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## FISCAL IMPACT REPORT

ORIGINAL DATE 1/31/2020  
 SPONSOR Akhil LAST UPDATED 2/8/2020 HB 201/aHENRC  
 SHORT TITLE Energy Storage System Tax credit Changes SB \_\_\_\_\_  
 ANALYST Graeser

### REVENUE (dollars in thousands)

Estimated Revenue					Recurring or Nonrecurring	Fund Affected
FY20	FY21	FY22	FY23	FY24		
0.0	(0.0)	(500.0)	(?)	(0.0)	Recurring	General Fund

Parenthesis ( ) indicate revenue decreases

### ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY20	FY21	FY22	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
<b>Total</b>	See Fiscal Implications					

(Parenthesis ( ) Indicate Expenditure Decreases)

### SOURCES OF INFORMATION

LFC Files

#### Responses Received From

Energy, Minerals and Natural Resources (EMNRD)  
 Taxation and Revenue Department (TRD)

### SUMMARY

#### Synopsis of HENRC Amendment

The House Energy, Environment and Natural Resources Committee amendment to House Bill 201 shortens the pilot project period to two tax years: TY2021 and TY 2022. Only one credit is allowed per property. The energy storage system must include a battery, narrowing the technical scope from “mechanical, chemical, or thermal energy that was once electrical energy.”

The date for the required report from the electric cooperative is delayed one year, but the reporting requirement is repealed effective January 1, 2023 (See Technical Issues).

Synopsis of Original Bill

House Bill 201 creates the Energy Storage System Income Tax Credit. This credit is the lesser of:

- \$5,000 for an energy storage system installed on residential property; or
- 40 percent of the total cost to purchase and install a system, regardless of the type of property.

The tax credit would only be issued to residences and business entities that are served by a rural electric cooperative that uses time-of-use billing for peak and off-peak energy use. The storage system would be used with a new or existing photovoltaic energy systems and sized to provide a minimum of five kilowatts of direct current for a minimum of two hours.

A taxpayer who purchases and installs a system may apply for the energy storage system income tax credit. Married taxpayers filing separately are allowed half of the tax credit (one tax credit per address). A taxpayer may be allocated the right to claim a tax credit based on the taxpayer's ownership interest in a business entity eligible under Federal income tax rules.

The system must be certified by the Energy Minerals and Natural Resources Department (EMNRD). The total amount of credits available each taxable year is capped at \$500 thousand. The issued tax credit may be claimed only for the taxable year in which the taxpayer installs an energy storage system. Any unclaimed portion of the issued tax credit does not carry forward to future years and is not refundable. Individual taxpayers would be allowed to claim the credit only once in the two-year period.

EMNRD must adopt rules for the certification requirements and application process. Applications for the income tax credit would be through forms established by Taxation and Revenue Department (TRD). Tracking of the tax credits and reports will be by the TRD.

HB201 also amends the Rural Electric Cooperative Act to require rural electric coops to prepare an annual report on the number of energy storage units that have been installed at properties receiving residential electric power from the cooperative and the impacts of the energy storage units. EMNRD would be required to compile an annual report to the legislature, starting in 2022 with no end date, however, the section requiring ongoing reporting by the cooperative is repealed as of January 1, 2023. This report must be based upon data submitted by the rural electric coops on the effects of the storage units on the coop's electrical system including:

- Reliability measures
- Operational or maintenance costs
- Capacity changes for renewable energy sources in the coop territory

There is no effective date of this bill. It is assumed that the effective date is 90 days after this session ends (May 20, 2020). The credit is applicable for two tax years beginning January 1, 2021 through the tax year that ends December 31, 2022. The tax credit and associated reporting requirements are repealed effective January 1, 2023 which may compromise any credits earned by installation during calendar 2022. These credits would be claimed on tax returns filed in the spring of 2023 -- after the repeal date. The repeal date should be changed to allow time for credits earned in TY 2022 to be claimed on tax returns filed in the spring of 2023.

## FISCAL IMPLICATIONS

There are currently available battery-based systems that can deliver 10 KWh (5 KW for two hours) priced in the \$2,000 range. Per note from TRD, "...rural electric cooperatives serve about 14 percent of residential electricity customers in the state, and it appears only the larger cooperatives offer time-of-use billing." Perhaps this tax credit is intended to provide incentives for some rural cooperatives to develop time of use billing. Although the primary use of energy storage systems currently is for off-grid solar systems, there is no reason why ordinary residential systems with a photovoltaic energy source could not install an energy storage system and switch to the storage power when rates are peak. The storage system could then be recharged by the photovoltaic system or from the grid at off-peak rates. This may be difficult to implement.

The HENRC amendment may have created a problem as noted above in the discussion of applicability date.

Because of the short applicability period and the uncertainty regarding the repeal date, the fiscal impact table shows the statutory maximum amount for one year only. In reality, the credit would initially be utilized by only a few "early adopter" customers of a few rural cooperative systems. The credit is not refundable and any amounts of credit that exceed the claimant's tax liability for the year of installation would be lost. With only a two-year window to install a battery storage system, it is unlikely that credit applications will approach the \$500 thousand limit.

Both EMNRD and TRD report a significant administrative burden. However, there may be only 100-200 claims over the two-year applicability period and both agencies could process these relatively few claims manually.

This bill may be counter to the LFC tax policy principle of adequacy, efficiency, and equity. Due to the increasing cost of tax expenditures, revenues may be insufficient to cover growing recurring appropriations. In this case, there is an element of using the tax system to recognize what economists call, "positive externalities."

## SIGNIFICANT ISSUES

- Energy storage systems must be associated with a new or existing photovoltaic energy system;
- Issued credits are not refundable and any amounts of credit for the year of installation that exceed the claimants tax liability for that year would be vacated;
- The size of the storage system may be limited to a maximum of ten KWh;
- EMNRD is not necessarily required to develop or promulgate a list of appropriate technologies. Section J only requires EMNRD to "adopt rules establishing procedures to provide certification ... for the purposes of obtaining an energy storage system tax credit."
- Each rural electric cooperative that adopts time-of-use billing is required to report to EMNRD the number of storage systems installed by the customers of the system and the effect on system reliability, operational costs and any changes in demand for peak or off-peak use.

**PERFORMANCE IMPLICATIONS**

The LFC tax policy of accountability is met with the bill’s requirement to report annually to the interim revenue stabilization and tax policy committee (RSTPC) and the legislative finance committee (LFC) regarding the data compiled from the reports from taxpayers claiming the tax credit and other information to determine whether the deduction is meeting its purpose.

**ADMINISTRATIVE IMPLICATIONS**

Because utilization of this proposed credit could be in the range of 100 to 200 claims per year for two years, it might be efficient for TRD to administer these credits manually. Programming this credit might be unreasonable.

However, if TRD decides to implement the administration of the credit within the system, the following is an estimate of those costs.

Implementation of the credit will have an impact on several divisions, with non-recurring soft costs and recurring FTE costs as given below.

**Estimated Additional Operating Budget Impact\***

				R or NR**	Fund(s) or Agency Affected
FY20	FY21	FY22	FY 20-22		
--	\$10	--	\$10	NR	TRD - Information Technology Division
--	\$15	--	\$15	NR	TRD - Revenue Processing Division
--	\$30	\$30	\$60	R	TRD - Revenue Processing Division - ½ FTE

EMNRD reports significant impact to implement the required approvals and data processing.

The fiscal impact for EMNRD includes staff resources to create rules and to develop an electronic submission process for applications. There would be an estimated cost for initiation of the program of \$55.5 thousand, for program, legal and information technology staff. The estimate is based on staff time of 1,500 hours, at a \$37 average hourly rate with fringe benefits, to create new rules and establish an electronic submission system. Ongoing staff resources are required to effectively manage, provide system reviews, certify systems for tax credit eligibility, collect data, and maintain a database. Data collection for the annual reporting on the effectiveness of energy storage systems would require funding starting in 2021.

**TECHNICAL ISSUES**

LFC staff note that the repeal date in Section 3 should be changed to January 1, 2024 to allow time for credits earned by installations in CY 2022 to be claimed on tax returns filed in the spring of 2023.

EMNRD points out the following, “...by repealing sections 1 and 2 on January 1, 2023, HB 201a eliminates the reporting requirements of EMNRD and TRD for 2022 tax credits. The repeal date also reduces the annual report for cooperatives in section 2(A) to one year.”

TRD further expands on this, and a related issue:

There is an issue with the timing of the credit certifications. Typically, credits are claimed

on tax returns after the tax year is over. This is well after when EMNRD would have already certified the credit, and the notification to them from TRD as specified in Section 1-F will occur too late for EMNRD to stop certifying credits. Also, the order in which credits are granted by TRD would then be dependent on the timing and filing method (paper or electronic) chosen by the taxpayer. A “hard” cap administered by TRD will lead to significant uncertainty and delays for taxpayers that could be much improved if the cap was placed at the level of EMNRD’s certification.

Section 2 of the bill requires rural electric cooperatives that use time-of-use billing to produce a report on customers who are installing qualifying systems. However, there is no reporting requirement from the taxpayer to the cooperative, so it may be difficult for the report to be produced.

Does the bill meet the Legislative Finance Committee tax expenditure policy principles?	
1. <b>Vetted:</b>	The proposed new or expanded tax expenditure was vetted through interim legislative committees, such as LFC and the Revenue Stabilization and Tax Policy Committee, to review fiscal, legal, and general policy parameters.
2. <b>Targeted:</b>	The tax expenditure has a clearly stated purpose, long-term goals, and measurable annual targets designed to mark progress toward the goals.
3. <b>Transparent:</b>	The tax expenditure requires at least annual reporting by the recipients, the Taxation and Revenue Department, and other relevant agencies.
4. <b>Accountable:</b>	The required reporting allows for analysis by members of the public to determine progress toward annual targets and determination of effectiveness and efficiency. The tax expenditure is set to expire unless legislative action is taken to review the tax expenditure and extend the expiration date.
5. <b>Effective:</b>	The tax expenditure fulfills the stated purpose. If the tax expenditure is designed to alter behavior – for example, economic development incentives intended to increase economic growth – there are indicators the recipients would not have performed the desired actions “but for” the existence of the tax expenditure.
6. <b>Efficient:</b>	The tax expenditure is the most cost-effective way to achieve the desired results.

LFC Tax Expenditure Policy Principle	Met?	Comments
<b>Vetted</b>	✘	
<b>Targeted</b>		
Clearly stated purpose	✘	Presumably, one purpose is to generate data on the effectiveness of time-of-use billing and small-scale energy storage on system reliability and cost.
Long-term goals	✘	None stated
Measurable targets	✘	Presumably, one purpose is to generate data to develop long term targets.
<b>Transparent</b>	✔	Substantial reporting is required.
<b>Accountable</b>		
Public analysis	?	Uncertain whether rural electric cooperatives will adopt time-of-use billing or whether individuals will adopt energy storage technologies.
Expiration date	✔	
<b>Effective</b>		
Fulfills stated purpose	?	Purpose somewhat unclear
Passes “but for” test	?	May not be applicable.
<b>Efficient</b>	?	
Key:    ✔ Met    ✘ Not Met    ? Unclear		