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## FISCAL IMPACT REPORT

<b>SPONSOR</b>	Sen. Padilla/Reps. Dixon, Hernandez, J. and Garratt	<b>LAST UPDATED</b>	3/19/2025
		<b>ORIGINAL DATE</b>	2/17/2025
<b>SHORT TITLE</b>	NMFA Definitions, Funds & Rates	<b>BILL</b>	Senate Bill
		<b>NUMBER</b>	170/aSTBTC/aSFC /aSFI#1/aHCEDC
		<b>ANALYST</b>	Carswell/Rodriguez

### ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT\*

(dollars in thousands)

Agency/Program	FY25	FY26	FY27	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Public Project Revolving Fund	No fiscal impact	No fiscal impact	No fiscal impact	No fiscal impact	Recurring	Other state funds
PRC	No fiscal impact	No fiscal impact	No fiscal impact	No fiscal impact	Recurring	General Fund

Parentheses ( ) indicate expenditure decreases.

\*Amounts reflect most recent analysis of this legislation.

Is a companion to Senate Bill 169

### Sources of Information

LFC Files

#### Agency Analysis Received From

New Mexico Finance Authority (NMFA)

Economic Development Department (EDD)

Public Regulation Commission (PRC)

## SUMMARY

### Synopsis of HCEDC Amendment to Senate Bill 170

The House Commerce and Economic Development Committee amendment to Senate Bill 170 (SB170) replaces language for a 10-year sunset with the actual sunset date, July 1, 2035; requires that all projects be certified by the Economic Development Department using industry standard guidelines for site selection; and clarifies existing language so that all certified and approved projects are allowed to be completely constructed.

### Synopsis of Senate Floor Amendment #1 to Senate Bill 170

The Senate Floor amendment #1 to Senate Bill 170 strikes “owned or contracted” for development, construction, or maintenance of resources for economic development projects for which public utilities can recover prudent or reasonable costs—enabling utilities to recover costs for resources that are not specifically owned or contracted by the public utility.

## **Synopsis of SFC Amendment to Senate Bill 170**

The Senate Finance Committee amendment to Senate Bill 170 requires the Economic Development Department (EDD) to provide an opportunity for public comment on whether the proposed project will support anticipated economic development in New Mexico. The amendment also shortens the suspension of the requirement for legislative authorization for public projects under the PPRF until June 30, 2028.

## **Synopsis of STBTC Amendment to Senate Bill 170**

The Senate Tax, Business and Transportation Committee amendment to Senate Bill 170 eliminates electric utilities from the definition of public project and clarifies that the increase in capacity for “incremental capacity” is up to 10 percent of a public utility’s total system peak load.

## **Synopsis of Original Senate Bill 170**

Senate Bill 170 expands permitted uses of the public project revolving fund and modifies economic development rates for public utilities for the purpose of supporting economic development. SB170 adds “electric utilities” to the definition of public projects eligible for funding through the public project revolving fund (PPRF) and adds rural electric cooperatives to the definition of qualified entities that may finance public projects through the PPRF. Additionally, SB170 suspends legislative authorization of projects financed through the PPRF at amounts exceeding \$1 million until 2035. SB170 also amends existing statute to allow utility companies to recover costs for energy infrastructure projects that support economic development, with expedited approval timelines and cost recovery mechanisms through rate adjustments.

This bill does not contain an effective date and, as a result, would go into effect 90 days after the Legislature adjourns if enacted, or June 20, 2025.

## **FISCAL IMPLICATIONS**

SB170 is likely to create some additional demand for financing through the PPRF. However, the PPRF has ample lending capacity, and the New Mexico Finance Authority (NMFA) considers the expansion of its potential uses under SB170 to be modest. NMFA does not anticipate negative fiscal or administrative impacts from the bill and states it will not decrease its capacity to support its current PPRF client base.

## **SIGNIFICANT ISSUES**

Analysis submitted by NMFA and the Economic Development Department (EDD) indicates SB170 is aimed at increasing economic development by giving utilities greater certainty they will be able to recover costs from pre-deploying infrastructure to economic development sites.

According to NMFA:

SB170 creates a predictable process for utilities that are interested in pre-deploying infrastructure to a site that has been deemed an economic development project by EDD.

The current process for a utility is to have a customer sign an agreement before developing the infrastructure to serve that client, which could take several years. The lengthy time involved for deployment of new infrastructure puts New Mexico at a competitive disadvantage with other states for economic development.

As a financing mechanism, the changes to the PPRF included in SB170 would only expand access to the fund for the rural electric cooperatives. The PPRF has previously supported municipal utility projects, according to NMFA.

**PPRF and Legislative Authorization.** SB170 suspends requirements for legislative authorization for public projects under the PPRF until June 30, 2028. As noted by NMFA, obtaining legislative approval for public projects creates delays and administrative obstacles, sometimes forcing projects to be financed at higher costs or preventing them from moving forward. NMFA writes:

NMFA administers various economic development programs under the Statewide Economic Development Act (SWEDFA), where the requirement to obtain approval for each project through law has been lifted since 2011, most recently by Senate Bill 327 (2023 regular session). As a result of lifting this requirement for projects financed under SWEDFA, NMFA has seen a significant increase in applications and approved funding awards from programs operated under the economic development revolving fund. NMFA expects SB170's suspension of requiring specific legislative authorization under the PPRF could similarly increase the number of public projects able to access the PPRF and proceed expeditiously.

**Economic Development Rates for Gas and Electric Utilities.** Section 62-6-26 NMSA 1978 allows the Public Regulation Commission (PRC) to approve special rates and tariffs that prevent the loss of customers, encourage customers to expand present facilities and operations, and attract new customers to promote economic development in New Mexico under certain parameters. SB170 adds language that allows utility companies to recover costs for development, construction, and maintenance of energy resources that support economic development projects and that increase capacity or load growth for those projects.

SB170 allows utilities to collect recover costs of economic development projects through rate riders, base rates, or both once the infrastructure serves new demand or if the utility can show the projects benefit existing customers. The bill allows public utilities to defer costs and recover them later, most likely through future rate adjustments. This presents possible risks to ratepayers. If projects do not lead to the anticipated new customers, existing ratepayers will still be responsible for covering the costs. Additionally, while cost deferral allows for flexibility in terms of cost recovery, it could create an additional burden for future ratepayers. Also, the bill's language of allowing utilities to recover costs for projects that utilities demonstrate "provide benefits to existing customers" is ambiguous and can be interpreted in a variety of ways (i.e., lower rates, improved reliability, or increased energy efficiency).

**PRC Approval Timelines.** The bill requires PRC to review and decide project applications within six months with a possible three-month extension. EDD must also certify projects within 60 days of a request from a public utility or project developer. Projects must be certified by EDD and approved by both agencies before a 10-year sunset period. SB170 amends the existing statute on how PRC regulates utility expansion. Current statute (Section 62-9-1, NMSA 1978) requires utilities to obtain a certificate of public convenience and necessity (CCN) and approval

from PRC before constructing a new plan, system, or major extension. For applications with formal hearings, PRC must issue a decision within 9 months with a possible 6-month extension. The proposed timelines in SB170 are shorter than the regular timelines PRC is allowed to take for review and issue decisions for CCN. While shortened timelines may allow for more expedient development, as intended in this bill, it can also lead to increased risks and inadequate cost analysis.

SB170 also sets forth definitions of terms used in the additional allowance including economic development project, incremental capacity, incremental load growth, and recycled energy. Notably, the bill defines economic development projects as construction or modification of energy-related infrastructure needed to support anticipated new demand and that has been certified by EDD.

## **ADMINISTRATIVE IMPLICATIONS**

As noted by PRC, the abbreviated timeline in SB170 to issue decisions on new construction may require the agency to evaluate deployment of its existing staff and resources to accommodate the shortened timeframe.

## **CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP**

SB170 is a companion to Senate Bill 169, which creates the Strategic Economic Development Site Readiness Act and the site readiness fund for the purpose of identifying, assessing, and preparing sites for business development.

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