

LFC Requester:

Joseph Simon

AGENCY BILL ANALYSIS - 2026 REGULAR SESSION

SECTION I: GENERAL INFORMATION

{Indicate if analysis is on an original bill, amendment, substitute or a correction of a previous bill}

Date Prepared: 1/28/26

Check all that apply:

Bill Number: SM 9

Original X Correction
Amendment Substitute

Sponsor: Sen. Harold Pope

Agency Name and Code Number: 305 – New Mexico Department of Justice

Person Writing

Short Title: Study State Purchase of Utilities

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SECTION II: FISCAL IMPACT

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY26	FY27		

(Parenthesis () indicate expenditure decreases)

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

This analysis is neither a formal Opinion nor an Advisory Letter issued by the New Mexico Department of Justice. This is a staff analysis in response to a committee or legislator’s request. The analysis does not represent any official policy or legal position of the NM Department of Justice.

BILL SUMMARY

Synopsis: This memorial would request that the staff of the legislative finance committee conduct a study in consultation with experts to examine the costs and benefits of having the State of New Mexico or one of its investment funds purchase equity interests in the New Mexico Gas Company and TXNM energy, inc. The memorial would also request that the public regulation commission (PRC) withhold approval of any private equity acquisition of those companies until after the first session of the 58th legislature or the completion of the studies, whichever is later.

The memorial contains four parts, each of which makes a distinct request:

1. **The Study:** It requests “that the staff of the legislative finance committee . . . conduct a study, in consultation with experts from state agencies, including the public regulation commission, New Mexico finance authority, attorney general, state investment council and economic development department, to determine the public, ratepayer, environmental and economic costs and benefits to New Mexico of one or more state investment funds purchasing equity interests of various amounts in the New Mexico gas company and TXNM energy, inc., the parent company of the public service company of New Mexico, and the specific procedures, disclosures, and actions needed for a state investment fund to accomplish such a purchase.”
2. **Reports on the Study:** It requests “that the staff of the legislative finance committee . . . periodically report to the committee on the progress of the study and present a final report with recommendations to the committee by December 1, 2026.”
3. **Deferred Approval of Private Equity Acquisition:** It requests “that the public regulation commission . . . refrain from approving any private equity acquisition of the New Mexico gas company and TXNM energy, inc. . . . until the studies requested in this memorial have been completed and submitted to the legislative finance committee, but in no event prior to the conclusion of the first session of the fifty-eighth legislature.”
4. **Circulation of the Memorial:** It requests “that copies of this memorial be transmitted to the legislative finance committee, the public regulation commission, the New Mexico finance authority, the attorney general, the state investment council and the economic development department.”

FISCAL IMPLICATIONS

Note: major assumptions underlying fiscal impact should be documented.

Note: if additional operating budget impact is estimated, assumptions and calculations should be reported in this section.

SM9 will call upon the NMDOJ to provide consultation along with experts from other state agencies. These consultations will require the expenditure of NMDOJ resources without an accompanying appropriation to cover the costs.

SIGNIFICANT ISSUES

Under NMSA 1978, 62-6-12, acquisitions of public utilities and public utility holding companies require prior authorization by the public regulation commission. Although the memorial is correct that “there is not statutory deadline by which a decision must be made,” the Public Utilities Act provides that “upon the filing of [an acquisition] application, the commission shall promptly investigate the same, with such hearing and upon such notice as the commission may prescribe, and unless the commission shall find that the proposed transaction is unlawful or is inconsistent with the public interest, it shall give its consent and approval in writing.” NMSA 1978, 62-6-13.

Accordingly, although the approval of acquisitions does not face any strict statutory deadline, the public regulation commission must “promptly” process these applications. This may become an issue for the commission if it withholds approval of private equity transactions and the requested studies are delayed.

PERFORMANCE IMPLICATIONS

If the study requested by this memorial is ultimately undertaken, NMDOJ will need to provide consultation services along with other state agencies.

ADMINISTRATIVE IMPLICATIONS

If the study requested by this memorial is ultimately undertaken, NMDOJ will need to commit staff and legal resources to fulfill its consultation obligations.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

This memorial relates to HM6 *Private Equity Infrastructure Ownership*, which also requests a study on the impact of private equity ownership of utilities. The study requested by HM6 is considerably broader in scope and includes consideration of ownership issues, service delivery, workforce impacts, and the impact of data centers. HM 6’s study directly overlaps with that requested in SM 9 to the extent the HM 6 study is “requested to include an assessment of the appropriate role of public investment, regulation, and ownership in protecting essential [utility] services as compared to private ownership models.”

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