SENATE BILL 308

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

INTRODUCED BY

William E. Sharer

AN ACT

RELATING TO THE ENVIRONMENT; PERMITTING PUBLIC UTILITIES TO PETITION FOR A WAIVER OF RENEWABLE PORTFOLIO STANDARDS; ALLOWING PUBLIC UTILITIES WITH WAIVERS TO PURCHASE, CONSTRUCT OR ACQUIRE CARBON-BASED ENERGY GENERATION FACILITIES AND TO OPERATE THOSE FACILITIES FOR THE DURATION OF THEIR USEFUL LIFE; ALLOWING PUBLIC UTILITIES WITH WAIVERS TO PURCHASE ENERGY PRODUCED OUTSIDE THE STATE; ENACTING A NEW SECTION OF THE ENVIRONMENTAL IMPROVEMENT ACT; ESTABLISHING A VOLUNTARY CERTIFIED NATURAL GAS MONITORING AND REPORTING PROGRAM; REQUIRING THE ENVIRONMENTAL IMPROVEMENT BOARD TO ADOPT A CARBON INTENSITY STANDARD FOR NEW MEXICO NATURAL GAS PRODUCTION; PROVIDING FOR ANNUAL RENEWAL OF CERTIFICATION; RECOGNIZING CERTIFICATION AS A VOLUNTARY COMPLIANCE MECHANISM TO SUPPORT STATEWIDE GREENHOUSE GAS EMISSIONS REDUCTIONS; AUTHORIZING PUBLIC UTILITIES, ELECTRIC GENERATION RESOURCES AND QUALIFIED

MICROGRIDS TO PROCURE AND USE CERTIFIED NATURAL GAS; CREATING THE GREENHOUSE GAS-REDUCING NATURAL GAS TECHNOLOGY CORPORATE INCOME TAX CREDIT.

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

SECTION 1. Section 62-16-4 NMSA 1978 (being Laws 2004, Chapter 65, Section 4, as amended) is amended to read:

"62-16-4. RENEWABLE PORTFOLIO STANDARD.--

A. A public utility shall meet the renewable portfolio standard requirements, as provided in this section, to include renewable energy in its electric energy supply portfolio as demonstrated by its retirement of renewable energy certificates; provided that the associated renewable energy is delivered to the public utility and assigned to the public utility's New Mexico customers. For public utilities other than rural electric cooperatives and municipalities, requirements of the renewable portfolio standard are:

(1) no later than January 1, 2015, renewable energy shall comprise no less than fifteen percent of each public utility's total retail sales of electricity to New Mexico customers;

(2) no later than January 1, 2020, renewable energy shall comprise no less than twenty percent of each public utility's total retail sales of electricity to New Mexico customers;

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(3) no later than January 1, 2025, renewable energy shall comprise no less than forty percent of each public utility's total retail sales of electricity to New Mexico customers;

(4) no later than January 1, 2030, renewable energy shall comprise no less than fifty percent of each public utility's total retail sales of electricity to New Mexico customers;

(5) no later than January 1, 2040, renewable energy resources shall supply no less than eighty percent of all retail sales of electricity in New Mexico; provided that compliance with this standard until December 31, 2047 shall not require the public utility to displace zero carbon resources in the utility's generation portfolio on [~~the effective date of this 2019 act~~] June 14, 2019; and

(6) no later than January 1, 2045, zero carbon resources shall supply one hundred percent of all retail sales of electricity in New Mexico. Reasonable and consistent progress shall be made over time toward this requirement.

B. In administering the standards required by Paragraphs (5) and (6) of Subsection A of this section, the commission shall:

(1) not jeopardize the operation of a sewage treatment facility that captures and combusts methane gas in the facility's operations;

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(2) maintain and protect the safety, reliable operation and balancing of loads and resources on the electric system;

(3) prevent unreasonable impacts to customer electricity bills, taking into consideration the economic and environmental costs and benefits of renewable energy resources and zero carbon resources;

(4) prevent carbon dioxide emitting electricity-generating resources from being reassigned, redesignated or sold as a means of complying with the standard;

(5) in consultation with the energy, minerals and natural resources department, undertake programs not prohibited by law to achieve the standard;

(6) in consultation with the department of environment, ensure that the standard does not result in material increases to greenhouse gas emissions from entities not subject to commission oversight and regulation; and

(7) in consultation with electricity transmission system operators responsible for balancing New Mexico electricity loads and resources, issue a report to the legislature by July 1, 2020, and each July 1 every four years thereafter. The report shall include:

(a) review of the standard, with a focus on technologies, forecasts, existing transmission, environmental protection, public safety, affordability and

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electricity transmission and distribution system reliability;

(b) evaluation of the anticipated financial costs and benefits to electric utilities in implementing the standard, including the impacts and benefits to customer electricity bills; and

(c) identification of the barriers to, and benefits of, achieving the standard.

C. Any customer that is a political subdivision of the state, or any educational institution designated in Article 12, Section 11 of the constitution of New Mexico with an enrollment of twenty thousand students or more during the fall semester on its main campus, with consumption exceeding twenty thousand megawatt-hours per year at any single location or facility and that owns facilities that produce renewable energy or hosts such facilities through a renewable purchased power agreement, shall not be charged by the utility for power purchases of one year or less or fuel on the amount of electricity purchased from the utility equal to the amount of renewable energy produced or hosted by the customer. The customer shall annually certify to the state auditor and notify the commission and the customer's serving electric utility of the amount of renewable energy produced at the customer-owned or customer-hosted facilities that generate renewable energy. The customer shall also certify to the state auditor and notify the commission that the customer will retire all renewable

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energy certificates associated with the renewable energy produced by those facilities. Any financial benefits as a result of the provisions of this subsection shall accrue to the customer immediately [~~upon the effective date of this 2019 act~~] on June 14, 2019 and shall be reflected in customer bills each month, subject to annual true-up and reconciliation. The provisions of this subsection shall not prevent the utility from recovering all of its reasonable and prudent fuel and purchased power costs.

D. Upon a motion or application by a public utility the commission shall, or upon a motion or application by any other person the commission may, open a docket to develop and provide financial or other incentives to encourage public utilities to produce or acquire renewable energy that exceeds the applicable annual renewable portfolio standard set forth in this section; results in reductions in carbon dioxide emissions earlier than required by Subsection A of this section; or causes a reduction in the generation of electricity by coal-fired generating facilities, including coal-fired generating facilities located outside of New Mexico. The incentives may include additional earnings and capital investment opportunities for resources used in furtherance of the outcomes described in this subsection.

E. If, in any given year, a public utility determines that the average annual levelized cost of renewable

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energy that would need to be procured or generated for purposes of compliance with the renewable portfolio standard would be greater than the reasonable cost threshold, the public utility shall not be required to incur that excess cost; provided that the existence of this condition excusing performance in any given year shall not operate to delay compliance with the renewable portfolio standard in subsequent years. The provisions of this subsection do not preclude a public utility from accepting a project with a cost that would exceed the reasonable cost threshold. When a public utility can generate or procure renewable energy at or below the reasonable cost threshold, it shall be required to do so to the extent necessary to meet the applicable renewable portfolio standard and shall not be precluded from exceeding the standard.

F. By September 1, 2007 and until June 30, 2019, a public utility shall file a report to the commission on its procurement and generation of renewable energy during the prior calendar year and a procurement plan that includes:

(1) the cost of procurement for any new renewable energy resource in the next calendar year required to comply with the renewable portfolio standard; and

(2) testimony and exhibits that demonstrate that the proposed procurement is reasonable as to its terms and conditions considering price, availability, reliability, any renewable energy certificate values and diversity of the

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renewable energy resource; or

(3) demonstration that the plan is otherwise in the public interest.

G. By July 1, 2020, and each July 1 thereafter, a public utility shall file a report to the commission on the public utility's procurement and generation of renewable energy since the last report and a procurement plan that includes:

(1) the cost of procurement for new renewable energy required to comply with the renewable portfolio standard;

(2) the capital, operating and fuel costs on a per-megawatt-hour basis during the preceding calendar year of each nonrenewable generation resource rate-based by the utility, or dedicated to the utility through a power purchase agreement of one year or longer, and the nonrenewable generation resources' carbon dioxide emissions on a per-megawatt-hour basis during that same year;

(3) information, including exhibits, as applicable, that demonstrates that the proposed procurement:

(a) was the result of competitive procurement that included opportunities for bidders to propose purchased power, facility self-build or facility build-transfer options;

(b) has a cost that is reasonable as evidenced by a comparison of the price of electricity from

renewable energy resources in the bids received by the public utility to recent prices for comparable energy resources elsewhere in the southwestern United States; and

(c) is in the public interest, considering factors such as overall cost and economic development opportunities; and

(4) strategies used to minimize costs of renewable energy integration, including location, diversity, balancing area activity, demand-side management and load management.

H. The commission shall approve or modify a public utility's procurement plan within ninety days and may approve the plan without a hearing, unless a protest is filed that demonstrates to the commission's reasonable satisfaction that a hearing is necessary. The commission may modify a plan after notice and hearing. The commission may, for good cause, extend the time to approve a procurement plan for an additional ninety days. If the commission does not act within the ninety-day period, the procurement plan is deemed approved.

I. The commission may reject a procurement plan if, within forty days of filing, the commission finds that the plan does not contain the required information and, upon the rejection, shall provide the public utility the time necessary to file a revised plan; provided that the total amount of renewable energy required to be procured by the public utility

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shall not change.

J. A public utility may petition the commission to grant a waiver of the renewable portfolio standards and zero carbon emission requirements on establishing that efforts to meet the renewable portfolio standards would result in residential rate increases greater than one-half percent to maintain the same level of reliability for its system in the state. The waiver shall allow the public utility to purchase, construct or otherwise acquire a carbon-based energy generation facility, and the public utility shall be allowed to continue to produce electricity from the facility as provided in the waiver for the entire useful life of the facility. A waiver may also allow the purchase of energy produced out of state from a carbon-based energy generation source, and the waiver shall be recognized for the duration of the purchase contract term for the out-of-state energy. Any waiver granted by the commission shall be reported to the governor and the legislature in the commission's annual report."

SECTION 2. A new section of the Environmental Improvement Act is enacted to read:

"[NEW MATERIAL] CERTIFIED NEW MEXICO NATURAL GAS PROGRAM--VOLUNTARY MONITORING AND REPORTING--CARBON INTENSITY STANDARD--UTILITY USE.--

A. The department shall establish a voluntary certified natural gas monitoring and reporting program for

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operators of oil and gas wells seeking to market natural gas as "certified New Mexico low-emission gas".

B. An operator shall not represent natural gas as certified pursuant to this section unless the producer or operator is enrolled in the voluntary monitoring and reporting program established by the department. Participation in the voluntary monitoring and reporting program is not mandatory; however, participation may provide a pathway for demonstrating emissions reductions, methane mitigation and market differentiation consistent with statewide greenhouse gas planning and reduction efforts.

C. The board shall promulgate rules establishing robust quantification, monitoring, reporting and verification protocols to ensure that certification is credible, measurement-based and transparent. Rules adopted pursuant to this section shall prioritize empirical and measurement-based emissions monitoring systems, including continuous monitoring, remote sensing and leak detection technologies, rather than reliance solely on default emission factors.

D. The board shall promulgate rules governing the voluntary monitoring and reporting program, including requirements for:

(1) monitoring and measurement of methane emissions and greenhouse gas emissions associated with natural gas production;

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(2) reporting of emissions data in a form and manner prescribed by the department;

(3) verification procedures, including third-party audits as the board deems appropriate;

(4) confidentiality protections and transparency requirements;

(5) eligibility criteria for certification;

(6) consideration of qualified greenhouse gas-reducing natural gas technology and operational practices that may be used to reduce emissions and achieve compliance pursuant to this section; and

(7) procedures under which monitoring and reporting conducted pursuant to this section may satisfy, in whole or in part, applicable greenhouse gas monitoring and reporting requirements adopted by the board.

E. Monitoring and reporting requirements adopted pursuant to this section shall include emissions associated with production, gathering, boosting, processing, compression and transmission up to the first point of sale or delivery.

F. Following establishment of the voluntary monitoring and reporting program, the department shall collect monitoring and reporting data from enrolled operators for a period of not less than one year. The department shall ensure that collected data are accurate, consistent and sufficient to support benchmarking and standard-setting pursuant to this

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section. Following completion of the one-year data collection period, the board shall adopt by rule a carbon intensity standard for New Mexico natural gas production.

G. In developing the carbon intensity standard, the board shall consider:

(1) emissions monitoring data collected pursuant to this section;

(2) recommendations from the department;

(3) technical and regulatory input from the oil conservation division of the energy, minerals and natural resources department;

(4) utility procurement and reliability considerations from the public regulation commission; and

(5) a technical report prepared by San Juan college evaluating emissions performance, measurement methodologies, mitigation practices and benchmarking of certified natural gas programs in New Mexico, Wyoming and the Rocky Mountain region.

H. The carbon intensity standard adopted pursuant to this section may include methane intensity thresholds, life cycle greenhouse gas limits, tiered certification grades and progressive tightening requirements over time. In promulgating rules and adopting the carbon intensity standard, the board shall consider the availability, feasibility and deployment of qualified greenhouse gas-reducing natural gas technology and

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operational practices that reduce methane emissions and life cycle greenhouse gas intensity.

I. The board shall consider participation in the voluntary certified natural gas monitoring and reporting program as a mechanism that may contribute to statewide greenhouse gas emissions reductions.

J. The board may recognize certified natural gas production pursuant to this section as a voluntary compliance mechanism or benchmark for greenhouse gas intensity reductions in future rulemaking adopted pursuant to the Environmental Improvement Act or the Air Quality Control Act.

K. The department may incorporate certified natural gas program data into statewide greenhouse gas emissions inventories and reports to demonstrate voluntary reductions achieved by New Mexico producers.

L. Certification granted pursuant to this section shall be valid for not more than one year. Each certified operator shall apply for renewal annually in accordance with procedures established by the department and rules promulgated by the board. Renewal shall require submission of updated emissions monitoring data, demonstration of continued compliance with the carbon intensity standard and verification documentation as required by rule. Failure to renew certification shall result in expiration of certification status, and the operator shall not represent its production as

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certified pursuant to this section. The department shall maintain a registry of certified operators and certified gas volumes, subject to confidentiality protections adopted by rule.

M. A public utility, electric generation resource or qualified microgrid operating in New Mexico may procure, transport, deliver and use certified New Mexico low-emission natural gas produced pursuant to this section for electricity generation or for reliability and resilience purposes.

N. The public regulation commission shall allow a public utility to include certified natural gas procurement as part of a resource portfolio or fuel supply plan; provided that the procurement is otherwise reasonable and prudent.

O. Nothing in this section shall be construed to require a public utility or generation resource to procure certified natural gas; however, certified natural gas shall be recognized as an eligible voluntary compliance and emissions-reduction mechanism supporting statewide greenhouse gas planning efforts.

P. As used in this section, "qualified greenhouse gas-reducing natural gas technology" means any equipment, facility, system, process, software or operational practice that is installed, deployed or implemented to reduce, prevent, capture, convert, destroy or otherwise mitigate emissions of carbon dioxide, methane or other greenhouse gases associated

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with the production, gathering, processing, transportation, storage, distribution or end use of natural gas, as compared to conventional or uncontrolled operations. "Qualified greenhouse gas-reducing natural gas technology" includes:

(1) methane leak detection, monitoring and repair systems;

(2) continuous emissions monitoring systems;

(3) direct air capture equipment;

(4) advanced valves, seals, compressors and zero- or low-bleed pneumatic devices;

(5) vapor recovery units and reduced venting or flaring systems;

(6) electrification of field equipment or compression systems;

(7) carbon capture, utilization and storage technologies;

(8) combustion efficiency improvements that reduce greenhouse gas emissions;

(9) digital, automated or remote sensing technologies that optimize operations to reduce emissions; and

(10) gas treatment or conditioning technologies that reduce life cycle greenhouse gas intensity."

SECTION 3. A new section of the Corporate Income and Franchise Tax Act is enacted to read:

"[NEW MATERIAL] GREENHOUSE GAS-REDUCING NATURAL GAS

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TECHNOLOGY CORPORATE INCOME TAX CREDIT.--

A. A taxpayer that installs qualified greenhouse gas-reducing natural gas technology, as defined by Section 2 of this 2026 act, may claim a tax credit against the taxpayer's tax liability imposed pursuant to the Corporate Income and Franchise Tax Act. The tax credit authorized pursuant to this section may be referred to as the "greenhouse gas-reducing natural gas technology corporate income tax credit".

B. The amount of the tax credit shall be in an amount equal to fifteen percent of the purchase price of equipment and software, including the purchase of a license for software, necessary to install or deploy qualified greenhouse gas-reducing natural gas technology that was purchased and installed during the taxable year in which the tax credit is claimed.

C. A taxpayer shall apply for certification of eligibility for the tax credit from the department of environment on forms and in the manner prescribed by that department. If the department of environment determines that a 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 year in which the tax credit may be claimed. The department of environment shall provide the department with the certificates of eligibility

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issued pursuant to this subsection in an electronic format at regularly agreed-upon intervals.

D. Any excess not used in a taxable year shall not be refunded and shall not be carried forward to subsequent taxable years.

E. A taxpayer allowed a tax credit pursuant to this section shall report the amount of the tax credit to the department in a manner required by the department.

F. The tax 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 tax credit."

SECTION 4. APPLICABILITY.--The provisions of Section 3 of this act apply to taxable years beginning on or after January 1, 2026.

SECTION 5. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2026.

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