

AN ACT

RELATING TO ENERGY EFFICIENCY; AMENDING THE ENERGY EFFICIENCY AND RENEWABLE ENERGY BONDING ACT TO PROVIDE FOR ASSESSMENTS, CREATE A REVOLVING FUND, INCREASE THE DURATION OF INSTALLATION CONTRACTS AND REMOVE THE REQUIREMENT FOR A STATE PLAN; MAKING AN APPROPRIATION.

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

Section 1. Section 6-21D-1 NMSA 1978 (being Laws 2005, Chapter 176, Section 1) is amended to read:

"6-21D-1. SHORT TITLE.--Chapter 6, Article 21D NMSA 1978 may be cited as the "Energy Efficiency and Renewable Energy Bonding Act"."

Section 2. Section 6-21D-3 NMSA 1978 (being Laws 2005, Chapter 176, Section 3) is amended to read:

"6-21D-3. BUILDING ASSESSMENTS FOR ENERGY EFFICIENCY MEASURES.--

A. Upon the request of a state agency or a school district, the department may perform an energy efficiency assessment of a state or school district building to identify the energy efficiency measures that can be installed and operated at a total price that is less than the energy cost savings realized. In addition, the assessment shall include a schedule for funding and installing the energy efficiency measures that will realize significant energy cost savings in

the shortest time frame. The department shall develop the assessment of:

(1) state buildings in conjunction with the property control division of the general services department, the staff architect of the division, the capitol buildings planning commission and other state agencies with control and management over buildings; and

(2) school district buildings, in conjunction with the public education department, the public school capital outlay council and the public school facilities authority.

B. State agencies and school districts shall cooperate with the department in the assessment performed pursuant to Subsection A of this section."

Section 3. Section 6-21D-4 NMSA 1978 (being Laws 2005, Chapter 176, Section 4) is amended to read:

"6-21D-4. CONTRACTS FOR THE INSTALLATION OF ENERGY EFFICIENCY MEASURES.--Pursuant to an energy efficiency assessment performed under Section 6-21D-3 NMSA 1978 and with the approval of the department, a state agency or school district may install or enter into contracts for the installation of energy efficiency measures on the building identified in the assessment. An installation contract shall be entered into pursuant to the Procurement Code, except that the contract may be entered into for a term of up to ten

years. The installation or contracts shall address provisions concerning payment schedules, monitoring, inspecting, measuring and warranties as are necessary to ensure that the energy efficiency measures will be installed and the energy cost savings realized in the manner most beneficial to the state; provided that bonds shall not be issued pursuant to the Energy Efficiency and Renewable Energy Bonding Act without a finding by the department that the energy cost savings realized from the energy efficiency measures will be greater than the debt service due on the bonds issued to finance the energy efficiency measures."

Section 4. Section 6-21D-7 NMSA 1978 (being Laws 2005, Chapter 176, Section 7) is amended to read:

"6-21D-7. ENERGY EFFICIENCY BONDS AUTHORIZED--  
CONDITIONS--PROCEDURE.--

A. The authority is authorized to issue and sell from time to time revenue bonds, known as "energy efficiency bonds", in an amount outstanding at any one time not to exceed twenty million dollars (\$20,000,000), payable solely from the fund, in compliance with the Energy Efficiency and Renewable Energy Bonding Act and the New Mexico Finance Authority Act for the purpose of installing energy efficiency measures when the department has certified the need for the bonds and the conditions of Subsection C of this section have been satisfied.

B. The net proceeds from the bonds are appropriated to the authority for the purpose of making distributions to one or more state agencies or school districts that, pursuant to an energy efficiency assessment by the department, have committed to install energy efficiency measures or entered into contracts for the installation of the measures. Upon receipt of a distribution, the state agency or school district shall deposit into the energy efficiency assessment revolving fund the cost incurred by the department to make the energy efficiency assessment on the building and shall use the remainder for the installation of energy efficiency measures pursuant to the Energy Efficiency and Renewable Energy Bonding Act, provided that, after the installation of the energy efficiency measures, any unexpended balance of the bond proceeds shall revert to the energy efficiency and renewable energy bonding fund.

C. Bonds shall not be issued pursuant to this section unless:

(1) a state agency or school district has committed to install or has entered into one or more contracts pursuant to Section 6-21D-4 NMSA 1978 for the installation of energy efficiency measures and the department has certified that the resulting energy cost savings will be realized within a reasonable time;

(2) considering the timeliness and amount of

energy cost savings estimated to be realized from the energy efficiency measures, the department has certified the approximate date when the energy cost savings are most likely to equal or exceed the debt service due on the bonds to be issued to fund the energy efficiency measures;

(3) the life of energy efficiency measures meets or exceeds the life of the bonds allocable to those energy efficiency measures as determined by the department and the authority; and

(4) based on the department's certification, the debt service on the bonds has been structured by the authority to preclude the annual debt service payments due until the date that the cost savings equal or exceed the debt service.

D. Each series of bonds shall be issued pursuant to the provisions of the New Mexico Finance Authority Act, except as otherwise provided in the Energy Efficiency and Renewable Energy Bonding Act."

Section 5. Section 6-21D-10 NMSA 1978 (being Laws 2005, Chapter 176, Section 10) is amended to read:

"6-21D-10. ANNUAL REPORT REQUIRED.--No later than December 1 of each year, the department shall report to the legislature and to the governor on its activities during the previous fiscal year in administering the provisions of the Energy Efficiency and Renewable Energy Bonding Act. The

report shall include:

A. details concerning all payments made for the installation of energy efficiency measures;

B. details concerning all expenditures made in administering the provisions of the Energy Efficiency and Renewable Energy Bonding Act;

C. a list of all buildings on which an energy efficiency assessment has been performed and the buildings in which energy efficiency measures were installed;

D. details showing how the energy cost savings were calculated;

E. an analysis of whether the program has been cost-effective;

F. a summary of activities being conducted during the present fiscal year; and

G. any additional information that will assist the legislature and the governor in evaluating the program."

Section 6. A new section of the Energy Efficiency and Renewable Energy Bonding Act is enacted to read:

"ENERGY EFFICIENCY ASSESSMENT REVOLVING FUND.--The "energy efficiency assessment revolving fund" is created in the state treasury. The fund shall consist of appropriations, gifts, grants, donations and bequests made to the fund and reimbursements of costs incurred by the department in performing energy efficiency assessments pursuant to the

Energy Efficiency and Renewable Energy Bonding Act. Income from the fund shall be credited to the fund, and money in the fund shall not revert or be transferred to any other fund at the end of a fiscal year. Money in the fund is appropriated to the department for the purposes of performing energy efficiency assessments. 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."

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