

HOUSE ENERGY, ENVIRONMENT AND NATURAL RESOURCES COMMITTEE
SUBSTITUTE FOR
HOUSE CONSUMER AND PUBLIC AFFAIRS COMMITTEE SUBSTITUTE FOR
HOUSE BILL 206

55TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2021

This document may incorporate amendments proposed by a committee, but not yet adopted, as well as amendments that have been adopted during the current legislative session. The document is a tool to show amendments in context and cannot be used for the purpose of adding amendments to legislation.

AN ACT

RELATING TO UTILITIES; ENACTING THE UTILITY AFFORDABILITY AND RELIEF ACT; PROHIBITING DISCONNECTIONS OF QUALIFYING ELECTRIC, GAS, WATER AND WASTEWATER UTILITY CUSTOMERS WHO INCURRED ARREARS DURING THE CORONAVIRUS DISEASE 2019 PUBLIC HEALTH EMERGENCY; PROHIBITING LATE FEES FOR ARREARS INCURRED DURING THE CORONAVIRUS DISEASE 2019 PUBLIC HEALTH EMERGENCY; CREATING A PROGRAM FOR PARTIAL FORGIVENESS OF UTILITY BILL ARREARS;

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PROVIDING ELIGIBILITY REQUIREMENTS; AUTHORIZING COST RECOVERY FOR PUBLIC UTILITIES; ALLOWING ELECTRIC COOPERATIVES TO DEDUCT A PORTION OF INSPECTION AND SUPERVISION FEES OWED THE STATE TO RECOVER COSTS PURSUANT TO THE UTILITY AFFORDABILITY AND RELIEF ACT; ENACTING THE COMMUNITY ENERGY EFFICIENCY DEVELOPMENT BLOCK GRANT ACT; CREATING A GRANT PROGRAM TO IMPLEMENT ENERGY EFFICIENCY MEASURES IN LOW-INCOME HOUSEHOLDS; AUTHORIZING THE NEW MEXICO MORTGAGE FINANCE AUTHORITY TO APPLY FOR COMMUNITY ENERGY EFFICIENCY DEVELOPMENT BLOCK GRANTS; MANDATING UTILITY REPORTING OF CUSTOMER DISCONNECTIONS, ARREARS AND HOUSEHOLDS WITHOUT SERVICE; REQUIRING UTILITIES TO SUBMIT REPORTS ON ENERGY AFFORDABILITY AND ACCESS TO ELECTRIC AND WATER UTILITY SERVICE; AUTHORIZING UTILITY RATE PREFERENCES FOR LOW-INCOME CUSTOMERS; DIRECTING RULEMAKING; CREATING A FUND; DECLARING AN EMERGENCY.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. [NEW MATERIAL] SHORT TITLE.--Sections 1 through 8 of this act may be cited as the "Utility Affordability and Relief Act."

SECTION 2. [NEW MATERIAL] DEFINITIONS.--As used in the Utility Affordability and Relief Act:

A. "arrears" means payments owed for electric, gas, water or wastewater utility service that are at least thirty days overdue, regardless of whether an installment agreement

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has been entered into between the customer and the utility;

B. "certification of economic hardship" means a written declaration signed by a customer under penalty of perjury that is submitted to a public utility to certify that the customer is prevented from being able to make payments on an installment agreement due to economic hardship Hf11→caused by or contributed to by the coronavirus disease 2019 public health emergency←Hf11 ;

C. "commission" means the public regulation commission;

D. "coronavirus disease 2019 public health emergency" means the period of time for which a declaration by the governor has established a state of public health emergency due to the coronavirus disease 2019, regardless of the year in which the declaration is in effect;

E. "installment agreement" means an agreement between a customer and a public utility for the customer to pay arrears on the customer's account over a set term;

F. "permanent credit" means a credit applied by a public utility to the account of a customer participating in the utility bill relief program to permanently forgive some or all of the customer's arrears incurred during the coronavirus disease 2019 public health emergency and relieve the customer of any obligation to pay back the amount forgiven;

G. "public utility" means a public utility as defined in the Public Utility Act that provides electricity, gas, water or wastewater utility service and includes an electric cooperative organized pursuant to the Rural Electric

Cooperative Act; and

H. "small public utility" means a public utility, other than an electric cooperative, that provides service to less than fifty thousand residential customers.

SECTION 3. [NEW MATERIAL] COMMISSION RULEMAKING.--

A. The commission shall promulgate rules or issue orders to effectuate the provisions of the Utility Affordability and Relief Act. The orders and rules may address how arrears incurred prior to or after the coronavirus disease 2019 public health emergency are addressed by a public utility when a customer also has arrears incurred during the coronavirus disease 2019 public health emergency.

B. Within sixty days of the effective date of the Utility Affordability and Relief Act, the commission shall, by adoption of a rule or issuance of an order, direct public utilities to file regular reports for the duration of the utility bill relief program on the number of customers that are participating in the program, the amount of arrears that have been temporarily and permanently forgiven, the number of customers that have submitted a certification of economic hardship, the number of customers that have been granted a deferral for economic hardship, the number of residential customers eligible for the low-income home energy assistance program that have been disconnected for failure to pay arrears incurred during the coronavirus disease 2019 public health

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emergency and any other information the commission determines to aid in overseeing the program.

C. The commission may contract with a third party, including a governmental agency, or may enter into a memorandum of understanding with a governmental agency, to qualify public utility customers for the utility bill relief program or to process certifications of economic hardship made by public utility customers and may assess costs for this service to public utilities; provided that utilities may recover the costs pursuant to Section 7 of the Utility Affordability and Relief Act. The commission may share customer data with a third party for these purposes.

D. The commission shall coordinate with the department of finance and administration to ensure that to the maximum extent possible any funding from the federal emergency rental assistance program available for payment of utility arrears is provided to public utilities and applied to qualifying customer accounts; provided that nothing in the Utility Affordability and Relief Act shall limit the federal emergency rental assistance program from paying the maximum amount of rental arrears allowable for a qualifying renter, regardless of whether the renter has entered into an installment agreement with a public utility or has had temporary or permanent credits placed on the renter's public utility account.

**SECTION 4. [NEW MATERIAL] INSTALLMENT AGREEMENTS--
RESTRICTIONS ON DISCONNECTION AND COLLECTION FROM CUSTOMERS.--**

A. A public utility shall offer its residential

customers with arrears incurred during the coronavirus disease 2019 public health emergency an installment agreement with a payback term that is at least double the number of months for which a customer failed to pay at least fifty percent of the amount owed for that month; provided that a public utility shall not be required to offer a payback term of more than twenty-four months, and a customer may request a shorter payback term.

B. A public utility shall not assess nor seek to recover late fees against a residential customer for arrears incurred during the coronavirus disease 2019 public health emergency. An installment agreement entered into pursuant to Subsection A of this section shall not include late fees for arrears incurred during the coronavirus disease 2019 public health emergency.

C. A public utility shall not discontinue electricity, gas, water or wastewater service to or pursue collection against a residential customer for arrears incurred during the coronavirus disease 2019 public health emergency if:

(1) the customer enters into an installment agreement and makes payments under the installment agreement; or

(2) the customer's payments are deferred or forgiven due to economic hardship.

SECTION 5. [NEW MATERIAL] UTILITY BILL RELIEF PROGRAM--

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REQUIREMENTS--ACCOUNT CREDITS.--

A. The "utility bill relief program" is created and shall be administered in accordance with the provisions of the Utility Affordability and Relief Act.

B. A public utility shall enroll in the utility bill relief program a residential customer who has arrears incurred during the coronavirus disease 2019 public health emergency if the customer requests to participate in the utility bill relief program and:

(1) the customer meets the qualifications to receive assistance pursuant to the federal low income home energy assistance program; or

(2) the customer has an annual income equal to or less than two hundred fifty percent of the federal poverty level proven by:

(a) verification that a member of the customer's household has qualified for public assistance through the federal supplemental nutrition assistance program, the federal temporary assistance for needy families program, the UCB patient assistance program, the federal special supplemental nutrition program for women, infants, and children or the children, youth and families department's child care assistance program; or

(b) a certification of economic hardship establishing that the customer's annual household adjusted gross income, as defined in the Income Tax Act, is below two hundred fifty percent of the federal poverty level.

C. A public utility may enroll into the utility

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bill relief program a residential customer who has arrears incurred during the coronavirus disease 2019 public health emergency, who requests to be enrolled in the program and who submits to the public utility a certification of economic hardship. A residential customer may submit a certification of economic hardship to the public utility if the customer is prevented from being able to make payments on an installment agreement because the customer or a member of the customer's household:

- (1) became unemployed during the coronavirus disease 2019 public health emergency and remains unemployed;
- (2) had working hours reduced by forty percent or more during the coronavirus disease 2019 public health emergency and remains working under reduced hours;
- (3) is suffering or has suffered severe symptoms of the coronavirus disease 2019 resulting in a present financial impact on the customer;
- (4) left employment to care for one or more dependents that needed care because of the coronavirus disease 2019 public health emergency and continues to provide such care; or
- (5) is otherwise experiencing a significant financial hardship specified by the customer that prevents the customer from being able to make payments on an installment agreement.

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D. For a residential customer enrolled in the utility bill relief program pursuant to submitting a certification of economic hardship, the public utility shall defer the start of an installment agreement by at least four months unless the customer requests a shorter time period. If a public utility determines upon a showing of good cause that a residential customer who submits a certification of economic hardship will not be able to foreseeably repay arrears incurred during the coronavirus disease 2019 public health emergency through an installment agreement, the public utility may forgive all of the customer's arrears.

E. For a residential customer enrolled in the utility bill relief program, a public utility shall apply to the customer's account a temporary credit equal to one-half of the arrears incurred by the customer during the coronavirus disease 2019 public health emergency and shall enter into an installment agreement, or modify an existing installment agreement, with the customer for the customer to pay the remainder of the arrears on the customer's account incurred during the coronavirus disease 2019 public health emergency. The temporary credit shall represent the amount of arrears incurred by the customer during the coronavirus disease 2019 public health emergency that could be permanently forgiven by the public utility pursuant to the utility bill relief program. If the customer makes all payments on the installment agreement, the temporary credit applied to the customer's account shall become a permanent credit and the customer's arrears incurred during the coronavirus disease 2019 public

health emergency shall be satisfied.

F. If a residential customer defaults on an installment agreement entered into pursuant to Subsection E of this section, the temporary credit of one-half of the arrears incurred during the coronavirus disease 2019 public health emergency shall be removed from the residential customer's account and replaced by a permanent credit that is equal to and in addition to the amount paid by the customer on the installment agreement before default. After the permanent credit and all payments made by the customer before default are applied to the customer's account, the customer shall be responsible for the remaining amount due on the account. A public utility may collect remaining arrears from a residential customer who defaults on an installment agreement as allowed by law.

G. A public utility, with the agreement of the customer, may modify an installment agreement entered into pursuant to Subsection E of this section at any time to allow a customer additional time to make payments on outstanding arrears and prevent the customer from defaulting on the installment agreement.

H. An electric cooperative may stop enrolling customers in the utility bill relief program if the electric cooperative determines that the total costs of the utility bill relief program to be recovered from customers, reflecting

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actually applied temporary and permanent credits and projected administrative costs, would exceed one percent of total customer electricity bills from the prior year; provided that an electric cooperative shall not stop enrolling in the utility bill relief program customers who qualify for the program pursuant to Paragraph (1) of Subsection B of this section.

I. A public utility may rely on a signed and submitted certification of economic hardship without further documentation or verification of the facts in the certification; provided that a public utility may verify the facts in a certification of economic hardship if verification appears warranted, and the public utility may use a third party to conduct verifications and share customer data with the third party for these purposes as allowed by law.

J. A residential customer who qualifies for the utility bill relief program shall be deemed eligible for low-income programs offered by a public utility under the Efficient Use of Energy Act for the current and following calendar years unless the programs in question require additional proof of eligibility under federal or state law.

SECTION 6. [NEW MATERIAL] UTILITY CUSTOMER NOTIFICATION REQUIREMENTS.--

A. No later than sixty days after the effective date of the Utility Affordability and Relief Act or, if the coronavirus disease 2019 public health emergency has not terminated, after the expiration of the coronavirus disease 2019 public health emergency, a public utility shall:

- (1) notify residential customers with arrears

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incurred during the coronavirus disease 2019 public health emergency that a customer may enter into an installment agreement to pay back arrears over a term that may be at least double the number of months for which a customer failed to pay at least fifty percent of the amount owed for that month and shall provide contact information for a customer to establish an installment agreement; and

(2) notify residential customers with arrears incurred during the coronavirus disease 2019 public health emergency that:

(a) if a residential customer qualifies for the utility bill relief program, up to fifty percent of the customer's arrears could be forgiven, and the public utility shall provide contact information for a residential customer to apply for the utility bill relief program; and

(b) if a residential customer is continuing to experience economic hardship due to coronavirus disease 2019, including unemployment, underemployment or illness, that would prevent the customer from currently paying back arrears, including through an installment agreement, the customer may apply to the public utility for a limited deferral of the first payment on an installment agreement or of payments under an existing installment agreement, and the public utility shall provide contact information for a residential customer to submit a certification of economic hardship.

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B. In addition to the notifications of Subsection A of this section, a public utility that is an electric cooperative shall notify its residential customers with arrears incurred during the coronavirus disease 2019 public health emergency that the funds available for arrears forgiveness due to economic hardship may be limited and will be made available on a first-come, first-served basis.

SECTION 7. [NEW MATERIAL] COST RECOVERY FOR PUBLIC UTILITIES.--

A. A public utility shall make reasonable efforts to apply for federal funding that may be used for the purpose of mitigating customer arrears and its reasonable costs for the utility bill relief program and is encouraged to apply for state, local or philanthropic funding to cover costs associated with the utility bill relief program. To the extent allowed by law, any federal, state, local or philanthropic funding received for the purposes of mitigating customer arrears, including funding received prior to the effective date of the Utility Affordability and Relief Act, shall be applied to arrears forgiven for the purposes of cost recovery and shall be applied for the purposes of cost recovery prior to any deduction from fees pursuant to Section 8 of the Utility Affordability and Relief Act.

B. An investor-owned public utility that is subject to the rate regulation by the commission pursuant to Section 62-8-7 NMSA 1978, but not including a small public utility, shall be entitled to recover all reasonable costs for implementation of the utility bill relief program, including

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the cost of permanent forgiveness of arrears under the program and administrative costs such as those incurred from the use of a third party or additional staffing or technology needed to determine customer eligibility and evaluate applications for economic hardship. An investor-owned public utility shall have the option of recovering its reasonable costs for the utility bill relief program through a commission-approved tariff rider, base rates or both. All actual costs incurred by an investor-owned public utility to establish, implement and maintain the utility bill relief program, including permanent forgiveness of arrears, but not including forgone late charges, are presumed to be reasonable unless the contrary is shown. Recovery of costs for the utility bill relief program shall not be amortized for longer than twice the time period it took for the costs to be incurred by the investor-owned public utility, unless a longer time period is requested by the investor-owned public utility. An investor-owned public utility may retain its costs for the utility bill relief program as a regulatory asset on its books pending recovery.

C. The commission shall ensure that the costs of the utility bill relief program are allocated equitably among all rate classes in a utility rate case.

D. An electric cooperative or a small public utility shall be entitled to recover all reasonable costs for implementation of the utility bill relief program, including

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the cost of permanent forgiveness of arrears under the program and administrative costs such as those incurred from the use of a third party or additional staffing or technology needed to determine customer eligibility and evaluate applications for economic hardship. An electric cooperative or small public utility shall have the option of recovering its reasonable costs for the utility bill relief program through a commission-approved tariff rider or in its next rate adjustment, or both. If an electric cooperative or small public utility seeks to recover reasonable costs through a commission-approved tariff rider, the commission shall consider the application on an expedited basis if requested by the electric cooperative or small public utility. All actual costs incurred by an electric cooperative or small public utility to establish, implement and maintain the utility bill relief program, including permanent forgiveness of arrears, but not including forgone late charges, are presumed to be reasonable unless the contrary is shown. Recovery of costs for the utility bill relief program shall not be amortized for longer than twice the time period it took for the costs to be incurred by the electric cooperative or small public utility, unless a longer time period is requested by the electric cooperative or small public utility.

SECTION 8. [NEW MATERIAL] ELECTRIC COOPERATIVE--ALLOWABLE DEDUCTION FROM FEES PAID TO THE STATE.--

A. In a year when an electric cooperative is applying permanent credits to partially or fully forgive customer arrears pursuant to the Utility Affordability and

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Relief Act, an electric cooperative may deduct from fees paid to the state pursuant to Section 62-8-8 NMSA 1978 an amount equal to fifty percent of the amount the cooperative will seek to collect from customers in that year to recover the cooperative's costs pursuant to the Utility Affordability and Relief Act. An electric cooperative's deductions pursuant to this section shall not exceed fifty percent of the fee assessed pursuant to Section 62-8-8 NMSA 1978 in the same year and the combined deductions pursuant to this section and Section 62-15-36 NMSA 1978 shall not exceed the total amount of the fees the cooperative paid to the state pursuant to Section 62-8-8 NMSA 1978.

B. If the state receives federal funds for utility bill forgiveness or support, the state may deposit in the general fund those funds in an amount equal to the funds not received from an electric cooperative pursuant to Section 62-8-8 NMSA 1978 as a result of the deduction allowed by Subsection A of this section.

SECTION 9. [NEW MATERIAL] SHORT TITLE.--Sections 9 through 15 of this act may be cited as the "Community Energy Efficiency Development Block Grant Act".

SECTION 10. [NEW MATERIAL] DEFINITIONS.--As used in the Community Energy Efficiency Development Block Grant Act:

A. "affordable housing" means residential housing primarily for low-income persons, including housing currently

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occupied by low-income persons or housing that is affordable to low-income persons based on assessed value, rent or estimated mortgage;

B. "community energy efficiency project" means a project that provides improvements to residential buildings in an underserved community that will in the aggregate reduce energy consumption, energy-related operating costs or the carbon intensity of energy consumption;

C. "community partner" means an organization that provides services or outreach to an underserved community to implement a community energy efficiency project;

D. "department" means the energy, minerals and natural resources department;

E. "division" means the energy conservation and management division of the department;

F. "energy efficiency" means measures that target efficient energy consumer behavior, equipment or devices and result in a decrease in energy consumption without reducing the amount or quality of energy services, and includes health and safety measures that use efficient equipment or devices to improve indoor air or drinking water quality;

G. "low-income person" means an individual, couple or family whose annual household adjusted gross income, as defined in Section 62 of the federal Internal Revenue Code of 1986, as that section may be amended or renumbered, does not exceed two hundred percent of the federal poverty level;

H. "registered apprenticeship program that promotes diversity" means an apprenticeship program registered pursuant

to the Apprenticeship Assistance Act that encourages diversity among participants, participation by those underrepresented in the industry associated with the apprenticeship program and participation from disadvantaged communities as determined by the workforce solutions department;

I. "residential housing" means:

(1) a building, structure or portion thereof that is primarily occupied or designed for or intended primarily for occupancy as a residence by one or more households, including congregate housing, manufactured homes and other facilities; and

(2) real property that is offered for sale or lease for the construction or location on that real property of a building, structure or portion thereof that is intended primarily for occupancy as a residence by one or more households; and

J. "underserved community" means an area in the state, including a county, municipality or neighborhood, or subset of an area, where:

(1) the median adjusted gross income as defined in Section 62 of the Internal Revenue Code of 1986, as that section may be amended or renumbered, does not exceed two hundred percent of the federal poverty level; or

(2) there is a high energy burden or limited access to energy efficiency services as determined by

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department rule.

SECTION 11. [NEW MATERIAL] COMMUNITY ENERGY EFFICIENCY DEVELOPMENT BLOCK GRANT--PROGRAM CREATED--RULEMAKING--REPORT TO LEGISLATURE.--

A. The "community energy efficiency development program" is created and shall be administered by the division.

B. If state or federal funds have been deposited into the community energy efficiency block grant fund, the department shall:

(1) adopt rules to:

(a) administer the community energy efficiency development program;

(b) restrict eligibility for certain funds, if required by the entity that provided the funding to the program;

(c) govern the acceptance, evaluation and prioritization of applications submitted by qualified entities for grants made pursuant to the Community Energy Efficiency Development Block Grant Act;

(d) determine whether the status of a person or household is low-income; and

(e) assess whether the value, rent or estimated mortgage of residential housing is affordable to persons or households of low income;

(2) solicit, review and prioritize community energy efficiency project applications;

(3) make grants for community energy efficiency projects from the community energy efficiency

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development block grant fund; and

(4) approve and enter into contracts with grantees to implement selected affordable housing energy efficiency projects; provided that the contracts shall include project performance measures, penalties or other provisions that ensure the successful completion of the projects in accordance with Article 9, Section 14 of the constitution of New Mexico and reporting on project performance, energy savings and non-energy benefits resulting from energy efficiency measures.

C. The department shall not be required to carry out the responsibilities in Subsection B of this section in any year that there are insufficient funds available for making grants in the community energy efficiency block grant fund.

D. In a year in which state or federal funds have been deposited into the community energy efficiency block grant fund or in which a community energy efficiency project is in operation, the department and the New Mexico mortgage finance authority shall coordinate on the work done in the state to implement energy efficiency measures.

E. By November 1 of each year in which a community energy efficiency project is in operation, the department shall provide to the interim legislative committee that addresses the status of the development of energy efficiency measures and programs a report on the status of participation in the

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community energy efficiency development program by people in underserved communities, the types of projects funded by grants made through the program and any recommended changes with respect to the program.

SECTION 12. [NEW MATERIAL] PROJECT REQUIREMENTS.--

A. A county, municipality, Indian nation, tribe or pueblo or the New Mexico mortgage finance authority may submit an application to the department for a grant for a community energy efficiency project.

B. An application shall:

(1) describe the community energy efficiency project for which a grant is requested and how the project would support infrastructure improvements for affordable housing;

(2) describe how the community energy efficiency project would benefit an underserved community in which it is located;

(3) identify the targeted underserved community;

(4) set forth the energy efficiency improvements to residential units located within an underserved community that meet the following eligibility criteria pursuant to Article 9, Section 14 of the constitution of New Mexico:

(a) residential housing units occupied by low-income persons within an underserved community; or

(b) residential housing units within an underserved community that otherwise meet the criteria for housing that is affordable to low-income persons as established

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by the department in rule;

(5) propose a series of energy efficiency measures expected to reduce energy use in targeted households and the estimated reduction of energy use from the implementation of the measures;

(6) identify a service provider that will implement the energy efficiency measures in targeted households and set forth the experience of the service provider in working with the targeted underserved community;

(7) identify one or more community partners that will identify and work with targeted households to implement a community energy efficiency project in an underserved community and set forth the experience of the community partner in working with the targeted underserved community;

(8) set forth any commitment by a service provider or community partner to employ apprentices from a registered apprenticeship program that promotes diversity or to provide paid internships to persons from the targeted underserved communities; and

(9) provide a project budget detailing anticipated expenditures and additional sources of funding that would complement a grant obtained pursuant to the Community Energy Efficiency Development Block Grant Act.

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Subsection B of this section, the New Mexico mortgage finance authority may submit an application that:

(1) describes the community energy efficiency project for which a grant is requested and how the project would support infrastructure improvements for affordable housing that would complement and not duplicate other energy efficiency programs in the state;

(2) either meets the requirements of Paragraphs (2) through (4) of Subsection B of this section or sets forth the energy efficiency improvements to residential housing units, regardless of whether the residential housing units are located in an underserved community if the residential housing units meet the eligibility criteria established by the New Mexico mortgage finance authority pursuant to Article 9, Section 14 of the constitution of New Mexico; provided that the application shall describe how energy efficiency improvements to the residential housing units will help to reduce the energy burden of low-income households that may not qualify for other energy efficiency programs in the state;

(3) proposes a series of energy efficiency measures expected to reduce energy use in targeted households and the estimated reduction of energy use from the implementation of the measures;

(4) identifies a service provider that will implement the energy efficiency measures in targeted households and sets forth the experience of the service provider in working with underserved communities;

(5) identifies one or more community partners that will identify and work with targeted households and sets forth the experience of the community partner in working with underserved communities; and

(6) provides a project budget detailing anticipated expenditures and additional sources of funding that would complement a grant awarded pursuant to the Community Energy Efficiency Development Block Grant Act.

D. The department may require that applications meet additional criteria consistent with the goal of improving the energy efficiency, livability or public health and safety of affordable housing in underserved communities.

SECTION 13. [NEW MATERIAL] REQUIRED GRANT OF AUTHORITY.--

A. The Community Energy Efficiency Development Block Grant Act is enacted to allow the state, a county or a municipality to provide or pay the costs of financing infrastructure necessary to support affordable housing projects as provided by Article 9, Section 14 of the constitution of New Mexico.

B. Prior to the department's final approval of an application for a grant pursuant to the Community Energy Efficiency Development Block Grant Act, an applicant that is a county or a municipality shall provide the department with a copy of the ordinance enacted by the county or municipality that provides the county's or municipality's formal approval

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for a specific community energy efficiency development block grant and includes in the ordinance the terms and conditions of the grant approved by the department. The department shall not approve an application for a community energy efficiency project if the county or municipality fails to enact an ordinance that gives formal approval for the terms and conditions approved by the department for the community energy efficiency development block grant and includes in the ordinance those exact terms and conditions.

C. Prior to the department's final approval of an application for a grant pursuant to the Community Energy Efficiency Development Block Grant Act, an applicant that is an Indian nation, tribe or pueblo shall provide the department with a copy of a resolution enacted by the Indian nation, tribe or pueblo that provides the Indian nation's, tribe's or pueblo's formal approval for a specific community energy efficiency development block grant and includes in the ordinance the terms and conditions of the grant approved by the department. The department shall not approve an application for a community energy efficiency project if an Indian nation, tribe or pueblo fails to enact a resolution that gives formal approval for the terms and conditions approved by the department for the community energy efficiency development block grant and includes in the resolution those exact terms and conditions.

D. Prior to the department's final approval of an application from the New Mexico mortgage finance authority for a grant pursuant to the Community Energy Efficiency Development

Block Grant Act, the New Mexico mortgage finance authority shall provide the department with formal approval of the New Mexico mortgage finance authority to accept a specific community energy efficiency development block grant.

SECTION 14. [NEW MATERIAL] SELECTION OF PROJECTS.--

A. When reviewing and selecting community energy efficiency projects for grants from the community energy efficiency development block grant fund, the department shall consider:

(1) the estimated reduction in energy use from the project;

(2) the geographic diversity of the portfolio of community energy efficiency projects to be approved by the department;

(3) the experience of each community partner or service provider identified in the application in working with the targeted underserved community;

(4) whether the application includes a commitment by a service provider or community partner to employ apprentices from a registered apprenticeship program that promotes diversity or to provide paid internships to persons from the targeted underserved communities;

(5) the value of the project as a demonstration project to provide data for the effectiveness of implementing similar projects elsewhere; and

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(6) the degree to which the project benefits an underserved community, including any non-energy benefits and health benefits provided by the project.

B. Provided that the criteria are published in the project solicitation, the department may further consider in its review and selection of community energy efficiency projects:

(1) the degree to which the project will protect public health, including protecting underserved communities from a public health threat such as the coronavirus disease 2019;

(2) the degree to which the project will contribute to economic recovery, including from the coronavirus disease 2019 pandemic; or

(3) the degree to which the project will reduce economic hardship of individual families due to the coronavirus disease 2019 pandemic.

C. In considering an application from the New Mexico mortgage finance authority, the department shall consider whether full or partial funding of the New Mexico mortgage finance authority application would:

(1) promote geographic diversity of the portfolio of community energy efficiency projects;

(2) reduce the energy burden of low-income persons, within or outside of underserved communities, who would not be likely to otherwise receive energy efficiency improvements through other state programs; or

(3) help create a portfolio of community

energy efficiency projects that would best meet the goals of the Community Energy Efficiency Development Block Grant Act.

SECTION 15. [NEW MATERIAL] COMMUNITY ENERGY EFFICIENCY DEVELOPMENT BLOCK GRANT FUND CREATED--ADMINISTRATION.--

A. The "community energy efficiency development block grant fund" is created as a nonreverting fund in the state treasury. The fund consists of appropriations, gifts, grants and donations to the fund and income from investment of the fund, but shall not consist of federal funding allocated to the state for the federal weatherization assistance program pursuant to 42 U.S.C. Section 6863 or the federal low income home energy assistance program pursuant to 42 U.S.C. Sections 8621 through 8630. Expenditures from the fund shall be made on warrant of the secretary of finance and administration pursuant to vouchers signed by the secretary of energy, minerals and natural resources or the secretary's authorized representative.

B. Money in the fund is subject to appropriation by the legislature to the department to carry out the purposes of the Community Energy Efficiency Development Block Grant Act, including the administrative costs of the department; provided that money in the fund that is derived from the federal government may be expended by the department without legislative authorization for any purpose that is consistent with the goal of reducing the energy burden of low-income individuals or underserved communities as otherwise allowed by

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law, including carrying out the community energy efficiency development block grant program and the administrative costs of the department.

SECTION 16. A new section of Chapter 62, Article 6 NMSA 1978 is enacted to read:

"[NEW MATERIAL] UTILITY REPORTING ON DISCONNECTIONS, ARREARS AND PEOPLE WITHOUT SERVICE.--

A. By December 31, 2022, the commission shall promulgate rules requiring that each utility under the commission's jurisdiction report:

(1) on a quarterly basis the number of customers in each customer class that are disconnected, the reason for disconnection, the number of customers reconnected after disconnection, the number of disconnected and reconnected customers that were eligible for the federal low-income home energy assistance program, the current number of customers eligible for disconnection due to arrears and the average amount of arrears for customers eligible for disconnection;

(2) on an annual basis the number, or best estimate of the number, of prospective residential customers that are not receiving utility service in the utility's service territory and any information available about why those customers are not receiving service; and

(3) any other information the commission determines is necessary and available for understanding and monitoring the provision of uninterrupted electricity and gas service to all New Mexicans and low-income New Mexicans in particular.

B. For the purposes of this section, "low-income" means an annual household adjusted gross income, as defined in the Income Tax Act, of equal to or less than two hundred percent of the federal poverty level."

SECTION 17. A new section of Chapter 62, Article 6 NMSA 1978 is enacted to read:

"[NEW MATERIAL] PUBLIC UTILITY REPORT ON ACHIEVING ENERGY AND WATER EQUITY.--

A. By December 31, 2022, the commission shall issue an order requiring each public utility providing electricity service to provide a report that includes the following:

- (1) an analysis of the benefits, costs and feasibility of providing all prudent energy efficiency improvements to fifty percent of all low-income New Mexico households by 2030 and one hundred percent of all low-income New Mexico households by 2050, including an analysis of the benefits to energy affordability, utility load and greenhouse gas emissions;
- (2) identifies whether the utility's rates are affordable to low-income customers in its service territory, and if not, identifies what type of low-income discount rate, alone or in combination with other actions such as energy efficiency improvements, the utility would recommend to achieve energy affordability; and
- (3) identifies whether changes could be made

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to the utility's policies, to the rules or orders of the commission or in statute to improve energy affordability, reduce energy burden and ensure continuous energy access for low-income New Mexicans.

B. By December 31, 2022, the commission shall issue an order requiring each public utility providing water service and wastewater company under its jurisdiction to provide a report that includes an analysis of the benefits, costs and feasibility of providing adequate water service to fifty percent of all New Mexico households by 2030 and one hundred percent of all New Mexico households by 2050 that desire that service in their jurisdiction.

C. The commission shall request public comment on the reports required by this section and hold a public hearing on the reports to solicit recommendations on action that the commission may take.

D. By December 31, 2023, the commission shall promulgate rules or issue orders in response to recommendations made by utilities and members of the public to make immediate, reasonable and consistent improvements toward energy affordability and to reduce energy burden as allowed by law, with a goal of achieving fifty percent energy affordability for low-income New Mexicans by 2030 and one hundred percent by 2050, provided that the commission may apply policies to a subset of low-income New Mexicans. In promulgating the rules or issuing the orders, the commission shall consider the degree to which the rules or orders:

- (1) improve energy affordability;

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- (2) reduce utility load;
- (3) reduce greenhouse gas emissions; and
- (4) impact ratepayers.

E. By December 31, 2023, the commission shall promulgate rules or issue orders in response to recommendations made by water utilities and wastewater companies under its jurisdiction and members of the public to make immediate, reasonable and consistent improvements to the access to water service, including wastewater connections, with a goal of providing adequate water service to fifty percent of all New Mexico households by 2030 and one hundred percent of all New Mexico households by 2050 that desire that service.

F. For the purposes of this section:

(1) "adequate water service" means service to a customer that provides the customer with access to piped or well water twenty-four hours a day, meets state and federal standards for safety and enables complete plumbing at the customer's residence, including a water heater, sink, shower or bathtub, toilet and a code-compliant system for removing wastewater;

(2) "energy affordability" means that the combination of electricity and gas bills do not equal more than five percent of the annual income of a customer's household; and

(3) "low-income" means an annual household

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adjusted gross income, as defined in the Income Tax Act, of equal to or less than two hundred percent of the federal poverty level."

SECTION 18. A new section of the Efficient Use of Energy Act is enacted to read:

"[NEW MATERIAL] ELIGIBILITY BASED ON UTILITY BILL RELIEF PROGRAM.--A customer eligible for the utility bill relief program pursuant to the Utility Affordability and Relief Act shall be deemed eligible for low-income programs offered by utilities pursuant to the Efficient Use of Energy Act unless the programs require additional proof of eligibility under federal or state law."

SECTION 19. Section 62-8-6 NMSA 1978 (being Laws 1941, Chapter 84, Section 42, as amended) is amended to read:

"62-8-6. DISCRIMINATION.--

A. No public utility shall, as to rates or services, make or grant any unreasonable preference or advantage to ~~[any]~~ a corporation or person within any classification or subject ~~[any]~~ a corporation or person within any classification to any unreasonable prejudice or disadvantage. ~~[No]~~ A public utility shall not establish and maintain any unreasonable differences as to rates of service either as between localities or as between classes of service.

B. Nothing shall prohibit ~~[however]~~ the commission from approving:

- (1) economic development rates; ~~[and]~~
- (2) rates designed to retain load; ~~[or from approving]~~

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(3) energy efficiency programs designed to reduce the burden of energy costs on low-income customers pursuant to the Efficient Use of Energy Act; or

(4) rates designed to recover the costs of permanent forgiveness of arrears pursuant to the Utility Affordability and Relief Act.

C. Nothing in this section shall prohibit a public utility from making or granting a reasonable preference or advantage to low-income customers with approval of the commission, and the commission may approve a rate, charge, service, classification or facility that includes the reasonable preference or advantage. The implementation of such a commission-approved rate, charge, service, classification or facility by a public utility shall not be deemed to subject a person or corporation to any unreasonable prejudice or disadvantage or undue discrimination."

SECTION 20. EMERGENCY.--It is necessary for the public peace, health and safety that this act take effect immediately.

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