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FISCAL IMPACT REPORT

ORIGINAL DATE 2/5/18

SPONSOR Gonzales/Montoya LAST UPDATED _____ HB 80

SHORT TITLE Energy Redevelopment Bond Act SB _____

ANALYST Graeser/Iglesias

REVENUE (dollars in thousands)

Estimated Revenue					Recurring or Nonrecurring	Fund Affected
FY18	FY19	FY20	FY21	FY22		
\$0.0	\$0.0	\$0.0	Unclear*	Unclear*	Recurring and Non-recurring	General Fund
\$0.0	\$0.0	\$0.0	Unclear*	Unclear*	Recurring and Non-recurring	San Juan County
\$0.0	\$0.0	\$0.0	Unclear*	Unclear*	Recurring and Non-recurring	All other cities and counties

Parenthesis () indicate revenue decreases

Note: * unclear, or at least not quantifiable. Closure of Units 1 and 4 scheduled for 1/2023, with replacement in San Juan County scheduled before 1/2028. Timelines are approximate because of required PRC approvals.

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	Annual Cost FY20 – FY 25	6 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total	\$450.0	\$2,700.0	Recurring for 3 - 6 years*	PRC Operating

Parenthesis () indicate expenditure decreases

Note: PRC indicates need for a Certified Public Accountant, a Public Utility Engineer, a staff counsel, ½ associate general counsel and a hearing examiner, whose cost would be generally funded. In addition, the proposal would require bond counsel, disclosure counsel and an independent financial advisor with expertise in securitization financing whose fees could be embedded in the amount financed. This need could extend for six years. There are three other facilities that could be eligible for this treatment.

Duplicates, Relates to, Conflicts with, Companion to: SB-47

SOURCES OF INFORMATION

LFC Files

Various summaries and explanations from Public Utility Company of New Mexico (PNM)

Analysis on behalf of merchant providers by Bruce Throne, esq.

Analysis provided by New Energy Economy

Various Newspaper articles

Letter to Senator Wirth and Representative Egolf from Mariel Nanasi, Attorney at Law, representing the New Energy Economy

Responses Received From
Public Regulation Commission (PRC)
Four Corners Economic Development

SUMMARY

Synopsis of Bill

See “Significant Features” below for a summary of the major features of this bill. A detailed summary is attached to this review. Readers should also inspect the original FIR on this bill prepared by the PRC.

House Bill 80 authorizes an alternative mechanism for financing the retirement of coal-fired power plants. It has been designed to accommodate the retirement in 2023 of Units 1 and 4 of the San Juan Generation Station, and to anticipate the closure of the Four Corners Power Plant in 2031. The bill is also designed to mitigate some of the adverse economic effects on affected local communities by requiring the location of replacement power resources in the communities where the abandoned facilities are located, taking into consideration system reliability while assuring that such location does not eliminate the cost savings from energy redevelopment bonds. The securitization mechanism provides PNM and other affected investor-owned utilities with 100 percent recovery of stranded costs with potentially a lower cost to customers as compared to conventional financing mechanisms.

There is no effective date of this bill. It is assumed that the effective date is 90 days after this session ends or May 16, 2018. Section 23 of the bill indicates that the provisions of the act shall not apply to a qualifying utility that makes an initial application for a financing order more than twenty years after the effective date of this act.

FISCAL IMPLICATIONS

In addition to the proximate bond financing related to the closure of PNM’s San Juan Generating Station and the related closure of the San Juan Coal Company, three other coal-fired plant retirements could be involved: PNM’s Four Corners plant which is currently scheduled for closure in 2031 and Southern Public Service Company’s Tolk Generating Station and Harrington Generating Station in Texas. These units involve similar concerns for ratepayers and utility investors, but only the Four Corners Generating Plant closure invokes the same consideration of economic development. For the two Texas Plants, the replacement resources requirement would not affect New Mexico’s economy.

Fiscal Facts Related to the San Juan Generating Station. The following fiscal facts have been provided by PNM:

- Undepreciated asset value for San Juan Generating Station (as of 2023): \$320 million
- Shutdown costs and employee severance: \$24 million; although, the version 4 draft of this bill provides for a substitute 5.4 percent or \$19 million in transition expenses
- Securitization transaction costs: \$6 million
- Recovery period: 25 years (although the bill would allow a series of bonds to be issued, each element in the series to be limited to a 25-year recovery period, but no limit on the total period of the series of bonds)

- PNM’s pre-tax weighted average cost of capital (including significant risk differential): 8.83 percent
- PNM’s after-tax weighted average cost of capital: 7.23 percent (this includes the effect of the recent federal reduction of corporate income tax rate, but it is unknown whether the accumulated deferred income tax (ADIT) provisions were changed in the recent federal tax bill)
- Securitization rate: 3.1015 percent

Local Impact of SJGS and SJCC Closures. Data from Four Corners Economic Development (assumes the SJGS would be permanently retired and not sold to another operator and that the SJCC would be shut down and not be able to find another buyer):

- 657 current employees at San Juan Generating Station (SJGS) and San Juan Coal Company (SJCC) earning almost \$118 thousand annually including benefits.
- \$31 million in purchases by SJGS and SJCC from San Juan County vendors.
- Lost Gross Receipts Taxes attributed to lost wages from laid-off workers and loss of local purchases of goods and services by PNM and SJCC.

	Farmington	County	State
From Vendor Purchases	\$0	\$82,710	\$1,621,412
Employee Spending (50%)	\$224,625	\$303,904	\$1,083,486

- Total of \$9.6 million reduction in Property Taxes paid by SJGS and SJCC. This would require an automatic increase of 4 mills in debt service rate and 1.5 mills increase in operating rates requiring action of the San Juan County Commission and the San Juan College board.
- The State, Other State Funds and the Navajo Nation will lose severance tax revenue assuming that an alternative market for coal could not be developed.

Other Lost Taxes (\$ millions)	
Severance Tax (STBF)	\$3.23
Conservation Tax (Gen Fun and OSF)	\$.33
Resource Excise Tax (Gen Fund)	\$1.41
Gross Proceeds Tax (Navajo Nation)	\$1.55
Total	\$6.52

Analysis of Potential Outcomes. LFC staff identify five possible scenarios for comparison and analysis:

- A. The bill passes with the securitization features intact, Units 1 and 4 shut down by 2023, PNM shareholders receive 100 percent recovery of stranded costs and replacement resources are located in San Juan County. There is a modest amount of severance pay and retraining costs allowed for workers displaced by the closure. There is some reduction in the scope of PRC’s authority. Replacement resources would be primarily or totally owned by PNM.
- B. The bill passes with the securitization features intact, Units 1 and 4 shut down by 2023, PNM shareholders receive 100 percent recovery of asset costs, subject to caveats, additional resources are located in San Juan County and are partially or fully owned by PNM (i.e., the procurement is at least partially competitive.) There is a modest amount of severance pay and retraining costs allowed for workers displaced by the closure. PNM may

fund the building of replacement resources from the proceeds of the bond. The only reduction of PRC’s authority is that PNM shareholders receive 100 percent cost recovery, but all other aspects of the bill’s provisions are under the full review and authority of the PRC. [Note: this is closer to what the consensus may be. Other aspects of a likely agreement revolve around the degree of PNM’s direct ownership of the replacement resource and the extent to which San Juan County receives some financial transition funds.]

- C. The bill does not pass, Units 1 and 4 remain in operation, PNM shareholders eventually receive 100 percent recovery of asset costs, and no additional resources are located in San Juan County. [Note, PNM has filed an integrated resource plan (IRP) that indicates that PNM plans to shut down the SJGS by 2023. This has not be accepted by the PRC, but PNM states the IRP “points strong toward” closing SJGS by 2023, along with the associated San Juan Coal Company.]
- D. The bill does not pass, Units 1 and 4 shut down by 2023, PNM shareholders are allowed 50 percent recovery of asset costs with the current weighted cost of capital (WACC), and no replacement or additional resources are located in San Juan County.
- E. The bill does not pass, Units 1 and 4 shut down by 2023, PNM shareholders are allowed 50 percent recovery of asset costs with the current weighted cost of capital (WACC), and no replacement or additional resources are located in San Juan County. PNM does not accept this order and litigates. For the purposes of comparison, assume that the litigation provides 100 percent stranded cost recovery and full WACC.

There are, of course, other possible variations in timing and effect, but this analysis is restricted to these five scenarios.

Option A would allow PNM shareholders 100 percent recovery of stranded costs, ratepayers are no worse off than with option D, lost wages and procurement is partially replaced because some replacement resources are located in San Juan County (not necessarily in Central Consolidated School District), Units 1 and 4 are shut down. The general fund and San Juan County are approximately whole to a loss of gross receipts tax revenue compared to scenario D and the general fund gains gross receipts tax revenue from the construction anywhere in the state of the replacement resource. Compared to option E, ratepayers are much better off, lost wages and procurement are partially replaced because some replacement resources are located in San Juan County.

Option B reflects a progression of negotiations between interested parties, including: (a) further restricting the location of replacement resources to the jurisdictional area of the Central Consolidated School District; (b) providing additional economic transition funding in excess of the \$26 million included in the original estimate; (c) providing for substantially more competition for the replacement resource than provided here; (d) considering requiring the qualifying utility to increase it’s already mandated 20 percent by 2020 renewable power requirement (RPS); and (e) minimizing the limitation of PRC’s authority. This consensus deal will be less favorable for PNM than A, but considerably more favorable than D. It will certainly be less favorable than the bill provides (option A).

Option C is not further discussed considered. Pursuant to the IRP filed by PNM, it seems likely that units 1 and 4 of SJGS will close by 2023 whether the bill passes or not.

Option D reflects PNM’s investors would receive 50 percent cost recovery of the undepreciated SJGS asset; all the jobs, wages, property taxes and procurement in San Juan would be lost; the plant is shut down; the general fund receives gross receipts tax revenue from including the 50 percent recovery costs in the rate base; ratepayers are approximately whole compared to scenario A and considerably better off than compared to scenario E; and the general fund gains gross receipts tax revenue from the construction anywhere in the state of the replacement resource. However, PNM has indicated that it would not accept this proposed abandonment order and would litigate.

Option E indicates PNM’s investors receive 100 percent cost recovery of the undepreciated SJGS asset, but would receive no profit percentage on the investment. All the jobs, wages, property taxes and procurement in San Juan are lost, the plant is shuts down, the general fund receives gross receipts tax revenue from including the 100 percent recovery costs in the rate base, ratepayers are approximately whole compared to scenario and the general fund gains gross receipts tax revenue from the construction anywhere in the state of the replacement resource.

Because of the uncertainties regarding what a final proposal may be – if one is crafted soon – the effects of the provisions of the bill are equally uncertain.

House Bill 80– Page 6

	Summary	PNM’s investors	PNM area ratepayers	SJGS & SJCC employees and vendors	General Fund	San Juan County, Central Consolidated School District
Scenario A	Bonds issued; units shut down in 2023; about 50% of economic activity replaced; PNM owns the replacement resources	100% recovery of stranded costs but no WACC	Approximately whole compared to PRC disallowing 50% recovery and allowing current WACC	50% of economic activity replaced	Loses all coal severance revenue, approximately whole to other GRT impacts; probable gain from replacement construction GRT	Replace 50% of lost property tax, gets GRT from replacement construction; probably less net employment
Scenario B	Bonds issued; units shut down in 2023; about 50% of economic activity replaced; Replacement resources partially competitive	Maximum 100% recovery of stranded costs but no WACC.	Far better off than PRC allowing 100% recovery and allowing current WACC.	At least 50% of economic activity replaced	Loses all coal severance revenue, approximately whole to other GRT impacts; probable gain from replacement construction GRT	Replace at least 50% of lost property tax, gets GRT from replacement construction; probably less net employment. Probably less activity with this scenario than option A.
Scenario C	Units stay operating	100% recovery of asset costs	Current asset in rate base (no change); amortized at full WACC	No loss of jobs or procurement	No loss of severance revenues; no additional GRT from construction	No change in property tax, GRT, no additional GRT from construction
Scenario D	Units shut down in 2023.	50%-60% recovery of asset costs	Probably allows current WACC; ratepayers approximately whole compared to Scenario A (alternative bond financing at lower rate).	Loss of at least 657 jobs, and over \$75 million in economic activity	Loses all coal severance revenue, approximately whole to other GRT impacts; probable gain from replacement construction GRT	Loses millions in property tax and GRT revenues
Scenario E	Units shut down in 2023	100% recovery of asset costs	Rate impacts achieved after extensive litigation; possibly allows current WACC; ratepayers worse off compared to Scenarios A, B or D.	Loss of at least 657 jobs, and over \$75 million in economic activity	Loses all coal severance revenue, approximately whole to other GRT impacts; probable gain from replacement construction GRT	Loses millions in property tax and GRT revenues
Which is best for stakeholder?	Most feasible scenarios result in shutdown of Units 1 & 4 by 2023.	E is best; A is acceptable; B might be acceptable, but is less acceptable to PNM than either A or E; PNM will likely not accept D.	A & D about equally acceptable; E is worst; B is slightly to substantially better for ratepayers, considering competitive replacement resources will be cheaper than PNM owning the replacement directly.	Clearly A or B are best here. B may have more transition assistance than A.	All scenarios lose severance revenue. Scenarios A and B generate construction replacement GRT for San Juan. Replacement in other locations (option D & E) generate GRT for the General Fund. B results in lower ongoing and construction phase GRT revenue.	Options A provides some transition assistance; option B provides substantial transition assistance; Option B locates replacement resources within jurisdiction of Central Consolidated School District.

A particular financial provision is of concern to LFC staff:

The bonds allowed by this bill have a period not exceeding 25 years. However, page 12 of the bill contains the permission, “if the bonds are expected to be issued in more than one series, the estimated issuance date and expected term for each bond issuance; provided that the maximum term for each bond issuance shall be no longer than twenty-five years;” Thus, there is a potential for the impact of this proposal to affect PNM’s ratepayers for far more than the stated twenty-five years.

SIGNIFICANT ISSUES

Attached to this review is a detailed summary of provisions of the bill. This was originally prepared by staff at PNM on a previous version of the bill. LFC staff has updated this summary and made some annotations.

- Units 1 and 4 at SJGS would shut down by December 31, 2022. San Juan Coal Company (SJCC) would probably shut down when the SJGS was shut down.
- Public Service Company of New Mexico (PNM), which owns the SJGS¹, would be allowed to recover 100 percent of the stranded costs of the SJGS, although the investors would not receive any additional amounts representing profit.
- PNM would form a subsidiary that would be granted the right to issue energy redevelopment bonds with a maximum term of twenty-five years. This would be non-recourse debt financing. The bonds would be amortized with a guaranteed, nonbypassable rate added to every customer of the utility. This additional rate would be added until the bonds were completely paid off. Because of the guarantees, the bonds would probably be rated as AAA and would incur very low market interest rates.
- To partially mitigate the economic impact of shutting down the SJGS and the SJCC on the Central Consolidated School District and San Juan County a portion of the proceeds of the bonds could be used to pay for severance pay and retraining for the workers laid off because of the shut-down.
- Also to partially mitigate the economic impact of shutting down the SJGS, the qualifying utility promises and is required in the bill to install replacement resource in San Juan County. The value of this replacement resource is not established in the bill. The replacement resource may have to be installed within five years of the shutdown. Proceeds of the bond may be used to build this replacement resource.
- The provisions of the bill are effective for coal-fired plants that would shut down within twenty years of the effective date of the bill. In addition to Units 1 and 4 of SJGS and the Four Corners Power Station, Southwestern Public Service has two coal-fired plants in Texas that could possibly be retired using the securitization mechanism.
- The bill limits the authority of the PRC in a number of ways and changes the conventional timelines for PRC’s review of the complex actions authorized by the bill.

¹ The City of Farmington currently owns a portion of the SJGS, but this ownership will cease before Units 1 and 4 are shut down.

- In the opinion of the PRC, the subsidiary of PNM which would own the right to the non-bypassable ERB rate is not sufficiently “ring-fenced and bankruptcy remote” for the parent PNM and the bonds would not receive AAA rating.

Policy Questions for Consideration. The following represents various policy issues that warrant thorough discussion.

1. To what extent can PNM’s ratepayers and investors expect the PRC to allow the investors to recover the full amount of their investment in the coal-fired San Juan Generating Station if the plant is decommissioned prior to its originally scheduled useful life because of economic obsolescence?
2. PRC is constitutionally assigned the task of regulating electric utilities in the state. Does the bill, with its numerous negotiated provisions, allow PRC reasonable authority to ensure that the details of the plan implement the statutory provisions? Are there any legal or technical problems with the bill that remain to be solved? Are there any constitutional limits that would affect the acceptability of the provisions of this bill?
3. Does the bill do an adequate job in establishing the separation between the qualifying utility and the subsidiary organization that owns the property right to the non-bypassable economic recovery bond repayment rate?
4. To what extent should PNM’s ratepayers pay for the economic transition costs for Central Consolidated School District and San Juan County?

The first policy issue can be addressed with an extract of Bruce Throne, esq.’s memorandum.

PNM has argued in past PRC cases that, when it proposes to abandon service from an existing supply-side resource, it is legally *entitled* to recover from its customers 100 percent of its undepreciated investment in that plant plus a return on that amount at its WACC (a weighting of its allowed return on equity and the average cost of its long-term and preferred stoic debt) based on the so-called “regulatory compact” (i.e., the principle that, due to its legal obligation to provide regulated service to all customers in its service area, it is entitled to a reasonable opportunity to earn a fair return on its prudent investments in plant determined be “used and useful” for service to its customers), arguing that denying it such recovery would constitute an unconstitutional “taking” of its property. There appears to be no New Mexico statute, PRC rule or New Mexico or U.S. Supreme Court opinion, however, supporting that “regulatory compact” argument with respect to a regulated utility’s recovery of investment in plants abandoned because they are no longer cost-effective for service to its customers.

To the contrary, past PRC and New Mexico Supreme Court decisions have stated that, in carrying out the PRC’s responsibility to balance the interests of utility consumers and investors when determining utility rates that are “just and reasonable,” the PRC has considerable discretion so long as its determinations are supported by “substantial evidence,” are not contrary to applicable law, are not “arbitrary and capricious,” and that it is the reasonableness of the “end result” of the rates determined by the PRC that matters. In this regard, the PRC has acknowledged that the return on equity (“ROE,” i.e., profit on investments in plant) it historically has allowed electric utilities to recover, which is an element of their authorized WACC, has included a “risk premium” that compensates a utility’s investors for the risks associated with similar utility businesses.

Those investor risks include the risk of not recovering the costs of investments determined by regulators to be not “prudent” (the so-called “prudent investment” rule). They also include the risk that a utility may not be able to fully recover all of its investments in utility plant or a profit on those investment if, over time, that plant becomes economically obsolete due to the availability of more cost-effective resource alternatives, and therefor is no longer “useful” (economic) for utility service to its customers and “prudent” for a utility to rely on for such service.

PRC points out the following provisions in which some or all of the authority and expertise of the PRC is bypassed in this proposal:

Limits on Commission Oversight and Authority

HB-80 reduces or eliminates Commission authority and discretion in several areas in a manner that is atypical:

1. arguably limits the ability to decide on an appropriate amount of stranded costs for recovery through the definition of energy redevelopment costs and the concurrent filing of abandonment and financing order application (Section 2(I)(1)(c));
2. mandates use of a specific methodology to compare cost savings of the financing order with cost recovery under the WACC (Section 3(B)(9));
3. mandates approval of the financing order if it meets a specific criteria of cost savings using the specified methodology (Section 3€(2));
4. mandates locational approval of replacement resource in San Juan county under specific criteria (Section 18(A));
5. limits the ability to amend the financing order after a final order is issued to specific instances (Section 6(B)) and provides for the irrevocability of the financing order (Section 6(A));
6. provides a statutory time limit for the approval of a financing order application and any accompanying abandonment application (Section 3(A));
7. provides that the Commission cannot include the energy redevelopment bonds as a part of the utility’s capital structure in a ratemaking procedure, which is important when determining the WACC going forward (Section 9(A));
8. states that the Commission cannot order the qualifying utility to issue energy redevelopment bonds and if a utility chooses not to use them, it still has the right to full stranded cost recovery (Section 9(B)). In other words, the utility is not under any mandate to ensure stranded cost recovery for its customers at the lowest interest rate and it may pursue cost recovery at the higher WACC if that is in its best interest;
9. mandates that the utility shall use the bond proceeds to acquire utility-owned replacement resources for inclusion in rate base (Section 10(A)); Section 198(A) also mentions utility –owned replacement resources;
10. mandates that the utility shall select sites for utility-owned replacement resource in the county where the abandoned coal-fired plant is located; and this may just replicate (4) above;
11. mandates that the Commission grant certificates of public convenience and necessity for replacement resources located in the affected New Mexico county and allow full cost recovery in rates (Section 19(B)).

The fifth limit, No. 5 above is necessary for the highest credit rating from ratings agencies because it ensures that any financing order won’t be capriciously altered after the bonds are sold, thereby impacting bondholder’s expected stream of revenue

payments. The other limits are not necessary for a financing order and could have negative impacts on customers.

Grammatically, the Constitution may provide pause:

Sec. 2. [Responsibilities of public regulation commission.] (2012)

The public regulation commission shall have responsibility for regulating public utilities, including electric, natural gas and water companies; transportation companies, including common and contract carriers; transmission and pipeline companies, including telephone, telegraph and information transmission companies; and other public service companies in such manner as the legislature shall provide...

If the court wanted to parse the language, it says PRC shall regulate public utilities . . . in such manner as the legislature shall provide. The court could decide that the first clause, “shall regulate public utilities”, is the grant of power over public utilities given to PRC. The subordinate clause allows the legislature to determine how that grant of power is exercised. It does not seem to suggest that the legislature can take the power away from PRC.

Notably, another section of the Constitution (Article IV, § 34) prohibits certain actions of the legislature:

No act of the legislature shall affect the right or remedy of either party, or change the rules of evidence or procedure, in any pending case.

Briefly, New Energy Economy has a pending appeal in the New Mexico Supreme Court, Case No. 36,115, which directly addresses the question of imprudence and PNM’s investment in Four Corners Power Plant and whether this resource should be permitted to serve PNM retail customers. New Energy Economy has also appealed several other PRC orders revolving about maintaining SJGS, FCPP and the Palo Verde Nuclear Generating Station that also serve PNM’s customers. If the bill passed in its current form, it is likely that any attempt to use the provisions of the securitization bill to argue against any of the appeals would be a violation of this Constitutional provision.

The third issue involves the securitization procedures. “At the heart of the stranded cost securitization is the creation of this property right in the non-bypassable charges, stated as a separate line item on ratepayer bills that serve as the basis for payment of debt service. If this bill truly establishes a “ring-fenced and bankruptcy remote” procedure that isolates the securitization from any untoward events, including the bankruptcy of the qualifying utility, then the bonds will be rated AAA and obtain the best possible financing rate. In the opinion of PRC staff, the bill does not create the required elements for the bonds to achieve this status. This is a highly technical issue, which argues that the PRC must be fully involved in every aspect of this proposal from preparing the detailed analysis of the bill to ensuring that all I’s are dotted and T’s crossed on the financing order and creation of the special purpose entity (SPE) that will own the property right to the nonbypassable rate. Here is one example drawn from the PRC FIR:

The reference to bankruptcy-remote means that the right to receive revenues from the special charge which secures the bonds cannot be an asset of the qualifying utility and cannot be seized by a creditor of the utility in the event of a bankruptcy. This is accomplished when the qualifying utility creates a SPE which is separate and bankruptcy-remote from the parent utility, and when the parent utility sells, in a true sale, the

intangible property right to the SPE. The property right conveys the right to adjust, bill and collect the special charge. Pursuant to a servicing agreement, the qualifying utility bills and collects revenues from the special charge for the account of the SPE and routinely (usually daily) remits those revenues to a trustee for the account of the SPE for the purpose of making principal and interest payments for the life of the bonds. As SB47 reads now, this bankruptcy remote SPE is not fully endowed with all of the rights and responsibilities. For instance, Section 4(F)(1) reads that the qualifying utility itself will issue the energy redevelopment bonds. This is not a bankruptcy-remote structure.

PERFORMANCE IMPLICATIONS

This bill removes authority from the PRC. This diminution in authority does not result in a decrease in responsibility, since the PRC’s overriding function is to balance the needs of bondholders, ratepayers and all of the other stakeholders in the affairs of the regulated utility. This bill will make this task more difficult for PRC. Whatever performance measures adopted by PRC are bypassed by the provisions of this bill.

ADMINISTRATIVE IMPLICATIONS

The provisions of this bill will increase PRC’s administrative duties and incur specialized costs. PRC indicates need for a Certified Public Accountant, a Public Utility Engineer, a staff counsel, a half-time associate general counsel, and a hearing examiner, whose cost would be generally funded. In addition, the proposal would require bond counsel, disclosure counsel and an independent financial advisor with expertise in securitization financing whose fees could be embedded in the amount financed. This need could extend for six years. There are three other facilities that could be eligible for this treatment.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

The PRC FIR points out a number of situations in which SB47 and this bill are in conflict with existing statute. These are largely related to the shortened time frames established in the bills. In some cases, these time frames are very much shortened to the extent that PRC would be unable to schedule a public hearing, even on controversial points. While previous experience indicates that financing orders are relatively non-controversial, coupling the financing order with an abandonment order will certainly generate controversy and the time frame would not allow for full airing of the issue in public hearing.

TECHNICAL ISSUES

PRC’s FIR lists several technical issues and conflicts with current statute.

OTHER SUBSTANTIVE ISSUES

PRC notes that the Section 2(I)(1)(a) states that “reclamation of mines that provide coal to qualifying generating facilities” is included in energy redevelopment costs to be financed by these bonds. LFC staff notes that mine reclamation is a promise made to the state and its residents whenever a mine is decommissioned for whatever reason. Allowing the bonds supported by energy ratepayers to subsidize mine reclamation is a major reversal of long-

standing policy and tradition.

ALTERNATIVES/SUGGESTED AMENDMENTS

Page 12, lines 12 – 15 allows bonds to be issued in a series, with the period of each one in the series limited to twenty-five years. LFC staff recommend either requiring there only be one bond for the entire amount or that all bonds in a series have a period limited to twenty-five years from the date of the first issuance.

Because of the extremely technical nature of this proposal, taking the PRC out of its role in balancing the needs of the ratepayers and PNM’s investors may be unwise. The portions of the bill that allow the establishment of a ring-fenced and bankruptcy remote special subsidiary (SPE) and allows the selling of the energy redevelopment bonds can be separated from the more controversial provisions of the bill, such as the shortened time-frames for PRC actions, the mandated PRC approvals without hearing, and, perhaps, the caveated promise to reinvest an unstated amount in replacement resources in the Central Consolidated School District located in rural San Juan County.

The PRC itself suggests that other states have enacted legislation authorizing stranded cost securitization financing on a coal-fired plant-specific basis. PRC’s FIR provides specific reference to this approach.

PRC also suggests that a portion of the bond proceeds could be used to provide transition revenues to the Central Consolidated School District, San Juan County and, perhaps, Farmington for lost property tax revenues.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

The abandonment of Units 1 and 4 at San Juan Generation Station will probably occur because of PRC pressure and pressure from the EPA and the environmental community. PNM has filed an integrated resource plan that advocates closure of Units 1 and 4 of the SJGFS. The PRC will probably disallow 40 to 50 percent of the stranded costs and may discount the established WACC to a point that rate-paying customers will pay about the same as if the bill did pass. However, PNM would be under no obligation to replace resources in San Juan County. The 657 jobs at SJGS and SJCC would be lost, along with the indirect and induced jobs and property tax and gross receipts tax revenues currently received by San Juan County. The state will lose the coal severance tax and gross receipts tax revenues and the Navajo Nation will lose its Gross Proceeds Tax revenues under any scenario. PNM’s bond rating will fall and its stock price will also fall. There will be substantial losses to many of the stakeholders when the SJGS is retired, but the provisions of this bill may serve to ameliorate the most egregious impacts.

LG/DI/sb/al

Detailed Description

ENERGY REDEVELOPMENT BONDS BILL

House Bill 80 and Senate Bill 47 would authorize an alternative mechanism for financing the retirement of coal-fired power plants at a lower cost to customers, as compared to conventional financing mechanisms. It has been designed to accommodate the retirement in 2023 of Units 1 and 4 of the San Juan Generation Station, and to anticipate the closure of the Four Corners Power Plant in 2031. The bill is designed to mitigate adverse economic effects on affected local communities by requiring the location of replacement power resources in the communities where the abandoned facilities are located, taking into consideration system reliability while assuring that such location does not eliminate the cost savings from energy redevelopment bonds.

This summary has been prepared by Matthew Jaramillo, Esq. of PNM Resources relative to a precursor bill with most of the same features as the final, introduced version. LFC staff have edited this description to conform to the introduced bill and have annotated some of the described features.

The major features of the bill to accomplish the stated purposes are:

- Authorizes the issuance of energy redevelopment bonds with a maximum term of twenty-five years to allow a utility to raise non-recourse debt financing through a trust or other vehicle. (LFC note: bonds can be issued in a series with each bond in the series having a term of twenty-five years. From issuance of the first bond to the retirement of the final bond, however, the duration could exceed twenty-five years.)
- The amount of the bonds is based on recovery of costs incurred or associated with abandonment of coal plants used to serve the utility's customers in New Mexico, including decommissioning costs, mine reclamation costs, and costs incurred related to the coal plant but not yet fully recovered such as undepreciated investment remaining at the time of abandonment. (LFC note: apparently, the PRC has the power and authority to reduce these closure costs imposed on ratepayers. In an example calculation comparing conventional financing to these ratepayer-backed bonds, Public Regulation Commission (PRC) would have reduced investor recovery of costs to 50% of total. The language of this feature may indicate that the sponsor expects 100% of the costs to be reimbursed to the utility, without reduction of the amount by PRC.)
- Creates an application process through the PRC for approval of a "financing order" which would authorize the PRC to approve the issuance of energy redevelopment bonds in the amount requested by the utility and allow the utility to impose a non-bypassable charge as a line item on all of the utility's customer's bills to assure full payment of the principal and interest, premiums and other financing costs associated with the bonds.
- Creates energy redevelopment property as collateral for the securitization, i.e., the right to receive the revenues from the non-bypassable charge to assure repayment of the bonds, providing a process for perfection of a security interest in the energy redevelopment property and priority over any other lien.
- Requires an adjustment mechanism, i.e., a true-up process to assure that the non-bypassable charge recovers revenue in an amount necessary to service the bonds until the bonds are fully paid. The adjustment mechanism is to be filed at least semi-annually, or more often if ordered by the PRC, until two years before maturity, at which time it must be filed at least quarterly. The adjustment may only be challenged for mathematical accuracy, with a streamlined process for approval of adjustments. (LFC note: PRC indicates some difficulties with implementing this expedited process.)
- The financing order is irrevocable to assure that the mechanisms put in place to obtain a high debt rating remain.
- Provides a state pledge that the statute will not be repealed or amended in a manner that would impair the energy redevelopment property, the non-bypassable charge or the bonds. (LFC note: this non-

impairment provision is, in fact, constitutional and usual with state or local level taxable or non-taxable bonds.)

- Provides mechanisms whereby debt service will not be impaired or otherwise adversely affected by the bankruptcy of the utility or the financing entity.

II. Summary of Specific Provisions

A. Financing Order and Application

- To obtain a financing order under this act, a qualifying utility must obtain approval to abandon a coal generation facility that has not been approved for abandonment prior to January 1, 2018.
- The application for a financing order may be filed as part of an application for abandonment. If an abandonment proceeding is pending at the time of the application for a financing order, the PRC is required to consolidate the proceedings.
- The application may include a request for certificates of public convenience and necessity (CCNs) for some or all power necessary to replace the power supplied by the abandoned facility.
- The qualifying utility may defer an application for CCNs to a separate proceeding, so long as it identifies potential adequate replacement resources that would be available at the time the replacement power is needed to serve customers.
- Additionally, the application for a financing order must also include:
 - evidence that the applicant is a qualifying facility, as defined in the bill;
 - a description of the generating facility that the applicant proposes to abandon;
 - an estimate of costs of energy redevelopment, including any undepreciated investment in the facility at the time of the proposed abandonment. (LFC note: the precursor draft bill anticipated that eligible bond costs could include the investment in replacement capacity. This inclusion has been removed from the introduced version);
 - the amount of energy redevelopment costs the utility proposes to finance with bonds;
 - an estimate of financing costs associated with each series of bonds proposed to be issued;
 - an estimate of the charges necessary to recover abandonment costs and finance the bonds;
 - a proposed methodology for allocating the charge among customer classes;
 - a description of the proposed adjustment mechanism to correct for any over-collection or under-collection of charges;
 - an estimate of the cost savings to customers of issuance of the bonds as compared to financing the costs of energy redevelopment through conventional financing;
 - an estimate of the date on which bonds secured by the customer charge are expected to be issued, and the expected term of the bonds, which shall be no greater than 25 years. (LFC note; the introduced version of the bill allows for bonds to be issued in a series, with each bond in the series having a term of no longer than 25 years, but the cumulative duration could be significantly longer than 25 years. The actual text follows:

... an estimate of the date on which the energy redevelopment bonds are expected to be issued and the expected term over which the financing costs associated with the issuance are expected to be recovered or, if the bonds are expected to be issued in more than one series, the estimated issuance date and expected term for each bond issuance; provided that the maximum term for each bond issuance shall be no longer than twenty-five years;

- identification of plans to sell, assign, transfer or convey (other than as a security) interest in the energy redevelopment property, including identification of assignees;
 - identification of any necessary ancillary agreements;
 - a description of a proposed ratemaking process to reconcile any difference between the projected pretax costs in the amount of energy redevelopment costs financed by the bonds and the final pretax energy redevelopment costs incurred by the qualifying utility;
 - any other information reasonably required by the Commission to determine if approval to abandon or if requests for CCNs should be granted.
- Notice of an application for a financing order shall be given to the parties of record in the qualifying utility's most recent general rate case and published in newspapers in the qualifying utility's service area in the state and county in which the qualifying facility proposed to be abandoned is located.
 - An application for a financing order may be approved without a hearing, if no protest establishing good cause for a formal hearing is filed within 30 days of notice of the filing of an application.
 - The PRC must issue its order granting or denying the application within six months of filing (Section 4A). [This section could be rewritten for clarity; the intent is as stated here – the commission must issue its order within six months. Grammatically, the “within six months from the date the application is filed” could modify the previous clause and read “application of the qualifying utility for approval to abandon the qualifying generating facility within six month of the application.” This is a far different interpretation than intended.]
 - For good cause shown, the PRC may extend the six month time for issuing approval or rejection by an additional three months. (LFC note: PRC indicates that even this extended period may be unreasonable, considering that protests are almost certain to be filed if the financing order is coupled with the abandonment order.)
 - Failure to issue the order within this time shall be deemed approval as filed by operation of law.
 - In order to approve the application, the financing order must contain findings and requirements consistent with the application for the financing order. The financing order may be amended after the date of issuance of the bonds only at the request of the utility to allow for refinancing, retiring or refunding the energy redevelopment bonds or to adjust the amount of energy redevelopment costs to be financed by energy redevelopment bonds which have not yet been issued to reflect updated estimated costs or actual costs, but no amendment is allowed that would in any way impair the energy redevelopment charge or the energy redevelopment property.
 - If an abandonment proceeding is consolidated with the application for a financing order, the time periods required for ruling on the application for financing are applicable to the consolidated case. (LFC note; PRC will object to this provision.)

B. Adjustment Mechanism

- If the PRC issues a financing order, it must periodically approve use of an adjustment mechanism to correct for over-collection or under-collection of the energy redevelopment charges to provide timely payment of scheduled principal and interest on the bonds, and the payment and recovery of other financing costs approved in the financing order.
- The qualifying utility must file at least semiannually, or more frequently as provided in the financing order: 1) calculation estimating whether the charge is sufficient, or if either an over-collection or undercollection is projected; and 2) a calculation showing the adjustment to the charge to correct for any over-collection or under-collection.
- The qualifying utility must file these calculations at least quarterly during the 2 year period preceding the final maturity date of the energy redevelopment bonds.

- The adjustment mechanism must be available until the bonds and all financing costs have been fully paid and recovered.
- Notice shall be provided to parties of record in the case in which the financing order was issued on the same day as the qualifying utility files these calculations with the PRC.
- The adjustment mechanism shall be deemed approved by the PRC unless: 1) a party of record to the case in which the financing order was approved files a challenge to the mathematical accuracy of the adjustment within 30 days of the filing of the adjustment by the utility, providing the challenge identifies the mathematical accuracy with specificity; and 2) the PRC determines good cause exists, provided the suspension shall not exceed 60 days from the date of filing.
- If the PRC determines a hearing is necessary, the PRC shall hold the hearing within 40 days of the utility's filing of the adjustment calculation.
- If the PRC determines the calculation is inaccurate, it shall issue an order rejecting the calculation and determining the accurate calculation. The utility will then have 5 days to adjust the charge in accordance with the PRC's order.
- If the PRC does not issue an order rejecting the utility's calculation within 60 days of the utility's filing, the adjustment to the energy redevelopment charge will be deemed approved.
- No adjustment or proceeding held pursuant to this section will affect the irrevocability of the financing order.

C. Irrevocability of Financing Order

- A financing order is irrevocable and the PRC shall not reduce, impair, postpone or terminate the energy redevelopment charge approved in the financing order, the energy redevelopment property or the energy redevelopment revenues.
- A financing order may be amended at the utility's request on or after the issuance of the bonds for the purpose of: 1) refinancing, retiring or refunding all or a portion of the outstanding bonds; 2) adjusting the amount of energy redevelopment costs to be financed with bonds that have not yet been issued to reflect updated costs that differ from costs estimated at the time that the financing order was issued; and 3) is subject to the limitations above not to reduce, impair, postpone or terminate the energy redevelopment charge, property or revenues.
- No change in credit rating of the utility from the time the financing order was issued shall impair the irrevocability of the financing order.

D. Judicial Review

- A financing order is final and an aggrieved party may apply to the PRC for rehearing in accordance with § 62-10-16 NMSA 1978, provided that such application is done within 10 calendar days of the order. An application for rehearing will be deemed denied if the PRC does not act on it within 7 calendar days of the filing of the application.
- After denial of an application for rehearing by the PRC, an aggrieved party may file a notice of appeal with the NM Supreme Court pursuant to § 62-11-1 NMSA 1978, provided that such notice is filed no later than 10 calendar days after denial of an application for rehearing. Or if rehearing is not applied for, no later than 10 calendar days after the issuance of the financing order.

E. Conditions That Keep Financing Orders in Effect and Energy Redevelopment Charges Imposed

- A financing order shall remain in effect until the related bonds are paid in full and all financing costs related to the bonds have been paid in full.

- A financing order shall remain in effect and unabated despite bankruptcy, reorganization or insolvency of the utility or any non-utility affiliate or the commencement of any judicial or non-judicial proceeding for bankruptcy or appointment of a receiver.
- If the bonds issued pursuant to a financing order are outstanding and related energy redevelopment costs and financing costs have not been paid in full, the energy redevelopment charges shall be part of all customer bills and be collected by the utility or its successors or assignees, in full through a non-bypassable charge that is a separate line item on bills, separate and apart from the utility's base rates. The charge shall be paid by all customers receiving transmission or distribution service from the utility or its successors or assignees, even if the customer elects to purchase electricity from an alternative electricity supplier as permitted by State law, including distributed generation owned or controlled by the customer or another non-utility.

F. Limitation on Jurisdiction of the NMPRC

- If the PRC issues a financing order, the PRC may not consider any bonds issued pursuant to the financing order to be debt of the utility, the charges paid under the financing order to be revenue to the utility, nor the energy redevelopment costs or financing costs to be costs of the utility. Any action taken by a utility that is consistent with the financing order shall be deemed just and reasonable.
- The PRC may not order or otherwise require, directly or indirectly, any utility to use bonds to finance any costs associated with abandonment of a coal-fired electric generating facility.
- The PRC may not refuse to allow recovery of any costs associated with abandonment, including full recovery of undepreciated investment remaining at the time of abandonment, whether or not energy redevelopment bonds are used. (LFC note: this provision severely limits the ability of the NMPRC to weigh the competing interests of the local governments and citizens, PNM ratepayers, and PNM management and investors. In particular, PRC could not impose a fractional reduction in PNM investor's recovery of undepreciated value.)

G. Duties of the Qualifying Utility If a financing order is issued:

- The utility must use proceeds from energy redevelopment bonds to pay energy redevelopment costs and financing costs, and to acquire utility-owned replacement resource and investments in other public utility property for inclusion in rate base. (LFC note: proceeds of the bond may be used to provide replacement resources. In Section 10A, the bond proceeds may be used for energy replacement costs and investments in other public utility property for inclusion in the rate base. The would not stimulate competition, since third-party generators and non-utility providers.)
- The utility must provide its customers with a concise explanation of the non-bypassable energy redevelopment charge approved in the financing order, including any modifications and adjustment mechanism, in bill inserts, on its website, or through other appropriate means.
- Revenues generated pursuant to this bill are applied repay the bonds and other financing costs, for severance and other one-time costs (including any stranded capital costs of the coal mine supplying the abandoned facility) and, pursuant to 10A, may be used to fund replacement resources.
- Failure of a utility to apply proceeds in a reasonable, prudent and appropriate manner shall not invalidate, impair or affect any financing order.
- The PRC may impose regulatory sanctions against a utility for failure to comply with the terms and conditions of a financing order or other requirements of this act. (LFC note: proceeds of the bond may not be used to pay these regulatory sanctions.)

H. Energy Redevelopment Property

- Energy redevelopment property created pursuant to a financing order, i.e. the revenue stream from non-bypassable energy redevelopment charges, shall be an existing, present property right, regardless of

whether the utility continues to provide electric energy, or perform its servicing functions, or regardless of the level of future energy consumption.

- Energy redevelopment property shall continue to exist until the bonds and related financing costs have been paid in full.
- All or any portion of the energy redevelopment property may be transferred, sold, conveyed or assigned to a non-utility affiliate that is wholly owned, directly or indirectly, by the qualifying utility, created for the limited purpose of acquiring, owning or administering the energy redevelopment property or issuing bonds under the financing order, or a combination of these purposes. All or any portion of the energy redevelopment property may be pledged to secure payment of bonds, amounts payable to financing parties and bondholders, amounts payable under any ancillary agreement, or other financing costs.
- Formation of a non-utility affiliate as described above and any transfer, sale, conveyance, assignment, grant of a security interest in or pledge of energy redevelopment property by a utility to a non-utility affiliate, as authorized in a financing order, shall not require any further approval by the PRC and shall not be subject to regulation as a Class II transaction.
- If a utility defaults on any required payment of revenues, a court – upon application by an interested party and without limiting any other remedies available to the party – shall order sequestration and payment of the revenues for the benefit of bondholders, any assignee and any financing parties. The order shall remain in full force and effect notwithstanding bankruptcy, reorganization, or other insolvency or receivership proceedings regarding the utility or non-utility affiliate.
- Interest in the energy redevelopment property by an assignee, bondholder or financing party, are not subject to set-off, counterclaim, surcharge or defense by the utility or any person in connection with bankruptcy, reorganization or other insolvency or receivership proceeding.
- Any successor to a utility shall be bound by the requirements of this act and shall satisfy all obligations of, and have the same rights under a financing order as, the utility.

I. Security Interests

- The creation, perfection and enforcement of any security interest in the energy redevelopment property to secure repayment of the principal and interest on the bonds, amounts payable under ancillary agreement and other financing costs are governed by this act, and not the provisions of the Uniform Commercial Code or the Public Utility Act.
- The description or indication of the energy redevelopment property in a transfer or security agreement and a financing statement must refer to this act and the financing order creating the energy redevelopment property. This applies to all transfers of, and all grants of liens on or security interests in, the energy redevelopment property, regardless of whether the related transfer or security agreement was entered into, or the related financing statement was filed, before or after the effective date of this act.
- A security interest in the energy redevelopment property is created, valid, and binding at the later of the time: (1) the financing order is issued, (2) a security agreement is executed and delivered; and (3) value is received for the bonds issued pursuant to this act.
- The security interest attaches without physical delivery of collateral or other act and the lien of security interest shall be valid, binding and perfected against all parties having claims of any kind in tort, contract or otherwise against the person granting the security interest, regardless of whether such parties have notice of the lien, upon filing of a financing statement with the Secretary of State (“SOS”).
- A security interest in the energy redevelopment property is a continuously perfected security interest and has priority over any other lien.
- The priority of a security interest in the energy redevelopment property is not affected by the comingling of revenues with other funds. Any pledged or secured party shall have a perfected security interest in the

amount of revenues that are deposited in any cash or deposit account of the utility in which revenues have been co-mingled with other funds and any other security interest that may apply to those funds shall be terminated when they are transferred to a segregated account for assignee or a financing party.

- Subsequent amendment of a financing order or application of the adjustment mechanism shall not affect the validity, perfection or priority of a security interest in or transfer of the energy redevelopment property.

J. Sale of Energy Redevelopment Property

- Any sale, assignment or transfer of energy redevelopment property shall be an absolute transfer and true sale of, not a pledge of or secured transaction relating to, the seller's right, title and interest in, to and under the energy redevelopment property if the documents governing the transaction expressly state that the transaction is a sale or other absolute transfer. A sale of the energy redevelopment property can be created when: the financing order creating the energy redevelopment property becomes effective, the documents evidencing transfer of the energy redevelopment property have been executed and delivered to the assignee, and when value is received.
- Upon filing a financing statement with the SOS, a transfer of an interest in the energy redevelopment property shall be perfected against all third persons, including any judicial lien or other lien creditors, or any claims of the seller or creditors of seller, other than creditors holding a prior security interest, ownership interest or assignment previously perfected pursuant to this section or section 13 of the act.
- An absolute transfer and true sale shall not be affected or impaired by the occurrence of: 1) co-mingling of revenue with other amounts, (2) retention by seller of a partial or residual interest, including an equity interest, in the energy redevelopment property, whether direct or indirect, or whether subordinate or otherwise, or the right to recover costs associated with taxes or license fees imposed on collection of revenues; (3) any recourse that the purchaser may have against the seller; (4) any indemnification rights, obligations or repurchase rights made or provided by the seller; (5) obligation of seller to collect revenues on behalf of an assignee; (6) treatment of the sale, assignment or transfer for tax, financial reporting or other purposes; (7) any subsequent order of the PRC amending a financing order, or (8) any use of the adjustment mechanism.

K. Exemption from Fee Assessments – Imposition, collection and receipt of revenues from the customer charge created by this act are not subject to ~~gross receipts or sales tax~~ or assessment of franchise fees by any local body or to assessment of inspection and supervision fees.

L. Bonds Not Public Debt – Any bonds issued pursuant to a financing order shall not constitute a debt or pledge of the full faith and credit or taxing power of this state or other political subdivision of the state. Bondholders have no right to have taxes levied by the legislature or any public taxing authority for payment of principal or interest on the bonds. The issuance of energy redevelopment bonds does not in any way obligate the state or a political subdivision of the state to levy any tax or make any appropriation for payment of principal and interest on the bonds.

M. Bonds as Legal Investments – Energy redevelopment bonds shall be legal investments for all governmental units, state permanent funds, finance authorities, financial institutions, insurance companies, fiduciaries and other persons requiring statutory authority regarding legal investments.

N. State Pledge Not to Impair – The state pledges to and agrees that it will not take or permit any action that impairs the value of the energy redevelopment property or, except for application of the adjustment mechanism, reduce, alter or impair charges that are imposed, collected and remitted for the benefit of bondholders, assignees and financing parties, until any principal, interest and redemption premium of the bonds and all financing costs are paid in full. This pledge may be used in the bonds, ancillary agreements and documentation related to issuance and marketing of the bonds.

O. Resource Redevelopment After Abandonment – To mitigate potential adverse economic impacts on the communities affected by the abandonment of qualifying generating facilities, the qualifying utility shall

for five years after abandonment select sites for utility-owned replacement resources located in or near the affected community, so long as the replacement resources so located maintain adequate system reliability. The PRC shall grant such CCNs and allow full cost recovery of these replacement resources in rates. This location preference shall not be applicable if the costs of so locating replacement power resources exceeds the costs of locating replacement resources elsewhere in an amount that exceeds the cost savings attributable to the use of energy redevelopment bonds.

- P. Choice of Law – The law governing validity, enforceability, attachment, perfection, priority and exercise of remedies with respect to transfer of an interest or right or creation of a security interest in the energy redevelopment property, charge or financing order shall be laws of the state of New Mexico.
- Q. Validity on Actions if Act Held Invalid – Effective on the date any bonds are issued pursuant to this Act, if any provision of this Act is held invalid, that occurrence will not affect the validity of any action allowed pursuant to the Act that is taken by the PRC, a qualifying utility, an assignee, a collection agent, a financing party, a bondholder or a party to an ancillary agreement. To prevent the impairment of energy redevelopment bonds issued or authorized by a financing order, any such action shall remain in full force and effect with respect to all bonds issued or authorized in a financing order issued pursuant to the Act before the date that provision was held to be invalid.
- R. New Section of the Gross Receipts and Compensating Tax Act – Receipts from an energy redevelopment charge pursuant to this Act shall be exempt from Gross Receipts Tax.
- S. Temporary Provision – Pending Application – If an application for abandonment of a qualifying generating facility is pending before the PRC on the effective date of this Act, the utility may file a separate action for a financing order and the PRC shall join or consolidate the application for the financing order with the abandonment application, and the time periods prescribed by this Act shall apply to the consolidated case.
- T. Applicability – Application for an initial financing order must be made within twenty years of the effective date of this act; except that any utility for which the PRC has issued a financing order will not be precluded from applying to the PRC for a subsequent order amending the financing order, or for approval of the issuance of bonds to refund all or a portion of an outstanding series of bonds.