

HOUSE ENERGY, ENVIRONMENT AND NATURAL RESOURCES
COMMITTEE SUBSTITUTE FOR
HOUSE BILL 262

55TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2021

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 SYSTEM TAX CREDIT INSTALLATION
WEBSITE BY THE ENERGY, MINERALS AND NATURAL RESOURCES
DEPARTMENT; REQUIRING REPORTS.

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, 2024, a
taxpayer who is not a dependent of another individual and who
purchases or installs an energy storage system on the
taxpayer's agricultural, business or residential property may

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

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

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

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

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

18 (3) is installed as a freestanding system;

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

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

24 (6) is installed in a manner so that it can be
25 used as a shared resource with a utility when such control and

1 communication infrastructure exists.

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

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

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

24 G. The department shall allow a maximum annual
25 aggregate of one million dollars (\$1,000,000) in energy storage

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

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

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

18 J. A taxpayer may be allocated the right to claim
19 an energy storage system income tax credit in proportion to the
20 taxpayer's ownership interest if the taxpayer owns an interest
21 in a business entity that is taxed for federal income tax
22 purposes as a partnership or limited liability company and that
23 business entity has met all of the requirements to be eligible
24 for the credit. The total credit claimed by all members of the
25 partnership or limited liability company shall not exceed the

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1 allowable credit pursuant to Subsection D of this section.

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

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

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

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

11 (4) the total system and installation cost;

12 and

13 (5) the date of installation.

14 L. When a taxpayer has an energy storage system
15 installed on the taxpayer's property:

16 (1) the taxpayer shall report the listed
17 information on the website established pursuant to Subsection K
18 of this section and pay a fee of one hundred dollars (\$100) to
19 the energy, minerals and natural resources department; and

20 (2) the energy, minerals and natural resources
21 department shall provide the taxpayer with an identification
22 number to be used on an application to the taxation and revenue
23 department pursuant to Subsection F of this section.

24 M. By June 30, 2023 and by June 30, 2024, the
25 energy, minerals and natural resources department shall submit

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1 a report to the legislative finance committee with the
2 following information:

3 (1) the number of energy storage systems
4 installed for which an energy storage system income tax credit
5 was claimed for the previous taxable year;

6 (2) the make, model and size of each system
7 installed, listed by the chronological date of installation;
8 and

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

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

14 SECTION 2. APPLICABILITY.--The provisions of this act
15 apply to taxable years beginning on or after January 1, 2022.