LFC Requester:	

AGENCY BILL ANALYSIS

SECTION I: GENERAL INFORMATION

Check all that apply:
Original X **Amendment** ___
Correction ___ **Substitute** ___

Date February 20, 2025
Bill No: SB 418

Sponsor: Sen. Padilla

Short Title: Qualified Microgrid Tax Credit

Agency Name and Code Number: EMNRD 521

Person Writing Samantha Kao

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SECTION II: FISCAL IMPACT

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY26	**FY27**		

(Parenthesis ( ) Indicate Expenditure Decreases)

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY26	**FY27**	**FY28**		

(Parenthesis ( ) Indicate Expenditure Decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY26	FY27	FY28	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total	$65.0	$65.0	$65.0	195.0	Recurring	GF

(Parenthesis ( ) Indicate Expenditure Decreases)

SECTION III: NARRATIVE

BILL SUMMARY

Synopsis:

SB418 creates a new section of Chapter 62 NMSA 1978 allowing persons and entities in New Mexico to receive electricity services via qualified microgrids. Bill text also enables qualified microgrids to deliver electricity to equipment owned by public utilities or distribution cooperatives.

Qualified microgrids are defined here as permanent or temporary electrical systems that:

a. incorporate a microgrid controller;
b. include a self-source generation resource[1] with generating capacity no less than 20 megawatts (MW), and are
c. capable of operating independently and disconnected from the grid.

SB418 also establishes the Qualified Microgrid Income Tax Credit for taxpayers who construct and install qualifying microgrids in underserved communities[2] before January 1, 2031. The bill caps each credit at $100,000.00 per microgrid and makes it available to taxpayers who meet specific eligibility criteria; places EMNRD in charge of determining certifying tax credit eligibility and authorizes tax credit transferability.

The tax credit also is proportionally claimable by individuals in the proportion of their ownership interest in an LLC or partnership if that LLC or partnership is the entity that builds the microgrid. Section 2 of SB418 also allows a taxpayer to carry forward any amount of the tax credit that exceeds their income tax liability in the taxable year in which the credit is initially claimed for 20 consecutive taxable years until the total credit is exhausted.

The bill also allows for the purchase of the self-source generation resources (permanent or temporary electricity generating resources "primarily" dedicated to serving microgrids) by a public utility or distribution cooperative. So, an individual or entity (e.g., an LLC or partnership) could construct a microgrid, claim a tax credit on it for up to 20 years, and then sell it to a public utility or distribution cooperative.

FISCAL IMPLICATIONS

EMNRD's Energy Conservation and Management Division (ECAM) would require 0.5 FTE to certify the tax credits. Estimated cost for this 0.5 FTE is $65,000/year.

SIGNIFICANT ISSUES

Benefits of Microgrids

SB418 creates an incentive to construct and operate microgrids in New Mexico's underserved

[1] Defined as a "permanent or temporary electricity generating resource that is dedicated primarily to serving connected persons directly or indirectly through affiliates to the construction and installation of a qualified microgrid."

[2] Defined as "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."

communities. This would benefit statewide objectives for the electricity sector. Microgrids capable of operating independently from the grid can and would support the state's resiliency and reliability goals by maintaining electricity service during outage events. This is particularly important for rural grid resiliency. In 2023, a given customer at a New Mexico IOU experienced 0.8 outage events, which was 38% less frequent than a given US customer faced, but outages were 50% more frequent at statewide rural electric cooperatives[3].

Whether incentivized by this tax credit or not, this bill explicitly allows self-source generating resources connected to microgrids to deliver electricity to IOUs or co-ops. Unlocking microgrids in this way would support electricity affordability in communities with high energy burdens (such as the state's rural and tribal communities). For example, a microgrid servicing a distribution coop would thus need to procure less electricity from generation and transmission providers, which could lower rates for coop members (while also avoiding the fixed cost shift implications of distributed generation not connected to a microgrid).

Cost of Microgrids
Microgrids generally range in size from 100 kW to over 100 MW. A 2018 study conducted by the National Renewable Energy Laboratory (NREL) found that microgrids in the Continental United States cost an average of $2–$5 million per megawatt (MW) to develop.[4]

Defining microgrids as generating no less than 20 megawatts would preclude single-family homeowners from taking advantage of the proposed tax credit, as a single-family home, on average, typically needs just a 5kW system. A 20-megawatt system would provide power for up to 8,000 homes and cost $40–$100 million.

PERFORMANCE IMPLICATIONS
None for EMNRD.

ADMINISTRATIVE IMPLICATIONS
EMNRD would need to promulgate a new rule and stand up a new application process for this tax credit that may have very little uptake. EMNRD FTE would be handling IRS data and may have to obtain annual privacy and disclosure training required by the U.S. Internal Revenue Service (IRS). Administration of the tax credit may also require collaboration with EMNRD's Information Technology Division and the Tax and Revenue Department (TRD) to electronically transmit data to TRD.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP
SB418 conflicts with HB452 because the former excludes all energy generated from a self-source generation resource from the calculation of a utility's total retail sales. Passage of HB452 would do the opposite – classify all energy generated and consumed on-site by qualifying facilities[5] as "included in the determination of total retail sales."

[3] EIA Form 861 Utility Reliability Metrics (2023)
[4] U.S. Department of Energy, Grid Deployment Office (2018) retrieved from: https://www.energy.gov/sites/default/files/2024-02/46060_DOE_GDO_Microgrid_Overview_Fact_Sheet_RELEASE_508.pdf
[5] Small-scale generators under 80MWs as defined by PURPA 1978

TECHNICAL ISSUES

This bill defines "underserved community" as "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." "At or near" is vague.

In comparison, the Transportation Electrification Act at Section 62-8-12 (E) NMSA 1978 defines "underserved community" as "an area in this state, including a county, municipality or neighborhood, or subset of such area, where the median income of the area is low-income," where "low income" is defined as "an annual household adjusted gross income … of equal to or less than two hundred percent of the federal poverty level."

Additionally, the Community Energy Efficiency Development Block Grant Act at Section 62-17A-2 (J) NMSA 1978 also more specifically defines "underserved community" as "an area in the state, including a county, municipality or neighborhood, or subset of an area, where: (1) the median adjusted gross income ... does not exceed two hundred percent of the federal poverty level; or (2) there is a high energy burden or limited access to energy efficiency services as determined by [EMNRD] rule."

As noted above, defining microgrids as those generating no less than 20 megawatts is likely too limiting.

Further, the bill provides no annual or lifetime aggregate limit for the total amount of tax credits that can be claimed for this credit program.

OTHER SUBSTANTIVE ISSUES

ALTERNATIVES

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

Individuals and entities would not be able to build, and sell electricity from, microgrids without being classified as a public utility or utility, and individuals and entities would not be able to claim a $100,000 tax credit for building a qualifying microgrid.

AMENDMENTS