

SENATE BILL 114

54TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2020

INTRODUCED BY

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This document incorporates amendments that have been adopted during the current legislative session. The document is a tool to show the amendments in context and is not to be used for the purpose of amendments.

AN ACT

RELATING TO ENERGY; ENACTING THE COMMUNITY ENERGY EFFICIENCY DEVELOPMENT BLOCK GRANT ACT; CREATING A GRANT PROGRAM TO IMPLEMENT ENERGY EFFICIENCY MEASURES IN LOW-INCOME HOUSEHOLDS; PROVIDING POWERS AND DUTIES; CREATING A FUND; MAKING AN APPROPRIATION.

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 "Community Energy Efficiency Development Block Grant Act".

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SECTION 2. [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 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 development project" means a project located in New Mexico that provides improvements to affordable housing in an underserved community to 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 development 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;

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G. "low-income person" means an individual, couple or family whose annual household 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;

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 that 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; or

(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 as provided in Paragraph (1) of this subsection; and

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

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(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 department rule.

SCONC→~~SECTION 3. [NEW MATERIAL] PURPOSE.--The purpose of the Community Energy Efficiency Development Block Grant Act is to implement the provisions of Subsections E and F of Section 14 of Article 9 of the constitution of New Mexico allowing the state, a county or a municipality to provide or pay the costs of financing infrastructure necessary to support affordable housing projects.~~←SCONC

SECTION 4. [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. The department shall:

(1) adopt rules to:

(a) administer the program;

(b) govern the acceptance, evaluation

and prioritization of applications submitted by qualified entities for grants made pursuant to the Community Energy

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Efficiency Development Block Grant Act;

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

(d) 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 development project applications;

(3) make grants for community energy efficiency development projects from the community energy efficiency development block grant fund;

(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 pursuant to 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;

(5) by November 1 of each year, provide to the appropriate interim legislative committee that addresses the status of the development of energy efficient measures and programs a report on the status of participation in the community energy efficiency development program by persons in underserved communities, the types of projects funded by grants

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made through the program and any recommended changes with respect to the program; and

(6) exchange information with the New Mexico mortgage finance authority detailing work done in the state that implements energy efficiency measures.

SECTION 5. [NEW MATERIAL] PROJECT REQUIREMENTS.--

A. A county, municipality or Indian nation, tribe or pueblo is eligible to submit an application to the department for a grant pursuant to the Community Energy Efficiency Development Block Grant Act.

B. Each application shall:

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

(3) identify the targeted underserved community;

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

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(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 established by the department in regulations promulgated in accordance with the Community Energy Efficiency Development Block Grant Act;

(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 development 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 ~~SCONC~~→internship←SCONC ~~SCONC~~→internships←SCONC

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.

SECTION 6. [NEW MATERIAL] REQUIREMENT FOR SPECIFIC LAW AUTHORIZING A COMMUNITY ENERGY EFFICIENCY BLOCK GRANT FROM THE STATE--REQUIREMENT FOR ENACTMENT OF AN ORDINANCE BY A COUNTY OR A MUNICIPALITY--REQUIREMENT FOR ENACTMENT OF A RESOLUTION BY AN INDIAN NATION, TRIBE OR PUEBLO.--

A. The specific grant of authority created in the Community Energy Efficiency Development Block Grant Act is the prior approval required pursuant to Article 9, Section 14 of the constitution of New Mexico to allow the state, a county or a municipality to provide or pay the costs of financing infrastructure necessary to support affordable housing projects.

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 for a specific community energy efficiency development project grant and includes in the ordinance the terms and conditions of

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the grant approved by the department. The department shall not approve an application for a community energy efficiency development 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 project 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 the 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 project 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 development project if the 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 project grant and includes in the resolution those exact terms and conditions.

SECTION 7. [NEW MATERIAL] SELECTION OF PROJECTS.--The department shall consider the following criteria when reviewing

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an application for a grant for a community energy efficiency development project and in selecting a project for a grant from the community energy efficiency development block grant fund:

- A. the estimated reduction in energy use from the project;
- B. the geographic diversity of the portfolio of community energy efficiency development projects to be approved by the department;
- C. the experience of each community partner or service provider identified in the application in working with the targeted underserved community;
- D. 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;
- E. the value of the project as a demonstration project to provide data for the effectiveness of implementing similar projects elsewhere; and
- F. the degree to which the project benefits an underserved community, including any non-energy benefits and health benefits provided by the project.

SECTION 8. [NEW MATERIAL] COMMUNITY ENERGY EFFICIENCY DEVELOPMENT BLOCK GRANT FUND CREATED--ADMINISTRATION.--The "community energy efficiency development block grant fund" is

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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 in the fund. The legislature may appropriate money in the fund to the department to carry out the purposes of the Community Energy Efficiency Development Block Grant Act. 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.

SECTION 9. Section 58-18-5.2 NMSA 1978 (being Laws 1981, Chapter 173, Section 2, as amended) is amended to read:

"58-18-5.2. AUTHORITY DUTIES.--The authority shall:

A. make available to the Mortgage Finance Authority Act oversight committee all of its records and facilities upon written request; and

B. exchange information with the energy conservation and management division of the energy, minerals and natural resources department detailing work done in the state that implements energy efficiency measures."

SECTION 10. APPROPRIATION.--Six million dollars (\$6,000,000) is appropriated from the general fund to the community energy efficiency development block grant fund for expenditure in fiscal year 2021 and subsequent fiscal years for the purposes of the fund. Any unexpended or unencumbered balance remaining at the end of a fiscal year shall not revert

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to the general fund.

SECTION 11. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2020.

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