

HOUSE BILL 73

56TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2024

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.

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. A taxpayer who is not a dependent of another

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individual and who, on or after March 1, 2024 and prior to January 1, 2029, purchases and installs an energy storage system on the taxpayer's residential, commercial, industrial 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, industrial 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 who seeks to claim the tax credit provided by this section shall, within twelve months following the calendar year in which the system was installed, apply for certification of eligibility from the energy, minerals and natural resources department on forms and in the manner prescribed by that department. The aggregate amount of credits

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that may be certified for any calendar year is four million dollars (\$4,000,000). The energy, minerals and natural resources department shall publish to its website on a regular basis the annual aggregate amount of energy storage system income tax credits that have been certified for each calendar year in which credits are certified. Completed 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. If the energy, minerals and natural resources department determines that a taxpayer meets the requirements to claim a tax credit pursuant to this section, that department shall issue a dated certificate of eligibility to the taxpayer providing the amount of credit for which the taxpayer is eligible and the taxable year for which the credit may be claimed. HENRC→If a taxpayer applies for and meets the requirements for a tax credit pursuant to this section, but the maximum aggregate amount of credits have been certified for that taxable year, the energy, minerals and natural resources department shall issue the taxpayer a certificate of eligibility for the next taxable year in which there are

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available certifications.←HENRC

D. To receive a tax credit provided by this section, a taxpayer shall apply to the department on forms and in the manner prescribed by the department. The application shall include a certification of eligibility issued pursuant to Subsection C of this section.

E. For that portion of an energy storage system income tax credit that exceeds a taxpayer's tax liability in the taxable year in which the credit is claimed, the taxpayer may elect to have the balance of the credit refunded to the taxpayer.

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.

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

I. The energy, minerals and natural resources department shall provide to the taxation and revenue department certification information for all taxpayers to whom certificates are issued in a secure and regular manner as agreed upon by both departments.

J. The 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 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.

K. As used in this section:

(1) "energy storage system" means a stationary, 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:

(a) is installed as a stand-alone energy

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storage system or is grid-tied; provided that if the system is grid-tied, the system has the capability to provide grid services HENRC→and←HENRC HENRC→via←HENRC control and communication infrastructure HENRC→exists with the service provider←HENRC ;

(b) has been tested and certified by a nationally recognized testing laboratory; HENRC→and←HENRC

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

HENRC→(d)←is installed for use with a photovoltaic system; and←HENRC

(2) "residential property" means real property located in this state and improved by a permanent structure of one to four living units that are used primarily for permanent human habitation."

SECTION 2. APPLICABILITY.--The provisions of this act apply to taxable years beginning on or after January 1, 2024.