

LFC Requester:

Austin Davidson

AGENCY BILL ANALYSIS - 2025 REGULAR SESSION

SECTION I: GENERAL INFORMATION

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

Date Prepared: February 19, 2025

Check all that apply:

Bill Number: HB452

Original Correction
Amendment Substitute

Sponsor: Rep. Joanne J. Ferrary, Rep.
Debra M. Sariñana, Rep.
Sarah Silva

Agency Name and Code Number: 305 – New Mexico
Department of Justice

Short Title: CLARIFY RENEWABLE
ENERGY PORTFOLIO
STANDARDS

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SECTION II: FISCAL IMPACT

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY25	FY26		

(Parenthesis () indicate expenditure decreases)

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY25	FY26	FY27		

(Parenthesis () indicate revenue decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY25	FY26	FY27	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total						

(Parenthesis () Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to:
 Duplicates/Relates to Appropriation in the General Appropriation Act

SECTION III: NARRATIVE

This analysis is neither a formal Opinion nor an Advisory Letter issued by the New Mexico Department of Justice. This is a staff analysis in response to a committee or legislator’s request. The analysis does not represent any official policy or legal position of the NM Department of Justice.

BILL SUMMARY

Synopsis:

Under the Renewable Energy Act, NMSA 1978, §§ 62-16-1 through -10 (2004, as amended through 2021), public power utilities must include a certain amount of power generated by renewable energy in their energy supply portfolios. Utilities meet these portfolio benchmarks by retiring renewable energy certificates.

Under Section 62-16-5(B)(1)(b), renewable energy certificates belong to the generator of renewable energy unless “the generator is a qualifying facility, as defined by the federal Public Utility Regulatory Policies Act of 1978, in which case the renewable energy certificates are owned by the public utility purchaser of the renewable energy.”

HB 453 would alter Section 62-16-(B)(1)(b) so that, in the case of “qualifying facilities that are net metered, all of the energy generated by the qualifying facility will be deemed to have been purchased by the public utility and all of the energy consumed on site by the qualifying facility will be included in the determination of total retail sales for the purposes of calculating the renewable portfolio standard.”

FISCAL IMPLICATIONS

Note: major assumptions underlying fiscal impact should be documented.

Note: if additional operating budget impact is estimated, assumptions and calculations should be reported in this section.

SIGNIFICANT ISSUES

This proposed language conflicts with NMAC 17.9.572.10(C), which provides that “in the case of qualifying facilities that are net metered . . . **only the excess net energy delivered from the qualifying facility to the utility shall be deemed to be purchased by the utility for the purposes of this rule**, unless a different purchasing scheme is permitted in a specific agreement or contract pursuant to Subparagraphs (a) and (c) of Paragraph (1) of Subsection B of Section 62-16-5 NMSA 1978.” (Emphasis added). In contrast, HB 453 would command that “*all of the energy consumed on site* by the qualifying facility will be included in the determination of total retail sales for the purposes of calculating the renewable portfolio standard.”

HB 453 does not clearly state that it would operate retroactively, so it would be presumed to only affect the ownership of renewable energy credits prospectively. *See Coleman v. United Engineers & Constructors, Inc.*, 1994-NMSC-074, ¶ 12, 118 N.M. 47 (“New Mexico law presumes a statute to operate prospectively unless a clear intention on the part of the legislature exists to give the statute retroactive effect.”).

PERFORMANCE IMPLICATIONS

None.

ADMINISTRATIVE IMPLICATIONS

None.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

HB 273 and HB 327 would amend the definition of renewable energy resource for the purposes of the Renewable Energy Act, so the changes proposed by this bill would apply to energy generated by natural gas using combined cycle technology.

TECHNICAL ISSUES

None.

OTHER SUBSTANTIVE ISSUES

None.

ALTERNATIVES

None.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

Status quo.

AMENDMENTS

None.