

HOUSE BILL 498

54TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2019

INTRODUCED BY

Anthony Allison

Pursuant to House Rule 24-1, this document incorporates amendments that have been adopted prior to consideration of this measure by the House. It is a tool to show the amendments in context and is not to be used for the purpose of amendments.

AN ACT

RELATING TO UTILITIES; REQUIRING A UTILITY THAT ABANDONS A QUALIFYING GENERATING FACILITY TO LOCATE REPLACEMENT RESOURCES IN THE SCHOOL DISTRICT WHERE THE ABANDONED FACILITY IS LOCATED; CREATING THE ENERGY TRANSITION ECONOMIC DEVELOPMENT ASSISTANCE FUND HENRC→**AND** ,←HENRC THE ENERGY TRANSITION DISPLACED WORKER ASSISTANCE FUND HENRC→**AND THE ENERGY TRANSITION INDIAN AFFAIRS FUND**←HENRC; MAKING APPROPRIATIONS.

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

SECTION 1. A new section of the Public Utility Act is

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enacted to read:

"[NEW MATERIAL] ABANDONED QUALIFYING GENERATING FACILITY--  
LOCATION OF RESOURCE DEVELOPMENT AFTER ABANDONMENT.--

A. A qualifying utility shall, no later than one year after commission approval of abandonment of a qualifying generating facility in New Mexico, apply for commission approval for competitively procured replacement resources that are located in the school district where the abandoned qualifying generating facility is located. As part of that competitive procurement, in addition to the criteria set forth in Subsections C and E of this section, projects shall be ranked based on their cost, economic development opportunity and ability to provide jobs with comparable pay and benefits to those lost due to the abandonment of a qualifying generating facility. The qualitative and quantitative data and analysis used to establish the ranking shall be available for review by parties to the commission proceeding.

B. Replacement resources must be subject to property taxes or a binding commitment to make an equivalent payment in lieu of taxes.

C. In determining whether to approve replacement resources, the commission shall prefer resources with the least environmental impacts, resources with higher ratios of capital costs to fuel costs and those able to reduce the cost of reclamation and use for lands previously mined within the

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county of the qualifying generating facility.

D. The commission shall grant all necessary approvals for replacement resources, except that the commission may determine that the particular resource proposed by the qualifying utility should not be approved and that, instead, an alternative replacement resource that meets the conditions of Subsection A of this section should be approved. The commission shall not disallow recovery of reasonable costs necessary to comply with the locational directives provided in Subsection A of this section.

E. In considering responses to requests for proposals for replacement resources pursuant to this section, a qualifying utility shall inform prospective bidders that it promotes and encourages the use of workers residing in New Mexico to the greatest extent practicable and shall take that use into consideration in evaluating proposals.

F. As used in this section:

(1) "qualifying generating facility" means a coal-fired generating facility that has been granted a certificate of public convenience and for which abandonment authority has been requested at the commission;

(2) "qualifying utility" means a public utility pursuant to Paragraph (1) of Subsection G of Section 62-3-3 NMSA 1978 that owns or leases all or a portion of a qualifying generating facility and its successor or assignees;

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and

(3) "replacement resources" means up to four hundred fifty megawatts of nameplate capacity identified by the qualifying utility as replacement for a qualifying generating facility and may include energy storage capacity, provided that such resources are needed and in the public interest."

SECTION 2. A new section of the Public Utility Act is enacted to read:

"[NEW MATERIAL] ENERGY TRANSITION ECONOMIC DEVELOPMENT ASSISTANCE FUND--ENERGY TRANSITION DISPLACED WORKER ASSISTANCE FUND.--

A. The "energy transition economic development assistance fund" is created in the state treasury. The fund shall consist of appropriations, gifts, grants, donations and bequests made to the fund. Income from the fund shall be credited to the fund, and money in the fund shall not revert or be transferred to any other fund at the end of a fiscal year.

B. The economic development department shall administer the energy transition economic development assistance fund, and money in the fund is subject to appropriation by the legislature only to that department to assist in diversifying and promoting the affected community's economy by fostering economic development opportunities unrelated to fossil fuel development or use.

C. The economic development department shall

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develop an economic diversification and development plan to assist the affected community that shall provide for the disbursement of money in the energy transition economic development assistance fund. In developing the plan, the economic development department shall establish a public planning process in the affected community to inform the use of money in the fund. HENRC→The economic development department shall engage in consultation with Indian nations, tribes and pueblos in the affected community pursuant to the State-Tribal Collaboration Act.←HENRC The public planning process shall include at least three public meetings in the affected community. Expenditures from the fund shall be made after completion of the plan and as follows:

- (1) to an entity approved by the economic development department to receive funds for any program established at the economic development department;
- (2) to assist employers to qualify for any tax relief for hiring displaced workers established under state or federal law; and
- (3) to a municipality, county, Indian nation, pueblo or tribe or land grant community in New Mexico for programs designed to promote economic development in the affected community.

D. The "energy transition displaced worker assistance fund" is created in the state treasury. The fund

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shall consist of appropriations, gifts, grants, donations and bequests made to the fund. Income from the fund shall be credited to the fund, and money in the fund shall not revert or be transferred to any other fund at the end of a fiscal year.

E. The workforce solutions department shall administer the energy transition displaced worker assistance fund, and money in the fund is subject to appropriation by the legislature only to that department to assist displaced workers in an affected community.

F. The workforce solutions department shall develop a displaced worker development plan to assist displaced workers in an affected community that shall provide for the disbursement of money in the energy transition displaced worker assistance fund. In developing the plan, the workforce solutions department shall establish a public planning process in the affected community to inform the use of money in the fund. HENRC→The workforce solutions department shall engage in consultation with Indian nations, tribes and pueblos in the affected community pursuant to the State-Tribal Collaboration Act.←HENRC The public planning process shall include at least three public meetings in the affected community. Expenditures from the fund shall be made after completion of the plan and as follows:

(1) to assist employers of displaced workers to qualify for any tax relief established under state or

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federal law;

(2) to the workforce solutions department:

(a) to provide assistance to displaced workers or to prepare to assist future displaced workers due to a pending abandoned HLVMC→**qualifying**←HLVMC generating facility using any program established at that department; and

(b) HLVMC→~~for payment of costs or~~←HLVMC to prepare to assist future displaced workers due to a pending abandoned HLVMC→**qualifying**←HLVMC generating facility HLVMC→**or for payment of costs**←HLVMC associated with displaced workers enrolling and participating in certified apprenticeship programs in New Mexico; and

(3) to a municipality, county, Indian nation, pueblo or tribe or land grant community in New Mexico for job training and apprenticeship programs for displaced workers or for programs designed to promote economic development in the affected community.

HENRC→**G. The "energy transition Indian affairs fund" is created in the state treasury. The fund shall consist of appropriations, gifts, grants, donations and bequests made to the fund. Income from the fund shall be credited to the fund, and money in the fund shall not revert or be transferred to any other fund at the end of a fiscal year.**

**H. The Indian affairs department shall administer the energy transition Indian affairs fund, and money in the**

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fund is subject to appropriation by the legislature only to that department to assist in addressing the conditions and issues of tribes and native peoples in the affected community.

I. The Indian affairs department shall develop an Indian affairs assistance plan to assist tribal and native people in the affected community that shall provide for the disbursement of money in the energy transition Indian affairs fund. In developing the plan, the Indian affairs department shall establish a public planning process in the affected community to inform the use of money in the fund. The Indian affairs department shall engage in consultation with Indian nations, tribes and pueblos in the affected community pursuant to the State-Tribal Collaboration Act. The public planning process shall include at least three public meetings in the affected community. Expenditures from the fund shall be made after completion of the plan and as follows:

(1) to an entity approved by the Indian affairs department to receive funds for any program established at the Indian affairs department; and

(2) to tribal governments, public agencies or private persons to provide services and facilities in the affected community for promoting the welfare of Indian people. ←HENRC

HENRC→G. J. ←HENRC As used in this section:

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(1) "affected community" means a New Mexico county located within one hundred miles of a HLVMC→qualifying←HLVMC generating facility that has filed an intent to abandon or located within one hundred miles of a facility that generates energy in New Mexico that closes and results in at least forty displaced workers;

(2) "displaced worker" means a New Mexico resident who:

(a) within the previous twelve months, was terminated from employment, or whose contract was terminated, due to the anticipated abandonment of a HLVMC→qualifying←HLVMC generating facility or the abandonment of a facility that generates energy with an impact on HLVMC→at least←HLVMC forty workers;

(b) had at least seventy-five percent of the resident's net income, as that term is defined in the Income Tax Act, from the employment or contract described in Subparagraph (a) of this paragraph;

(c) has not been able to replace the lost wages described in Subparagraph (b) of this paragraph or whose annual wages are at least twenty-five percent less than when the HLVMC→qualifying←HLVMC generating facility was operating; and

(d) does not qualify to take full benefits pursuant to a pension or retirement plan; and

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(3) HLVMC→"qualifying"←HLVMC generating facility" means HLVMC→;←HLVMC

HLVMC→(a)←HLVMC a coal-fired generating facility that has been granted a certificate of public convenience and for which abandonment authority has been requested at the commission HLVMC→." ;and←HLVMC

HLVMC→(b) a facility that generates energy in New Mexico that closes and results in at least forty displaced workers."←HLVMC

SECTION 3. APPROPRIATIONS.--

A. HENRC→~~Seven million dollars (\$7,000,000)~~ Five million dollars (\$5,000,000)←HENRC is appropriated from the general fund to the energy transition economic development assistance fund for expenditure in fiscal year 2020 and subsequent fiscal years to carry out the purposes of the fund. Any unexpended or unencumbered balance remaining at the end a of fiscal year shall not revert to the general fund.

B. Three million dollars (\$3,000,000) is appropriated from the general fund to the energy transition displaced worker assistance fund for expenditure in fiscal year 2020 and subsequent fiscal years to carry out the purposes of the fund. Any unexpended or unencumbered balance remaining at the end of a fiscal year shall not revert to the general fund.

HENRC→C. Two million dollars (\$2,000,000) is appropriated from the general fund to the energy transition

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Indian affairs fund for expenditure in fiscal year 2020 and subsequent fiscal years to carry out the purposes of the fund. Any unexpended or unencumbered balance remaining at the end of a fiscal year shall not revert to the general fund.←HENRC

SECTION 4. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2019.

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