

LFC Requester:

Austin Davidson

**AGENCY BILL ANALYSIS - 2026 REGULAR SESSION**

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**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:** SB 209 Original  Correction   
Amendment  Substitute

**Sponsor:** Sens. Ramos, Jaramillo, & Thornton & Rep. Terrazas **Agency Name and Code Number:** 430 – Public Regulation Commission  
**Short Title:** Financial Assurance for Renewable Energy **Person Writing:** J. Bogatko  
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**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
<b>Total</b>						

(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: SB 209 brings forth new proposed legislation regarding the decommissioning of renewable energy facilities located in New Mexico.

SECTION 1 – Provides that the act may be cited as the “Renewable Energy Financial Assurance Act”.

SECTION 2 – Provides definitions for SB 209, including for the terms “decommissioning”, “site”, “department” (the energy, minerals and natural resources department (“EMNRD”)), “division” (the energy conservation and management division of the department), and “renewable energy facility” (consisting of solar, wind, geothermal, hydropower, biomass, fuel cells (non-fossil fuel) or landfill gas and anaerobically digested waste biogas).

SECTION 3 – Addresses authority over financial assurance for renewable energy 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 renewable energy facilities. It further directs that the division shall promulgate rules to establish requirements for decommissioning of renewable energy facilities that ensure: (1) removal, proper disposal or recycling of facility equipment and infrastructure; (2) remediation of the site; (3) monitoring of the site as necessary; (4) an appropriate time frame for completion; (5) that an owner or operator provides financial assurance sufficient to cover the costs of decommissioning a renewable energy facility in a form and amount acceptable to the division; and (6) implementation of additional measures the division deems appropriate.

SECTION 4 – Provides the financial assurance requirement for renewable energy facilities, including the key provision that the owner or operator of a renewable energy facility shall, as a condition precedent to commercial operation of the facility, provide financial assurance to the division. The amount of financial assurance shall be sufficient to ensure the decommissioning of the facility, as determined by the division. Acceptable forms of financial assurance include surety bonds, irrevocable letters of credit, collateral bonds, cash accounts, facility-specific insurance policies, and third-party guarantees. It is further provided that the division shall periodically review financial assurance requirements and adjust them to account for inflation and anticipated changes in decommissioning costs with an owner or operator of a renewable energy facility required to ensure that the financial assurance provided to the division meets any new or expanded requirements.

SECTION 5 – Addresses forfeiture of financial assurance in the event the owner or operator of a renewable energy 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 renewable energy facility. All money collected pursuant to indemnification proceedings shall be deposited in the renewable energy decommissioning fund.

SECTION 7 – Creates the “renewable energy 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 is subject to appropriation by the legislature to the division to carry out the provisions of the act. Money in the fund may be used by the division to facilitate decommissioning of renewable energy 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, the state’s energy security, and the public interest. For example, a regulated utility’s renewable energy 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 renewable energy 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**

SB 209 appears to be in competition with HB 281, the latter which is remarkably similar to SB 209 in structure and content but has a more circumscribed scope limited 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 HB 226 NATURAL GAS AS RENEWABLE ENERGY by adding natural gas using combined cycle technology to the definition of renewable energy resource.

Relates to SB 78 NUCLEAR ENERGY AS RENEWABLE ENERGY by adding nuclear facilities that use nuclear reactions to the definition of renewable energy resource.

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