 1, 2023, purchases and installs an energy storage system on the taxpayer's residence or commercial or agricultural property in New Mexico may apply for, and the department may allow, a credit against the taxpayer's tax liability imposed pursuant to the Income Tax Act. The tax credit provided by this section may be referred to as the "energy storage system income tax credit".

B. The department may allow an energy storage system income tax credit of forty percent of the purchase and installation costs of an energy storage system certified pursuant to Subsection C of this section, up to a maximum amount of credit of five thousand dollars (\$5,000) for a system installed on residential property and one hundred fifty thousand dollars (\$150,000) for a system installed on commercial or agricultural property; provided that no more than one system per property shall be eligible for the credit. Costs related to equipment or installation costs for energy generation shall not be eligible.

C. A taxpayer shall apply for certification of eligibility for an energy storage system income tax credit from the energy, minerals and natural resources department on forms and in the manner prescribed by that department. The aggregate amount of credits that may be certified as eligible in any calendar year is four million dollars (\$4,000,000). Completed

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applications shall be considered in the order received. The application shall include proof of purchase and installation of an energy storage system, that the system meets technical specifications and requirements relating to safety, code and standards compliance, lists of eligible components and any additional information that the energy, minerals and natural resources department may require to determine eligibility for the credit. A dated certificate of eligibility shall be issued to the taxpayer providing the amount of credit for which the taxpayer is eligible and the taxable year in which the credit may be claimed.

D. A taxpayer may claim an energy storage system income tax credit for the taxable year in which the taxpayer purchases and installs the system. To receive the tax credit, a taxpayer shall apply to the department on forms and in the manner prescribed by the department within twelve months following the calendar year in which the system was installed. The application shall include a certification made pursuant to Subsection C of this section. If the annual aggregate amount of tax credits allowed pursuant to Subsection C 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 a following taxable year.

E. For that portion of an energy storage system income tax credit that exceeds a taxpayer's tax liability in

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the taxable year in which the credit is claimed, the taxpayer may elect to have the balance of the credit refunded to the taxpayer or carried forward for a maximum of five consecutive year.

F. 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.

G. 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 this section.

H. 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.

I. 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 department to receive the credit, the aggregate amount

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of credits approved and any other information necessary to evaluate the credit. The department shall present the report to the revenue stabilization and tax policy committee and the legislative finance committee with an analysis of the cost of the tax credit.

J. As used in this section, "energy storage system" means a HENRC→stationary,←HENRC commercially available, customer-sited system, including a battery and a battery paired with on-site generation, that is capable of retaining, storing and delivering electrical energy by chemical, thermal, mechanical or other means and HENRC→~~has been tested and certified by a nationally recognized testing laboratory and that:~~

~~(1) is installed for use with a new or existing photovoltaic system;~~

~~(2) has a rating of four kilowatts or greater with a minimum of two hours of storage; and~~

~~(3) is installed as a stand-alone energy storage system; or, if the energy storage system is grid-tied, has the capability to provide grid services if control and communication infrastructure exists with the service provider."~~←HENRC HENRC→:

(1) is installed as a stand-alone energy storage system or is grid-tied; provided that if the system is grid-tied, the system has the capability to provide grid

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services and control and communication infrastructure exists
with the service provider;

(2) has been tested and certified by a
nationally recognized testing laboratory;

(3) has a rating of four kilowatts or greater
with a minimum of two hours of storage; and

(4) is installed for use with a new or
existing photovoltaic system."←HENRC

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

- 6 -