

HOUSE BILL 201

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

INTRODUCED BY

Abbas Akhil

This document incorporates amendments that have been adopted during the current legislative session. The document is a tool to show the amendments in context and is not to be used for the purpose of amendments.

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.--

.216012.4AIC February 3, 2020 (4:47pm)

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A. For taxable years prior to January 1, HENRC→2026←HENRC HENRC→2023←HENRC, 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 liability imposed pursuant to the Income Tax Act subject to the provisions of Subsection C of this section.

B. No more than one purchase and installation of an energy storage system per property HENRC→, per year, ←HENRC 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:

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

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

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

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

(5) is certified by the energy, minerals and

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natural resources department pursuant to rules promulgated pursuant to Subsection J of this section; and

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

D. The energy storage system income tax credit shall not exceed the lesser of:

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

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

E. 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. To receive the tax credit, a taxpayer shall apply to the department on forms and in the manner prescribed by the department. The application shall include the certification made by the energy, minerals and natural resources department pursuant to Subsection J of this section.

F. The department shall allow a maximum annual aggregate of five hundred thousand dollars (\$500,000) in energy storage system income tax credits per fiscal year. Completed applications for the credit shall be considered in the order received by the department. If the maximum annual aggregate is met in a fiscal year, the department shall notify the energy,

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minerals and natural resources department that no other energy storage systems may be eligible for a tax credit for that fiscal year.

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

H. 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.

I. 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.

J. The energy, minerals and natural resources department shall adopt rules establishing procedures to provide certification of an energy storage system installed on a

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taxpayer's property for purposes of obtaining an energy storage system income tax credit, including a process for providing notice to taxpayers if the maximum annual aggregate amount pursuant to Subsection F of this section has been met. Completed applications for certification shall be considered in the order received by the energy, minerals and natural resources department.

K. 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.

L. 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 energy, minerals and natural resources department to receive the credit, the number and aggregate amount of credits approved and applied against income tax liability and any other information necessary to evaluate the credit. The department shall present the annual report to the revenue stabilization and tax policy committee and the legislative finance committee with an analysis of the cost of the tax credit.

M. As used in this section, "energy storage system" means a HENRC→battery←HENRC system used to store electrical energy HENRC→, or mechanical, chemical or thermal energy that was once electrical energy, ←HENRC for use as electrical energy at a later time or to displace energy at a later time."

SECTION 2. A new section of the Rural Electric

Cooperative Act is enacted to read:

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

A. Beginning on January 1, ~~HENRC~~**2021**~~HENRC~~  
~~HENRC~~**2022**~~HENRC~~ and on each subsequent January 1 thereafter, a cooperative that uses time-of-use billing to charge for peak and off-peak electric power use shall report to the energy, minerals and natural resources department the number of energy storage units that have been installed at properties receiving residential electric power from the cooperative in the preceding calendar year. In a year that a cooperative reports that one or more energy storage units have been installed, the cooperative shall also file a report with the department regarding the degree those energy storage units have contributed to the changes to the following:

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

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

- (1) reliability of the state's electric grid system;
- (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, HENRC→2027←HENRC  
HENRC→2023←HENRC.

SECTION 4. APPLICABILITY.--The provisions of this act apply to taxable years beginning on or after January 1, HENRC→2020←HENRC HENRC→2021←HENRC.