F I S C A L I M P A C T R E P O R T

SPONSOR	Sariñana/Dixon/ Stewart	**ORIGINAL DATE** **LAST UPDATED**	01/21/22 01/27/22	**HB**	11/aHENRC
SHORT TITLE	Energy Storage System Tax Credit			**SB**	
				ANALYST	Faubion

REVENUE (dollars in thousands)

Estimated Revenue					Recurring or Nonrecurring	Fund Affected
FY22	**FY23**	**FY24**	**FY25**	**FY26**		
-	Negative and likely minimal	Up to ($1,000.0)	Up to ($1,000.0)	Up to ($1,000.0)	Recurring	General Fund - PIT
-	$20.0	$20.0	$20.0	$20.0	Recurring	EMNRD/General Fund – Application Fee

Parenthesis ( ) indicate revenue decreases

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

FY22	FY23	FY24	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
-	$15.5	-	$15.5	Nonrecurring	TRD - ITD Operating
	$80.0	$80.0	$160.0	Recurring	EMNRD Operating
-	$60.0		$60.0	Nonrecurring	EMNRD Operating

Parenthesis ( ) indicate expenditure decreases.

SOURCES OF INFORMATION
LFC Files

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

SUMMARY

Synopsis of HENRC Amendment

The House Energy, Environment and Natural Resources Committee amendment makes grammatical corrections and clarifies that EMNRD is responsible for certifying energy storage systems (ESSs) as eligible to receive the credit. The amendment also clarifies the ESS must have a 4 kilowatt rating or greater in order to be eligible for the credit. The amendment clarifies the maximum annual aggregate of $1 million is based on credit claims, not certifications, and will be tracked by TRD. Lastly, the amendment clarifies the ESS must be stand-alone or if the energy storage system is grid-tied, has the capability to provide grid services if and when such control and communication infrastructure exists with the service provider.

The requirement that EMNRD certify ESS eligibility will require additional resources and impact EMNRD's recurring operating budget. The estimated costs is currently unspecified.

Synopsis of Original Bill

House Bill 11 proposes a tax credit of 40 percent of the cost of equipment and installation for an energy storage system for taxable years prior to January 1, 2025. The credit is for installation of an energy storage system on the claimant's agricultural, business, or residential property. The system may be installed behind the meter that is connected to the power grid or installed to support an off-grid system. The energy storage system must be installed for use with a new or existing solar photovoltaic system and has a minimum of two hours of storage capacity. If installed in a grid-tied system and the communication and control mechanisms exist, the storage system can be used as a shared resource with a utility. The credit amount is 40 percent of the cost of equipment and installation, limited to a maximum credit of $5,000 per system. Only one credit is allowed for each property.

Aggregate annual approvals are limited to $1 million in aggregate, and applications for the credit will be processed by TRD on a first-come, first-served basis. If aggregate applications exceed this cap, TRD will post notice on the department website that no further applications will be processed that year, but a claimant may file a claim the following year. Approved credits that exceed a taxpayer's tax liability can be carried forward for five years. The tax credits are nonrefundable and not transferable.

EMNRD is assigned the duty to establish a reporting website where an applicant can report an installation. Following that report and payment of a $100 application fee, EMNRD will provide the taxpayer with an identification number to be used in the credit application with TRD.

By June 30, 2024 and June 30, 2025, EMNRD is required to report to the Legislative Finance Committee data regarding energy storage systems installed.

There is no effective date of this bill. It is assumed the effective date is 90 days after this session ends. The provisions of the act are applicable to tax years beginning on or after January 1, 2023.

FISCAL IMPLICATIONS

This bill creates a tax expenditure of $1 million per year.

TRD notes the methodology used to estimate the revenue impact:

> Being that this is a developing market, the fiscal impact will likely be under $1 million in the first fiscal year as consumers begin to take advantage of this credit. Starting in fiscal year 2025 it is assumed that the market will experience higher adoption by consumers. The credit applies to periods prior to January 1, 2025, as such, the fiscal impact estimated in fiscal year 2026 assumes carryforwards from taxpayers who may not be able to receive

credit in fiscal year 2025 due to cap limitations and potential carry forwards of credit amounts from prior years.

LFC assumes some taxpayers may adjust quarterly estimated income tax payments in FY23 in anticipation of receiving the credit. The revenue impacts of such adjustments will be negative and minimal. Because the bill allows taxpayers to rollover claimed credits for up to five years if they exceed their tax liability and allows delayed applications for one year if the $1 million cap is exceeded, some proportion of credits certified will not be applied until FY28.

The fiscal impact for EMNRD includes staff resources to create rules and to develop an electronic submission process for taxpayers to submit information about their installed energy storage systems, collect an application fee, and issue unique identification numbers to successful applicants. There would then be recurring costs for administration of the tax credit. Estimated costs for program initiation would be $60,000, including website design and development, which would require information technology resources, administrative, and legal support. Ongoing staff resources are required to effectively manage data collection and maintain a database.

As amended, HB11 requires EMNRD to certify the eligibility of energy storage systems for the tax credit. This certification will require additional staff resources for rule adoption and staff time for application processing, in addition to the database development noted above. The Energy Conservation and Management Division of EMNRD would require the creation of one new FTE, at a cost of $80.0, to properly administer certifications of energy storage systems for HB 11/a.

As amended, HB11 does propose a $100 application fee which would be paid to EMNRD, which, if the credit was fully utilized (all applications requesting the maximum $5,000 credit, and 200 applications per year), could generate up to $20,000 per year to help offset some of the development costs above.

Implementation of the bill would have a low impact on TRD’s Information and Technology Division (ITD) of approximately two months of work for an estimated staff workload cost of $15,492. This requires updates to the system of record, GenTax and Taxpayer Access Point (TAP) systems to create new reports and update credit applications. The implementation will be included in the annual tax year changes.

SIGNIFICANT ISSUES

EMNRD points out that the definition of energy storage system is defined as a battery system. However, if electricity is the focus of the bill, the definition should focus on only “electric energy storage” and should be simplified to: “Electric Energy Storage System – a system used to capture electric energy produced at one time for use at a later time.”

EMNRD also points out that under the current New Mexico Public Regulation Commission’s Interconnection Manual any solar storage system exceeding 10kW total combined power output would not be eligible for the expedited review process and thus interconnection delays may significantly limit access to the tax credit. Many residential buildings can easily exceed the 10kW limit.

TRD notes the following policy issue: "Although tax incentives may support particular industries or encourage specific behaviors, proliferation of tax incentives adds complexity to the tax code and tax administration."

PERFORMANCE IMPLICATIONS

The LFC tax policy of accountability may be met with the bill's requirement for EMNRD to report annually to the LFC on the data. TRD is not required to report on data compiled from the reports from taxpayers taking the deduction and other information to determine whether the deduction is meeting its purpose but will report as a part of the annual TRD tax expenditure report.

ADMINISTRATIVE IMPLICATIONS

TRD must adopt rules for the credit application process. Applications would be through forms established by TRD. Tracking of the tax credits and updating the website when the cap has been reached will be done by TRD. TRD will distribute the tax credit.

As amended, EMNRD is responsible for certifying the energy storage system in order for the taxpayer to be eligible for a tax credit. EMNRD is also required to maintain a website tracking the location, size, make, model, and installation costs of a certified energy storage system. Upon submittal of such information and the required fee, EMNRD is required to issue a unique identification number for the energy storage system, that number is used as part of the credit application through TRD.

EMNRD must adopt rules for the certification requirements and application process. Applications would be through forms created and maintained by EMNRD. Tracking of the tax credits and reports will be by the EMNRD.EMNRD must also prepare and deliver a report to the LFC.

AMENDMENTS

On page 2, subparagraph (C)(2), "photovoltaic system" is undefined. TRD recommends providing a definition for this term.

On page 2, subparagraph (C)(3), TRD recommends defining "freestanding".

On page 5, line 1, TRD recommends changing the following language "partnership or limited liability company" to "pass-through entity as described by Section 7.3A-2(H) NMSA 1978".

Given the expanded role of EMNRD in the certification of eligible energy storage systems, EMNRD recommends adding language that the fee in Section 1(L) be expanded to include all sections for which EMNRD has responsibility:

Page 6, paragraph L, last sentence (line number unavailable):
"…defray the costs of implementing Subsections B, K, L and M of this Section."

JF/acv