

LFC Requester:

Austin Davidson

AGENCY BILL ANALYSIS - 2025 REGULAR SESSION

SECTION I: GENERAL INFORMATION

{Indicate if analysis is on an original bill, amendment, substitute or a correction of a previous bill}

Date Prepared: 2/7/2025

Check all that apply:

Bill Number: HB 273

Original Correction
Amendment Substitute

Sponsor: Rep. Randall T. Pettigrew,
Rep. Mark B. Murphy, Rep.
Jonathan A. Henry

Agency Name and Code Number: 305 – New Mexico
Department of Justice

Person Writing

Short Title: CERTAIN NATURAL GAS
AS RENEWABLE ENERGY

Analysis: Bill Grantham

Phone: 505-537-7676

Email: legisfir@nmag.gov

SECTION II: FISCAL IMPACT

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY25	FY26		

(Parenthesis () indicate expenditure decreases)

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY25	FY26	FY27		

(Parenthesis () indicate revenue decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY25	FY26	FY27	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total						

(Parenthesis () Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to:
 Duplicates/Relates to Appropriation in the General Appropriation Act

SECTION III: NARRATIVE

This analysis is neither a formal Opinion nor an Advisory Letter issued by the New Mexico Department of Justice. This is a staff analysis in response to a committee or legislator’s request. The analysis does not represent any official policy or legal position of the NM Department of Justice.

BILL SUMMARY

Synopsis:

Section 1 of HB 257 would amend the definition of “renewable energy resource” as used in the Rural Electric Cooperative Act by adding “natural gas using combined cycle technology” to the types of energy resources qualifying as renewable, and excepting “natural gas using combined cycle technology” from the provision expressly providing that electricity generated using fossil fuel is not renewable.

Section 2 of HB 257 would similarly amend the definition of “renewable energy resource” as used in the Renewable Energy Act to include “natural gas using combined cycle technology.”

FISCAL IMPLICATIONS

N/A

SIGNIFICANT ISSUES

HB 273 would create a legal definition of “renewable energy resource” that includes a certain type of fossil fuel-based generation, which is inherently not “renewable” as that term is used both commonly and in regulatory programs. *See, e.g.,* the U.S. Department of Energy Definition of at 42 U.S.C. § 7372 (2): “the term ‘renewable energy resource’ means any energy resource which *has recently originated in the sun*, including direct and indirect solar radiation and intermediate solar energy forms such as wind, ocean thermal gradients, ocean currents and waves, hydropower, photovoltaic energy, products of photosynthetic processes, organic wastes, and others.” (emphasis added). This is likely to result in numerous problems and conflicts with federal laws defining renewal energy resources.

For example, under the Renewable Energy Act, the use of “renewable energy” to generate electricity creates “renewable energy certificates” (RECs) *See* NMSA 62-15-37 (B), (C), & (D). RECs are used by public utilities for compliance with Renewable Portfolio Standards. NMSA 62-16-5 (A)(1). RECs may also be traded and sold, subject to certain restrictions. NMSA 62-16-5 (A)(1), NMSA 62-15-35 (requiring the PRC to establish systems, requirements, and procedures concerning the use, sales, and transfers of RECs). The PRC has adopted regulations that, among other things, utilize registration of RECs in the Western Renewable Energy Generation Information System (WREGIS) for compliance purposes. WREGIS is an independent, renewable energy tracking system for the region covered by the 14 state Western

Electricity Coordinating Council (WECC). To the extent New Mexico's definition of renewable energy resource conflicts with definitions recognized by WREGIS, problems may arise with certification of RECs. At a minimum, a definition encompassing a fossil fuel source may cause conflict with the policy objectives of other participating states, which may manifest as legal challenges.

In addition, Natural gas is a fossil fuel that releases CO₂ when burned to generate electricity. Accordingly, amending the definition would conflict with the provisions of the Energy Transition Act, namely the renewable portfolio standards found in Section 62-16-4 of the Renewable Energy Act, and Section 62-15-34 of the Rural Electric Cooperative Act, which mandate 100% of electricity be generated by zero carbon resources by 2045 and 2050, respectively. Accordingly, because combined cycle gas turbines are not "zero carbon" resources, the proposed amendments to the definition of renewable energy would not exempt these electricity generating resources from the ETA's mandates.

PERFORMANCE IMPLICATIONS

NA

ADMINISTRATIVE IMPLICATIONS

NA

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

HB 45 would enact a new Renewable Energy Production Tax Act which would adopt a definition of "renewable energy resource" that differs from both the existing definitions in the Acts amended by HB 273, and from the definition proposed in HB 273. Specifically, HB 45 would define the term as: "solar, wind, hydropower, geothermal or biomass used as an energy resource. As used in this subsection, "biomass" includes agriculture or animal waste, small diameter timber, salt cedar and other phreatophyte or woody vegetation removed from river basins or watersheds in New Mexico, landfill gas and anaerobically digested waste biomass."

See above for other conflicts noted.

TECHNICAL ISSUES

NA

OTHER SUBSTANTIVE ISSUES

None

ALTERNATIVES

NA

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

Status Quo

AMENDMENTS