

1 SENATE BILL 114

2 54TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2020

3 INTRODUCED BY

4 Gerald Ortiz y Pino

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10 AN ACT

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

16
17 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

18 SECTION 1. [NEW MATERIAL] SHORT TITLE.--Sections 1
19 through 8 of this act may be cited as the "Community Energy
20 Efficiency Development Block Grant Act".

21 SECTION 2. [NEW MATERIAL] DEFINITIONS.--As used in the
22 Community Energy Efficiency Development Block Grant Act:

23 A. "affordable housing" means residential housing
24 primarily for low-income persons, including housing currently
25 occupied by low-income persons or housing that is affordable to

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1 low-income persons based on assessed value, rent or estimated
2 mortgage;

3 B. "community energy efficiency development
4 project" means a project located in New Mexico that provides
5 improvements to affordable housing in an underserved community
6 to reduce energy consumption, energy-related operating costs or
7 the carbon-intensity of energy consumption;

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

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

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

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

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

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1 H. "registered apprenticeship program that promotes
2 diversity" means an apprenticeship program registered pursuant
3 to the Apprenticeship Assistance Act that encourages diversity
4 among participants, participation by those underrepresented in
5 the industry associated with that apprenticeship program and
6 participation from disadvantaged communities, as determined by
7 the workforce solutions department;

8 I. "residential housing" means:

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

14 (2) real property that is offered for sale or
15 lease for the construction or location on that real property of
16 a building, structure or portion thereof as provided in
17 Paragraph (1) of this subsection; and

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

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

25 (2) there is a high energy burden or limited

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1 access to energy efficiency services as determined by
2 department rule.

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

10 SECTION 4. [NEW MATERIAL] COMMUNITY ENERGY EFFICIENCY
11 DEVELOPMENT BLOCK GRANT--PROGRAM CREATED--RULEMAKING--REPORT TO
12 LEGISLATURE.--

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

15 B. The department shall:

16 (1) adopt rules to:

17 (a) administer the program;

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

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

24 (d) assess whether the value, rent or
25 estimated mortgage of residential housing is affordable to

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1 persons or households of low income;

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

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

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

15 (5) by November 1 of each year, provide to the
16 appropriate interim legislative committee that addresses the
17 status of the development of energy efficient measures and
18 programs a report on the status of participation in the
19 community energy efficiency development program by persons in
20 underserved communities, the types of projects funded by grants
21 made through the program and any recommended changes with
22 respect to the program; and

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

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

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

6 B. Each application shall:

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

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

14 (3) identify the targeted underserved
15 community;

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

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

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

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1 the department in regulations promulgated in accordance with
2 the Community Energy Efficiency Development Block Grant Act;

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

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

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

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

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

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

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

13 B. Prior to the department's final approval of an
14 application for a grant pursuant to the Community Energy
15 Efficiency Development Block Grant Act, an applicant that is a
16 county or a municipality shall provide the department with a
17 copy of the ordinance enacted by the county or municipality
18 that provides the county's or municipality's formal approval
19 for a specific community energy efficiency development project
20 grant and includes in the ordinance the terms and conditions of
21 the grant approved by the department. The department shall not
22 approve an application for a community energy efficiency
23 development project if the county or municipality fails to
24 enact an ordinance that gives formal approval for the terms and
25 conditions approved by the department for the community energy

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1 efficiency development project grant and includes in the
2 ordinance those exact terms and conditions.

3 C. 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 an
6 Indian nation, tribe or pueblo shall provide the department
7 with a copy of the resolution enacted by the Indian nation,
8 tribe or pueblo that provides the Indian nation's, tribe's or
9 pueblo's formal approval for a specific community energy
10 efficiency development project grant and includes in the
11 ordinance the terms and conditions of the grant approved by the
12 department. The department shall not approve an application
13 for a community energy efficiency development project if the
14 Indian nation, tribe or pueblo fails to enact a resolution that
15 gives formal approval for the terms and conditions approved by
16 the department for the community energy efficiency development
17 project grant and includes in the resolution those exact terms
18 and conditions.

19 SECTION 7. [NEW MATERIAL] SELECTION OF PROJECTS.--The
20 department shall consider the following criteria when reviewing
21 an application for a grant for a community energy efficiency
22 development project and in selecting a project for a grant from
23 the community energy efficiency development block grant fund:

24 A. the estimated reduction in energy use from the
25 project;

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1 B. the geographic diversity of the portfolio of
2 community energy efficiency development projects to be approved
3 by the department;

4 C. the experience of each community partner or
5 service provider identified in the application in working with
6 the targeted underserved community;

7 D. whether the application includes a commitment by
8 a service provider or community partner to employ apprentices
9 from a registered apprenticeship program that promotes
10 diversity or to provide paid internships to persons from the
11 targeted underserved communities;

12 E. the value of the project as a demonstration
13 project to provide data for the effectiveness of implementing
14 similar projects elsewhere; and

15 F. the degree to which the project benefits an
16 underserved community, including any non-energy benefits and
17 health benefits provided by the project.

18 **SECTION 8. [NEW MATERIAL] COMMUNITY ENERGY EFFICIENCY**
19 **DEVELOPMENT BLOCK GRANT FUND CREATED--ADMINISTRATION.--**The
20 "community energy efficiency development block grant fund" is
21 created as a nonreverting fund in the state treasury. The fund
22 consists of appropriations, gifts, grants and donations to the
23 fund and income from investment in the fund. The legislature
24 may appropriate money in the fund to the department to carry
25 out the purposes of the Community Energy Efficiency Development

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1 Block Grant Act. Expenditures from the fund shall be made on
2 warrant of the secretary of finance and administration pursuant
3 to vouchers signed by the secretary of energy, minerals and
4 natural resources or the secretary's authorized representative.

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

7 "58-18-5.2. AUTHORITY DUTIES.--The authority shall:

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

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

15 SECTION 10. APPROPRIATION.--Six million dollars
16 (\$6,000,000) is appropriated from the general fund to the
17 community energy efficiency development block grant fund for
18 expenditure in fiscal year 2021 and subsequent fiscal years for
19 the purposes of the fund. Any unexpended or unencumbered
20 balance remaining at the end of a fiscal year shall not revert
21 to the general fund.

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