

LFC Requester:	
----------------	--

AGENCY BILL ANALYSIS

SECTION I: GENERAL INFORMATION

Check all that apply:
Original x **Amendment**
Correction **Substitute**

Date 2/7/2025
Bill No: HB 211

Sponsor: Rep. Joanne Ferrary
Short Title: Solar Market Tax Credit Changes

Agency Name and Code EMNRD 521
Number: _____
Person Writing Samantha Kao
Phone: _____ **Email** samantha.kao@emnrd.nm.gov

SECTION II: FISCAL IMPACT

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY26	FY27		

(Parenthesis () Indicate Expenditure Decreases)

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY26	FY27	FY28		

(Parenthesis () Indicate Expenditure Decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY26	FY27	FY28	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total	75				Nonrecurring	General Fund

(Parenthesis () Indicate Expenditure Decreases)

SECTION III: NARRATIVE

BILL SUMMARY

Synopsis: Section 1 of HB211 amends the New Solar Market Development Tax Credit (NSMDTC) to extend income tax credit eligibility to taxpayers who install solar photovoltaic (PV) systems on property they do not own and sell electricity via a power purchase agreement (PPA) to the owner of that property – effectively leasing the PV system to the homeowner.

For residential solar systems with at least 15kW solar storage capacity, Section 1 of HB211 adds an additional tax credit of 20% with a cap of \$12,000

Section 2 HB211 amends the Corporate Income and Franchise Tax Act to create corporate tax credit identical to the Solar Market Development Income Tax Credit. The corporate tax credit is subject to the same \$30M cap as the NSMDTC in 7-2-18.31 NMSA 1978 Subsection E.

Section 2 strikes the “catch up” provision inserted in to the statute in 2024 that allows filers who would have been eligible to claim the credit in tax years 2020-2023 but were unable to because of the credit had hit the cap. Section 2 also restates the new annual cap at \$30 million and allows filers who are unable to claim to the credit due to the cap in a given year to apply for the credit from the cap in the following year.

FISCAL IMPLICATIONS

EMNRD will have to complete a rulemaking amendment and revise the current web application process, including:

- ITO online web application design, modification development, testing, and implementation.
- Additional documents required for verification of eligibility for the credit.
- Electronic process for issuing certificates to approved taxpayers.
- Tracking credit distribution and ensuring compliance with the fund cap.

This process will require modifications to existing systems and additional resources in the initial stages of implementation. EMNRD requests one-time ITO funds to meet these administrative needs.

SIGNIFICANT ISSUES

Striking 7-2-18.31(F)(1) will block potentially eligible filers from claiming the credit created in that section

Striking the “catch up” provision on Page 4, lines 18-25 could potentially disallow the utilization of that provision for filers who are amending their 2023 return in order to claim the credit for a system installed from 2020-2023. The timeline for amending New Mexico state tax returns is

connected to the federal timeline of three years. We are still within the three year window of time to amend tax returns from both 2022 and 2023, so it is conceivable that a filer who 1) has had a system that was installed from 2020-2023 and certified in the last 12 months, and 2) amends their federal and state returns to attempt to claim the credit under the “catch up” cap in NMSA 7-2-18.31(F)(1) would find themselves disallowed from doing so under the proposed change.

The need for combined distributed generation and storage

HB211 supports the sustainability, affordability, reliability, and resiliency of New Mexico’s electricity grid by doubling the NSMDTC for taxpayers who combine their PV systems with storage. Combined distributed generation and storage can help balance power flows on distribution feeders that are oversaturated with PV-only systems, freeing up additional hosting capacity and avoiding costly infrastructure upgrades. Such “solar-plus-storage” systems can also provide grid resilience and, depending on the system, electricity during grid outages. Currently New Mexico incentivizes rooftop solar via tax credits but has no complementary incentive for technology (such as distributed energy storage) that can be deployed to better manage the grid impact of distributed PV systems in a way that prioritizes efficiency and ratepayer affordability. Key to any potential customer-provided benefit to the grid will be the ability to consult current utility hosting capacity maps.

As transportation, building, and industrial electrification all increase electricity demand in New Mexico, combined distributed energy storage and generation systems supported by HB211 can flex load to off-peak hours and increase the utilization rate of existing grid assets, benefiting utility ratepayers by reducing the need to meet growing peaks with costly, new utility-scale resources such as natural gas peaker plants and associated grid buildout.

Storage incentive size threshold

HB211’s “at least” 15kWh threshold for energy storage system eligibility may exclude many residential applicants from this tax credit, because most residential distributed solar-plus-storage systems include batteries in the 9-13kWh range¹. This could skew the distribution of storage bonus benefits to wealthier individuals with larger houses and power needs. Additionally, the large storage size requirement could make it more attractive to a taxpayer/developer who intends to use the storage and electricity for more than one property, possibly conflicting with Community Solar.

The 15kWh threshold could also negatively incentivize solar installers to overbuild solar systems for the stated needs of the residential consumer which would not be in the best interest of the homeowner.

Installer eligibility concerns

Extending eligibility to both tax credits for installers of leased systems used to fulfill PPA contracts with property owners would be a direct transfer of the credit to the rooftop solar industry rather

¹ Barbose et al. (2021). [Behind-the-Meter Solar+Storage: Market Data and Trends](#). Lawrence Berkeley National Lab. U.S. Dept. of Energy. Pg 14.

than homeowners and businesses. This eligibility could also incentivize the rooftop solar industry to push PPA contracts when such contracts may not be advantageous for that household. Similar arrangements are currently facing legal challenges in other jurisdictions².

Cap utilization concerns

The current language of HB211 does not prioritize smaller residential solar installations over large corporate housing projects, which could result in an unfair distribution of tax credit funds. With a \$30 million cap shared between individual and corporate applicants, there is a significant risk that corporate housing developments and large-scale commercial projects will consume the majority of the available funds. This structure does not guarantee that single-family homeowners, small businesses, or agricultural applicants will have equal access to the credit. Without clear funding allocations or prioritization for smaller projects, individual homeowners who want to adopt solar energy may find themselves unable to benefit from the program once larger corporate filers claim the majority of the credits. To truly support widespread solar adoption, the legislation should consider separate funding pools, priority for smaller projects, or an adjusted cap that ensures fair access for all applicants.

PERFORMANCE IMPLICATIONS

ADMINISTRATIVE IMPLICATIONS

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

HB211 would complement HB51, which provides an incentive for existing rooftop solar customers to adopt solar. Authors may need to clarify that recipients of NSMDTC's storage incentives are ineligible for Energy Storage Tax Credits in HB51.

TECHNICAL ISSUES

To clarify the language of the bill, there may need to be a comma before “or” and after “that taxpayer” in Section 1, subsection A, or some other clarifying language or restructuring. The way the bill currently reads it describes a credit for a property held in leasehold by a taxpayer or another taxpayer ... who installs a PV system and sells the electricity from the system...” (In other words, the amendment could be argued to describe a taxpayer with a leasehold, not any taxpayer.)

OTHER SUBSTANTIVE ISSUES

ALTERNATIVES

² Office of the Connecticut Attorney General. (2023). [Attorney General Tong Sues Vision Solar Over Unfair and Deceptive Sales, Violations of Home Improvement Act.](#)

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

There will be fewer adoptees of energy storage in addition to solar collector arrays on residential, business or agricultural properties around the state.

AMENDMENTS