

LFC Requester:	Laird Graeser
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**AGENCY BILL ANALYSIS
2024 REGULAR SESSION**

WITHIN 24 HOURS OF BILL POSTING, UPLOAD ANALYSIS TO:

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{Analysis must be uploaded as a PDF}

SECTION I: GENERAL INFORMATION

{Indicate if analysis is on an original bill, amendment, substitute or a correction of a previous bill}

Check all that apply:

Original **Amendment**
Correction **Substitute**

Date 1/25/24

Bill No: HB 73/a

Sponsor: Reps. Sariñana and Lujan
Short Title: Energy Storage System Income Tax Credit

Agency Name and Code EMNRD 521
Number: _____
Person Writing Analysis: AnnaLinden Weller, Policy Director
Phone: 505-470-5322 **Email:** annalinden.weller@emnrd.nm.gov

SECTION II: FISCAL IMPACT

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY24	FY25		

(Parenthesis () Indicate Expenditure Decreases)

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY24	FY25	FY26		
	(4,000.0)	(4,000.0)	Recurring	GF

(Parenthesis () Indicate Expenditure Decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY24	FY25	FY26	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total	30.0	75.0	750.0	180.0	Recurring	GF

(Parenthesis () Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to: N/A

Duplicates/Relates to Appropriation in the General Appropriation Act: Unknown

SECTION III: NARRATIVE

BILL SUMMARY

Synopsis:

House Bill 73 (HB 73) amends the Income Tax Act to create the Energy Storage System Income Tax Credit. This is a credit against personal income tax (PIT) for the cost of purchasing and installing energy storage systems on the taxpayer’s residential, commercial, industrial, or agricultural property in New Mexico between March 1, 2024, and January 1, 2029. The annual tax credit cap is \$4 million. HB 73 gives EMNRD the responsibility for certifying the energy storage system for the tax credit.

The House Energy, Environment, and Natural Resources Committee amendment to HB 73 (HB 73/a) makes the following changes to the underlying bill:

- In HB 73/a, EMNRD must issue a certificate of eligibility to an eligible taxpayer in the next taxable year if funds are exhausted in the year that they apply for the credit.
- The requirement for a storage system to be installed with a photovoltaic system has been eliminated.
- A technical correction is made in Section 1.K.(1) (a) by deleting the word “and” then inserting the word “via”.
- In Section 1.K(1)(b) the word “and” has been added, ensuring grid control and communication infrastructure must be both tested and certified by a laboratory *and* has a rating of three kilowatts or more with two hours minimum storage.

FISCAL IMPLICATIONS

HB 73/a continues to lack an appropriation for the staff and IT resources for EMNRD which will be necessary to administer the program. EMNRD repeats its fiscal analysis of the underlying bill below:

EMNRD estimates that \$75,000 in recurring funding would be necessary to hire one (1) FTE to develop rules for the program, administer it, and evaluate certification applications – that is, to effectively provide system reviews, certify systems for tax credit eligibility, collect data, and maintain a database of certifications.

In addition, EMNRD would require \$30,000 in one-time IT, legal, and administrative expenditures to develop an electronic submission process for the applications and shepherd the new rule through the rulemaking process.

SIGNIFICANT ISSUES

The HENRC amendment to HB 73 improves the bill by clarifying that an energy storage system does not need to be installed alongside a solar photovoltaic system.

EMNRD's analysis of the policy impact of the underlying bill has not changed with the HENRC amendment. We repeat it below for reference, including continued outstanding issues:

Energy storage systems installed on private property, whether residential, commercial, or agricultural, contribute to bolstering the resilience of the electric grid. As New Mexico faces increasingly aggressive weather events that can knock out electricity distribution – extreme cold, extreme heat, larger and more aggressive storm systems – it is critical that New Mexicans continue to have access to reliable electric power. Distributed energy storage systems, like those incentivized by the tax credit in HB 73/a, can help, as they both absorb increased localized generation (from, for example, a rooftop solar system) on the distribution portion of the electric grid, thereby helping utilities balance electricity generation and demand at the local level, and also can be used as short-term backup power in an emergency. Distributed energy storage systems can also reduce the need to build more transmission lines, as energy can be generated, stored, and then used at the same location, eliminating the need to send electricity across distances.

A tax credit for distributed energy storage systems like the one proposed in HB 73/a might incentivize their adoption across New Mexico. However, it is worth pointing out that utilities will need to adopt further grid modernization strategies and technologies beyond the storage systems themselves to see, manage, and plan for these additional energy sources and sinks on the distribution grid.

With respect to HB 73/a, EMNRD notes several key issues:

Omission of Corporate Tax Option. HB 73/a omits a corporate tax credit option. Other tax credits for equipment on both residential and commercial property usually offer both an individual and corporate tax credit option.

Credit and Credit Cap. The proposed tax credit of 40% of installation costs is larger than the 30% tax credit offered by the federal government, but the residential cap of \$5,000 in HB 73/a is less than the state's Solar Market Development Tax Credit cap of \$6,000. Since battery storage systems generally are more expensive than solar photovoltaic systems, this cap may be limiting. However, the credit cap for commercial and agricultural installations may be appropriate given the larger size and higher costs of those systems; but, such a high cap may result in a small number of commercial and/or agricultural properties using up the majority of the \$4 million cap in any given year, leaving no available funding for residential taxpayers.

Definitions. HB 73/a does not include a definition of what qualifies as residential and what qualifies as agricultural and commercial.

System Requirements and Verification.

The minimum power rating of the energy storage system required by HB 73/a differs from the requirements in the federal tax credit for storage systems. EMNRD also would note that the bill

sponsor should consider whether a different minimum power rating for commercial systems would be more appropriate.

Finally, HB 73/a allows that the energy storage system can be installed as a stand-alone energy storage system; or, if the energy storage system is grid-tied, has the capability to provide grid services if control and communication infrastructure exists with the utility service provider. Most New Mexico utilities are still defining how they themselves will verify the details of control and communication infrastructure.

PERFORMANCE IMPLICATIONS

EMNRD repeats its analysis of the underlying bill:

Adding another tax credit program to EMNRD's certification responsibilities without adding additional FTE and IT resources will slow down processing for *all* tax credit certifications, particularly the reinstated New Solar Market Development Tax Credit, the reinstated Sustainable Buildings tax credit and other tax credits that are administered by EMNRD.

ADMINISTRATIVE IMPLICATIONS

EMNRD repeats its analysis of the underlying bill:

EMNRD's Energy Conservation and Management Division will be required to develop and adopt rules, establish the program certification and administrative certification processes. In addition, EMNRD, possibly through the division's IT, would need to design an online application portal.

EMNRD is required to develop a list of eligible components for the tax credit.

EMNRD is also required to provide the Taxation and Revenue Department certification information for all taxpayers in a secure and regular manner.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

N/A

TECHNICAL ISSUES

Section 1. A. states that the effective date of the tax credit is March 1, 2024. However, Section 2 offers potentially confusing language, indicating the provisions of the act "apply to taxable years beginning on or after January 1, 2024."

OTHER SUBSTANTIVE ISSUES

The tax credit is limited to one system per property, not per taxpayer. Therefore, a taxpayer could receive one tax credit for their home, a second for their commercial building and a third for their agricultural property and perhaps one for a second home.

Caps are not established for residential and commercial/agricultural installations. All facilities are included in the same total cap of \$4 million.

ALTERNATIVES

N/A

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

A specific tax credit program for energy storage systems will not be established.

AMENDMENTS

N/A