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## FISCAL IMPACT REPORT

<b>SPONSOR</b> <u>Soules</u>	<b>LAST UPDATED</b> <u>2/16/23</u>
	<b>ORIGINAL DATE</b> <u>1/25/23</u>
<b>SHORT TITLE</b> <u>Energy Generation Facility Requirements</u>	<b>BILL NUMBER</b> <u>Senate Bill 74/aSCONC</u>
	<b>ANALYST</b> <u>Sanchez</u>

### ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT\* (dollars in thousands)

	FY23	FY24	FY25	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
	No fiscal impact	No fiscal impact	No fiscal impact			
<b>Total</b>						

Parentheses ( ) indicate expenditure decreases.  
 \*Amounts reflect most recent version of this legislation.

Relates to Section 62-13-1 NMSA 1978 and Section 62-18-1 NMSA 1978

### Sources of Information

LFC Files

#### Responses Received From

Energy, Minerals and Natural Resources Department (EMNRD)  
 Public Regulation Commission (PRC)  
 Renewable Energy Transmission Authority (RETA)

## SUMMARY

### Synopsis of SCONC Amendment

The Senate Conservation Committee amendment to Senate Bill 74 adds the word “nuclear” to the types of facilities designated as producing “clean energy.”

### Synopsis of Original Senate Bill 74

Senate Bill 74 amends Section 62-13-1 NMSA 1978, also known as the Public Utility Act, to include a definition for “clean energy” as only energy generated from solar heat, solar light, wind, geothermal reservoirs, biomass, or hydropower.

SB74 would prevent the Public Regulation Commission (PRC) from approving any certificates of public convenience and necessity (CPCN) as required in Section 62-13-2 NMSA 1978 and would also prevent PRC from approving any integrated resource plans (IRP) as required in Section 17.7.3.8 NMAC for facilities that do not produce “clean energy” as defined by the bill.

The effective date of this bill is July 1, 2023.

## FISCAL IMPLICATIONS

In its analysis, PRC expressed concerns about the impact SB74 might have ultimately on rates paid by customers for electricity, stating:

Any change in the generation capacity portfolios of the state’s electric utilities will have an impact on their cost of service, and consequently rates paid by customers for electricity.

Similarly, EMNRD’s analysis stated:

If implemented, SB74 would force utilities to abandon any current plans to construct fossil fuel-powered generation, leaving the utility on the hook to pay the costs of project and contract cancellation. These costs would be passed along to ratepayers, substantially increasing their electricity bills.

While the potential impact on consumers is significant, as it relates to providing fiscal analysis of government revenues and appropriations, this bill has no fiscal impact.

The Renewable Energy Transmission Authority did not provide an analysis of the original bill, but the agency’s analysis of the amended bill states:

New Mexico Renewable Energy Transmission Authority (NM RETA) would be unaffected by SB74/a, but NM RETA’s development partners may see increased risk, thus diverting billions of dollars of private investment to other states. This change would cause the fiscal impact of reducing local government tax revenue by an undetermined amount. NM RETA has studied the benefits to New Mexico’s economy of transmission infrastructure development under current policies...SB74/a would add undetermined operational costs to the PRC staff due to additional administrative tasks in implementing the Public Utility Act and associated rules...Under SB74/a, natural gas plants currently scheduled for retirement could be re-evaluated by utilities and their life cycles extended, due to SB74/a’s prohibition of these technologies for new power plants. Utilities may opt for this approach to maintain 24/7 dispatchable power capability for meeting customer needs. Coupled with nuclear’s long development timeline, this could slow progress towards zero carbon electricity, the opposite of SB74/a’s intent

## SIGNIFICANT ISSUES

In its analysis, PRC included the following:

To the extent that any electric utility may currently include gas generation in its latest Integrated Resource Plan, this bill would directly impact such plan by preventing the utility from implementing that IRP....[T]his bill may impact the generation capacity portfolios of the state’s utilities, it will likely affect the rates customers pay for electric service in New Mexico.

New sources of generation in recently approved utility Integrated Resources Plans have not included fossil fuels such as natural gas. This is primarily the result of the Energy Transition Act. It is not necessary to define “clean energy” since the main sources of new generation are wind and solar, backed up with battery storage. Defining “clean energy” may preclude new energy technologies from being developed such as hydrogen.

## **ADMINISTRATIVE IMPLICATIONS**

The Public Regulation Commission is responsible for reviewing and approving certificates of public convenience and necessity (CPCN) and integrated resource plans (IRP). If adopted, SB74 would leave the process by which applications are approved intact. Still, the new definition would prevent approval of any new construction projects after July 1, 2023, that do not meet these standards.

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