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FISCAL IMPACT REPORT

SPONSOR <u>Sariñana</u>	LAST UPDATED <u>2/7/25</u>	ORIGINAL DATE <u>1/24/25</u>
SHORT TITLE <u>Energy Storage System Income Tax Credit</u>	BILL <u>House Bill</u>	NUMBER <u>51/aHENRC</u>
	ANALYST <u>Graeser</u>	

REVENUE* (dollars in thousands)

Type	FY25	FY26	FY27	FY28	FY29	Recurring or Nonrecurring	Fund Affected
	\$0	(\$1,000 - \$6,000)	(\$1,000 - \$6,000)	(\$6,000)	(\$6,000)	Recurring	General Fund

Parentheses () indicate revenue decreases.

*Amounts reflect the most recent analysis of this legislation.

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT* (dollars in thousands)

Agency/Program	FY25	FY26	FY27	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
EMNRD	\$150.0	\$150.0	\$150.0	\$450.0	Recurring	General Fund
TRD		\$41.1			Nonrecurring	General Fund
Total	\$150.0	\$191.1	\$150.0	\$491.1		General Fund

Parentheses () indicate expenditure decreases.

*Amounts reflect the most recent analysis of this legislation.

Sources of Information

LFC Files

Agency Analysis Received From

Taxation and Revenue Department (TRD)

Energy, Minerals & Natural Resources Department (EMNRD)

SUMMARY

Synopsis of House Energy, Environment and Natural Resources Committee amendment to House Bill 51

The House Energy, Environment and Natural Resources Committee (HENRC) amendment moves language clarifying that a taxpayer is not eligible for certification under the Income Tax Act for the purchase and installation of the same energy storage system for which an energy storage system corporate income tax credit was certified from Subsection E to Subsection C of the act and similarly moves the corresponding section in the Corporate Income Tax section. This is a logical and stylistic amendment with no practical effect.

Synopsis of House Bill 51

House Bill 51 (HB51) enacts the energy storage system income tax and corporate income tax credits. Both credits are for taxpayers who purchase and install an energy storage system on the taxpayer's residential, commercial, industrial, or agricultural property in New Mexico. The energy storage system income tax credit is 40 percent of the purchase and installation costs of the certified system to a maximum amount of \$6,000 for a system installed on residential property and \$150 thousand for a system installed on a commercial, industrial, or agricultural property. The aggregate maximum amount of credits that may be certified across income and corporate income tax for any calendar year is \$6 million.

EMNRD is required to certify systems eligible for the credits and maintain a website to inform the public when each year's cap has been reached. In line with established practice, when the cap has been reached in a year, EMNRD will issue a certificate of eligibility for the next taxable year certifications are available. Once granted, the credits are not refundable but may be carried over for up to five years.

This bill does not contain an effective date and, as a result, would go into effect 90 days after the Legislature adjourns, or June 20, 2025, if enacted. The provisions of the bill are applicable to taxable years beginning January 1, 2025. The provisions sunset for installations after December 31, 2029.

FISCAL IMPLICATIONS

This bill creates a tax expenditure with a cost that is difficult to determine, although capped at \$6 million a year from tax years 2025 to 2029. LFC has serious concerns about the substantial risk to state revenues from tax expenditures and the increase in revenue volatility from erosion of the revenue base. The Legislature has considered this proposal each year beginning with the 2021 session.

The fiscal impact of the provisions of this bill simply reflects the \$6 million cap along with refundability of the tax credit. With a maximum credit of \$150 thousand for agricultural and commercial installations and \$6,000 for residential installations, 20 commercial systems and 500 residential systems would consume the credit. It is unknown whether these are appropriate targets.

While acknowledging the \$6 million cap, TRD expects the credit to be less than the cap in the first two years. EMNRD similarly expects a reasonably slow start. "Since this market is still in its early stages, the fiscal impact is expected to be under \$6 million in the first two years. However, starting in fiscal year 2028 and onwards, it is anticipated that the market will experience higher adoption and the cap will be reached."

Administration of the act would trigger costs for TRD and EMNRD, with the certification process likely to necessitate significant work force at EMNRD. EMNRD cites a recurring cost of \$150 thousand to implement HB51, while TRD cites a one-time cost of \$41 thousand in FY26 for systems set-up and testing.

The HENRC amendments do not change the fiscal impact of the provisions of this bill.

SIGNIFICANT ISSUES

TRD offers concern about the proliferation of tax incentives:

Tax incentives can support specific industries or promote desired social and economic actions, but the proliferation of more tax incentives has two primary effects. First, it creates special treatment and exceptions within the tax code, resulting in an expansion of tax expenditures and potentially narrowing the tax base. This, in turn, has a negative impact on the general fund, affecting overall revenue; Second, it imposes a heavier compliance burden on both taxpayers and TRD. The proliferation of tax incentives and the subsequent complexity they introduce do not align with the principles of sound tax policy. While tax incentives can serve a purpose, it is crucial to strike a balance that ensures fairness, simplicity, and effectiveness in the tax system.

However, TRD also realizes that Energy Storage will be required for the state to achieve 100 percent renewable electrical energy by 2040.

Energy storage is vital to building a modernized electric grid in New Mexico and is critical for the state's energy transition as energy storage systems are a critical component to growth in renewable energy generation. Energy storage supports electricity demand when production is not available; solar energy, for example, cannot be generated at night. Energy storage also supports the electricity grid to store excess power in periods of low electricity demand and releasing power when electricity demand is high. In 2023, New Mexico ranked in the top 10 states for battery storage capacity (see graph on next page).

EMNRD notes:

HB51 incentivizes the adoption of distributed energy storage systems, which is crucial for balancing the sustainability, affordability, reliability, and resiliency of New Mexico's electricity grid. 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 these systems that prioritizes efficiency and ratepayer affordability.

ENMRD also notes that the nonrefundable status of the tax credit may create issues, stating “[refundable tax credits] create a better benefit to the taxpayer and reduces administrative work. If this tax credit remains nonrefundable, EMNRD may need to seek an FTE to administer the credit.”

EMNRD states that HB51 complements the New Solar Market Development Tax Credit (NSMDTC), as distributed energy storage systems balance the grid impact of distributed solar generation. If a battery storage system has already been certified through NSMDTC then the applicant should be limited in any claim on the same system for this energy storage tax credit.

ENMRD identifies an issue with the size of energy storage system income tax credit:

While battery prices have been declining and should continue to decline in coming years, the \$6,000 tax credit cap is unlikely to meet this bill's objective of covering 40 percent of energy storage costs before the incentive sunsets in 2030, due to average distributed storage system sizes likely *increasing* as utilities adopt time-of-use pricing (as stipulated in recent New Mexico Public Regulatory Commission dockets¹) in the late

2020s. Moreover, given the possible repeal of federal energy storage tax incentives, plus possible tariffs on battery exporters, cost declines could be less dramatic than previously anticipated. Raising the credit cap to \$7,500 might better align the cap with the bill’s objectives.

Costs and Tax Coverage Differences for Three Battery Systems at \$6,000 and \$7,500 Credit Caps

System Cost							
	2024	2025	2026	2027	2028	2029	2030
Small Energy Storage System (5 kW)	\$18,610	\$17,668	\$17,125	\$16,639	\$16,213	\$15,797	\$15,419
Average Energy Storage System (7 kW) (most likely)	\$26,054	\$24,736	\$23,975	\$23,295	\$22,699	\$22,116	\$21,586
Large Energy Storage System (10 kW)	\$37,220	\$35,337	\$34,251	\$33,279	\$32,427	\$31,594	\$30,837
Tax Credit Coverage							
	2024	2025	2026	2027	2028	2029	2030
Small Battery Coverage (w/ 6k Tax Credit)	32%	34%	35%	36%	37%	38%	
Medium Battery Coverage (w/ 6k Tax Credit)	23%	24%	25%	26%	26%	27%	
Large Battery Coverage (w/ 6k Tax Credit)	16%	17%	18%	18%	19%	19%	
	2024	2025	2026	2027	2028	2029	2030
Small Battery Coverage (w/ 7.5k Tax Credit)	40%	42%	44%	45%	46%	47%	
Medium Battery Coverage (w/ 7.5k Tax Credit)	29%	30%	31%	32%	33%	34%	
Large Battery Coverage (w/ 7.5k Tax Credit)	20%	21%	22%	23%	23%	24%	

Source: National Renewable Energy Laboratory’s 2024 Annual Technology Baseline

ADMINISTRATIVE IMPLICATIONS

EMNRD’s Energy Conservation and Management Division will be required to develop and adopt rules, establish the program certification, and administrate the certification processes. EMNRD estimates this will require an additional FTE (if the credit remains nonrefundable), and a quarter of an FTE to develop the online portal. In addition, EMNRD, possibly through the division’s IT, would need to design an online application portal. Depending on the complexity of the final language of the law, this can likely be achieved with existing staff, as ENMRDS is increasingly able to automate transactions.

OTHER SUBSTANTIVE ISSUES

In assessing all tax legislation, LFC staff considers whether the proposal is aligned with committee-adopted tax policy principles. Those five principles:

- **Adequacy:** Revenue should be adequate to fund needed government services.
- **Efficiency:** Tax base should be as broad as possible and avoid excess reliance on one tax.
- **Equity:** Different taxpayers should be treated fairly.
- **Simplicity:** Collection should be simple and easily understood.
- **Accountability:** Preferences should be easy to monitor and evaluate

In addition, staff reviews whether the bill meets principles specific to tax expenditures. Those policies and how this bill addresses those issues:

Tax Expenditure Policy Principle	Met?	Comments
Vetted: 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.	✓	This proposal was first introduced in 2021 and has been thoroughly debated
Targeted: The tax expenditure has a clearly stated purpose, long-term goals, and measurable annual targets designed to mark progress toward the goals. Clearly stated purpose Long-term goals Measurable targets	? ? ?	The cap and sunset, with the requirement for annual Tax Expenditure reporting may address goals and targets.
Transparent: The tax expenditure requires at least annual reporting by the recipients, the Taxation and Revenue Department, and other relevant agencies	✓	
Accountable: 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. Public analysis Expiration date	✓	
Effective: 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. Fulfills stated purpose Passes “but for” test	✓	The \$11K + cost for a residential system will not be popular without the 30% + 40% tax credits.
Efficient: The tax expenditure is the most cost-effective way to achieve the desired results.	?	
Key: ✓ Met * Not Met ? Unclear		

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