

FIFTY-SEVENTH LEGISLATURE
FIRST SESSION

PROPOSED AMENDMENT DIRECTED TO A COMMITTEE

March 18, 2025

Madam Chair:

I propose to the SENATE TAX, BUSINESS AND TRANSPORTATION COMMITTEE the following amendments to

HOUSE TAXATION AND REVENUE COMMITTEE SUBSTITUTE FOR
HOUSE BILL 14

1. On page 1, line 17, before the period, insert "; PERMITTING THE GENERATION AND DISTRIBUTION OF SELF-SOURCED POWER; CREATING THE QUALIFIED MICROGRID INCOME TAX CREDIT".

2. On page 18, between lines 10 and 11, insert:

"SECTION 9. A new section of the Income Tax Act is enacted to read:

"[NEW MATERIAL] CREDIT--QUALIFIED MICROGRID INCOME TAX CREDIT.--

A. 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; provided that a taxpayer shall not be eligible to claim the credit 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 authorized pursuant to this section may be referred to as the "qualified microgrid income tax credit".

B. The amount of the tax credit shall be in an amount equal to the costs to construct and install the qualified microgrid, not to exceed one hundred thousand dollars (\$100,000) per qualified microgrid constructed and installed.

C. 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 twelve months following the calendar year in which the qualified microgrid is installed. Except as provided in Subsections G and H of this section, only one tax credit shall be certified per taxpayer per taxable year. If the energy, minerals and natural resources department determines that the taxpayer meets the requirements of this section, that department shall issue a dated certificate of eligibility to the taxpayer providing the amount of tax credit for which the taxpayer is eligible and the taxable years in which the credit may be claimed. The energy, minerals and natural resources department may promulgate rules governing the procedure for administering the provisions of this subsection. The energy, minerals and natural resources department shall provide the department with the certificates of eligibility issued pursuant to this subsection in an electronic format at regularly agreed upon intervals.

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

E. A certificate of eligibility for the credit may be sold, exchanged or otherwise transferred to another taxpayer for the full value of the credit. The parties to such a transaction shall notify the department of the sale, exchange or transfer within ten days of the sale, exchange or transfer in an electronic format prescribed by the department.

F. That portion of the 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 twenty consecutive taxable years until the amount is exhausted.

G. 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.

H. A taxpayer may be allocated the right to claim a qualified microgrid income tax credit in proportion to the taxpayer's ownership interest if the taxpayer owns an 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 of the requirements to be eligible for the credit. The total credit claimed by all members of the partnership or limited liability company shall not exceed the allowable credit pursuant to this section.

I. A taxpayer allowed to claim a tax credit pursuant to this section shall claim the tax credit in a manner required by the department. 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.

J. 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.

K. As used in this section:

(1) "qualified microgrid" means 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" means 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; and

(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 10. A new section of Chapter 62 NMSA 1978 is enacted to read:

"[NEW MATERIAL] SELF-SOURCED POWER GENERATION.--

A. Persons and entities located within the state may receive electricity service using a qualified microgrid that 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.

B. Nothing in this section 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, and rates established for those services shall take into account the public interest and need, reliability and affordability.

C. 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.

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

E. As used in this section:

(1) "qualified microgrid" means 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" means 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; and

(3) "self-source generation sales" means sales of electricity to persons or utilities generated from a self-source generation resource."".

3. On page 18, strike lines 11 through 15 and insert in lieu thereof:

"SECTION 11. APPLICABILITY.--The provisions of Sections 8 and 9 of this act apply to taxable years beginning on or after January 1, 2025.

SECTION 12. EFFECTIVE DATE.--The effective date of the provisions of Sections 1 through 7 of this act is July 1, 2025.".

Respectfully submitted,
