

HOUSE BILL 51

57TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2025

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; CREATING THE ENERGY STORAGE SYSTEM CORPORATE 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.--

.228901.4AIC January 28, 2025 (7:26pm)

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A. For a taxable year prior to January 1, 2030, a taxpayer who is not a dependent of another individual and 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 this section, up to a maximum amount of credit of six thousand dollars (\$6,000) for a system installed on residential property and one hundred fifty thousand dollars (\$150,000) for a system installed on nonresidential property, including commercial, industrial or agricultural property; provided that no more than one system per property shall be eligible for the credit. If the energy storage system is installed with a system that generates energy, only the costs related to the energy storage system shall be eligible for the credit.

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 becomes operational,

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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 that may be certified pursuant to this section and Section 2 of this 2025 act for any calendar year is six million dollars (\$6,000,000). 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 and energy storage system corporate income tax credits that have been certified pursuant to this 2025 act 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. HENRC→A taxpayer shall not be eligible for certification pursuant to this section for the purchase and installation of the same energy storage system for which an energy storage system corporate income tax credit was certified pursuant to Section 2 of this 2025 act.←HENRC

D. If the energy, minerals and natural resources department determines that a taxpayer meets the requirements to

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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. If a taxpayer applies for and meets the requirements for a tax credit pursuant to this section, but the maximum aggregate amount of credits has 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 available certifications.

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

HENRC → ~~A taxpayer shall not be allowed to claim the tax credit for the purchase and installation of the same energy storage system for which an energy storage system corporate income tax credit was claimed pursuant to Section 2 of this 2025 act.~~ ← HENRC

F. 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 shall not be refunded and may be carried forward for a maximum of five consecutive taxable years.

G. Married individuals filing separate returns for

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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.

H. 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, limited liability company or S corporation 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, limited liability company or S corporation shall not exceed the allowable credit pursuant to this section.

I. 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.

J. 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.

K. The department shall include the tax credit in the tax expenditure budget compiled pursuant to Section 7-1-84 NMSA 1978.

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L. 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 storage system or is grid-tied; provided that if the system is grid-tied, the system has the capability to provide grid services via control and communication infrastructure;

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

(c) has a rating of three kilowatt-hours or greater; and

(2) "residential property" means real property located in New Mexico and improved by a permanent structure of one to four living units that are used primarily or designed and intended to be used primarily for permanent human habitation."

SECTION 2. A new section of the Corporate Income and Franchise Tax Act is enacted to read:

"[NEW MATERIAL] ENERGY STORAGE SYSTEM CORPORATE INCOME TAX CREDIT.--

A. For a taxable year prior to January 1, 2030, a

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taxpayer that purchases and installs an energy storage system on the taxpayer's 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 Corporate Income and Franchise Tax Act. The tax credit provided by this section may be referred to as the "energy storage system corporate income tax credit".

B. The department may allow an energy storage system corporate income tax credit of forty percent of the purchase and installation costs of an energy storage system certified pursuant to this section, up to a maximum amount of one hundred fifty thousand dollars (\$150,000) for a system installed on nonresidential property, including commercial, industrial or agricultural property; provided that no more than one system per property shall be eligible for the credit. If the energy storage system is installed with a system that generates energy, only the costs related to the energy storage system shall be eligible for the credit.

C. A taxpayer that seeks to claim the tax credit provided by this section shall, within twelve months following the calendar year in which the system becomes operational, 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 that may be certified pursuant to this section and

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Section 1 of this 2025 act for any calendar year is six million dollars (\$6,000,000). 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. HENRC→A taxpayer shall not be eligible for certification pursuant to this section for the purchase and installation of the same energy storage system for which an energy storage system income tax credit was certified pursuant to Section 1 of this 2025 act.←HENRC

D. 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. If a taxpayer applies for and meets the requirements for a tax credit pursuant to this section, but the maximum aggregate amount of credits has been certified for that taxable year, the energy, minerals and natural resources department shall issue the taxpayer a certificate of eligibility for the

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next taxable year in which there are available certifications.

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

HENRC→~~A taxpayer shall not be allowed to claim the tax credit for the purchase and installation of the same energy storage system for which an energy storage system income tax credit was claimed pursuant to Section 1 of this 2025 act.~~←HENRC

F. 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 shall not be refunded and may be carried forward for a maximum of five consecutive taxable years.

G. 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.

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

I. The department shall include the tax credit in the tax expenditure budget compiled pursuant to Section 7-1-84 NMSA 1978.

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J. As used in this section, "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:

(1) is installed as a stand-alone energy storage system or is grid-tied; provided that if the system is grid-tied, the system has the capability to provide grid services via control and communication infrastructure;

(2) has been tested and certified by a nationally recognized testing laboratory; and

(3) has a rating of three kilowatt-hours or greater."

SECTION 3. DELAYED REPEAL.--Sections 1 and 2 of this act are repealed effective January 1, 2031.

SECTION 4. APPLICABILITY.--The provisions of this act apply to taxable years beginning on or after January 1, 2025.