

SENATE
STATE OF MINNESOTA
EIGHTY-NINTH SESSION

S.F. No. 3473

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04/06/2016	5706	Introduction and first reading Referred to Taxes

A bill for an act

relating to taxation; individual income and corporate franchise; providing a credit for the purchase and installation of energy storage systems; requiring a report.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

Section 1. **ENERGY STORAGE TAX CREDIT.**

Subdivision 1. Definitions. (a) For purposes of this section, the following terms have the meanings given.

(b) "Agricultural property" means property classified as class 2a under Minnesota Statutes, section 273.13, subdivision 23.

(c) "Commercial property" means property classified as class 3a under Minnesota Statutes, section 273.13, subdivision 24.

(d) "Cost of the energy storage system" means the actual amount paid for the energy storage system, including accessories, installation, storage devices, power conditioning equipment, control or transfer equipment, and other equipment necessary to the functioning of the energy storage system, but does not include any amount paid for the energy storage system for which another credit is claimed against the tax imposed by Minnesota Statutes, chapter 216C or 290, or costs for equipment that is not necessary for the operation of an energy storage system.

(e) "Electrical grid" means the system of electric generation facilities, transmission lines, and distribution facilities that create and deliver electricity to end users.

(f) "Energy storage system" means property that:

(1) is directly connected to the electrical grid;

(2) is designed to receive electrical energy, store it by means of mechanical, chemical or thermal processes, and convert that energy to electricity for use at a later time;

2.1 (3) complies with standards and provisions of the National Electric Code and
2.2 Underwriters Laboratory, as applicable; and

2.3 (4) has the ability to sustain the system's rated power output for a minimum of one
2.4 hour. Energy storage system does not include property for a hydroelectric pumped storage
2.5 system that stores energy in the form of gravitational potential energy of water that is
2.6 pumped from a lower to a higher elevation.

2.7 (g) "Residential property" means property classified as class 1a or 4a in Minnesota
2.8 Statutes, section 273.13, subdivisions 22 and 25.

2.9 (h) "Taxpayer" has the meaning given in Minnesota Statutes, section 290.01,
2.10 subdivision 6.

2.11 Subd. 2. **Credit eligibility; limitation.** (a) A taxpayer who owns residential,
2.12 agricultural, or commercial property in this state and who purchases and installs an energy
2.13 storage system on the property is eligible to apply for a credit against the tax imposed
2.14 under Minnesota Statutes, chapter 290, equal to 30 percent of the cost of the energy
2.15 storage system. The maximum credit allowed per energy storage system is \$5,000 for an
2.16 energy storage system installed on residential property, and \$25,000 for an energy storage
2.17 system installed on agricultural property or commercial property.

2.18 (b) Credits granted to a partnership, limited liability company taxed as a partnership,
2.19 S corporation, or multiple owners of property are passed through to the partners, members,
2.20 shareholders, or owners, respectively, pro rata to each partner, member, shareholder, or
2.21 owner based on the partner's, member's, or shareholder's share of the entity's assets, or as
2.22 specially allocated in organizational documents or any other executed agreement, as of
2.23 the last day of the taxable year.

2.24 Subd. 3. **Application; allocation of credits; issuance of credit certificates.**

2.25 (a) An eligible taxpayer may apply to the commissioner of commerce to be allocated
2.26 a credit for the taxable year. The commissioner must make the application available
2.27 on the department's Web site by November 1 of the preceding year. The commissioner
2.28 may not issue more than \$5,000,000 in credits for any taxable year and may not approve
2.29 cumulative credits for more than \$500,000 to any taxpayer in a taxable year.

2.30 (b) In order for the purchase and installation of an energy storage system to qualify
2.31 for a credit under this section, the taxpayer must have applied for and been allocated a
2.32 credit before purchasing and installing the energy storage system.

2.33 (c) The commissioner of commerce must allocate credits to taxpayers in the order
2.34 that the tax credit request applications are filed with the department. Within 30 days of
2.35 receiving an application for credit allocation under this subdivision, the commissioner of
2.36 commerce must either allocate a credit if the application meets the criteria in this section,

3.1 request additional information from the taxpayer, or reject the application. The purchase
3.2 and installation of the energy storage system specified in the application must be made
3.3 within 180 days of the allocation of the credits. If the purchase and installation is not made
3.4 within 180 days, the taxpayer may request a 60-day extension, which the commissioner of
3.5 commerce must grant if the taxpayer documents to the commissioner's satisfaction that the
3.6 purchase and installation of the system is in process. A taxpayer who is allocated a credit
3.7 but fails to purchase and install an energy storage system as specified in the application,
3.8 within 120 days of allocation of the credit or within the 60-day extension period, must
3.9 notify the commissioner of commerce of the failure to invest within five business days
3.10 of the expiration of the 120-day purchase and installation period or the 60-day extension
3.11 period, whichever is applicable. On notification to the commissioner of commerce, the
3.12 credit allocation is canceled and available for reallocation.

3.13 (d) All tax credit request applications filed with the commissioner of commerce on
3.14 the same day must be treated as having been filed contemporaneously. If two or more
3.15 taxpayers file tax credit request applications on the same day, and the aggregate amount of
3.16 credit allocation claims exceeds the aggregate limit of credits under this section or the
3.17 lesser amount of credits that remain unallocated on that day, then the credits must be
3.18 allocated among the taxpayers who filed on that day on a pro rata basis with respect to the
3.19 amounts claimed. The pro rata allocation for any one taxpayer is the product obtained by
3.20 multiplying a fraction, the numerator of which is the amount of the credit allocation claim
3.21 filed by the taxpayer and the denominator of which is the total of all credit allocation
3.22 claims filed by all applicants on that day, by the amount of credits that remain unallocated
3.23 on that day for the taxable year.

3.24 (e) A taxpayer must notify the commissioner of commerce when the purchase and
3.25 installation of an energy storage system for which credits were allocated has been made,
3.26 and the taxable year in which the purchase and installation occurred. After receiving
3.27 notification that the purchase and installation was made, the commissioner must issue a
3.28 credit certificate to the taxpayer for the taxable year in which the energy storage system
3.29 was installed.

3.30 (f) The commissioner must notify the commissioner of revenue of credit certificates
3.31 issued under this section.

3.32 Subd. 4. **Annual report.** Beginning in 2018, the commissioner of commerce, in
3.33 consultation with the commissioner of revenue, must annually report by March 15 to the
3.34 chairs and ranking minority members of the legislative committees with jurisdiction over
3.35 taxes and energy policy in the senate and the house of representatives, in compliance

4.1 with Minnesota Statutes, sections 3.195 and 3.197, on the tax credits issued under this
4.2 section. The report must include:

4.3 (1) the number and amount of credits issued;

4.4 (2) the number of taxpayers who claimed more than one credit, with detail on the
4.5 number of credits claimed; and

4.6 (3) any other information the commissioners deem appropriate.

4.7 The commissioner of commerce must include in the report recommendations for changes
4.8 in the calculation or administration of the credit.

4.9 Subd. 5. **Credit allowed.** A taxpayer is allowed a credit against the tax imposed
4.10 under Minnesota Statutes, chapter 290, for the purchase and installation of energy storage
4.11 systems for the taxable year equal to the amount and applicable to the taxable year
4.12 indicated on the certificate provided to the taxpayer under subdivision 3.

4.13 Subd. 6. **Proportional credits.** Each pass-through entity must provide each
4.14 shareholder a statement indicating the shareholder's share of the credit amount certified to
4.15 the pass-through entity based on its share of the pass-through entity's capital assets at the
4.16 time of installation of the energy storage system.

4.17 Subd. 7. **Audit powers.** Notwithstanding the certification eligibility issued by the
4.18 commissioner of commerce under this section, the commissioner of revenue may utilize
4.19 any audit and examination powers under Minnesota Statutes, chapter 270C or 289A, to the
4.20 extent necessary to verify that the taxpayer is eligible for the credit and to assess for the
4.21 amount of any improperly claimed credit.

4.22 Subd. 8. **Sunset.** This section expires for taxable years beginning after December 31,
4.23 2021, except that reporting requirements under subdivision 4 remain in effect through 2022,
4.24 and the expiration of this section does not affect the commissioner of revenue's authority
4.25 to audit or power of examination and assessment for credits claimed under this section.

4.26 **EFFECTIVE DATE.** This section is effective for taxable years beginning after
4.27 December 31, 2016, and before January 1, 2022.