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## FISCAL IMPACT REPORT

**SPONSOR** Ortez/Sariñana/Roybal **ORIGINAL DATE** 1/25/22  
Caballero/Lujan **LAST UPDATED** 02/03/22 **HB** 37/aHENRC  
**SHORT TITLE** Community Energy Efficiency Development Block  
Grant Act **SB** \_\_\_\_\_  
**ANALYST** Wan

### ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY22	FY23	FY24	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
<b>Total</b>	NFI	NFI	NFI	NFI	N/A	N/A

(Parenthesis ( ) Indicate Expenditure Decreases)

Relates to Appropriation in the General Appropriation Act

### SOURCES OF INFORMATION

LFC Files

#### Responses Received From

New Mexico Mortgage Finance Authority (NMFA)  
 Energy, Minerals and Natural Resources Department (EMNRD)  
 Regulation and Licensing Department (RLD)  
 Public Regulation Commission (PRC)

### SUMMARY

#### Synopsis of HENRC Amendment

The House Energy, Environment and Natural Resources Committee amendment to House Bill 37 strikes the sections amending the Public Utility Act to require additional reporting by utility companies on disconnections, delinquencies, energy affordability, and other items. The amendment also removes the requirement for Public Regulation Commission to promulgate rules concerning energy and water equity.

#### Synopsis of Original Bill

House Bill 37 creates a community energy efficiency development (CEED) block grant program in the Energy, Minerals and Natural Resources Department (EMNRD). Counties, municipalities, Indian nations, tribes, or pueblos, and the New Mexico Mortgage Finance Authority (MFA) may apply for CEED grants for community energy efficiency projects. Such projects are defined as those that make improvements that reduce energy consumption, energy-related operating costs,

or the carbon intensity of energy consumption to residential buildings in underserved communities.

The grant program would be administered by EMNRD’s Energy Conservation and Management Division (ECMD), which will be responsible for: evaluating and prioritizing applications; determining whether a person or household qualifies as low-income; assess the affordability of residential housing value, rent, or estimated mortgage; and make grants and enter into contracts with grantees to implement selected projects. HB37 lays out criteria ECMD must consider when selecting community energy efficiency projects for grants.

HB37 creates the community energy efficiency development block grant fund to carry out the purposes of the legislation, including administrative costs of ECMD, subject to appropriation by the Legislature.

HB37 amends the Public Utility Act (PUA) to require utility companies to report customer disconnections, delinquencies, and households without service. Utility companies will also be required to submit reports on energy affordability, customer eligibility for low-income heating assistance programs, and access to electric, water, and wastewater services. The amendments to the PUA would apply to all public utilities under the jurisdiction of the Public Regulation Commission (PRC), including electric, gas, water, and wastewater investor-owned utilities, as well as member-owned rural electric cooperatives.

The bill also adds language to the PUA directing PRC to promulgate responsive rules concerning energy and water equity, to include:

- 1) Rules requiring each electric public utility to
  - a. provide a cost/benefit and feasibility analysis of providing “all prudent energy efficiency improvements” to 50 percent of low-income households by 2030, and to 100 percent of low-income households by 2050;
  - b. determine the affordability of utility rates and identify low-income discount rates that, along with energy efficiency improvements, the utility would recommend to make electric service affordable; and
  - c. identify changes to utility policies, PRC rules, orders, or statute to ensure universal access to essential household services, energy affordability, reduced energy burden, and continuous energy access for low-income New Mexicans;
- 2) Rules requiring each public water and wastewater utility to provide a cost-benefit and feasibility analysis of providing adequate water service to 50 percent of low-income households by 2030 and to 100 percent of low-income households that desire such service by 2050;
- 3) Rules making reasonable and consistent progress toward access to essential household services, energy affordability, and reducing energy burden with a goal of achieving 50 percent energy affordability for low-income customers by 2030 and 100 percent energy affordability by 2050;
- 4) Rules making reasonable and consistent progress toward improving access to water and wastewater service, with a goal of providing adequate water service to 50 percent of all households by 2030 and 100 percent of all households that desire that service by 2050.

As used in the bill, “essential household services” are internet, electric, natural gas, water, wastewater, and other services connected to a domicile; “energy affordability” is when the

combination of electricity and gas utility customer bills do not exceed 5 percent of the customer's annual household income; and "adequate water service" means 24-hour access to piped or well water that meets state and federal safety standards and that enables complete plumbing.

There is no effective date of this bill. It is assumed that the effective date is 90 days following adjournment of the Legislature.

### **FISCAL IMPLICATIONS**

The House Appropriations and Finance Committee substitute for House Bill 2 includes an appropriation of \$15 million to EMNRD to implement a community energy efficiency program in underserved communities, which aligns with the purpose of the grant program created by HB37. EMNRD expects several FTE will be required to undertake rulemaking, grant program administration, performance monitoring and reporting, project oversight, and legal resources for the assessment of penalties. EMNRD plans to use the special appropriation to hire term employees for a designated duration to administer the grant program. Any future operating budget impact for administration of the program beyond FY24 could be absorbed by the community energy efficiency development block grant fund, per language in HB37.

### **SIGNIFICANT ISSUES**

The CEED grant program created by HB37 will address the energy burden, defined as the percentage of gross household income spent on energy costs, of low-income New Mexicans. According to the U.S. Department of Energy, the national average energy burden for low-income households is 8.6 percent, three times higher than the average energy burden for non-low-income households. In New Mexico, households below the federal poverty line spend between 14 to 37 percent of their income on energy costs, according to EMNRD, with the highest energy burden falling on the state's rural communities.

MFA manages the state's current weatherization assistance program, NM Energy \$mart. MFA reports that since 2010, the program has resulted in 10.4 thousand fully weatherized homes, average energy savings of 27 percent per home, annual average savings of \$210-\$250 on utility expenses per home, 58 thousand gallons of water saved every day due to the installation of low-flow devices in weatherized homes, and 21.7 metric tons of carbon saved annually in each weatherized home for a total carbon savings of 218.1 thousand metric tons. MFA also states the waitlist for this program is very long and the need exceeds the available funding.

HB37 adds requirements for new PRC rules and orders concerning the long-term objective of achieving energy and water equity by 2050 across all electric, gas, water, and wastewater utilities, be they investor-owned or cooperatives. According to the PRC, this represents a departure from the traditional ratemaking approach based on cost causation, whereby rates are based to a significant extent on what it costs to provide service to a uniform customer class rather than on affordability. Under HB37, rates would be based on what certain customers can afford or on broad access to fundamental utility services such as water or wastewater, as opposed to current practice which provides for rates to recover the costs reasonably incurred to serve customers in a given rate class with uniform consumption characteristics.

## **ADMINISTRATIVE IMPLICATIONS**

MFA has administered the NM Energy Smart program, which is part of the nationwide weatherization assistance program funded primarily by the U.S. Department of Energy, since 1997. The Energy Smart program and the CEED grant program created by HB37 share similar goals, so MFA and EMNRD will need to collaborate closely for these initiatives to be executed efficiently and without duplication. However, EMNRD points out that MFA’s coordinating role in the program combined with its eligibility for CEED grants established by the bill could create the appearance of a conflict or unfair advantage in the grant application process.

## **TECHNICAL ISSUES**

The PRC notes that “internet” is included in the bill’s definition of “essential household services,” which electric utilities will be required to report to the PRC on, but internet service is not under the Commission’s jurisdiction. The Commission also states the bill’s requirement for any new Commission rules or orders to spur improved access to essential household services is beyond its regulatory jurisdiction.

Additionally, PRC notes that Section 8 requires all public utilities to provide information about the provision of uninterrupted electricity and gas service to all New Mexicans, but water and wastewater utilities should be exempt from that requirement as they do not provide those services.

The Regulation and Licensing Department (RLD) points out that Section 3(B)(4) of the bill requires the implementation of selected community energy efficiency projects be successfully completed in accordance with Article 9, Section 14, of the New Mexico Constitution, but there is no requirement included in the approval process for projects to be completed in compliance with state and local building laws.

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