

LFC Requester:	Cally Carswell
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AGENCY BILL ANALYSIS - 2025 REGULAR SESSION

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SECTION I: GENERAL INFORMATION

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

Date Prepared: 01/29/2025 *Check all that apply:*
Bill Number: SB 170 Original Correction
 Amendment Substitute

Sponsor: Sen. Michael Padilla **Agency Name** 430 – Public Regulation
Rep. Meredith A. Dixon **and Code** Commission
Rep. Joshua N. Hernandez **Number:** _____
Short Title: NMFA Definitions, Funds & Rates **Person Writing** J. Bogatko
Title: _____ **Phone:** (505) 490-2696 **Email** jerri.mares@prc.nm.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

BILL SUMMARY

Synopsis: SB 170 proposes several amendments targeting various statutes and is comprised of four SECTIONS respectively directing amendments to: (1) Section 6-21-3, NMSA 1978; (2) Section 6-21-6, NMSA 1978; (3) Section 62-6-26, NMSA 1978; and (4) Section 62-9-1, NMSA 1978.

SECTION 1

SB 170's SECTION 1 amends limited aspects of Section 6-21-3, NMSA 1978, which defines terms as used in the New Mexico Finance Authority Act, Section 6-21-1, NMSA 1978, *et seq.* SB 170 would amend the definition of "public project" found in Paragraph E of Section 6-21-3 by adding the term "electric utilities" to the definition.

Regarding Paragraph F of Section 6-21-3, which provides the definition for "qualified entity," SB 170 would amend the definition by adding the following descriptor: "rural electric cooperative pursuant to the Rural Electric Cooperative Act."

SECTION 2

SB 170's SECTION 2 amends Section 6-21-6, NMSA 1978 – Public project revolving fund; purpose; administration. The first amendment to Section 6-21-6 is found in Paragraph B of the statute where the phrase "authorized specifically by law" is removed in the two instances where it appears in Paragraph B.

Regarding Paragraph C of Section 6-21-6, the proposed amendment again targets the phrase "authorized specifically by law" by deleting it from Paragraph C.

Paragraph D of Section 6-21-6, SB 170 would delete the following phrase: "and pursuant to specific authorization by law for each project".

Finally, SB 170 amends Section 6-21-6 by adding Paragraph L, which reads as follows:

L. After June 30, 2035, only public projects referenced in Subsection D of this section that are specifically authorized by law shall be eligible for funding from the public project revolving fund.

SECTION 3

SB 170's SECTION 3 focuses on Section 62-6-26, NMSA 1978 – Economic development rates for gas and electric utilities; authorization. SB 170 would insert two new substantive paragraphs into Section 62-6-26, which read as follows:

E. To attract, enable the growth of and retain commercial and industrial businesses capable of enhancing the local and state economy, the commission shall allow public

utilities to recover prudent and reasonable costs incurred by a public utility for the ongoing development, construction or maintenance of owned or contracted resources for economic development projects that provide incremental capacity, or serve incremental load growth, within the economic development project's service area. For economic development projects implemented after the effective date of this 2025 act, the reasonable costs of economic development projects shall be recoverable in rates through a rate rider, base rates or a combination thereof, when the associated equipment and facilities begin serving the new load associated with the economic development project or the utility demonstrates that the economic development project provides benefits to existing customers. A public utility shall be allowed to defer costs incurred for economic development projects that are not included in rates to a regulatory asset. Notwithstanding the timelines in Subsection C of Section 62-9-1 NMSA 1978, the commission shall review a public utility's application for an economic development project and issue a final order approving, modifying or denying the application within six months of the application filing date; provided, however, that the commission may extend the time for granting approval for an additional three months for good cause shown. All projects shall be certified by the economic development department and approved by the commission prior to a ten-year sunset of this section. All projects approved by the commission pursuant to this section shall be allowed to be fully constructed even if the full construction of the required facilities takes place after this section has been discontinued.

F. The economic development department shall certify whether the economic development project will support reasonably anticipated economic development within the state. The department shall issue a certification letter within sixty days of a request from a public utility or project developer, and the certification letter shall be included in a public utility's application filed pursuant to Subsection E of this section.

As a result of adding the two foregoing amendments, Paragraph E as it currently exists in Section 62-6-26 is therefore re-lettered, becoming Paragraph G.

SB 170 would also amend Section 62-6-26 by adding four more defining terms in addition to the definition of "incremental cost" that currently features in Section 62-6-26. The new defining terms in the new Paragraph G are as follows:

(1) "economic development project" means the construction or modification of new or existing electric generation facilities, energy storage facilities, transmission and distribution facilities, zero-carbon resources as defined in Subsection K of Section 62-16-3 NMSA 1978, alternative fuel facilities, energy efficiency programs, renewable energy and fuel cell facilities, recycled energy or other technologies necessary to serve reasonably anticipated new load and that have been certified by the economic development department pursuant to Subsection F of this section;

(2) "incremental capacity" means the increase in capacity attributable to new or expanded facilities up to ten percent of peak load per calendar year;

.....

(4) "incremental load growth" means the increase in forecasted load attributable to commercial and industrial growth or electrification of utility customer infrastructure;

and

(5) "recycled energy" means energy produced by a generation unit that converts the otherwise lost energy from exhaust stacks or pipes to electricity without combustion of additional fossil fuel.

The existing definition of "incremental cost" is preserved and renumbered in the statute as Paragraph G(3).

SECTION 4

SB 170's SECTION 4 amends Section 62-9-1, NMSA 1978 – New construction; ratemaking principles. SECTION 4 modifies the public regulation commission's process regarding utility applications for certificates of convenience and necessity ("CCN"). As currently articulated, Section 62-9-1(C) provides a baseline 9 months for processing a CCN application with the option to extend that review period by an additional 6 months for good cause shown.

SB 170's amendment to Section 62-9-1 would create a special and shortened CCN review period applicable to economic development projects certified by the economic development department by adding Paragraph D, which reads as follows:

D. Notwithstanding the timelines contained in Subsection C of this section, for applications certified by the economic development department pursuant to Subsection F of Section 62-6-26 NMSA 1978, the commission shall issue an order granting or denying the application within six months from the date the application is filed with the commission. Failure to issue the commission's order within six months is deemed to be approval and final disposition of the application; provided, however, that the commission may extend the time for granting approval for an additional three months for good cause shown.

SECTION 4 re-letters the remaining paragraphs in the statute accordingly: existing Paragraph D becomes Paragraph E; existing Paragraph E becomes Paragraph F.

FISCAL IMPLICATIONS

None.

SIGNIFICANT ISSUES

None.

PERFORMANCE IMPLICATIONS

None.

ADMINISTRATIVE IMPLICATIONS

SB 170 requires CCN proceedings in connection with a certified economic development project to be completed in a shorter time period than what is normally allowed for by the CCN statute, Section 62-9-1, NMSA 1978. This may require the Public Regulation Commission to evaluate its deployment of personnel and resources to accommodate the shortened time frame for adjudicative/regulatory review of such economic development CCN applications – especially if

such special CCN applications become numerous and simultaneous in their presentation to the public regulation commission for review and determination.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

None.

TECHNICAL ISSUES

None.

OTHER SUBSTANTIVE ISSUES

None.

ALTERNATIVES

None.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

Status Quo.

AMENDMENTS

None.