

LFC Requester:

Austin Davidson

AGENCY BILL ANALYSIS - 2026 REGULAR SESSION**WITHIN 24 HOURS OF BILL POSTING, UPLOAD ANALYSIS TO****[AgencyAnalysis.nmlegis.gov](https://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:** February 6, 2026*Check all that apply:***Bill Number:** HB 337Original ☒ Correction ☐Amendment ☐ Substitute ☐**Sponsor:** Representatives Sariñana and Lujan**Agency Name****and Code**State Ethics Commission 410**Number:****Short** Consideration of RPS in Grid**Person Writing**Rebecca Branch**Title:** Modernization**Phone:** 505362-7407**Email** rebecca.branch@sec.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 337 amends NMSA 1978, § 71-11-1(C)(1) (2020) to revise the criteria used by the Energy, Minerals and Natural Resources Department when evaluating grid modernization grant applications. The bill modifies Subsection C(1) to clarify that projects should support a flexible, diversified, and distributed energy portfolio that includes a percentage of renewable generation sources consistent with the renewable portfolio standards established in the Renewable Energy Act.

The bill also makes a technical clarification in Subsection C(2) by specifying that qualifying new technologies or innovative applications should provide useful information *in real time* to the state, utilities, electric cooperatives, their customers, and the general public.

In addition, HB 337 adds a new evaluation criterion requiring consideration of the extent to which a proposed project helps a public utility meet the renewable portfolio standards set forth in the Renewable Energy Act.

Finally, the bill defines “microgrid” as a group of interconnected loads and distributed energy resources within clearly defined electrical boundaries that act as a single controllable entity and may operate in grid-connected or island mode

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.

SIGNIFICANT ISSUES

As it currently stands and with the amendments proposed in House Bill 337, Section 71-11-1(C) creates a program for review and approval of grants. Because it involves the transfer of public funds to a private entity, this could raise an inquiry under Article IX, Section 14 (the “Anti-Donation Clause”). However, the Commission has previously concluded:

Government grant agreements often include the essential elements of a contract (including consideration) and establish what is ordinarily regarded as a contractual relationship between the government and a grantee. In exchange for grant funds, grantees ordinarily agree to: (i) performance of a specific project that the government desires; (ii) prudent management of grant funds; and (iii) satisfaction of conditions required by the grant award instrument, including reports to the government on the use of grant funds. That set of promises by the grantee is value that government receives in exchange for the grant funds, and the formation of a

contract between the government and grantee allows the government, if necessary, to sue to enforce the conditions of a grant agreement. Where the contemplated agreements meet the requirements of a contract, [a state agency] would receive something of value in exchange for the funds, and therefore the exchange would not be a “donation” violative of the Anti-Donation Clause.¹

The amendments proposed in House Bill 337 maintain certain requirements and conditions necessary for approval of a grant under this statute. So long as the grant agreements entered into under Section 71-11-1 meet the requirements of a contract such that the state receives something in exchange for the transfer of funds, the grants would not be considered a “donation” under the Anti-Donation Clause.

PERFORMANCE IMPLICATIONS

ADMINISTRATIVE IMPLICATIONS

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

SB 39 Microgrid Oversight Act introduced by Senator Steinborn overlaps with HB 337 as it provides a definition of “microgrid” which differs from HB 337 and also provides a more comprehensive framework for oversight of the microgrid.

SB 235 Microgrid Oversight Act introduced by Senators Steinborn and Sedillo Lopez overlaps with HB 337 as it provides a definition of “microgrid” which differs from HB 337 and also provides a more comprehensive framework for oversight of the microgrid.

HB 329 Energy Affordability and Grid Reliability introduced by Representative Dixon proposes the creation of a Energy Affordability and Grid Reliability Council.

TECHNICAL ISSUES

OTHER SUBSTANTIVE ISSUES

ALTERNATIVES

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

AMENDMENTS

¹ State Ethics Comm’n Adv. Op. 2024-06 (Dec. 13, 2024) (available at <https://nmonesource.com/nmos/secap/en/item/19122/index.do>) (footnotes omitted) (citing *Henke v. U.S. Dept. of Commerce*, 83 F. 3d 1445, 1450 (D.C. Cir. 1996); *United States v. Marion Cnty. Sch. Dist.*, 625 F.2d 607, 609 (5th Cir. 1980)).