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HOUSE BILL 73

56TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2024

INTRODUCED BY

Debra M. Sariñana

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. A taxpayer who is not a dependent of another individual and who, on or after March 1, 2024 and prior to January 1, 2029, 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

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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, industrial or agricultural property; provided that
10 no more than one system per property shall be eligible for the
11 credit. Costs related to equipment or installation costs for
12 energy generation shall not be eligible.

13 C. A taxpayer who seeks to claim the tax credit
14 provided by this section shall, within twelve months following
15 the calendar year in which the system was installed, apply for
16 certification of eligibility from the energy, minerals and
17 natural resources department on forms and in the manner
18 prescribed by that department. The aggregate amount of credits
19 that may be certified for any calendar year is four million
20 dollars (\$4,000,000). The energy, minerals and natural
21 resources department shall publish to its website on a regular
22 basis the annual aggregate amount of energy storage system
23 income tax credits that have been certified for each calendar
24 year in which credits are certified. Completed applications
25 shall be considered in the order received. The application

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1 shall include proof of purchase and installation of an energy
2 storage system, that the system meets technical specifications
3 and requirements relating to safety, code and standards
4 compliance, lists of eligible components and any additional
5 information that the energy, minerals and natural resources
6 department may require to determine eligibility for the credit.
7 If the energy, minerals and natural resources department
8 determines that a taxpayer meets the requirements to claim a
9 tax credit pursuant to this section, that department shall
10 issue a dated certificate of eligibility to the taxpayer
11 providing the amount of credit for which the taxpayer is
12 eligible and the taxable year for which the credit may be
13 claimed.

14 D. To receive a tax credit provided by this
15 section, a taxpayer shall apply to the department on forms and
16 in the manner prescribed by the department. The application
17 shall include a certification of eligibility issued pursuant to
18 Subsection C of this section.

19 E. For that portion of an energy storage system
20 income tax credit that exceeds a taxpayer's tax liability in
21 the taxable year in which the credit is claimed, the taxpayer
22 may elect to have the balance of the credit refunded to the
23 taxpayer.

24 F. Married individuals filing separate returns for
25 a taxable year for which they could have filed a joint return

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1 may each claim only one-half of the energy storage system
2 income tax credit that would have been claimed on a joint
3 return.

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

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

16 I. The energy, minerals and natural resources
17 department shall provide to the taxation and revenue department
18 certification information for all taxpayers to whom
19 certificates are issued in a secure and regular manner as
20 agreed upon by both departments.

21 J. The department shall compile an annual report on
22 the energy storage system income tax credit that shall include
23 the number of taxpayers approved by the department to receive
24 the credit, the aggregate amount of credits approved and any
25 other information necessary to evaluate the credit. The

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1 department shall present the report to the revenue
2 stabilization and tax policy committee and the legislative
3 finance committee with an analysis of the cost of the tax
4 credit.

5 K. As used in this section:

6 (1) "energy storage system" means a
7 stationary, commercially available, customer-sited system,
8 including a battery and a battery paired with on-site
9 generation, that is capable of retaining, storing and
10 delivering electrical energy by chemical, thermal, mechanical
11 or other means and:

12 (a) is installed as a stand-alone energy
13 storage system or is grid-tied; provided that if the system is
14 grid-tied, the system has the capability to provide grid
15 services and control and communication infrastructure exists
16 with the service provider;

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

19 (c) has a rating of three kilowatts or
20 greater with a minimum of two hours of storage; and

21 (d) is installed for use with a
22 photovoltaic system; and

23 (2) "residential property" means real property
24 located in this state and improved by a permanent structure of
25 one to four living units that are used primarily for permanent

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human habitation."

SECTION 2. APPLICABILITY.--The provisions of this act apply to taxable years beginning on or after January 1, 2024.