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## FISCAL IMPACT REPORT

SPONSOR Soules ORIGINAL DATE 1/23/21  
LAST UPDATED \_\_\_\_\_ HB \_\_\_\_\_  
SHORT TITLE Facilities for Clean Energy Generation SB 67  
ANALYST Martinez

### ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY21	FY22	FY23	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
<b>Total</b>	NFI	NFI	NFI			

(Parenthesis ( ) Indicate Expenditure Decreases)

### SOURCES OF INFORMATION

LFC Files

#### Responses Received From

Public Regulation Commission (PRC)

### SUMMARY

#### Synopsis of Bill

Senate Bill 67 (SB67) enacts a new section of the Public Utility Act (“PUA”) which requires that new and replacement energy generation capacity constructed on or after July 1, 2021 only generate clean energy. The definition of “clean energy” in SB67 is “energy generated from solar heat, solar light, wind, geothermal reservoirs, carbon capture gas, biomass or hydropower,” which thus excludes nuclear energy, natural gas- and coal- fired generation.

The effective date of this bill is July 1, 2021.

### FISCAL IMPLICATIONS

SB67 does not contain an appropriation and will not have a fiscal impact on the operating budget of the Public Regulation Commission.

### SIGNIFICANT ISSUES

The Public Regulation Commission provided the following:

Pursuant to NMSA 1978, § 62-17-10 and Public Regulation Commission (“PRC”) Rule 17.7.3 NMAC, investor-owned electric utilities (“IOUs”) conduct an integrated resource planning (“IRP”) process to identify the most cost-effective portfolio (“MCEP”) of energy generation resource mix which meets the projected electric demands of customers

over the next 20 years. As part of the IRP process, IOUs, PRC Utility Division Staff and interested parties review the energy generation resources needed to provide reliable, cost effective service while minimizing the environmental impacts related to the generation and transmission of electric energy. Concurrently, in order to meet the reliability standards of the North American Electric Reliability Corporation (“NERC”), utilities have to conduct regional and sub-regional determinations of resource adequacy to meet load and possible reserves while considering the transmission transfer capabilities of major paths. Towards this end, New Mexico electric utilities target a Loss of Load Expectation (“LOLE”) of 0.2, which is achieved by its derived metric, a planning reserve margin of approximately 15 percent.

SB67 requires that the construction of new and replacement power use clean energy alone, which means that on or after July 1, 2021 no natural gas fired-generation, such as aero-derivatives, combustion turbines or reciprocating engines would be permitted as new or replacement resources. Additionally, nuclear generation, a baseload, zero-carbon resource, would not be permitted as a new or replacement resource.

Consequently, electric utilities and the PRC would no longer be able to consider new natural gas fired or nuclear generation in the analysis and development of an MCEP which balances cost and reliability. While this is not inconsistent with the Energy transition Act (ETA), diversity of generation resources and fuel sources have been argued to remain necessary and beneficial to ensuring system reliability because the variability of one resource may complement and/or compensate for others. Each of these resource types has different operating characteristics which provide the system reserves that enable load following, voltage support, frequency response required by NERC standard BAL-003-1, and unscheduled generation changes. Natural gas fired combustion turbines and reciprocating engines are proven technologies with the quick startup capability needed by utilities to complement the operating characteristics of other more variable resources.

The shutdown of coal-fired units as may be required to meet the requirements of the ETA will remove a considerable amount of baseload capacity from the grid. Baseload generation plants are those facilities that operate continuously to meet the minimum level of power demand 24/7. Baseload plants produce power at a constant rate and are not designed to respond to peak demands or emergencies. When combined with the integration of a significant amount of renewable generation from 2022-2024, the shutdown of these facilities will require IOU’s to add some flexible generation resources to maintain an adequate load following target which enables the utility to maintain the target LOLE of 0.2. Many parties believe that quick start gas generation provides the most cost effective method of meeting this operating requirement.

Generation that meets the bill’s definition of clean energy currently are generally not capable of providing baseload capacity or load following at the needed scale. Moreover, the integration of increased amounts of variable generation resources such as renewables requires the concurrent addition of both baseload capacity and quick-start generation to respond to the fluctuation in the output of these generating resources. For this reason, in their IRPs, IOUs have proposed the addition of certain amounts of nuclear leasing and natural gas fired generation, generally, in the years 2023-2037. Notably, natural gas generation may be combined with battery storage to assist during curtailment scenarios

when renewables may not be operating.

SB67 refers to “constructed” facilities for new or replacement generation and to the approval of such “construction” by the PRC. It is unclear whether the bill would apply to the construction of generation facilities that do not require PRC approval but which may supply energy to public utilities serving retail customers in New Mexico through long-term power purchase agreements.

SB67 cannot apply to the construction of generation facilities located outside of New Mexico but which serve retail customers in multi-jurisdictional territories which include retail customers in New Mexico.

SB67 will also have implications for the regulatory and discretionary authority of the PRC. As noted previously, the bill will restrict the Commission from considering proposal including natural gas generation and nuclear when determining the MCEP during the IRP process of an IOU for acceptance under Rule 17.7.3.12 NMAC. In addition, in applying the public convenience and necessity standard set forth in NMSA 1978, § 62-9-1(A) to any application for the construction or operation of a new or replacement resource for a public utility, the bill will restrict the Commission from considering proposals that include natural gas generation or nuclear leasing.

## **PERFORMANCE IMPLICATIONS**

See Significant Issues.

## **ADMINISTRATIVE IMPLICATIONS**

The Public Regulation Commission provided the following:

This FIR reflects PRC’s technical staff’s analysis consistent with Commission policy, rules, and precedent, but does not reflect a position ratified by a vote of the full Commission.

## **TECHNICAL ISSUES**

See Significant Issues.

## **WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL**

The Public Regulation Commission provided the following:

The status quo will remain and electric utilities will retain the flexibility to consider nuclear leasing and natural gas fired generating units in designing a most cost effective portfolio of generating capacity resources which balances cost and reliability by allowing a diversity of resources and fuel type. The Commission would retain the authority to consider public utility applications for the construction or operation of new or replacement resources which include natural gas generation or nuclear leasing when applying the public convenience and necessity standard set forth in NMSA 1978, § 62-9-1(A).