

| | |
|-----------------------|---------------|
| LFC Requester: | Laird Graeser |
|-----------------------|---------------|

AGENCY BILL ANALYSIS - 2025 REGULAR SESSION

WITHIN 24 HOURS OF BILL POSTING, UPLOAD ANALYSIS TO

AgencyAnalysis.nmlegis.gov and email to billanalysis@dfa.nm.gov

(Analysis must be uploaded as a PDF)

SECTION I: GENERAL INFORMATION

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

Date Prepared: 02.20.2025 *Check all that apply:*
Bill Number: SB 418 Original Correction
 Amendment Substitute

Sponsor: Sen. Michael Padilla **Agency Name and Code** 430 – Public Regulation Commission
Short Title: Qualified Microgrid Tax Credit **Number:** _____
Title: _____ **Person Writing** J. Bogatko
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 418 brings forth new proposed legislation regarding the generation and distribution of self-sourced power from microgrids and the creation of a qualified microgrid income tax credit. SB 418 is comprised of 3 Sections, which are discussed below.

Section 1 addresses “SELF-SOURCED POWER GENERATION.”

Paragraph A states that persons and entities located in New Mexico may receive electricity service using a qualified microgrid. The qualified microgrid may also deliver electricity to equipment, lines and facilities operated by a public utility or a distribution cooperative; provided that the person or entity and the public utility or distribution cooperative enter into an electric service agreement.

Paragraph B provides that nothing in Section 1 shall prevent a public utility or distribution cooperative from acquiring self-source generation resources and dedicating those resources to retail services, wholesale services or self-generation services, or any combination of those services. Rates established for those services shall take into account the public interest and need, reliability and affordability.

Paragraph C specifies that energy generated and sold from a self-source generation resource built to serve in whole or in part a qualified microgrid shall not be considered retail sales as contemplated under Sections 62-15-34 and 62-16-4 NMSA 1978, whether serving the qualified microgrid or purchased in part by the utility.

Paragraph D states that a person who only provides self-source generation sales from a self-source generation resource shall not be considered a public utility or distribution cooperative.

Paragraph E defines:

- (1) “qualified microgrid” to mean a permanent or temporary electrical system that: (a) incorporates a microgrid controller; (b) includes a self-source generation resource that is capable of generating not less than twenty megawatts; and (c) is capable of operating independently and disconnected from the grid.
- (2) “self-source generation resource” to mean a permanent or temporary electricity generating resource that is dedicated to primarily serving the persons connected either directly or indirectly through affiliates to the construction and installation of a qualified microgrid.
- (3) “self-source generation sales” to mean sales of electricity to persons or utilities generated from a self-source generation resource.

Section 2 is a new addition to the Income Tax Act that addresses “CREDIT - - QUALIFIED MICROGRID INCOME TAX CREDIT.”

Paragraph A provides that a taxpayer who is not a dependent of another individual and who constructs and installs a qualified microgrid in an underserved community in New Mexico prior to January 1, 2031 may claim a credit against the taxpayer's tax liability imposed pursuant to the Income Tax Act. This credit cannot be claimed if the taxpayer is allowed a credit for any of the costs for which a credit is allowed pursuant to another section of the Income Tax Act. The credit contemplated by this provision may be referred to as the "qualified microgrid income tax credit".

Paragraph B states that the amount of the tax credit shall be in an amount equal to the costs to construct and install the qualified microgrid, but not to exceed \$100,000.00 dollars per qualified microgrid constructed and installed.

Paragraph C provides that a taxpayer shall apply for certification of eligibility for the tax credit from the energy, minerals and natural resources department on forms and in the manner prescribed by that department within 12 months following the calendar year in which the qualified microgrid is installed. With limited exceptions per Paragraphs G and H, only one tax credit shall be certified per taxpayer pre taxable year. This Paragraph provides further criteria regarding the administration of this function by the energy, minerals and natural resources department.

Paragraph D states that applications for certification of the credit shall be made no later than one year from the date on which the qualified microgrid is installed.

Paragraph E provides that a certificate of eligibility for the credit may be sold, exchanged or otherwise transferred to another taxpayer for the full value of the credit. In the event of such a transaction, the department is to be notified of the same within 10 days in an electronic format prescribed by the department.

Paragraph F indicates that the portion of a tax credit that exceeds a taxpayer's income tax liability in the taxable year in which the credit is claimed may be carried forward for 20 consecutive taxable years until the amount is exhausted.

Paragraph G specifies that married individuals filing separate returns for a taxable year for which they could have filed a joint return may each claim only one-half of the tax credit that would have been claimed on a joint return.

Paragraph H provides for pro-rata shares of the credit proportionate to the taxpayer's ownership interest in a business entity that is taxed for federal income tax purposes as a partnership or limited liability company and that business entity has met all the requirements to be eligible for the credit. The total credit claimed by all members of such a business entity shall not exceed the total allowable credit.

Paragraph I provides that the contemplated credit shall be claimed in a manner required by the department and that the credit shall be claimed within one taxable year of the end of the year in which the energy, minerals and natural resources department certifies the credit.

Paragraph J states that the credit provided by this section shall be included in the tax expenditure budget pursuant to Section 7-1-84 NMSA 1978, including the total annual aggregate cost of the credit.

Paragraph K defines:

(1) “qualified microgrid” to mean a permanent or temporary electrical system that: (a) incorporates a microgrid controller; (b) includes a self-source generation resource that is capable of generating not less than twenty megawatts; and (c) is capable of operating independently and disconnected from the grid.

(2) “self-source generation resource” to mean a permanent or temporary electricity generating resource that is dedicated to primarily serving the persons connected either directly or indirectly through affiliates to the construction and installation of a qualified microgrid.

(3) “underserved community” means an area in the state, including a county, municipality or neighborhood, or a subset of such an area, where the median income of the area is at or near the federal poverty level.

Section 3 concerns “APPLICABILITY” and states that the provisions of Section 2 of this act apply to taxable years beginning on or after January 1, 2025.

FISCAL IMPLICATIONS

N/A

SIGNIFICANT ISSUES

SECTION 1, Paragraph B’s reference to ratemaking appears to implicate the Public Regulation Commission’s ratemaking authority with respect to public utilities and possibly cooperatives. This provision and its language regarding acquisition of self-source generation resources also implicates the Certificate of Necessity and Need (“CCN”) process contemplated by Section 62-9-1, NMSA 1978. It is unclear whether implementing such rates would be subject to current ratemaking principles or proceedings in front of the Commission.

Further, Section 1, Paragraph C appears to create an exemption for electricity generated by self-source generation resources from the requirements of the renewable portfolio standards for electric utilities and electric cooperatives set forth in Section 62-16-4 and Section 62-15-34, NMSA 1978. This includes such electricity that might be generated by or purchased by a utility in connection with such self-source generation resources. It is unclear whether the power generated by or purchased from a self-source generation resource would be exempt from consideration when assessing a utilities compliance with renewable portfolio standards.

PERFORMANCE IMPLICATIONS

None.

ADMINISTRATIVE IMPLICATIONS

None.

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.