

BILL ANALYSIS AND FISCAL IMPACT REPORT
Taxation and Revenue Department

February 4, 2025

Bill: HB-51, as amended by HENRC **Sponsor:** Representative Debra M. Sariñana

Short Title: Energy Storage System Income Tax Credit

Description: This bill creates the energy storage system income tax and corporate income tax credits. Both credits are for taxpayers who, prior to January 1, 2030, 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% 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 \$150,000 for a system installed on a commercial, industrial or agricultural property. No more than one system per property shall be eligible for the credit; and if the storage system is installed with a system that generates energy, only the costs related to the energy system are eligible. A taxpayer shall, within 12 months following the calendar year in which the system becomes operational, apply for certification of eligibility from the Energy, Minerals and Natural Resources Department (EMNRD). The credit is not refundable but may be carried forward for a maximum of five consecutive years.

Married filing separate individuals shall receive one-half of the amount of the credit. A taxpayer may claim a credit in proportion to the taxpayer's ownership interest in a business entity that is taxed for federal income tax purposes as a partnership, limited liability company or S corporation and has met all the requirements to be eligible for the credit. The department shall compile an annual report on the credit that shall include the number of taxpayers approved, the aggregate amount of credits approved and any other information necessary to evaluate the credit and present the report to the Revenue Stabilization and Tax Policy Committee and the Legislative Finance Committee.

The corporate income tax credit is for \$150,000 for a single system installed on nonresidential property, including commercial, industrial or agricultural property. The corporate credit is also not refundable but may be carried forward for a maximum of five consecutive years.

The aggregate amount of credits that may be certified across income and corporate income tax for any calendar year is \$6 million.

The *House Energy, Environment and Natural Resources Committee* 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 to an earlier section of the act and similarly moves the corresponding section in the Corporate Income Tax section.

Effective Date: Not specified; 90 days following adjournment (June 20, 2025). The provisions of this act apply to taxable years beginning on or after January 1, 2025.

Taxation and Revenue Department Analyst: Sara Grubbs

Estimated Revenue Impact*					R or NR**	Fund(s) Affected
FY2025	FY2026	FY2027	FY2028	FY2029		
--	(\$1,000 - \$6,000)	(\$1,000 - \$6,000)	(\$6,000)	(\$6,000)	R	General Fund

* In thousands of dollars. Parentheses () indicate a revenue loss. ** Recurring (R) or Non-Recurring (NR).

Methodology for Estimated Revenue Impact: New Mexico has seen a growing interest in battery storage projects in recent years. While the market for energy storage is still considered underdeveloped, notable projects have emerged. The U.S. Energy Information Administration (EIA) provides data and reports on battery storage in the United States, including New Mexico. Their reports, such as the "Battery Storage in the United States: An Update on Market Trends¹," highlighted New Mexico as a developing market. One significant project is the Buena Vista Energy Center in Otero County. This facility, completed in early 2023, has a storage capacity of 50 megawatts (MW). Two storage facilities began operations in 2024, the San Juan Solar I in San Juan County with a capacity of 100 MW, and the Sky Ranch Solar facility located in Valencia County with a storage capacity of 50 MW².

According to the EIA's Monthly Update to Annual Electric Generator Report, there are four planned facilities using battery technology slated to come online in New Mexico in 2025 – one each in Sandoval, Doña Ana, Bernalillo and Luna counties. These facilities will have combined storage capacity of 355 MW. Two additional plants using battery technology are scheduled to begin operations in 2026 with a combined storage capacity of 80 MW - the Rockmont Solar and Storage Project in San Juan County and the Wildcat Solar Power Plant LLC in McKinley County. The Pasilla Solar and Battery Storage in Lea County is expected to come online in late 2027 with a storage capacity of 250 MW³.

The cost of a battery facility is dependent on factors such as maximum storage capacity, location, size of facility, energy duration, and technology employed. In 2021, the total installed cost of a lithium-ion based energy storage system ranged from \$1,037/KW to \$8,631/KW⁴. PNM's Prosperity Energy Storage Project near Mesa del Sol is the nation's first energy storage facility fully integrated into a utility power grid. This facility has a storage capacity of 1.3 MW with an overall cost of \$5.8 million⁵. Costs are expected to decline in the coming years as technological improvements advance and economies of scale develop.

Since this market is still in its early stages and the timeline for the aforementioned projects may deviate, the fiscal impact of this credit is expected to be under \$6 million in the first two years. Starting in fiscal year 2028 and onwards, it is anticipated that the market will experience higher adoption and the cap will be reached.

Policy Issues: 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 the Taxation and Revenue Department (Tax & Rev). 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.

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

¹ <https://www.eia.gov/analysis/studies/electricity/batterystorage/>

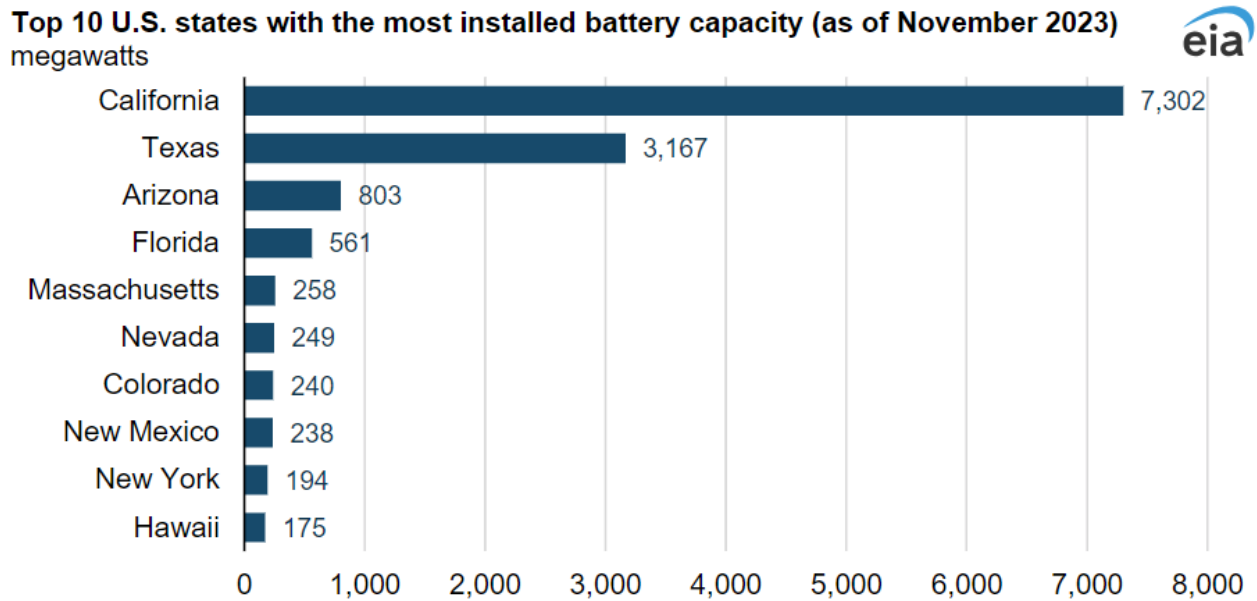
² Preliminary Monthly Electric Generator Inventory (based on Form EIA-860M as a supplement to Form EIA-860) - U.S. Energy Information Administration (EIA).

³ Preliminary Monthly Electric Generator Inventory (based on Form EIA-860M as a supplement to Form EIA-860) - U.S. Energy Information Administration (EIA).

⁴ Energy Storage Grand Challenge Cost and Performance Assessment 2022; www.energy.gov

⁵ [Energy Storage - pnmprod - pnm.com](https://www.pnm.com/energy-storage)

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).



Data source: U.S. Energy Information Administration, *Preliminary Monthly Electric Generator Inventory*, based on Form EIA-860M

According to N.M. Code R. § 17.9.572.10, a public utility in New Mexico is required to have renewable portfolio standards. These standards include:

- no later than January 1, 2030, renewable energy shall comprise no less than 50 percent of each public utility’s total retail sales to New Mexico customers;
- no later than January 1, 2040, renewable energy resources shall supply no less than 80 percent of all retail sales of electricity in New Mexico, provided that compliance with this standard until December 31, 2047, shall not require the public utility to displace zero carbon resources in the utility’s generation portfolio as of June 14, 2019; and
- no later than January 1, 2045, zero carbon resources shall supply 100 percent of all retail sales of electricity in New Mexico. Reasonable and consistent progress shall be made over time toward this requirement.

The proposed bill to increase energy storage may incentivize additional renewable energy generation that fulfills these requirements, as storage systems support the efficiency of otherwise variable power sources, such as sun and wind.

The credit has a defined sunset date. Tax & Rev supports sunset dates for policymakers to review the impact of tax expenditures before extending them.

Technical Issues: [Section 1] On page 5, subsection L, part (a), at the end of line 24, insert ‘and’.

[Section 1] Subsection E., on page 4, line 4: Tax & Rev recommends adding "apply for" before the word “claim” and after the word “to” and delete the word “claim”. This updated language will add the requirement for that same energy system not to be applied for with EMNRD. Tax & Rev does not receive information about the energy storage system and therefore cannot ensure that the same energy storage

system cannot be claimed at the time of claim, whereas EMNRD can at the time of application.

[Section 2] A parallel change in the language for the corporate income tax credit, Subsection E., on page 8, line 14: Tax & Rev recommends adding "apply for" before the word "claim" and after the word "to" and delete the word "claim".

[Section 1] Subsection J., on page 5, line 8, at the beginning of the line, insert the word "electronic" before the word "certification."

[Section 2] A parallel change in the language for the corporate income tax credit, Subsection H., on page 9, line 3: at the beginning of the line, insert the word "electronic" before the word "certification."

[Sections 1 and 2] For language consistency in the tax code, Tax & Rev suggests replacing the language in Section 1, page 5, Subsection K., lines 11 through 13 and Section 2, page 9, Subsection I., lines 6 through 8 with the following: "The tax credit provided by this section shall be included in the tax expenditure budget pursuant to Section 7-1-84 NMSA 1978."

Other Issues: [Sections 1 and 2] Tax & Rev notes that while there is a definition of "residential property" under Section 1, Subsection L. on page 6, there are no definitions under either Section 1 or Section 2 for "nonresidential", "commercial", "industrial" or "agricultural" property used under both the income and corporate income tax proposed statutes. These definitions may need further clarification and definition for EMNRD to certify the taxpayer's project for eligibility.

Tax & Rev recommends separately stating the caps for residential and non-residential properties (including commercial, industrial, and agricultural) to ensure that capped funds are not inequitably absorbed by business entities. The allotments for residential and non-residential awards differ dramatically, with a \$6,000 maximum for residential and \$150,000 for non-residential. Given the \$6,000,000 cap shared by both categories, it is possible that the cap could be more quickly exhausted by non-residential entities. This separation addresses the distinctions between the categories and potential inequity in fund absorption. Tax & Rev suggests adding in Section 1, page 2, subsection C, on line 24, and Section 2, page 7, subsection C, line 15, after "dollars (\$6,000,000)." and deleting the period, ", three million dollars (\$3,000,000) for non-residential properties (including commercial, industrial, and agricultural) and three million dollars (\$3,000,000) for residential properties." Suggested caps amounts are split evenly between residential and nonresidential.

Administrative & Compliance Impact: Tax and Rev will update forms, instructions and publications and make information system changes.

Tax & Rev's Administrative Services Division (ASD) will test credit sourcing and perform other systems testing. It is anticipated this work will take approximately 40 hours split between 2 FTE of a pay band 70 and a pay band 80 at a cost of approximately \$2,500. Pay band 70 hours are estimated at time and ½ due to extra hours worked required for implementation.

Tax & Rev's Revenue Processing Division (RPD) will test credit data transfers and perform other systems testing. It is anticipated this work will take approximately 40 hours split between 2 FTE of a pay band 60 and a pay band 85 at a cost of approximately \$2,500.

The implementation of this bill will result in a moderate impact on Tax & Rev's Information Technology Division (ITD), requiring approximately 580 hours or 3.5 months and incurring staff workload costs of approximately \$38,651. The implementation will be included in the annual tax year changes. This estimate assumes that the credit will follow the existing process between TRD and EMNRD which

includes an electronic data exchange.

Estimated Additional Operating Budget Impact*				R or NR**	Fund(s) or Agency Affected
FY2025	FY2026	FY2027	3 Year Total Cost		
--	\$2.5	--	\$2.5	NR	Tax & Rev – ASD – Staff workload
--	\$38.6	--	\$38.6	NR	Tax & Rev – ITD – Staff workload
--	\$2.5	--	\$2.5	NR	Tax & Rev – RPD – Staff workload

* In thousands of dollars. Parentheses () indicate a cost saving. ** Recurring (R) or Non-Recurring (NR).

Related Bills: Similar to HB-73 (2024 Regular Session); and HB-32 (2023 regular session)