FISCAL IMPACT REPORT

SPONSOR Padilla **LAST UPDATED** 02/25/25
ORIGINAL DATE 02/21/25
SHORT TITLE Qualified Microgrid Tax Credit **BILL NUMBER** Senate Bill 418
ANALYST Graeser

REVENUE*
(dollars in thousands)

Type	FY25	FY26	FY27	FY28	FY29	Recurring or Nonrecurring	Fund Affected
Microgrid Credit			Up to ($500.0)	Up to ($500.0)	Up to ($500.0)	Recurring	General Fund

Parentheses ( ) indicate revenue decreases.
*Amounts reflect 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
TRD	No fiscal impact	Indeterminate but minimal	Indeterminate but minimal		Recurring	General Fund
EMNRD	No fiscal impact	Indeterminate but minimal	Indeterminate but minimal		Recurring	General Fund

Parentheses ( ) indicate expenditure decreases.
*Amounts reflect most recent analysis of this legislation.

Sources of Information
LFC Files

Agency Analysis Received From
Taxation and Revenue Department (TRD)
Public Regulation Commission (PRC)

SUMMARY

Synopsis of Senate Bill 418

Senate Bill 418 (SB418) authorizes a new energy production modality known as a "microgrid" in Chapter 62 (Electric, Gas and Water Utilities) NMSA 1978. This new section of Chapter 62 allows power production and distribution outside of the authority of the Public Regulation Commission (PRC) and is based on self-sourced power.

A microgrid is defined as a self-sourced power generation facility, capable of operating independently of the grid, but able to be connected to the grid to dispose of surplus power. Since the microgrid is not limited to renewable energy, it could provide power at night or when wind energy is not sufficient. To qualify for this treatment or the tax credit, a microgrid must produce at least 20 megawatts. Microgrids would be allowed statewide, although the tax credit would be restricted to otherwise underserviced and lower-income areas. The bill allows public utilities and

cooperatives regulated by PRC to acquire microgrids and to adjust rates to consider the public interest and need, reliability, and affordability. The bill explicitly declares that the owner/operator of a microgrid is not a public utility or a cooperative.

The bill creates the "qualified microgrid income tax credit," equal to 100 percent of the costs of constructing and installing a qualified microgrid with a cap of $100 thousand per microgrid constructed and installed, as an incentive to build microgrids in underserved areas. Any amount of tax credit that exceeds the taxpayer's income tax liability can be carried forward for twenty years until the credit is exhausted. Although this is not a refundable credit, the credit may be sold or otherwise transferred. The credit is allowed for installation in an underserved area with median income at or near the federal poverty level. This is not a corporate income tax credit and can only be claimed by developers organized as Subchapter S corporations or as limited liability partnerships (LLPs) or corporations (LLCs) that file as pass-through entities.

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 tax credit are applicable to tax years beginning January 1, 2025. There is no sunset date for the basic authority, but microgrids eligible for the tax credit must be installed prior to January 1, 2031. Tax credits generated prior to the sunset date can roll over for twenty years.

FISCAL IMPLICATIONS

Each microgrid constructed and installed in an underserved area generates a tax credit of 100 percent of the cost of construction and installation, limited to $100,000 per installation. These microgrids do not require a certificate of convenience and necessity from PRC. They do require zoning approval of the local jurisdiction and a building permit. A 2018 estimate by the National Renewable Energy Laboratory (NREL) indicated that typical installation costs for solar renewable including battery capacity are in the range of $2 to $5 per watt -- $2 million to $5 million per megawatt.

The $100 thousand tax credit for a 20-megawatt facility represents about 2 percent to 5 percent of the cost of the facility. If the facility is primarily renewable, it would be eligible for federal renewable investment credits of up to 30 percent. A 5-megawatt natural gas turbine generator, when installed, typically costs between $3 million and $5 million depending on the specific model, location, and installation complexity, with an average cost around $1,000 per kilowatt of capacity.[1]

Taxation and Revenue Department (TRD) confirms this analysis:

> In New Mexico, Kit Carson Electric has announced plans to invest $23 million in three new microgrids in its service territory around Taos (Taos Ski Valley, Peñasco, El Rio West).[2] However, these projects could not apply for the tax credit since their estimated power is lower than 20 MWs. Microgrids come in a wide variety of sizes and complexity levels, making it difficult for TRD to estimate a precise fiscal impact. Finally, TRD cannot anticipate whether the proposed non-refundable credit of $100 thousand per microgrid will incentivize a taxpayer to undertake a project of this magnitude.

[1] https://www.eia.gov/electricity/generatorcosts/

However, LFC notes two reasons for locating microgrids in rural areas: (1) Rural counties are experienced in negotiating industrial revenue bonds with accompanying payments in lieu of taxes (PILT), which may be advantageous to microgrids because the IRB statute (4-59-2F) allows any electric generation or transmission facility, not just renewables, to qualify for IRB treatment. (2) The renewable generating component of the microgrid would qualify the developer or operator of the microgrid for federal renewable energy investment credits or renewable energy production credits. The tax (GRT and property tax) consequences of installing a microgrid in an underserved, rural area with a negotiated IRB is moderate. Each 20 MW microgrid would generate about $60 thousand per year in PILT and no GRT. Focusing only on the tax credit, TRD scored this as "indeterminant but negative." Because of the availability of federal credits and IRBs, LFC modeled the impact of five microgrids constructed each year taking advantage of the tax credit and determined potential positive revenues of more than $11 million to local governments and school districts each year, if successful. Because the actual number of projects is unknown and scoring is static, these positive revenues are not reflected on page 1.

The following table assumes five facilities annually.

Revenue Scenario: 5 Microgrids Constructed a Year
(dollars in thousands)

Type	FY25	FY26	FY27	FY28	FY29	Recurring or Nonrecurring	Fund Affected
GRT		Up to $8,870.0	Up to $8,870.0	Up to $8,870.0	Up to $8,870.0	Recurring	General Fund
GRT		Up to $8,190.0	Up to $8,190.0	Up to $8,190.0	Up to $8,190.0	Recurring	Local Governments
Property Tax			Up to $30.0	Up to $80.0	Up to $120.0	Recurring	GOBs
Property Tax			Up to $960.0	Up to $2,350.0	Up to $3,650.0	Recurring	Local Governments

For each 20MW microgrid constructed in an urban area on non-qualified rural area that does not negotiate an IRB, there will be both GRT and Property Tax impacts. In the absence of an industrial revenue bond negotiated with a local government, a facility would generate gross receipts or compensating taxes on the initial construction costs and property taxes for the life of the project – estimated at 30 years. This analysis assumes a total tax basis of $42.5 million and property tax basis of $14.2 million. A 20-megawatt microgrid[2] is sufficient to power 7,800 homes, 200 to 300 retail establishments, 50 supermarkets, 50 to 60 health clinics, 30 to 40 schools or 15 hospitals.

The provisions of this bill may be attractive to investor-owned utilities (IOUs), cooperatives, and private developers. In addition, the microgrid would not be restricted by the state's goal to become 100 percent renewable by 2040.

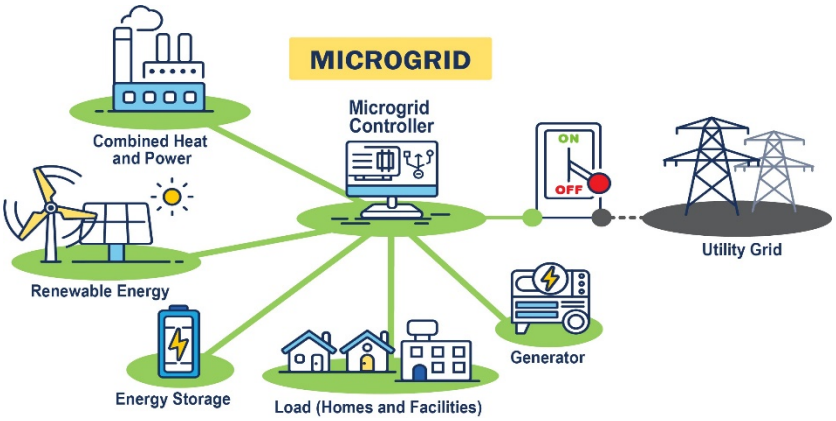
This bill creates or expands a tax expenditure. Estimating the cost of tax expenditures is difficult. Confidentiality requirements surrounding certain taxpayer information create uncertainty, and analysts must frequently interpret third-party data sources. For this microgrid tax credit, the

[2] chrome-extension://efaidnbmnnnibpcajpcglclefindmkaj/https://www.energy.gov/sites/default/files/2024-02/46060_DOE_GDO_Microgrid_Overview_Fact_Sheet_RELEASE_508.pdf

timing is of equal interest to the number of microgrids. It should be assumed that the microgrid developer contemplating an installation in an underserved/low-middle income area will negotiate an industrial revenue bond with a negotiated amount of payment in lieu of taxes.

SIGNIFICANT ISSUES

SB418 potentially represents a major change in New Mexico's energy policy. Traditionally, there have been two models: (1) investor-owned utilities (IOUs) with generation, distribution and pricing heavily regulated by PRC; and (2) cooperatives, also regulated by PRC, but with more incentive to maximize capacity, transition to renewables and moderate costs. SB418 offers the potential for a third model: microgrids. Although a microgrid can be of any capacity, the focus of



this bill is microgrids based on a self-sourced generation of a minimum of 20 Megawatts (MW). A graphic from the federal Department of Energy (See footnote 1) illustrates the idea. The microgrid is capable of being independent of the grid but can also sell surplus power to the grid.

Note that microgrids can have substantial renewable generation and battery storage but also have conventional generation such as natural gas turbines.

As a third model, microgrids may not be subject to the renewables mandate of the energy transition act.

PRC has similar observations and questions:

> Section 1, paragraph B's reference to ratemaking appears to implicate the Public Regulation Commission's ratemaking authority with respect to public utilities and possibly cooperatives. This provision and its language regarding acquisition of self-source generation resources also implicates the "certificate of necessity and need" (CCN) process contemplated by Section 62-9-1, NMSA 1978. It is unclear whether implementing such rates would be subject to current ratemaking principles or proceedings in front of the commission.
>
> Further, Section 1, Paragraph C, appears to create an exemption for electricity generated by self-source generation resources from the requirements of the renewable portfolio standards for electric utilities and electric cooperatives set forth in Section 62-16-4 and Section 62-15-34, NMSA 1978. This includes such electricity that might be generated by or purchased by a utility in connection with such self-source generation resources. It is unclear whether the power generated by or purchased from a self-source generation resource would be exempt from consideration when assessing a utility's compliance with

renewable portfolio standards.

PERFORMANCE IMPLICATIONS

The LFC tax policy of accountability may be met with the bill's requirement to include the $100 thousand per facility tax credit in the annual Tax Expenditure Report required by 7-1-84 NMSA 1978. However, the more relevant tax expenditure is whether the facility negotiates an IRB and the amount of gross receipts tax abated and amount of PILT paid.

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.	?	**Microgrids have been discussed in the press for some time, but probably not specifically presented to an interim committee for debate.**
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	 ? ? X	The purpose is to create an alternative, future-looking paradigm for the provision of electric power.
Transparent: The tax expenditure requires at least annual reporting by the recipients, the Taxation and Revenue Department, and other relevant agencies.	?	Lack of transparency if IRBs are negotiated.
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	 X	20-Year potential rollover.
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		The tax credit is insignificant compared to costs.

Passes “but for” test	**X**	
Efficient: The tax expenditure is the most cost-effective way to achieve the desired results.		The main purpose of the bill is not fiscal.
Key: ✓ Met ✗ Not Met ? Unclear		

LG/hj/SL2/hg/sgs