



renewable energy system, energy efficiency device, or energy conservation system before the purchase and installation of the system or device. Subsection D of Section 3 of the Act sets for the requirements for the repair and maintenance agreement.

Subsection E of Section 3 of the Act would allow for a customer to decline to purchase a repair and maintenance agreement if the customer enters into an agreement in writing with the utility to pay the balance of the on-bill financing agreement before transferring ownership of the residence or building. A customer may pay the balance owed on an on-bill financing agreement at any time without penalty.

Section 4 of the Act provides for a utility to assess a meter conservation charge to recover the: (1) actual costs incurred by the utility for the purchase, installation and financing of the renewable energy system, energy efficiency device, energy storage device or energy conservation system, including administrative costs of the on-bill financing agreement and the cost of filing notice under Section 5 of the Act; (2) repayment of costs incurred by a third party that has performed a function under Section 8 of the Act; and (3) periodic fee for a repair and maintenance agreement under Subsection D of Section 3 of the Act. The Act requires that the meter conservation charge be shown as a separate line item on a customer's bill.

Section 4 of the Act further provides that the billing and collection of a meter conservation charge does not subject a utility to the laws that regulate financial institutions, escrow depositories or collection agencies. A utility would not be responsible for a lending, underwriting or credit determination for an on-bill financing agreement.

Section 5 of the Act requires a utility that enters into an on-bill financing agreement to file notice of the agreement and related meter conservation charge in the office of the county clerk in the county in which the residence or building subject to the agreement is located. Such notice is intended to give an owner of the residence or building notice that the residence or building is subject to a meter conservation charge, but does not constitute a lien on the property.

Section 6 of the Act allows for transferability of on-bill financing balances to subsequent owners of a residence or building in which the renewable energy system, energy efficiency device, energy storage device or energy conservation system was installed, if the utility gives notice under Section 5 of the act that the residence or building is subject to the agreement.

Section 7 of the Act allows for a utility to recover the costs under an on-bill financing agreement for a rental property by assessing a meter conservation charge on a utility bill only if the landlord is responsible for the entire utility bill, including the meter conservation charge.

Section 8 of the Act allows for a utility to contract with a third party to perform functions permitted under the Affordable Solar Energy Act and sets forth liability provisions with regard to the utility and the third party.

## **FISCAL IMPLICATIONS**

HB432 carries no appropriation.

The Public Regulation Commission provided the following:

While the Affordable Solar Energy Act is silent as to oversight of on-bill financing agreements, including repair and maintenance agreements and meter conservation charges, it appears that Public Regulation Commission (PRC or Commission) oversight may be necessary, at least with regard to public utilities. If the intention of the Act is for the Commission to provide such oversight, additional funding may be necessary. See significant issues and administrative implications.

### **SIGNIFICANT ISSUES**

The Public Regulation Commission provided the following:

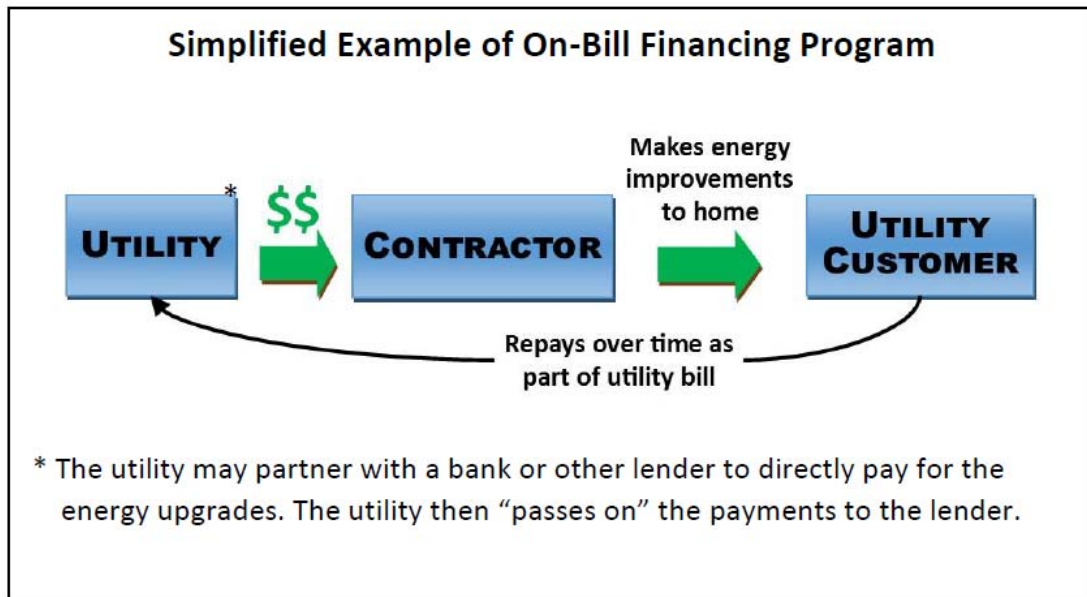
While the Affordable Solar energy Act would provide for a utility to enter into an on-bill financing agreement with a customer to finance the purchase and installation of a renewable energy system, energy efficiency device, energy storage device or energy conservation system in a residence or building, Subsection G of Section 3 of the Act does not require a utility to enter into such an agreement with a specific customer or for a specific device or system.

The bill does not provide for oversight of on-bill financing agreements. It appears that PRC oversight, at least with regard to public utilities, may be required, for example to ensure that the meter conservation charge is fair, just and reasonable and is shown as a separate line item on the customer's bill, and to ensure that the utility complies with all applicable laws for discontinuation or disconnection of service if the customer fails to pay a meter conservation charge, as set forth under Section 4 of the Act.

Energy Minerals and Natural Resources provided the following (EMNRD)

HB 432 is based on Alaska's 2018 law, "On-Bill Financing of Energy Improvements." The bill recognizes how utilities throughout the United States have used this mechanism to help customers go beyond replacing old appliances toward achieving significant energy savings through a very accessible process. HB 432 also reflects the principle that money saved as a result of energy improvements is an apt way to repay the upfront costs of those improvements, a principle proven in New Mexico through 20 projects using the Energy Efficiency and Renewable Energy Bonding Act (NMSA 1978 6-21D) by public schools, cities, counties and the State, valued at \$110 million. And just as many public institutions do not have the upfront funding to make energy improvements, most New Mexican households are in the same predicament. Home energy improvements almost always pay for themselves, and while utility rebates, proposed tax credits and other policies can help, the upfront costs are still a formidable barrier.

Beyond the principle of projected energy savings exceeding monthly on-bill repayments, successful on-bill financing programs encompass these other principles: interest rates need to be set at or below five percent to assure positive cash flow; quality assurance that verify energy savings and keep contractors accountable; ability to finance whole house measures, including low-cost solar; repayment is tied to the meter rather than the person and thus allowing the meter conservation charge to be transferred; and use of good utility payment history in lieu of a credit score to approve applications.



**Figure 1: From “On-Bill Financing: A Customer-Utility Partnership to Make Clean Energy More Affordable,” Environmental and Energy Study Institute [www.eesi.org/OBF](http://www.eesi.org/OBF)**

From [case studies](#) of successful on-bill financing programs – Kansas’ Midwest Energy Cooperative, South Carolina’s [Central Electric Power Cooperative](#), Tallahassee Florida municipal utility, and Eugene Oregon municipal utility – show that each provide subsidized no to low interest rate on-bill financing for \$15,000 to \$20,000 in energy efficiency and solar energy improvements. Each utility offered a package of improvements instead of relying on one single item. Often the utility had offered a smaller program but customers choose either a few small energy savings or none in the face of the up-front cost barrier. Participation greatly increased (19 percent of all customers in the case of Tallahassee) once on-bill financing was offered.

Fort Collins Colorado’s municipal utility’s Efficiency Works program recently received a \$1 million award from Bloomberg Philanthropies to entice landlords to use on-bill financing to upgrade their properties and lower renter utility bills. The program, with a revolving loan fund and simplified three step process, is so popular it is fully subscribed.

## PERFORMANCE IMPLICATIONS

The Public Regulation Commission provided the following:

The Affordable Solar Energy Act is silent as to the PRC’s authority over on-bill financing agreements. If the intent is that the Commission would not have any authority over such agreements, this could result in difficulty for the PRC to carry out its function to balance the needs of the regulated utility, ratepayers and other stakeholders as it relates to this issue.

Energy Minerals and Natural Resources provided the following (EMNRD)

Evaluations of on-bill financing programs across the nation show no to very low default rates, between 0 and 3 percent. This gives program administrators the confidence to offer lower interest rates, longer loan terms, and higher loan amounts, which expands the number of customers who can take advantage of the program.

## **ADMINISTRATIVE IMPLICATIONS**

The Public Regulation Commission provided the following:

The Affordable Solar Energy Act could result in increased administrative duties for the PRC and its staff. While the Act is silent as to the oversight of on-bill financing agreements, including repair and maintenance agreements, meter conservation charges, etc. it appears that Commission oversight may be necessary. If the intention is for the Commission to provide such oversight, additional funding may be required.

## **TECHNICAL ISSUES**

The Public Regulation Commission provided the following:

The terms “renewable energy system,” “energy efficiency device,” “energy storage device,” and “energy conservation system,” are mentioned under Subsection a of Section 3 of the Act. However, the only term that is defined under Section 2 of the Act is “energy conservation system”.

The Act defines a “utility” to include a public utility, rural electric cooperative or municipal utility; however, it does not include other political subdivisions of the state.

The Act does not set a cap on the meter conservation charge.

## **OTHER SUBSTANTIVE ISSUES**

Energy Minerals and Natural Resources provided the following (EMNRD)

Three-quarters of New Mexican households earn under \$50,000 per year, leaving most ineligible to obtain energy improvement loans and unable to take advantage of tax credits, rebates, and other utility or government programs and policies. Successful implementation of on-bill financing programs by electric utilities can help overcome this basic constraint.

## **WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL**

The Public Regulation Commission provided the following:

Status quo. New Mexico law will not provide for utilities to enter into on-bill financing agreements with customers to finance the purchase and installation of a renewable energy system, energy efficiency device, energy storage device or energy conservation system in an eligible residence or building by assessing a meter conservation charge on the customer’s utility bill.

Energy Minerals and Natural Resources provided the following (EMNRD)

A proven method for financing significant solar and energy efficiency home improvements will not be available to New Mexico utility customers.