

HOUSE BILL 281

57TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2026

## INTRODUCED BY

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## AN ACT

RELATING TO UTILITIES; REQUIRING FINANCIAL ASSURANCE FOR SOLAR AND WIND ENERGY GENERATION FACILITIES; PROVIDING AUTHORITY TO MANAGE FINANCIAL ASSURANCE FOR SOLAR AND WIND ENERGY GENERATION FACILITIES; CREATING THE SOLAR AND WIND DECOMMISSIONING FUND.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

**SECTION 1. [NEW MATERIAL] SHORT TITLE.--**This act may be cited as the "Solar and Wind Financial Assurance Act".

**SECTION 2. [NEW MATERIAL] DEFINITIONS.--As used in the Solar and Wind Financial Assurance Act:**

A. "decommissioning" means actions taken to remove, dispose of or recycle equipment or infrastructure and remediate the site of a solar or wind energy generation facility, in accordance with rules promulgated by the division;

B. "department" means the energy, minerals and

natural resources department;

C. "division" means the energy conservation and management division of the department;

D. "site" means the land on which a solar or wind energy generation facility is or was located, including land occupied or disturbed by associated equipment, structures, access roads or facility-owned infrastructure;

E. "solar energy generation facility" means a facility that uses an arrangement or combination of solar collectors or modules that convert sunlight into electricity or thermal energy; and

F. "wind energy generation facility" means a facility that converts wind energy into electricity and includes wind turbines, towers, substations and transmission lines.

SECTION 3. [NEW MATERIAL] AUTHORITY OVER FINANCIAL  
ASSURANCE FOR SOLAR AND WIND ENERGY GENERATION FACILITIES--  
REQUIREMENTS FOR DECOMMISSIONING.--

A. The division has jurisdiction and authority over all matters relating to financial assurance for the decommissioning of solar and wind energy generation facilities.

B. The division shall promulgate rules to establish requirements for the decommissioning of solar and wind energy generation facilities that ensure:

(1) removal, proper disposal or recycling of

1 facility equipment and infrastructure;

2 (2) remediation of the site;

3 (3) monitoring of the site as necessary during

4 decommissioning;

5 (4) an appropriate time frame for completion;

6 and

7 (5) additional measures the division deems

8 appropriate.

9 **SECTION 4. [NEW MATERIAL] FINANCIAL ASSURANCE REQUIREMENT**

10 FOR SOLAR AND WIND ENERGY GENERATION FACILITIES.--

11 A. The owner or operator of a solar or wind energy

12 generation facility shall, as a condition precedent to

13 operation of the facility, provide financial assurance in the

14 form of an irrevocable letter of credit, a cash or surety bond

15 or a facility-specific decommissioning insurance policy to the

16 division, running to the benefit of the state and conditioned

17 that the facility be decommissioned in compliance with rules

18 promulgated by the division.

19 B. Solar and wind energy generation facilities in

20 operation prior to July 1, 2026 shall be required to meet

21 financial assurance requirements pursuant to this section by

22 January 1, 2028.

23 C. The division shall establish categories of

24 financial assurance. The division shall consider the size and

25 location of the solar or wind energy generation facility,

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1 equipment type, potential salvage value and other factors that  
2 the division deems relevant. Financial assurance categories  
3 established by the division for solar and wind energy  
4 generation facilities shall be no less than two hundred fifty  
5 thousand dollars (\$250,000) per facility.

6 D. All financial assurance shall remain in force  
7 until released by the division. The division shall release an  
8 owner's or operator's financial assurance when the division is  
9 satisfied that the conditions of the financial assurance have  
10 been fully performed.

11 E. An owner or operator required to provide  
12 financial assurance for a solar or wind energy generation  
13 facility pursuant to this section is considered to have met  
14 that requirement if the owner or operator obtains an insurance  
15 policy that covers the specific facility and that:

16 (1) is approved by the office of  
17 superintendent of insurance;

18 (2) names the state as owner of the policy and  
19 contingent beneficiary;

20 (3) names a primary beneficiary that agrees to  
21 carry out the decommissioning;

22 (4) is fully prepaid and cannot be canceled or  
23 surrendered;

24 (5) remains in effect until the specified  
25 facility has been decommissioned;

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(6) provides that benefits are payable only upon completion of decommissioning; and

(7) provides benefits that are not less than an amount equal to the financial assurance required by the division.

F. If, subsequent to an owner or operator obtaining an insurance policy as provided in this section, the applicable financial assurance requirement is increased, the owner or operator is considered to have met the revised requirement if:

(1) the existing policy benefit equals or exceeds the revised requirement;

(2) the owner or operator obtains an amendment that meets the requirements of Subsection E of this section and increases the policy benefit by the amount of the increase in the applicable financial assurance requirement; or

(3) the owner or operator obtains financial assurance that meets the requirements of Subsection E of this section and is equal to the amount, if any, by which the revised requirement exceeds the policy benefit.

SECTION 5. [NEW MATERIAL] FORFEITURE OF FINANCIAL  
ASSURANCE.--

A. If the owner or operator of a solar or wind energy generation facility fails to comply with financial assurance requirements, the division may order decommissioning of the facility or forfeiture of the financial assurance, or

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1 both, in accordance with rules promulgated by the division. If  
2 the owner or operator fails to comply with the order within the  
3 time frame set out in the order, the financial assurance shall  
4 be forfeited.

5                   B. When financial assurance is forfeited, the  
6 division shall give notice to the attorney general, who shall  
7 collect the forfeiture without delay.

8                   C. All forfeitures shall be remitted to the  
9 division for deposit in the solar and wind decommissioning fund  
10 to be used for decommissioning.

11                  **SECTION 6. [NEW MATERIAL] INSUFFICIENT FINANCIAL**  
12 **ASSURANCE.**--When financial assurance proves insufficient to  
13 cover the cost of decommissioning on land other than federal  
14 land and money must be expended to meet the additional  
15 expenses, the division is authorized to bring suit against the  
16 operator in the district court of the county in which the solar  
17 or wind energy generation facility is located for  
18 indemnification for all costs incurred by the division in  
19 decommissioning that owner's or operator's solar or wind energy  
20 generation facility. All money collected pursuant to a  
21 judgment in a suit for indemnification brought pursuant to this  
22 section shall be deposited in the solar and wind  
23 decommissioning fund.

24                  **SECTION 7. [NEW MATERIAL] SOLAR AND WIND DECOMMISSIONING**  
25 **FUND.**--

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