BILL ANALYSIS AND FISCAL IMPACT REPORT
Taxation and Revenue Department

January 30, 2024

Bill: SB-232 **Sponsor:** Senators Peter Wirth and Leo Jaramillo and Representative Christine Chandler

Short Title: Energy Storage Industrial Revenue Bonds

Description: This bill amends the Industrial Revenue Bond Act and the County Industrial Revenue Bond Act allowing some qualifying electric storage facilities to be eligible projects under that act. The bill also amends Section 7-9-54.3 NMSA 1978 to allow a deduction from gross receipts, prior to July 1, 2044, for sales of energy storage equipment or related equipment to a government for the purpose of installing an energy storage facility.

Effective Date: July 1, 2024

Taxation and Revenue Department Analyst: Pedro Clavijo

Estimated Revenue Impact*					R or NR**	Fund(s) Affected
FY2024	FY2025	FY2026	FY2027	FY2028		
--	(Unknown but up to $100 per megawatt)	(Unknown but up to $100 per megawatt)	(Unknown but up to $100 per megawatt)	(Unknown but up to $100 per megawatt)	R	General Fund – Section 5
--	(Unknown but up to $60 per megawatt)	(Unknown but up to $60 per megawatt)	(Unknown but up to $60 per megawatt)	(Unknown but up to $60 per megawatt)	R	Local Governments – Section 5

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

Methodology for Estimated Revenue Impact: Section 5: The Taxation and Revenue Department (Tax & Rev) cannot anticipate whether a government will purchase energy storage equipment to estimate a precise fiscal impact of the gross receipts tax deduction. However, estimations from the New Mexico Public Regulation Commission suggest that the cost of 1,000 megawatts of new energy storage capacity would be $2.3 billion.[1] This implies the cost per megawatt is $2.3 million. Tax & Rev used this amount to calculate the potential revenue loss from this bill's deduction. The analysis assumed a constant cost during the periods of revenue impact and used the statewide effective gross receipts tax (GRT) rate.

While the energy storage market is still considered underdeveloped, notable New Mexico private projects have emerged. One significant project is the Buena Vista Energy Center, developed by NextEra Energy Resources. This facility, completed in early 2023 with a capacity of 50 megawatts (MW), is one of the largest battery storage projects in the United States. 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 Trends[2]," highlighted New Mexico as a developing market.

[1] https://nmlegis.gov/Sessions/23%20Regular/firs/SB0456.PDF
[2] https://www.eia.gov/analysis/studies/electricity/batterystorage/

Sections 1-4: The expansion of the Industrial Revenue Bond (IRB) program to include energy storage facilities will reduce property tax and GRT revenues for the state, local governments, and other taxing districts as property purchased pursuant to an issuance of IRBs is owned by the local government, and therefore is not subject to property taxes, and equipment is not subject to GRT, until the completion of the IRB lease and the property is turned over to the business or organization that owns the project.

Policy Issues: Energy storage is vital to building a modernized electric grid in New Mexico and is critical for the state's energy transition toward clean sources as renewables continue to grow. Thus, this deduction aligns with the goals of using energy efficiently, modernizing the energy supply, and replacing extant nonrenewable energy sources.

The expansion of the IRB Acts to include energy storage facilities is consistent with the existing electric generation and transmission facilities allowed for under IRBs. This, however, comes at the cost of foregone property taxes on the project for the period of the ownership of the property by the local government, and its concurrent lease of that property by the local government to the owner of the project.

GRT rests upon the general presumption that all receipts of a person engaged in business in New Mexico are subject to the gross receipts tax and that this rate represents the rate upon which the state collects taxes on transactions. GRT represents the largest recurring revenue source for the state General Fund at around 34%, about 80% of municipal revenue, and 30% of county revenue.

While tax incentives may support particular industries or encourage specific social and economic behaviors, the proliferation of such incentives complicates the tax code. Adding more tax incentives: (1) creates special treatment and exceptions to the code, growing tax expenditures or narrowing the tax base, with a negative impact on the General Fund; and (2) increases the burden of compliance on both taxpayers and Tax & Rev. Adding complexity and exceptions to the tax code does not comport generally with the best tax policy. Tax incentives are also properly used to stimulate developing markets in goods and services.

Technical Issues: None.

Other Issues: None.

Administrative & Compliance Impact: Tax & Rev will update forms, instructions, and publications and make information system changes. Tax & Rev's Administrative Services Division (ASD) anticipates this bill will take approximately 20 hours and two existing full-time employees (FTE). Tax & Rev's Information Technology Division (ITD) estimates no impact as the deduction is not separately reported.

Estimated Additional Operating Budget Impact*				**R or NR****	**Fund(s) or Agency Affected**
FY2024	**FY2025**	**FY2026**	**3 Year Total Cost**		
--	$1.2	--	$1.2	NR	Tax & Rev – ASD – staff workload

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

Related Bills: Duplicate HB-143(2024). Related bill: HB67 (2023).