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AN ACT
RELATING TO UTILITIES; 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; DIRECTING RULEMAKING; CREATING A
FUND.

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

SECTION 1. SHORT TITLE.--This act may be cited as the
"Community Energy Efficiency Development Block Grant Act".

SECTION 2. 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 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

1 provides services or outreach to an underserved community to
2 implement a community energy efficiency project;

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

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

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

13 G. "low-income person" means an individual, couple
14 or family whose annual household adjusted gross income, as
15 defined in Section 62 of the federal Internal Revenue Code of
16 1986, as that section may be amended or renumbered, does not
17 exceed two hundred percent of the federal poverty level;

18 H. "registered apprenticeship program that
19 promotes diversity" means an apprenticeship program
20 registered pursuant to the Apprenticeship Assistance Act that
21 encourages diversity among participants, participation by
22 those underrepresented in the industry associated with the
23 apprenticeship program and participation from disadvantaged
24 communities as determined by the workforce solutions
25 department;

1 I. "residential housing" means:

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

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

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

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

19 (2) there is a high energy burden or limited
20 access to energy efficiency services as determined by
21 department rule.

22 SECTION 3. COMMUNITY ENERGY EFFICIENCY DEVELOPMENT
23 BLOCK GRANT--PROGRAM CREATED--RULEMAKING--REPORT TO
24 LEGISLATURE.--

25 A. The "community energy efficiency development

1 program" is created and shall be administered by the
2 division.

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

6 (1) adopt rules to:

7 (a) administer the community energy
8 efficiency development program;

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

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

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

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

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

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

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

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

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

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

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

5 SECTION 4. COMMUNITY ENERGY EFFICIENCY PROJECT
6 REQUIREMENTS.--

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

11 B. An application shall:

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

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

19 (3) identify the targeted underserved
20 community;

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

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

3 (b) residential housing units within an
4 underserved community that otherwise meet the criteria for
5 housing that is affordable to low-income persons as
6 established by the department in rule;

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

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

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

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

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

5 C. Notwithstanding the application requirements of
6 Subsection B of this section, the New Mexico mortgage finance
7 authority may submit an application that:

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

13 (2) either meets the requirements of
14 Paragraphs (2) through (4) of Subsection B of this section or
15 sets forth the energy efficiency improvements to residential
16 housing units, regardless of whether the residential housing
17 units are located in an underserved community; provided that
18 the residential housing units meet the eligibility criteria
19 established by the New Mexico mortgage finance authority
20 pursuant to Article 9, Section 14 of the constitution of New
21 Mexico; and provided further that the application describes
22 how energy efficiency improvements to the residential housing
23 units will help to reduce the energy burden of low-income
24 households that may not qualify for other energy efficiency
25 programs in the state;

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

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

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

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

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

21 **SECTION 5. REQUIRED GRANT OF AUTHORITY.--**

22 A. The Community Energy Efficiency Development
23 Block Grant Act is enacted to allow the state, a county or a
24 municipality to provide or pay the costs of financing
25 infrastructure necessary to support affordable housing

1 projects as provided by Article 9, Section 14 of the
2 constitution of New Mexico.

3 B. Prior to the department's final approval of an
4 application for a grant pursuant to the Community Energy
5 Efficiency Development Block Grant Act, an applicant that is
6 a county or a municipality shall provide the department with
7 a copy of the ordinance enacted by the county or municipality
8 that provides the county's or municipality's formal approval
9 for a specific community energy efficiency development block
10 grant and includes in the ordinance the terms and conditions
11 of the grant approved by the department. The department
12 shall not approve an application for a community energy
13 efficiency project if the county or municipality fails to
14 enact an ordinance that gives formal approval for the terms
15 and conditions approved by the department for the community
16 energy efficiency development block grant and includes in the
17 ordinance those exact terms and conditions.

18 C. Prior to the department's final approval of an
19 application for a grant pursuant to the Community Energy
20 Efficiency Development Block Grant Act, an applicant that is
21 an Indian nation, tribe or pueblo shall provide the
22 department with a copy of a resolution enacted by the Indian
23 nation, tribe or pueblo that provides the Indian nation's,
24 tribe's or pueblo's formal approval for a specific community
25 energy efficiency development block grant and includes in the

1 ordinance the terms and conditions of the grant approved by
2 the department. The department shall not approve an
3 application for a community energy efficiency project if the
4 Indian nation, tribe or pueblo fails to enact a resolution
5 that gives formal approval for the terms and conditions
6 approved by the department for the community energy
7 efficiency development block grant and includes in the
8 resolution those exact terms and conditions.

9 D. Prior to the department's final approval of an
10 application from the New Mexico mortgage finance authority
11 for a grant pursuant to the Community Energy Efficiency
12 Development Block Grant Act, the New Mexico mortgage finance
13 authority shall provide the department with formal approval
14 of the New Mexico mortgage finance authority to accept a
15 specific community energy efficiency development block grant.

16 SECTION 6. SELECTION OF COMMUNITY ENERGY EFFICIENCY
17 PROJECTS.--

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

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

24 (2) the geographic diversity of the
25 portfolio of community energy efficiency projects to be

1 approved by the department;

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

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

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

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

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

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

24 (2) the degree to which the project will
25 contribute to economic recovery, including from the

1 coronavirus disease 2019 pandemic; or

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

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

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

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

15 (3) help create a portfolio of community
16 energy efficiency projects that would best meet the goals of
17 the Community Energy Efficiency Development Block Grant Act.

18 **SECTION 7. COMMUNITY ENERGY EFFICIENCY DEVELOPMENT**
19 **BLOCK GRANT FUND CREATED--ADMINISTRATION.--**

20 A. The "community energy efficiency development
21 block grant fund" is created as a nonreverting fund in the
22 state treasury. The fund consists of appropriations, gifts,
23 grants and donations to the fund, federal funding for
24 purposes consistent with the fund and income from investment
25 of the fund; provided that federal funding allocated to the

1 state for the federal weatherization assistance program
2 pursuant to 42 U.S.C. Section 6863 or the federal low income
3 home energy assistance program pursuant to 42 U.S.C. Sections
4 8621 through 8630 shall not be deposited in the fund without
5 the written approval of the appropriate federal agency and
6 the New Mexico mortgage finance authority. Expenditures from
7 the fund shall be made on warrant of the secretary of finance
8 and administration pursuant to vouchers signed by the
9 secretary of energy, minerals and natural resources or the
10 secretary's authorized representative.

11 B. Money in the fund is subject to appropriation
12 by the legislature to the department to carry out the purposes
13 of the Community Energy Efficiency Development Block Grant
14 Act, including the administrative costs of the department;
15 provided that money in the fund that is derived from the
16 federal government may be expended by the department without
17 legislative authorization for any purpose that is consistent
18 with the goal of reducing the energy burden of low-income
19 persons or underserved communities as otherwise allowed by
20 law, including carrying out the community energy efficiency
21 development block grant program and the administrative costs
22 of the department.

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