

1 SENATE BILL 39

2 **55TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2022**

3 INTRODUCED BY

4 Benny Shendo, Jr. and Harry Garcia and Harold Pope

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9  
10 AN ACT

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

17  
18 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

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

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

22 A. For the purposes of this section:

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

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1 agricultural products;

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

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

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

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

16 [~~4~~] (6) "public body" means a department,  
17 commission, council, board, committee, institution, legislative  
18 body, agency, government corporation, educational institution  
19 or official of the executive, legislative or judicial branch of  
20 the government of the state or a political subdivision of the  
21 state and the agencies, instrumentalities and institutions  
22 thereof, including two-year post-secondary educational  
23 institutions, school districts, local school boards and all  
24 municipalities, including home-rule municipalities;

25 [~~5~~] (7) "recycled content goods" means

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1 supplies and materials composed twenty-five percent or more of  
2 recycled materials; provided that the recycled materials  
3 content meets or exceeds the minimum content standards required  
4 by bid specifications;

5 [~~(6)~~] (8) "resident business" means a business  
6 that has a valid resident business certificate issued by the  
7 taxation and revenue department pursuant to Section 13-1-22  
8 NMSA 1978 but does not include a resident veteran business; and

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

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

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

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

24 C. When a public body makes a purchase using a  
25 formal bid process and the bids are received for both recycled

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1 content goods and nonrecycled content goods, the public body  
2 shall deem:

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

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

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

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

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

24 E. When a public body makes a purchase using a  
25 formal request for proposals process, and the contract is

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1 awarded based on a point-based system, the public body shall  
2 award additional points equivalent to:

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

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

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

19 G. [~~A resident veteran business shall not benefit~~  
20 ~~from the preference pursuant to this section for more than ten~~  
21 ~~consecutive years. A person that is an owner of a business~~  
22 ~~that is a resident veteran business shall not benefit from the~~  
23 ~~preference pursuant to this section for more than ten~~  
24 ~~consecutive years]~~ A person shall not benefit from the  
25 provisions of this section based on more than one business

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1 concurrently.

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

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

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

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

14 "13-1-22. RESIDENT BUSINESS AND RESIDENT CONTRACTOR  
15 CERTIFICATION--NATIVE AMERICAN RESIDENT BUSINESS AND NATIVE  
16 AMERICAN RESIDENT CONTRACTOR CERTIFICATES--RESIDENT VETERAN  
17 BUSINESS AND RESIDENT VETERAN CONTRACTOR CERTIFICATES.--

18 A. To receive a resident business, Native American  
19 resident business, resident veteran business or Native American  
20 resident veteran business preference pursuant to Section  
21 13-1-21 NMSA 1978 or a resident contractor, Native American  
22 resident contractor, resident veteran contractor or Native  
23 American resident veteran contractor preference pursuant to  
24 Section 13-4-2 NMSA 1978, a business or contractor shall submit  
25 with its bid or proposal a copy of a valid resident business,

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1 Native American resident business, resident veteran business or  
2 Native American resident veteran business certificate or valid  
3 resident contractor, Native American resident contractor,  
4 resident veteran contractor or Native American resident veteran  
5 contractor certificate issued by the taxation and revenue  
6 department.

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

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

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

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

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

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

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

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

20 (2) verification of veteran status as  
21 indicated by the United States department of defense DD form  
22 214 of release or discharge from active duty with an honorable  
23 discharge or of service-disabled veteran status by the United  
24 States department of veterans affairs and proof that a veteran  
25 or veterans own a majority of the business.



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

5                       (1) the contractor has:

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

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

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

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

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

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

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

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

21 (2) verification of veteran status as  
22 indicated by the United States department of defense DD form  
23 214 of release or discharge from active duty with an honorable  
24 discharge or of service-disabled veteran status by the United  
25 States department of veterans affairs and proof that a veteran

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1 or veterans own a majority of the business.

2 F. An application for a Native American resident  
3 business certificate or a Native American resident contractor  
4 certificate shall include an affidavit from a notary public  
5 setting forth that the business is:

6 (1) operating on lands owned by an Indian  
7 nation, tribe or pueblo located in whole or in part on land  
8 within New Mexico; and

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

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

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

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

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

25 (b) the management and daily operation

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1 of the business are controlled by one or more individuals who  
2 are members of a New Mexico Indian nation, tribe or pueblo.

3 G. An application for a Native American resident  
4 veteran business certificate or a Native American resident  
5 veteran contractor certificate shall include the affidavit  
6 required by Subsection F of this section and, if the business  
7 is not owned by an Indian nation, tribe or pueblo:

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

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

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

23 ~~[D.]~~ H. The taxation and revenue department shall  
24 prescribe the form and content of the application and required  
25 affidavit. The taxation and revenue department shall examine

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1 the application and affidavit and, if necessary, may seek  
2 additional information to ensure that the business or  
3 contractor is eligible to receive the certificate pursuant to  
4 the provisions of this section. If the taxation and revenue  
5 department determines that an applicant is eligible, the  
6 department shall issue a certificate pursuant to the provisions  
7 of this section. If the taxation and revenue department  
8 determines that the applicant is not eligible, the department  
9 shall issue notification within thirty days. If no  
10 notification is provided by the department, the certificate is  
11 deemed approved. A certificate is valid for three years from  
12 the date of its issuance; provided that if there is a change of  
13 ownership of more than fifty percent, a resident business or  
14 resident contractor shall reapply for a certificate.

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

23 ~~[F.]~~ J. If, following a hearing and an opportunity  
24 to be heard, the administrative hearings office finds that a  
25 business or contractor provided false information to the

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1 taxation and revenue department in order to obtain a  
2 certificate or that a business or contractor used a certificate  
3 to obtain a resident business or resident contractor preference  
4 for a bid or proposal and the resident business or contractor  
5 did not perform the percentage of the contract specified in the  
6 bid or proposal, the business or contractor:

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

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

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

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

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

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

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

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

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

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

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

18                   "13-4-2. APPLICATION OF PREFERENCE.--

19                   A. For the purposes of this section:

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

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

25                           (3) "Native American resident contractor"

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

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

9 ~~[(3)]~~ (5) "public body" means a department,  
10 commission, council, board, committee, institution, legislative  
11 body, agency, government corporation, educational institution  
12 or official of the executive, legislative or judicial branch of  
13 the government of the state or a political subdivision of the  
14 state and the agencies, instrumentalities and institutions  
15 thereof, including two-year post-secondary educational  
16 institutions, school districts, local school boards and all  
17 municipalities, including home-rule municipalities;

18 ~~[(4)]~~ (6) "public works contract" means a  
19 contract for construction, construction management,  
20 architectural, landscape architectural, engineering, surveying  
21 or interior design services;

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

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1 and

2                   ~~[(6)]~~ (8) "resident veteran contractor" means  
3 a person that has a valid resident veteran contractor  
4 certificate issued by the taxation and revenue department  
5 pursuant to Section 13-1-22 NMSA 1978.

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

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

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

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

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

24                   (2) ten percent of the total weight of all the  
25 factors used in evaluating the proposals to a resident veteran

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

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

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

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

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

25 F. [~~A resident veteran contractor shall not benefit~~

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

8 G. A public body shall not award a contractor both  
9 a resident contractor preference and a resident veteran  
10 contractor preference or a Native American resident contractor  
11 preference and a Native American resident veteran contractor  
12 preference.

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

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

19 "62-16B-7. PUBLIC REGULATION COMMISSION--ENFORCEMENT AND  
20 RULEMAKING.--

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

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

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

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

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

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

25                   (5) require a qualifying utility to file the

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1 tariffs, agreement or forms necessary for implementation of the  
2 community solar program;

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

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

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

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

12 (10) provide requirements for the siting and  
13 co-location of community solar facilities with other energy  
14 resources; provided that community solar facilities shall not  
15 be co-located with other community solar facilities.

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

23 D. The commission shall solicit input from relevant  
24 state agencies, public utilities, low-income stakeholders,  
25 disproportionately impacted communities, potential owners or

underscoring material = new  
~~[bracketed material] = delete~~

1 operators of community solar facilities, Indian nations, tribes  
2 and pueblos and other interested parties in its rulemaking  
3 process.

4 E. By no later than November 1, 2024, the  
5 commission shall provide to the appropriate interim legislative  
6 committee a report on the status of the community solar  
7 program, including the development of community solar  
8 facilities, the participation of investor-owned utilities and  
9 rural electric distribution cooperatives, low-income  
10 participation, the adequacy of facility size, proposals for  
11 alternative rate structures and bill credit mechanisms, cross-  
12 subsidization issues, local developer project selection and  
13 expansion of the local solar industry, community solar  
14 facilities' effect on utility compliance with the renewable  
15 portfolio standard and an evaluation of the effectiveness of  
16 the commission's rules to implement the Community Solar Act and  
17 any recommended changes."

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