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HOUSE BILL 32

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

INTRODUCED BY

Debra M. Sariñana and Mimi Stewart and Tara L. Lujan

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 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

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1 "energy storage system income tax credit".

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

13 C. A taxpayer shall apply for certification of
14 eligibility for an energy storage system income tax credit from
15 the energy, minerals and natural resources department on forms
16 and in the manner prescribed by that department. The aggregate
17 amount of credits that may be certified as eligible in any
18 calendar year is four million dollars (\$4,000,000). Completed
19 applications shall be considered in the order received. The
20 application shall include proof of purchase and installation of
21 an energy storage system, that the system meets technical
22 specifications and requirements relating to safety, code and
23 standards compliance, lists of eligible components and any
24 additional information that the energy, minerals and natural
25 resources department may require to determine eligibility for

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1 the credit. A dated certificate of eligibility shall be issued
2 to the taxpayer providing the amount of credit for which the
3 taxpayer is eligible and the taxable year in which the credit
4 may be claimed.

5 D. A taxpayer may claim an energy storage system
6 income tax credit for the taxable year in which the taxpayer
7 purchases and installs the system. To receive the tax credit,
8 a taxpayer shall apply to the department on forms and in the
9 manner prescribed by the department within twelve months
10 following the calendar year in which the system was installed.
11 The application shall include a certification made pursuant to
12 Subsection C of this section. If the annual aggregate amount
13 of tax credits allowed pursuant to Subsection C of this section
14 has been met at the time of the claim, the department shall
15 notify the taxpayer and the taxpayer may claim the credit in a
16 following taxable year.

17 E. For that portion of an energy storage system
18 income tax credit that exceeds a taxpayer's tax liability in
19 the taxable year in which the credit is claimed, the taxpayer
20 may elect to have the balance of the credit refunded to the
21 taxpayer or carried forward for a maximum of five consecutive
22 year.

23 F. Married individuals filing separate returns for
24 a taxable year for which they could have filed a joint return
25 may each claim only one-half of the energy storage system

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1 income tax credit that would have been claimed on a joint
2 return.

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

12 H. A taxpayer allowed a tax credit pursuant to this
13 section shall report the amount of the credit to the taxation
14 and revenue department in a manner required by that department.

15 I. The taxation and revenue department shall
16 compile an annual report on the energy storage system income
17 tax credit that shall include the number of taxpayers approved
18 by the department to receive the credit, the aggregate amount
19 of credits approved and any other information necessary to
20 evaluate the credit. The department shall present the report
21 to the revenue stabilization and tax policy committee and the
22 legislative finance committee with an analysis of the cost of
23 the tax credit.

24 J. As used in this section, "energy storage system"
25 means a commercially available, customer-sited system,

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1 including a battery and a battery paired with on-site
2 generation, that is capable of retaining, storing and
3 delivering electrical energy by chemical, thermal, mechanical
4 or other means and has been tested and certified by a
5 nationally recognized testing laboratory and that:

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

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

10 (3) is installed as a stand-alone energy
11 storage system; or, if the energy storage system is grid-tied,
12 has the capability to provide grid services if control and
13 communication infrastructure exists with the service provider."

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