

1 SENATE BILL 301

2 **55TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2021**

3 INTRODUCED BY

4 Antoinette Sedillo Lopez

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10 AN ACT

11 RELATING TO ENERGY; CREATING THE ENERGY STORAGE SYSTEM INCOME
12 TAX CREDIT; REQUIRING THE TAXATION AND REVENUE DEPARTMENT TO
13 PROVIDE AN ANNUAL REPORT; REQUIRING THE ENERGY, MINERALS AND
14 NATURAL RESOURCES DEPARTMENT TO PROVIDE AN ANNUAL REPORT.

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16 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

17 SECTION 1. A new section of the Income Tax Act is enacted
18 to read:

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

20 A. For taxable years prior to January 1, 2024, a
21 taxpayer who is not a dependent of another individual and who
22 purchases or installs an energy storage system on the
23 taxpayer's residential property may apply for, and the
24 department may allow, a credit against the taxpayer's tax
25 liability imposed pursuant to the Income Tax Act subject to the

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1 provisions of Subsection C of this section.

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

6 C. The department shall allow an energy storage
7 system income tax credit only for the purchase and installation
8 of an energy storage system that:

9 (1) is installed in an agriculture enterprise,
10 a business or a residence;

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

13 (3) has a minimum of two hours of storage
14 capacity;

15 (4) is certified by the energy, minerals and
16 natural resources department pursuant to rules promulgated
17 pursuant to Subsection K of this section;

18 (5) is installed in a manner that meets the
19 permitting requirements established by local ordinance or state
20 law; and

21 (6) is installed in a manner so that it can be
22 used as a shared resource with a utility.

23 D. The energy storage system income tax credit
24 shall be forty percent of the total cost to purchase and
25 install the system, up to a maximum credit of five thousand

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1 dollars (\$5,000).

2 E. An energy storage system income tax credit shall
3 apply to the components and installation costs that are
4 specific to the storage system itself and shall not apply to
5 equipment or installation costs for energy generation.

6 F. A taxpayer may claim an energy storage system
7 income tax credit for the taxable year in which the taxpayer
8 purchases and installs an energy storage system; provided that
9 if the annual aggregate amount of energy storage system income
10 tax credits established pursuant to Subsection G of this
11 section has been met at the time of the claim, the department
12 shall notify the taxpayer and the taxpayer may claim the credit
13 in the following year. To receive the tax credit, a taxpayer
14 shall apply to the department on forms and in the manner
15 prescribed by the department. The application shall include a
16 certification made by the energy, minerals and natural
17 resources department pursuant to Subsection K of this section.

18 G. The department shall allow a maximum annual
19 aggregate of one million dollars (\$1,000,000) in energy storage
20 system income tax credits per fiscal year. Completed
21 applications for the credit shall be considered in the order
22 received by the department. If the maximum annual aggregate is
23 met in a fiscal year, the department shall notify the energy,
24 minerals and natural resources department that no other energy
25 storage systems may be eligible for a tax credit for that

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1 fiscal year.

2 H. For that portion of an energy storage system
3 income tax credit that exceeds a taxpayer's income tax
4 liability for the taxable year in which the credit is claimed,
5 the applicant may carry forward the balance of the credit for a
6 maximum of five consecutive years.

7 I. Married individuals filing separate returns for
8 a taxable year for which they could have filed a joint return
9 may each claim only one-half of the energy storage system
10 income tax credit that would have been claimed on a joint
11 return.

12 J. A taxpayer may be allocated the right to claim
13 an energy storage system income tax credit in proportion to the
14 taxpayer's ownership interest if the taxpayer owns an interest
15 in a business entity that is taxed for federal income tax
16 purposes as a partnership or limited liability company and that
17 business entity has met all of the requirements to be eligible
18 for the credit. The total credit claimed by all members of the
19 partnership or limited liability company shall not exceed the
20 allowable credit pursuant to Subsection D of this section.

21 K. The energy, minerals and natural resources
22 department shall adopt rules establishing procedures to:

23 (1) provide certification of an energy storage
24 system installed on a taxpayer's property for purposes of
25 obtaining an energy storage system income tax credit;

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1 (2) provide notice to taxpayers if the maximum
2 annual aggregate amount pursuant to Subsection G of this
3 section has been met; and

4 (3) annually provide the department with
5 information relevant to the presentation required pursuant to
6 Subsection N of this section.

7 L. Completed applications for certification
8 pursuant to Subsection K of this section shall be considered in
9 the order received by the energy, minerals and natural
10 resources department.

11 M. A taxpayer receiving a certification from the
12 energy, minerals and natural resources department pursuant to
13 this section shall provide that certification to the department
14 in a manner required by the department when making a claim for
15 an energy storage system income tax credit.

16 N. The department shall compile an annual report on
17 the energy storage system income tax credit that shall include
18 the number of taxpayers certified by the energy, minerals and
19 natural resources department to receive the credit, the number
20 and aggregate dollar amount of credits approved and applied
21 against income tax liability and any other information
22 necessary to evaluate the credit. The department shall present
23 the annual report to the revenue stabilization and tax policy
24 committee and the legislative finance committee with an
25 analysis of the cost of the tax credit.

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

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