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HOUSE BILL

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

INTRODUCED BY

DISCUSSION DRAFT

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.

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

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1 taxpayer's agricultural, business or residential property may  
2 apply for, and the department may allow, a credit against the  
3 taxpayer's tax liability imposed pursuant to the Income Tax Act  
4 subject to the provisions of Subsection C of this section. A  
5 tax credit may be applied for an energy storage system that is  
6 installed behind the meter that is connected to the power grid  
7 or installed on a property that is not connected to the grid.

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

12 C. The department shall allow an energy storage  
13 system income tax credit only for the purchase and installation  
14 of an energy storage system that:

15 (1) is installed on an agricultural, business  
16 or residential property;

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

19 (3) is installed as a freestanding system;

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

22 (5) is installed in a manner that meets the  
23 permitting requirements established by local ordinance or state  
24 law; and

25 (6) is installed in a manner so that it can be

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1 used as a shared resource with a utility when such control and  
2 communication infrastructure exists.

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

7 E. An energy storage system income tax credit shall  
8 apply to the components and installation costs that are  
9 specific to the storage system itself and shall not apply to  
10 equipment or installation costs for energy generation.

11 F. A taxpayer may claim an energy storage system  
12 income tax credit for the taxable year in which the taxpayer  
13 purchases and installs an energy storage system; provided that  
14 if the annual aggregate amount of energy storage system income  
15 tax credits established pursuant to Subsection G of this  
16 section has been met at the time of the claim, the department  
17 shall notify the taxpayer and the taxpayer may claim the credit  
18 in the following year. To receive the tax credit, a taxpayer  
19 shall apply to the department on forms and in the manner  
20 prescribed by the department showing the total cost of the  
21 energy storage system and installation and the date of  
22 installation. The application shall include an identification  
23 number for the energy storage system installation provided by  
24 the energy, minerals and natural resources department.

25 G. The department shall allow a maximum annual

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

9 H. For that portion of an energy storage system  
10 income tax credit that exceeds a taxpayer's income tax  
11 liability for the taxable year in which the credit is claimed,  
12 the applicant may carry forward the balance of the credit for a  
13 maximum of five consecutive years.

14 I. Married individuals filing separate returns for  
15 a taxable year for which they could have filed a joint return  
16 may each claim only one-half of the energy storage system  
17 income tax credit that would have been claimed on a joint  
18 return.

19 J. A taxpayer may be allocated the right to claim  
20 an energy storage system income tax credit in proportion to the  
21 taxpayer's ownership interest if the taxpayer owns an interest  
22 in a business entity that is taxed for federal income tax  
23 purposes as a partnership or limited liability company and that  
24 business entity has met all of the requirements to be eligible  
25 for the credit. The total credit claimed by all members of the

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1 partnership or limited liability company shall not exceed the  
2 allowable credit pursuant to Subsection D of this section.

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

6 (1) the nine-digit zip code where an energy  
7 storage system is installed;

8 (2) the size of the energy storage system in  
9 kilowatts and kilowatt-hours;

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

12 (4) the total system and installation cost;  
13 and

14 (5) the date of installation.

15 L. A taxpayer who has an energy storage system  
16 installed on the taxpayer's property and wishes to claim an  
17 energy storage system income tax credit pursuant to Subsection  
18 F of this section shall report the listed information on the  
19 website established pursuant to Subsection K of this section  
20 and pay a fee of one hundred dollars (\$100) to the energy,  
21 minerals and natural resources department. The energy,  
22 minerals and natural resources department shall provide the  
23 taxpayer with an identification number to be used on an  
24 application to the taxation and revenue department pursuant to  
25 Subsection F of this section. The fee shall be retained by the

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1 energy, minerals and natural resources department and is  
2 appropriated to that department to defray the costs of  
3 implementing Subsections K, L and M of this section.

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

8 (1) the number of energy storage systems  
9 installed for which an energy storage system income tax credit  
10 was claimed for the previous taxable year;

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

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

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

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