Energy Storage Tax Incentive and Deployment Act of 2021

Senators Heinrich & Collins (S.627) / Representatives Blumenauer, Doyle, and Buchanan (H.R. 1684)

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Energy Storage Tax Incentive and Deployment Act of 2021 (S. 627 / H.R. 1684)
Status: Introduced on 3/9

- Under current law, energy storage only qualifies for the Sec. 48 & 25D investment tax credit (ITC) when integrated with ITC-eligible solar resources under a narrow set of conditions and subject to recapture risks, creating tremendous uncertainty for investors.

- S. 627 & H.R. 1684 modify the existing ITC for clean energy technologies by making energy storage (e.g., grid batteries, pumped hydro, etc.) eligible as a standalone asset.

Background

Numerous energy technologies—fuel cells, solar power, microturbines, combined heat and power, and more—are eligible for investment tax credits (ITC) under Sections 48 and 25D of the tax code. Some of these technologies are competitors to energy storage.

According to IRS administrative guidance, energy storage may access the ITC when integrated with ITC-eligible solar resources. However, IRS administrative guidance restricts the configurations, operations, and technologies that can avail the ITC in this manner. In addition to restricting eligible storage configurations and posing recapture risks for certain unit operations, narrow application of the ITC to energy storage also restricts the benefits of storage integration presently enjoyed by solar power facilities to other power sector resources—whether generation, infrastructure, or load management.

Clarifying eligibility of energy storage for the ITC will create a level playing field across electric grid technologies, improve business certainty, and enable energy storage siting and operations to provide maximum benefit to the power system. Doing so will accelerate decarbonization and enhance electric system resilience while creating more jobs and capital formation in the energy storage industry.

Legislative Summary

Business Energy Investment Credit for Energy Storage (Sec. 48)

For commercial applications, the bill makes energy storage eligible for the investment tax credit in Section 48 of the IRS code. All energy storage technologies would qualify, including batteries, pumped hydropower, thermal storage, hydrogen storage, and any other technologies deemed storage by the IRS in consultation with the Department of Energy. To qualify for the ITC, the system must have a storage capacity of at least 5 kilowatt-hours. The credit allowed is the same as currently available for fuel cells, solar energy, microturbines, combined heat and power, and geothermal heat pumps, including the present schedule of ITC phase down. The bill would extend the ITC for any energy storage project in all

applications, including consumer-owned, grid-connected, or off-grid, as well as paired with any generating resources. As shown in the table below, the Section 48 ITC phases down and then remains at a lower level from the beginning of 2024.

Residential Energy Property Tax Credit for Energy Storage (Sec. 25D)

For residential applications, the bill provides homeowners the same credit for battery storage as currently available for solar energy in Section 25D. Only battery storage is eligible for the residential ITC, and the system must have a storage capacity of at least 3 kilowatt-hours. As shown in the table below, the Section 25D ITC phases out fully at the beginning of 2024.

ITC Phase Out Schedule

Application	Year of Commenced Construction					
	2019	2020	2021	2022	2023	2024 and after
Business Investment Energy Storage (Section 48)	30%	26%	26%	26%	22%	10%
Homeowner Residential Battery Storage (Section 25D)	30%	26%	26%	26%	22%	N/A

In the 115th Congress, the Joint Committee on Taxation (JCT) estimated that storage eligibility for the ITC would create a tax expenditure of $300 million over 10 years. Approximately 30% of that tax expenditure is in years that have now passed without enactment. The legislation has not yet been re-scored by JCT.

Joint Committee on Taxation Score

	Fiscal Years [Millions of Dollars]						
Item	2018	2019	2020	2021	2022	2018-22	2018-27
Section 48.....	-12	-30	-40	-43	-35	-160	-259
Section 25D.....	-1	-5	-10	-13	-13	-42	-51
	Fiscal years already passed						

Legislative Context

In addition to this bill, other legislative packages have included the storage ITC as one of several provisions. For example, the GREEN Act (H.R. 848), which previously passed the House of Representatives as part of the Moving Forward Act of 2020, includes storage ITC eligibility along with provisions, such as an option to elect direct payment in lieu of a tax credit. Similarly, bills like the Clean Energy for America Act and the Energy Sector Innovation Credit Act include a separate ITC for energy storage as part of comprehensive energy tax credit reform proposals.

For More Information

The bill text can be accessed here: S. 627 and H.R. 1684

For more information please visit energystorage.org/ITC or contact ESA at info@energystorage.org.