

SENATE BILL 39

55TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2022

INTRODUCED BY

Benny Shendo, Jr. and Harry Garcia and Harold Pope

This document may incorporate amendments proposed by a committee, but not yet adopted, as well as amendments that have been adopted during the current legislative session. The document is a tool to show amendments in context and cannot be used for the purpose of adding amendments to legislation.

AN ACT

RELATING TO PROCUREMENT; INCREASING THE PREFERENCE FOR NEW MEXICO RESIDENT BUSINESSES AND CONTRACTORS; ELIMINATING THE TIME LIMITATION FOR SPECIAL PREFERENCES FOR NEW MEXICO RESIDENT VETERAN BUSINESSES AND RESIDENT VETERAN CONTRACTORS; PROVIDING FOR A PREFERENCE FOR NEW MEXICO NATIVE AMERICAN RESIDENT AND RESIDENT VETERAN BUSINESSES AND CONTRACTORS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

.221625.3GLGAIC February 7, 2022 (4:09pm)

underscored material = new  
[bracketed material] = delete  
Amendments: new = →bold, blue, highlight↔  
delete = →bold, red, highlight, strikethrough↔

underscored material = new

[bracketed material] = delete

Amendments: new = →bold, blue, highlight←

delete = →bold, red, highlight, strikethrough←

SECTION 1. Section 13-1-21 NMSA 1978 (being Laws 1979, Chapter 72, Section 1, as amended) is amended to read:

"13-1-21. APPLICATION OF PREFERENCES.--

A. For the purposes of this section:

(1) "business" means a commercial enterprise carried on for the purpose of selling goods or services, including growing, producing, processing or distributing agricultural products;

(2) "formal bid process" means a competitive bid process;

(3) "formal request for proposals process" means a competitive proposal process, including a competitive qualifications-based proposal process;

(4) "Native American resident business" means a business that has a valid Native American resident business certificate issued by the taxation and revenue department pursuant to Section 13-1-22 NMSA 1978 but does not include a Native American resident veteran business;

(5) "Native American resident veteran business" means a business that has a valid Native American resident veteran business certificate issued by the taxation and revenue department pursuant to Section 13-1-22 NMSA 1978;

[←4→] (6) "public body" means a department, commission, council, board, committee, institution, legislative body, agency, government corporation, educational institution or official of the executive, legislative or judicial branch of

.221625.3GLGAIC February 7, 2022 (4:09pm)

underscored material = new  
[bracketed material] = delete  
Amendments: new = → bold, blue, highlight ←  
delete = → bold, red, highlight, strikethrough ←

the government of the state or a political subdivision of the state and the agencies, instrumentalities and institutions thereof, including two-year post-secondary educational institutions, school districts, local school boards and all municipalities, including home-rule municipalities;

[~~(5)~~] (7) "recycled content goods" means supplies and materials composed twenty-five percent or more of recycled materials; provided that the recycled materials content meets or exceeds the minimum content standards required by bid specifications;

[~~(6)~~] (8) "resident business" means a business that has a valid resident business certificate issued by the taxation and revenue department pursuant to Section 13-1-22 NMSA 1978 but does not include a resident veteran business; and

[~~(7)~~] (9) "resident veteran business" means a business that has a valid resident veteran business certificate issued by the taxation and revenue department pursuant to Section 13-1-22 NMSA 1978.

B. Except as provided in Subsection C of this section, when a public body makes a purchase using a formal bid process, the public body shall deem a bid submitted by a:

(1) resident business or Native American resident business to be [~~five~~] eight percent lower than the bid actually submitted; or

(2) resident veteran business [~~with annual gross revenues of up to three million dollars (\$3,000,000) in~~

underscored material = new  
[bracketed material] = delete  
Amendments: new = → bold, blue, highlight ←  
delete = → bold, red, highlight, strikethrough ←

~~the preceding tax year]~~ or Native American resident veteran business to be ten percent lower than the bid actually submitted.

C. When a public body makes a purchase using a formal bid process and the bids are received for both recycled content goods and nonrecycled content goods, the public body shall deem:

(1) bids submitted for recycled content goods from any business, except a resident veteran business or Native American resident veteran business, to be ~~[five]~~ eight percent lower than the bids actually submitted; or

(2) bids submitted for recycled content goods from a resident veteran business ~~[with annual gross revenues of up to three million dollars (\$3,000,000) in the preceding tax year]~~ or Native American resident veteran business to be ten percent lower than the bids actually submitted.

D. When a public body makes a purchase using a formal request for proposals process, not including contracts awarded on a point-based system, the public body shall award an additional:

(1) ~~[five]~~ eight percent of the total weight of all the factors used in evaluating the proposals to a resident business or Native American resident business; and

(2) ten percent of the total weight of all the factors used in evaluating the proposals to a resident veteran business ~~[that has annual gross revenues of up to three million~~

underscoring material = new  
[bracketed material] = delete  
Amendments: new = → bold, blue, highlight  
delete = → bold, red, highlight, strikethrough

dollars (~~\$3,000,000~~ in the preceding tax year] or Native American resident veteran business.

E. When a public body makes a purchase using a formal request for proposals process, and the contract is awarded based on a point-based system, the public body shall award additional points equivalent to:

(1) [~~five~~] eight percent of the total possible points to a resident business or Native American resident business; or

(2) ten percent of the total possible points to a resident veteran business [~~that has annual gross revenues of up to three million dollars (\$3,000,000) in the preceding tax year~~] or Native American resident veteran business.

F. When a joint bid or joint proposal is submitted by a combination of resident veteran, Native American resident veteran, resident, Native American resident or nonresident businesses, the preference provided pursuant to Subsection B, C, D or E of this section shall be calculated in proportion to the percentage of the contract, based on the dollar amount of the goods or services provided under the contract, that will be performed by each business as specified in the joint bid or proposal.

G. [~~A resident veteran business shall not benefit from the preference pursuant to this section for more than ten consecutive years. A person that is an owner of a business that is a resident veteran business shall not benefit from the~~

underscoring material = new  
[bracketed material] = delete  
Amendments: new = → bold, blue, highlight  
delete = → bold, red, highlight, strikethrough

~~preference pursuant to this section for more than ten consecutive years]~~ A person shall not benefit from the provisions of this section based on more than one business concurrently.

H. A public body shall not award a business both a resident business preference and a resident veteran business preference or a Native American resident business preference and a Native American resident veteran business preference.

I. The procedures provided in Sections 13-1-172 through 13-1-183 NMSA 1978 or in an applicable purchasing ordinance apply to a protest to a public body concerning the awarding of a contract in violation of this section.

J. This section shall not apply when the expenditure includes federal funds for a specific purchase."

SECTION 2. Section 13-1-22 NMSA 1978 (being Laws 2012, Chapter 56, Section 4, as amended) is amended to read:

"13-1-22. RESIDENT BUSINESS AND RESIDENT CONTRACTOR CERTIFICATION--NATIVE AMERICAN RESIDENT BUSINESS AND NATIVE AMERICAN RESIDENT CONTRACTOR CERTIFICATES--RESIDENT VETERAN BUSINESS AND RESIDENT VETERAN CONTRACTOR CERTIFICATES.--

A. To receive a resident business, Native American resident business, resident veteran business or Native American resident veteran business preference pursuant to Section 13-1-21 NMSA 1978 or a resident contractor, Native American resident contractor, resident veteran contractor or Native American resident veteran contractor preference pursuant to

.221625.3GLGAIC February 7, 2022 (4:09pm)

underscored material = new  
[bracketed material] = delete  
Amendments: new = →bold, blue, highlight←  
delete = →bold, red, highlight, strikethrough←

Section 13-4-2 NMSA 1978, a business or contractor shall submit with its bid or proposal a copy of a valid resident business, Native American resident business, resident veteran business or Native American resident veteran business certificate or valid resident contractor, Native American resident contractor, resident veteran contractor or Native American resident veteran contractor certificate issued by the taxation and revenue department.

B. An application for a resident business certificate shall include an affidavit from a certified public accountant setting forth that the business is licensed to do business in this state and that:

(1) the business has paid property taxes or rent on real property in the state and paid at least one other tax administered by the state in each of the three years immediately preceding the submission of the affidavit;

(2) if the business is a new business, the owner or majority of owners has paid property taxes or rent on real property in the state and has paid at least one other tax administered by the state in each of the three years immediately preceding the submission of the affidavit and has not applied for a resident business or resident contractor certificate pursuant to this section during that time period;

(3) if the business is a relocated business, at least eighty percent of the total personnel of the business in the year immediately preceding the submission of the

.221625.3GLGAIC February 7, 2022 (4:09pm)

underscoring material = new  
[bracketed material] = delete  
Amendments: new = → bold, blue, highlight ←  
delete = → bold, red, highlight, strikethrough ←

affidavit were residents of the state and that, prior to the submission of the affidavit, the business either leased real property for ten years or purchased real property greater than one hundred thousand dollars (\$100,000) in value in the state; or

(4) if the business is a previously certified business or was eligible for certification, the business has changed its name, has reorganized into one or more different legal entities, was purchased by another legal entity but operates in the state as substantially the same commercial enterprise or has merged with a different legal entity but operates in the state as substantially the same commercial enterprise.

C. An application for a resident veteran business certificate shall include the affidavit required by Subsection B of this section and:

(1) verification by the United States department of veterans affairs as being either a veteran-owned small business or a service-disabled veteran-owned small business; or

(2) verification of veteran status as indicated by the United States department of defense DD form 214 of release or discharge from active duty with an honorable discharge or of service-disabled veteran status by the United States department of veterans affairs and proof that a veteran or veterans own a majority of the business.

.221625.3GLGAIC February 7, 2022 (4:09pm)

underscoring material = new

[bracketed material] = delete

Amendments: new = bold, blue, highlight

delete = bold, red, highlight, strikethrough

[~~G-~~] D. An application for a resident contractor certificate shall include an affidavit from a certified public accountant setting forth that the contractor is currently licensed as a contractor in this state and that:

(1) the contractor has:

(a) registered with the state at least one vehicle; and

(b) in each of the five years immediately preceding the submission of the affidavit: 1) paid property taxes or rent on real property in the state and paid at least one other tax administered by the state; and 2) paid unemployment insurance on at least three full-time employees who are residents of the state; provided that if a contractor is a legacy contractor, the requirement of at least three full-time employees who are residents of the state is waived;

(2) if the contractor is a new contractor, the owner or majority of owners has paid property taxes or rent on real property in the state and has paid at least one other tax administered by the state in each of the five years immediately preceding the submission of the affidavit and has not applied for a resident business or resident contractor certificate pursuant to this section during that time period;

(3) if the contractor is a relocated business, at least eighty percent of the total personnel of the business in the year immediately preceding the submission of the affidavit were residents of the state and that, prior to the

submission of the affidavit, the contractor either leased real property for ten years or purchased real property greater than one hundred thousand dollars (\$100,000) in value in the state; or

(4) if the contractor is a previously certified contractor or was eligible for certification, the contractor has changed its name, has reorganized into one or more different legal entities, was purchased by another legal entity but operates in the state as substantially the same enterprise or has merged with a different legal entity but operates in the state as substantially the same commercial enterprise.

E. An application for a resident veteran contractor certificate shall include the affidavit required by Subsection D of this section and:

(1) verification by the United States department of veterans affairs as being either a veteran-owned small business or a service-disabled veteran-owned small business; or

(2) verification of veteran status as indicated by the United States department of defense DD form 214 of release or discharge from active duty with an honorable discharge or of service-disabled veteran status by the United States department of veterans affairs and proof that a veteran or veterans own a majority of the business.

F. An application for a Native American resident

.221625.3GLGAIC February 7, 2022 (4:09pm)

underscoring material = new  
[bracketed material] = delete  
Amendments: new = → bold, blue, highlight  
delete = → bold, red, highlight, strikethrough

underscored material = new  
[bracketed material] = delete  
Amendments: new = →bold, blue, highlight←  
delete = →bold, red, highlight, strikethrough←

business certificate or a Native American resident contractor certificate shall include an affidavit from a notary public setting forth that the business is:

(1) operating on lands STBTC→~~owned by~~←STBTC STBTC→located on←STBTC an Indian nation, tribe or pueblo located in whole or in part on land within New Mexico; and

(2) at least fifty-one percent owned by an Indian nation, tribe or pueblo located in whole or in part on land within New Mexico; provided that:

(a) the Indian nation, tribe or pueblo receives at least a majority of the net income from the business; and

(b) the management and daily operation of the business are controlled by one or more individuals who are members of a New Mexico Indian nation, tribe or pueblo; or

(3) at least fifty-one percent owned by one or more New Mexico residents who are members of a federally recognized Indian nation, tribe or pueblo located in whole or in part on land within New Mexico and that is established for the purpose of profit; provided that:

(a) the Native American owners receive at least a majority of the net income from the business; and

(b) the management and daily operation of the business are controlled by one or more individuals who are members of a New Mexico Indian nation, tribe or pueblo.

G. An application for a Native American resident

underscored material = new

[bracketed material] = delete

Amendments: new = → bold, blue, highlight ←

delete = → bold, red, highlight, strikethrough ←

veteran business certificate or a Native American resident  
veteran contractor certificate shall include the affidavit  
required by Subsection F of this section and, if the business  
is not owned by an Indian nation, tribe or pueblo:

(1) verification by the United States  
department of veterans affairs that the business is either a  
veteran-owned small business or a service-disabled veteran-  
owned small business;

(2) verification of veteran status of a  
majority of the owners of the business as indicated by the  
United States department of defense DD form 214 of release or  
discharge from active duty with an honorable discharge or of  
service-disabled veteran status by the United States department  
of veterans affairs; or

(3) verification of veteran status of the  
contractor as indicated by the United States department of  
defense DD form 214 of release or discharge from active duty  
with an honorable discharge or of service-disabled veteran  
status by the United States department of veterans affairs.

[D.] H. The taxation and revenue department shall  
prescribe the form and content of the application and required  
affidavit. The taxation and revenue department shall examine  
the application and affidavit and, if necessary, may seek  
additional information to ensure that the business or  
contractor is eligible to receive the certificate pursuant to  
the provisions of this section. If the taxation and revenue

.221625.3GLGAIC February 7, 2022 (4:09pm)

underscoring material = new  
[bracketed material] = delete  
Amendments: new = → bold, blue, highlight ←  
delete = → bold, red, highlight, strikethrough ←

department determines that an applicant is eligible, the department shall issue a certificate pursuant to the provisions of this section. If the taxation and revenue department determines that the applicant is not eligible, the department shall issue notification within thirty days. If no notification is provided by the department, the certificate is deemed approved. A certificate is valid for three years from the date of its issuance; provided that if there is a change of ownership of more than fifty percent, a resident business or resident contractor shall reapply for a certificate.

[E.] I. A business or contractor whose application for a certificate is denied has fifteen days from the date of the taxation and revenue department's decision to file an objection with the taxation and revenue department. The person filing the objection shall submit evidence to support the objection. The taxation and revenue department shall review the evidence and issue a decision within fifteen days of the filing of the objection.

[F.] J. If, following a hearing and an opportunity to be heard, the administrative hearings office finds that a business or contractor provided false information to the taxation and revenue department in order to obtain a certificate or that a business or contractor used a certificate to obtain a resident business or resident contractor preference for a bid or proposal and the resident business or contractor did not perform the percentage of the contract specified in the

underscoring material = new  
[bracketed material] = delete  
Amendments: new = →bold, blue, highlight←  
delete = →bold, red, highlight, strikethrough←

bid or proposal, the business or contractor:

(1) is not eligible to receive a certificate or a preference pursuant to Section 13-1-21 or 13-4-2 NMSA 1978 for a period of five years from the date on which the taxation and revenue department became aware of the submission of the false information or the failure to perform the contract as specified in the bid or proposal; and

(2) is subject to an administrative penalty of up to fifty thousand dollars (\$50,000) for each violation.

~~[G.]~~ K. In a decision issued pursuant to Subsection ~~[E or F]~~ I or J of this section, the taxation and revenue department or the administrative hearings office shall state the reasons for the action taken and inform an aggrieved business or contractor of the right to judicial review of the determination pursuant to the provisions of Section 39-3-1.1 NMSA 1978.

~~[H.]~~ L. The taxation and revenue department may assess a reasonable fee for the issuance of a certificate not to exceed the actual cost of administering the taxation and revenue department's duties pursuant to this section.

~~[I.]~~ M. The state auditor may audit or review the issuance or validity of certificates.

~~[J.]~~ N. For purposes of this section:

(1) "new business" means a person that did not exist as a business in any form and that has been in existence for less than three years;

.221625.3GLGAIC February 7, 2022 (4:09pm)

underscoring material = new  
[bracketed material] = delete  
Amendments: new = → bold, blue, highlight  
delete = → bold, red, highlight, strikethrough

(2) "new contractor" means a person that did not exist as a business in any form and that has been in existence for less than five years;

(3) "legacy contractor" means a construction business that has been licensed in this state for ten consecutive years; and

(4) "relocated business" means a business that moved eighty percent of its total domestic personnel from another state to New Mexico in the past five years."

SECTION 3. Section 13-4-2 NMSA 1978 (being Laws 1984, Chapter 66, Section 2, as amended) is amended to read:

"13-4-2. APPLICATION OF PREFERENCE.--

A. For the purposes of this section:

(1) "formal bid process" means a competitive sealed bid process;

(2) "formal request for proposals process" means a competitive sealed proposal process, including a competitive sealed qualifications-based proposal process;

(3) "Native American resident contractor" means a person that has a valid Native American resident contractor certificate issued by the taxation and revenue department pursuant to Section 13-1-22 NMSA 1978 but does not include a Native American resident veteran contractor;

(4) "Native American resident veteran contractor" means a person that has a valid Native American resident veteran contractor certificate issued by the taxation

.221625.3GLGAIC February 7, 2022 (4:09pm)

underscoring material = new  
[bracketed material] = delete  
Amendments: new = → bold, blue, highlight ←  
delete = → bold, red, highlight, strikethrough ←

and revenue department pursuant to Section 13-1-22 NMSA 1978;

[~~(3)~~] (5) "public body" means a department, commission, council, board, committee, institution, legislative body, agency, government corporation, educational institution or official of the executive, legislative or judicial branch of the government of the state or a political subdivision of the state and the agencies, instrumentalities and institutions thereof, including two-year post-secondary educational institutions, school districts, local school boards and all municipalities, including home-rule municipalities;

[~~(4)~~] (6) "public works contract" means a contract for construction, construction management, architectural, landscape architectural, engineering, surveying or interior design services;

[~~(5)~~] (7) "resident contractor" means a person that has a valid resident contractor certificate issued by the taxation and revenue department pursuant to Section 13-1-22 NMSA 1978 but does not include a resident veteran contractor; and

[~~(6)~~] (8) "resident veteran contractor" means a person that has a valid resident veteran contractor certificate issued by the taxation and revenue department pursuant to Section 13-1-22 NMSA 1978.

B. For the purpose of awarding a public works contract using a formal bid process, a public body shall deem a bid submitted by a:

.221625.3GLGAIC February 7, 2022 (4:09pm)

underscoring material = new  
[bracketed material] = delete  
Amendments: new = → bold, blue, highlight  
delete = → bold, red, highlight, strikethrough

(1) resident contractor or Native American resident contractor to be [five] eight percent lower than the bid actually submitted; or

(2) resident veteran contractor [~~with annual gross revenues of up to three million dollars (\$3,000,000) in the preceding tax year~~] or Native American resident veteran contractor to be ten percent lower than the bid actually submitted.

C. When a public body awards a contract using a formal request for proposals process, not including contracts awarded on a point-based system, the public body shall award an additional:

(1) [five] eight percent of the total weight of all the factors used in evaluating the proposals to a resident contractor or Native American resident contractor; or

(2) ten percent of the total weight of all the factors used in evaluating the proposals to a resident veteran contractor [~~that has annual gross revenues of up to three million dollars (\$3,000,000) in the preceding tax year~~] or Native American resident veteran contractor.

D. When a public body makes a purchase using a formal request for proposals process, and the contract is awarded based on a point-based system, the public body shall award an additional of the equivalent of:

(1) [five] eight percent of the total possible points to a resident contractor or Native American resident

underscoring material = new  
[bracketed material] = delete  
Amendments: new = bold, blue, highlight  
delete = bold, red, highlight, strikethrough

contractor; or

(2) ten percent of the total possible points to a resident veteran contractor [~~that has annual gross revenues of up to three million dollars (\$3,000,000) in the preceding tax year~~] or Native American resident veteran contractor.

E. When a joint bid or joint proposal is submitted by a combination of resident veteran, Native American resident veteran, resident, Native American resident or nonresident contractors, the preference provided pursuant to Subsection B, C or D of this section shall be calculated in proportion to the percentage of the contract, based on the dollar amount of the goods or services provided under the contract, that will be performed by each contractor as specified in the joint bid or joint proposal.

F. [~~A resident veteran contractor shall not benefit from the preference pursuant to this section for more than ten consecutive years. A person that is an owner of a business that is a resident veteran contractor shall not benefit from the preference pursuant to this section for more than ten consecutive years~~] A person shall not benefit from the provisions of this section based on more than one business concurrently.

G. A public body shall not award a contractor both a resident contractor preference and a resident veteran contractor preference or a Native American resident contractor

underscored material = new  
[bracketed material] = delete  
Amendments: new = →bold, blue, highlight←  
delete = →bold, red, highlight, strikethrough←

preference and a Native American resident veteran contractor preference.

H. The procedures provided in Sections 13-1-172 through 13-1-183 NMSA 1978 or in an applicable purchasing ordinance apply to a protest to a public body concerning the awarding of a contract in violation of this section."

SECTION 4. Section 62-16B-7 NMSA 1978 (being Laws 2021, Chapter 34, Section 7) is amended to read:

"62-16B-7. PUBLIC REGULATION COMMISSION--ENFORCEMENT AND RULEMAKING.--

A. The commission shall administer and enforce the rules and provisions of the Community Solar Act, including regulation of subscriber organizations in accordance with the Community Solar Act and oversight and review of the consumer protections established for the community solar program.

B. The commission shall adopt rules to establish a community solar program by no later than April 1, 2022. The rules shall:

(1) provide an initial statewide capacity program cap of two hundred megawatts alternating current proportionally allocated to investor-owned utilities until November 1, 2024. The statewide capacity program cap shall exclude native community solar projects and rural electric distribution cooperatives;

(2) establish an annual statewide capacity program cap to be in effect after November 1, 2024;

.221625.3GLGAIC February 7, 2022 (4:09pm)

underscoring material = new  
[bracketed material] = delete  
Amendments: new = →bold, blue, highlight←  
delete = →bold, red, highlight, strikethrough←

(3) require thirty percent of electricity produced from each community solar facility to be reserved for low-income customers and low-income service organizations. The commission shall issue guidelines to ensure the carve-out is achieved each year and develop a list of low-income service organizations and programs that may pre-qualify low-income customers;

(4) establish a process for the selection of community solar facility projects and allocation of the statewide capacity program cap, consistent with Section 13-1-21 NMSA 1978 regarding resident business, Native American resident business, [~~and~~] resident veteran business and Native American resident veteran business preferences;

(5) require a qualifying utility to file the tariffs, agreement or forms necessary for implementation of the community solar program;

(6) establish reasonable, uniform, efficient and non-discriminatory standards, fees and processes for the interconnection of community solar facilities that are consistent with the commission's existing interconnection rules and interconnection manual that allows a qualifying utility to recover reasonable costs for administering the community solar program and interconnection costs for each community solar facility, such that a qualifying utility and its non-subscribing customers do not subsidize the costs attributable to the subscriber organization pursuant to this paragraph;

.221625.3GLGAIC February 7, 2022 (4:09pm)

underscored material = new  
[bracketed material] = delete  
Amendments: new = →bold, blue, highlight↔  
delete = →bold, red, highlight, strikethrough↔

(7) provide consumer protections for subscribers, including a uniform disclosure form that identifies the information that shall be provided by a subscriber organization to a potential subscriber, in both English and Spanish, and when appropriate, native or indigenous languages, to ensure fair disclosure of future costs and benefits of subscriptions, key contract terms, security interests and other relevant but reasonable information pertaining to the subscription, as well as grievance and enforcement procedures;

(8) provide a community solar bill credit rate mechanism for subscribers derived from the qualifying utility's total aggregate retail rate on a per-customer-class basis, less the commission-approved distribution cost components, and identify all proposed rules, fees and charges; provided that non-subscribers shall not subsidize costs attributable to subscribers; and provided further that if the commission determines that it is in the public interest for non-subscribers to subsidize subscribers, non-subscribers shall not be charged more than three percent of the non-subscribers' aggregate retail rate on an annual basis to subsidize subscribers;

(9) reasonably allow for the creation, financing and accessibility of community solar facilities; and

(10) provide requirements for the siting and co-location of community solar facilities with other energy

underscored material = new  
[bracketed material] = delete  
Amendments: new = →bold, blue, highlight←  
delete = →bold, red, highlight, strikethrough←

resources; provided that community solar facilities shall not be co-located with other community solar facilities.

C. The commission may through rule establish a reasonable application fee for subscriber organizations that is designed to cover a portion of the administrative costs of the commission in carrying out the community solar program. Application fees collected by the commission shall be remitted to the state treasurer no later than the day after their receipt.

D. The commission shall solicit input from relevant state agencies, public utilities, low-income stakeholders, disproportionately impacted communities, potential owners or operators of community solar facilities, Indian nations, tribes and pueblos and other interested parties in its rulemaking process.

E. By no later than November 1, 2024, the commission shall provide to the appropriate interim legislative committee a report on the status of the community solar program, including the development of community solar facilities, the participation of investor-owned utilities and rural electric distribution cooperatives, low-income participation, the adequacy of facility size, proposals for alternative rate structures and bill credit mechanisms, cross-subsidization issues, local developer project selection and expansion of the local solar industry, community solar facilities' effect on utility compliance with the renewable

underscored material = new  
[bracketed material] = delete  
Amendments: new = →bold, blue, highlight←  
delete = →bold, red, highlight, strikethrough←

portfolio standard and an evaluation of the effectiveness of the commission's rules to implement the Community Solar Act and any recommended changes."

SECTION 5. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2022.