

**LFC Requester:** \_\_\_\_\_

**AGENCY BILL ANALYSIS**

**SECTION I: GENERAL INFORMATION**

*Check all that apply:*

**Original**     **Amendment**    \_\_\_\_\_  
**Correction**    \_\_\_\_\_ **Substitute**    \_\_\_\_\_

**Date** 1/28/2025  
**Bill No:** SB 98

**Sponsor:** Sen. Elizabeth Stefanics, Rep. Joy Garratt  
**Short Title:** Prohibits Certain Solar Covenants  
**Agency Name and Code** EMNRD 521  
**Number:** \_\_\_\_\_  
**Person Writing** Samantha Kao  
**Phone:** \_\_\_\_\_ **Email** Samantha.kao@emnrd.nm.gov

**SECTION II: FISCAL IMPACT**

**APPROPRIATION (dollars in thousands)**

| Appropriation |      | Recurring or Nonrecurring | Fund Affected |
|---------------|------|---------------------------|---------------|
| FY26          | FY27 |                           |               |
|               |      |                           | NA            |
|               |      |                           |               |

(Parenthesis ( ) Indicate Expenditure Decreases)

**REVENUE (dollars in thousands)**

| Estimated Revenue |      |      | Recurring or Nonrecurring | Fund Affected |
|-------------------|------|------|---------------------------|---------------|
| FY26              | FY27 | FY28 |                           |               |
|                   |      |      |                           | NA            |
|                   |      |      |                           |               |

(Parenthesis ( ) Indicate Expenditure Decreases)

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

|              | FY26 | FY27 | FY28 | 3 Year Total Cost | Recurring or Nonrecurring | Fund Affected |
|--------------|------|------|------|-------------------|---------------------------|---------------|
| <b>Total</b> |      |      |      |                   |                           | NA            |

(Parenthesis ( ) Indicate Expenditure Decreases)

## **SECTION III: NARRATIVE**

### **BILL SUMMARY**

This bill prohibits and voids unenforceable existing covenants and restrictions on property deeds that increase the costs of purchasing and installing solar systems by 10% or \$1500 or that decrease the efficiency of solar systems by more than 10%. It also adds a provision to allow the recovery of attorney fees in any enforcement action.

### **FISCAL IMPLICATIONS**

No fiscal impact for EMNRD

### **SIGNIFICANT ISSUES**

Across the United States, about half of counties or municipalities have passed laws restricting residential solar installation<sup>1</sup>. Some of these covenants and restrictions do not ban installation outright, but these requirements may increase the cost of installing solar systems on properties. Collectively, these restrictions mean that the United States, despite enormous renewable and energy security potential, is banning solar faster than permitting it.

Currently in New Mexico, some neighborhood associations require that solar systems be hidden from sight, reduced, or constrained to certain areas of the property. These restrictions can add to the cost of installation, or can reduce the efficiency of the solar systems, reducing the overall savings to the customer, reducing grid resilience, and slowing the reduction of greenhouse gases emitted from electrical generation. Faster, clearer permitting of solar (and most renewable and infrastructure projects overall) will help advance the state's goals in the Energy Transition Act and lower consumer costs.

However, the bill does not clarify if the "consumer" is solely residential or rooftop-only customers. This lack of definition, along with the definition of "solar collector"<sup>2</sup> in the Solar Right Act would possibly permit large, utility-scale solar developments to be sited without regard for local "convent, condition or restriction."

Further, the broad language of this bill could be interpreted as denial of permit for systems as a cost burden and lead to litigation over location of facilities. This could end up costing a lot in legal fees, ultimately raising the end-cost of solar electricity and defeating the purpose of such "cheap"

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<sup>1</sup> <https://www.usatoday.com/story/graphics/2024/02/27/renewable-energy-sources-ban-map/72630315007/>

<sup>2</sup> As used in the Solar Rights Act: A. "solar collector" means a device, substance or element, or a combination of devices, substances or elements, that relies upon sunshine as an energy source and that is capable of collecting not less than twenty-five thousand British thermal units on a clear winter solstice day or that is used for the conveyance of light to the interior of a building. The term also includes any device, substance or element that collects solar energy for use in:

- (1) the heating or cooling of a structure or building;
- (2) the heating or pumping of water;
- (3) industrial, commercial or agricultural processes; or
- (4) the generation of electricity. A solar collector may be used for purposes in addition to the collection of solar energy. These uses include, but are not limited to, serving as a structural member or part of a roof of a building or structure and serving as a window or wall;

power

**PERFORMANCE IMPLICATIONS**

**ADMINISTRATIVE IMPLICATIONS**

**CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP**

**TECHNICAL ISSUES**

**OTHER SUBSTANTIVE ISSUES**

**ALTERNATIVES**

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

The ongoing installation of solar in New Mexico may continue to be slowed or rendered less effective by existing restrictions.

**AMENDMENTS**