

LFC Requester:

Austin Davidson

AGENCY BILL ANALYSIS - 2026 REGULAR SESSION

WITHIN 24 HOURS OF BILL POSTING, UPLOAD ANALYSIS TO
AgencyAnalysis.nmlegis.gov and email to billanalysis@dfa.nm.gov
(Analysis must be uploaded as a PDF)

SECTION I: GENERAL INFORMATION*{Indicate if analysis is on an original bill, amendment, substitute or a correction of a previous bill}***Date Prepared:** 02/03/2026*Check all that apply:***Bill Number:** HB 281Original Correction Amendment Substitute **Sponsor:** Reps. Terrazas, Murphy, Dow
& Armstrong & Sen. Ramos**Agency Name
and Code**430 – Public Regulation
Commission**Short Title:** Financial Assurance for**Person Writing**J. Bogatko**Title:** Solar & Wind**Phone:** (505)490-2696**Email** jerri.mares@prc.nm.gov**SECTION II: FISCAL IMPACT****APPROPRIATION (dollars in thousands)**

Appropriation		Recurring or Nonrecurring	Fund Affected
FY26	FY27		

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY26	FY27	FY28		

(Parenthesis () indicate revenue decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY26	FY27	FY28	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

BILL SUMMARY

Synopsis: HB 281 brings forth new proposed legislation regarding the decommissioning of solar and wind energy generation facilities located in New Mexico.

SECTION 1 – Provides that the act may be cited as the “Solar and Wind Financial Assurance Act”.

SECTION 2 – Provides definitions for HB 281, including for the terms “decommissioning”, “site”, “solar generation facility”, and “wind generation facility”. It also specifies that “department” means the energy, minerals and natural resources department (“EMNRD”); and that “division” means the energy conservation and management division of the department.

SECTION 3 – Addresses authority over financial assurance for solar and wind generation facilities and requirements for decommissioning of such facilities. Specifically, it specifies that EMNRD’s energy conservation and management division has jurisdiction and authority over all matters relating to financial assurance for the decommissioning of solar and wind generation facilities and further directs that the division shall promulgate rules to establish requirements for decommissioning of solar and wind generation facilities that ensures: (1) removal, proper disposal or recycling of facility equipment and infrastructure; (2) remediation of the site; (3) monitoring of the site as necessary during decommissioning; (4) an appropriate time frame for completion; and (5) additional measures the division deems appropriate.

SECTION 4 – Provides the financial assurance requirement for solar and wind generation facilities, including the key provision that the owner or operator of a solar or wind energy generation facility shall, as a condition precedent to operation of the facility, provide financial assurance in the form of an irrevocable letter of credit, a cash surety bond or a facility-specific decommissioning insurance policy to the division, running to the benefit of the state and conditioned that the facility be decommissioned in compliance with rules promulgated by the division.

Further, this Section specifies that the division shall establish categories of financial assurance; meaning the division is to consider the size and other characteristics of the solar or wind generation facility and that such financial assurance categories established by the division shall be no less than \$250,000 per facility.

SECTION 5 – Addresses forfeiture of financial assurance in the event the owner or operator of a solar or wind energy generation facility fails to comply with financial assurance requirements. In such an event, the division may order decommissioning of the facility or forfeiture of the financial assurance, or both, in accordance with rules promulgated by the division.

SECTION 6 – Pertains to instances of insufficient financial assurance such that when it proves to be insufficient to cover the cost of decommissioning on land other than federal land and money must be expended to meet the additional expenses, the division is authorized to bring suit against the operator in the district court of the county in which the facility is located for indemnification for all costs incurred by the division in decommissioning the solar or wind

energy generation facility. All money collected pursuant to indemnification proceedings shall be deposited in the solar and wind decommissioning fund.

SECTION 7 – Creates the “solar and wind decommissioning fund” as a nonreverting fund in the state treasury. The fund will consist of appropriations, gifts, grants, donations, income from investment of the fund and any other money credited to the fund. The division shall administer the fund, and it is further specified that money in the fund may be used by the division to facilitate decommissioning of solar and wind energy generation facilities.

FISCAL IMPLICATIONS

None to the PRC.

SIGNIFICANT ISSUES

The division’s unrestricted ability to order decommissioning in the event the owner or operator of the asset fails to comply with financial assurance requirements under SECTION 5(A), may conflict with the regulatory authority of the PRC and create risk to the state’s energy security, and the public interest. For example, a regulated utility’s solar or wind energy generation facility that has been certificated by the PRC pursuant to Section 62-9-1, NMSA 1978 cannot simply be removed from service without the PRC’s authorization and certainly not without potential and far-reaching ramifications for grid stability, reliability, the public convenience and necessity, etc. Additionally, the remedy for decommissioning under SECTION 5(A), without the necessary orders from the PRC, could cause ratepayers to continue to pay for a facility that is no longer in service. The same would go for solar or wind energy generation facilities that are supplying power to regulated utilities via PRC approved purchase power agreements, which are in place to facilitate, among other things, a regulated utility’s ability to serve the public with a varied, reliable and economical portfolio, meet its renewable energy act mandated performance targets, and other vital considerations.

PERFORMANCE IMPLICATIONS

N/A

ADMINISTRATIVE IMPLICATIONS

N/A

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

HB 281 appears to be in competition with SB 209, the latter which is remarkably similar to HB 281 in structure and content but goes further in scope by not limiting itself to just solar and wind energy generation facilities. SB 209 is more broadly addressed to financial assurance for renewable energy, which is defined to include solar and wind, as well as geothermal, hydropower, biomass, fuel cells that do not use fossil fuels or landfill gas and anaerobically digested waste biogas.

Relates to HM 37 RENEWABLE ENERGY FACILITIES DECOMMISSION COST, a memorial requesting EMNRD to study costs associated with decommissioning solar and wind energy generation facilities.

TECHNICAL ISSUES

N/A

OTHER SUBSTANTIVE ISSUES

N/A

ALTERNATIVES

N/A

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

Status quo.

AMENDMENTS

N/A