

HOUSE CONSUMER AND PUBLIC AFFAIRS COMMITTEE SUBSTITUTE FOR  
HOUSE BILL 206

**55TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2021**

AN ACT

RELATING TO UTILITIES; ENACTING THE UTILITY AFFORDABILITY AND  
RELIEF ACT; PROHIBITING DISCONNECTIONS OF QUALIFYING ELECTRIC,  
GAS, WATER AND WASTEWATER UTILITY CUSTOMERS WHO INCURRED  
ARREARS DURING THE CORONAVIRUS DISEASE 2019 PUBLIC HEALTH  
EMERGENCY; PROHIBITING LATE FEES FOR ARREARS INCURRED DURING  
THE CORONAVIRUS DISEASE 2019 PUBLIC HEALTH EMERGENCY; CREATING  
A PROGRAM FOR PARTIAL FORGIVENESS OF UTILITY BILL ARREARS;  
ENACTING THE COMMUNITY ENERGY EFFICIENCY DEVELOPMENT BLOCK  
GRANT ACT; CREATING A GRANT PROGRAM TO IMPLEMENT ENERGY  
EFFICIENCY MEASURES IN LOW-INCOME HOUSEHOLDS; MANDATING UTILITY  
REPORTING OF CUSTOMER DISCONNECTIONS, ARREARS AND HOUSEHOLDS  
WITHOUT SERVICE; REQUIRING UTILITIES TO SUBMIT REPORTS ON  
ENERGY AFFORDABILITY AND ACCESS TO ELECTRIC AND WATER UTILITY  
SERVICE; DIRECTING THE EXCHANGE OF INFORMATION REGARDING ENERGY  
EFFICIENCY MEASURES IN THE STATE; AUTHORIZING UTILITY RATE

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1 PREFERENCES FOR LOW-INCOME CUSTOMERS; CREATING A FUND.

2

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

4 SECTION 1. [NEW MATERIAL] SHORT TITLE.--Sections 1

5 through 9 of this act may be cited as the "Utility

6 Affordability and Relief Act."

7 SECTION 2. [NEW MATERIAL] DEFINITIONS.--As used in the

8 Utility Affordability and Relief Act:

9 A. "arrears" means payments owed for electric, gas,

10 water or wastewater utility service that are at least thirty

11 days overdue, regardless of whether an installment agreement

12 has been entered into between the customer and the utility;

13 B. "coronavirus disease 2019 public health

14 emergency" means the period of time for which a declaration by

15 the governor has established a state of public health emergency

16 due to the coronavirus disease 2019, regardless of the year in

17 which the declaration is in effect;

18 C. "installment agreement" means an agreement

19 between a customer and a public utility for the customer to pay

20 arrears on the customer's account over a set term;

21 D. "permanent credit" means a credit applied by a

22 public utility to the account of a customer participating in

23 the utility bill relief program to permanently forgive some or

24 all of the customer's arrears incurred during the coronavirus

25 disease 2019 public health emergency and relieve the customer

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1 of any obligation to pay back the amount forgiven;

2 E. "public utility" means a public utility as  
3 defined in the Public Utility Act that provides electricity,  
4 gas, water or wastewater utility service and includes an  
5 electric cooperative organized pursuant to the Rural Electric  
6 Cooperative Act; and

7 F. "small public utility" means a public utility,  
8 other than an electric cooperative, that provides service to  
9 less than fifty thousand residential customers.

10 SECTION 3. [NEW MATERIAL] COMMISSION RULEMAKING.--

11 A. The public regulation commission shall  
12 promulgate rules or issue orders to effectuate the provisions  
13 of the Utility Affordability and Relief Act. The orders and  
14 rules may address how arrears incurred prior to or after the  
15 coronavirus disease 2019 public health emergency are addressed  
16 by a public utility when a customer also has arrears incurred  
17 during the coronavirus disease 2019 public health emergency.

18 B. Within sixty days of the effective date of the  
19 Utility Affordability and Relief Act, the commission shall, by  
20 adoption of a rule or issuance of an order, direct public  
21 utilities to file regular reports for the duration of the  
22 utility bill relief program on the number of customers that are  
23 participating in the program, the amount of arrears that have  
24 been temporarily and permanently forgiven, the number of  
25 customers that have applied for economic hardship, the number

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1 of customers that have been granted and denied an economic  
2 hardship, the number of residential customers and residential  
3 customers eligible for the low-income home energy assistance  
4 program that have been disconnected for failure to pay arrears  
5 incurred during the coronavirus disease 2019 public health  
6 emergency, and any other information the commission determines  
7 to aid in overseeing the program.

8 SECTION 4. [NEW MATERIAL] INSTALLMENT AGREEMENTS--  
9 RESTRICTIONS ON DISCONNECTION AND COLLECTION FROM CUSTOMERS.--

10 A. A public utility shall offer its residential  
11 customers with arrears incurred during the coronavirus disease  
12 2019 public health emergency an installment agreement with a  
13 payback term that is at least double the number of months for  
14 which a customer failed to pay at least fifty percent of the  
15 amount owed for that month; provided that a public utility  
16 shall not be required to offer a payback term of more than  
17 twenty-four months, and a customer may request a shorter  
18 payback term.

19 B. A public utility shall not assess nor seek to  
20 recover late fees against a residential customer for arrears  
21 incurred during the coronavirus disease 2019 public health  
22 emergency. An installment agreement entered into pursuant to  
23 Subsection A of this section shall not include late fees for  
24 arrears incurred during the coronavirus disease 2019 public  
25 health emergency.

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1 C. A public utility shall not discontinue  
2 electricity, gas, water or wastewater service to or pursue  
3 collection against a residential customer for arrears incurred  
4 during the coronavirus disease 2019 public health emergency if:

5 (1) the customer enters into an installment  
6 agreement and makes payments under the installment agreement;  
7 or

8 (2) the customer's payments are in forbearance  
9 or forgiven due to economic hardship.

10 SECTION 5. [NEW MATERIAL] UTILITY BILL RELIEF PROGRAM--  
11 REQUIREMENTS--ACCOUNT CREDITS.--

12 A. The "utility bill relief program" is created and  
13 shall be administered in accordance with the provisions of the  
14 Utility Affordability and Relief Act.

15 B. A residential customer of a public utility that  
16 has arrears incurred during the coronavirus disease 2019 public  
17 health emergency qualifies for the utility bill relief program  
18 if:

19 (1) the customer meets the qualifications to  
20 receive assistance pursuant to the federal low-income home  
21 energy assistance program; or

22 (2) the customer demonstrates through an  
23 application for economic hardship, pursuant to Section 6 of the  
24 Utility Affordability and Relief Act, that the customer  
25 continues to experience economic hardship related to the

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1 coronavirus disease 2019 public health emergency and obtains  
2 approval of the application for economic hardship from the  
3 public utility.

4 C. For a residential customer who qualifies for the  
5 utility bill relief program, a public utility shall apply to  
6 the customer's account a temporary credit equal to one-half of  
7 the arrears incurred by the customer during the coronavirus  
8 disease 2019 public health emergency and shall enter into an  
9 installment agreement, or modify an existing installment  
10 agreement, with the customer for the customer to pay the  
11 remainder of the arrears on the customer's account incurred  
12 during the coronavirus disease 2019 public health emergency.  
13 The temporary credit shall represent the amount of arrears  
14 incurred by the customer during the coronavirus disease 2019  
15 public health emergency that could be permanently forgiven by  
16 the public utility pursuant to the utility bill relief program.  
17 If the customer makes all payments on the installment  
18 agreement, the temporary credit applied to the customer's  
19 account shall become a permanent credit and the customer's  
20 arrears incurred during the coronavirus disease 2019 public  
21 health emergency shall be satisfied.

22 D. Unless a residential customer's application for  
23 economic hardship is approved, if a residential customer  
24 defaults on an installment agreement entered into pursuant to  
25 Subsection C of this section, the temporary credit of one-half

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1 of the arrears incurred during the coronavirus disease 2019  
2 public health emergency shall be removed from the residential  
3 customer's account and replaced by a permanent credit that is  
4 equal to and in addition to the amount paid by the customer on  
5 the installment agreement before default. After the permanent  
6 credit and all payments made by the customer before default are  
7 applied to the customer's account, the customer shall be  
8 responsible for the remaining amount due on the account. A  
9 public utility may collect remaining arrears from a residential  
10 customer who defaults on an installment agreement as allowed by  
11 law.

12 E. A public utility, with the agreement of the  
13 customer, may modify an installment agreement entered into  
14 pursuant to Subsection C of this section at any time to allow a  
15 customer additional time to make payments on outstanding  
16 arrears and prevent the customer from defaulting on the  
17 installment agreement.

18 F. An electric cooperative may stop accepting or  
19 approving applications for economic hardship if the electric  
20 cooperative determines that the total costs of the utility bill  
21 relief program to be recovered from customers, reflecting  
22 actually applied temporary and permanent credits and projected  
23 administrative costs, would exceed one percent of total  
24 customer electricity bills from the prior year.

25 G. A public utility may contract with a third

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1 party, including a governmental agency, to determine if a  
2 residential customer qualifies for the utility bill relief  
3 program or to evaluate and approve applications for economic  
4 hardship and may share customer data with the third party for  
5 these purposes as allowed by law.

6 H. A residential customer who qualifies for the  
7 utility bill relief program shall be deemed eligible for  
8 low-income programs offered by a public utility under the  
9 Efficient Use of Energy Act for the current and following  
10 calendar years unless the programs in question require  
11 additional proof of eligibility under federal or state law.

12 SECTION 6. [NEW MATERIAL] APPLICATION FOR ECONOMIC  
13 HARDSHIP.--

14 A. A residential customer may submit an application  
15 for economic hardship:

16 (1) to qualify for the utility bill relief  
17 program if the customer does not otherwise meet the criteria in  
18 Paragraph (1) of Subsection B of Section 5 of the Utility  
19 Affordability and Relief Act; or

20 (2) if the customer believes that the customer  
21 cannot make any installment agreement payments due to the  
22 economic hardship.

23 B. On a case-by-case basis, a public utility, or  
24 third-party contractor, shall evaluate applications for  
25 economic hardship and shall approve a residential customer's

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1 application if the customer demonstrates that:

2 (1) the customer or another member of the  
3 customer's household is currently or was within six months of  
4 the effective date of the Utility Affordability and Relief Act  
5 eligible for benefits pursuant to the Unemployment Compensation  
6 Law, the federal pandemic unemployment compensation program,  
7 the pandemic emergency unemployment compensation program or  
8 federal-state extended benefits pursuant to the federal  
9 Coronavirus Aid, Relief, and Economic Security Act;

10 (2) the customer or another member of the  
11 customer's household became unemployed or had working hours  
12 reduced by forty percent or more during the coronavirus disease  
13 2019 public health emergency and remains unemployed or working  
14 under reduced hours;

15 (3) the customer or another member of the  
16 customer's household is suffering or has suffered severe  
17 symptoms of the coronavirus disease 2019 resulting in a present  
18 financial impact on the customer;

19 (4) the customer or another member of the  
20 customer's household left employment to care for one or more  
21 dependents that needed care because of the coronavirus disease  
22 2019 public health emergency and continues to provide such  
23 care; or

24 (5) the existence of other continuing  
25 circumstances due to the coronavirus disease 2019 public health

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1 emergency that significantly impair the customer's ability to  
2 make payments. A customer's participation in federal, state or  
3 local programs that provide aid to those in need because of the  
4 coronavirus disease 2019 public health emergency, including  
5 housing assistance, may be used as evidence of a continuing  
6 circumstance that significantly impairs a customer's ability to  
7 make payments.

8 C. If a residential customer's economic hardship  
9 prevents the customer from making any payments on an  
10 installment agreement, a public utility may:

11 (1) forbear requiring payments on an  
12 installment agreement until the condition creating the economic  
13 hardship has ended or until a time agreed upon with the  
14 customer; or

15 (2) apply a permanent credit to the customer's  
16 account for all arrears incurred during the coronavirus disease  
17 2019 public health emergency and deem the arrears satisfied.

18 SECTION 7. [NEW MATERIAL] UTILITY CUSTOMER NOTIFICATION  
19 REQUIREMENTS.--

20 A. No later than sixty days after the effective  
21 date of the Utility Affordability and Relief Act or, if the  
22 coronavirus disease 2019 public health emergency has not  
23 terminated, after the expiration of the coronavirus disease  
24 2019 public health emergency, a public utility shall:

25 (1) notify residential customers with arrears

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1 incurred during the coronavirus disease 2019 public health  
2 emergency that a customer may enter into an installment  
3 agreement to pay back arrears over a term that may be at least  
4 double the number of months for which a customer failed to pay  
5 at least fifty percent of the amount owed for that month and  
6 shall provide contact information for a customer to establish  
7 an installment agreement; and

8 (2) notify residential customers with arrears  
9 incurred during the coronavirus disease 2019 public health  
10 emergency that:

11 (a) if a residential customer qualifies  
12 for the utility bill relief program, up to fifty percent of the  
13 customer's arrears could be forgiven, and the public utility  
14 shall provide contact information for a residential customer to  
15 apply for the utility bill relief program; and

16 (b) if a residential customer is  
17 continuing to experience economic hardship due to coronavirus  
18 disease 2019, including unemployment, underemployment or  
19 illness, that would prevent the customer from currently paying  
20 back arrears, including through an installment agreement, the  
21 customer may apply to the public utility for further relief  
22 through an application for economic hardship, and the public  
23 utility shall provide contact information for a residential  
24 customer to submit an application for economic hardship.

25 B. In addition to the notifications of Subsection A

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1 of this section, a public utility that is an electric  
2 cooperative shall notify its residential customers with arrears  
3 incurred during the coronavirus disease 2019 public health  
4 emergency that the funds available for arrears forgiveness due  
5 to economic hardship may be limited and will be made available  
6 on a first-come, first-served basis.

7 SECTION 8. [NEW MATERIAL] COST RECOVERY FOR PUBLIC  
8 UTILITIES.--

9 A. A public utility shall make reasonable efforts  
10 to apply for federal funding that may be used for the purpose  
11 of mitigating customer arrears and its reasonable costs for the  
12 utility bill relief program and is encouraged to apply for  
13 state, local or philanthropic funding to cover costs associated  
14 with the utility bill relief program. To the extent allowed by  
15 law, any federal, state, local or philanthropic funding  
16 received for the purposes of mitigating customer arrears,  
17 including funding received prior to the effective date of the  
18 Utility Affordability and Relief Act, shall be applied to  
19 arrears forgiven for the purposes of cost recovery pursuant to  
20 that act.

21 B. An investor-owned public utility that is subject  
22 to the rate regulation by the public regulation commission  
23 pursuant to Section 62-8-7 NMSA 1978, but not including a small  
24 public utility, shall be entitled to recover all reasonable  
25 costs for implementation of the utility bill relief program,

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1 including the cost of permanent forgiveness of arrears under  
2 the program and administrative costs such as those incurred  
3 from the use of a third party or additional staffing or  
4 technology needed to determine customer eligibility and  
5 evaluate applications for economic hardship. An investor-owned  
6 public utility shall have the option of recovering its  
7 reasonable costs for the utility bill relief program through a  
8 commission-approved tariff rider, base rates or both. All  
9 actual costs incurred by an investor-owned public utility to  
10 establish, implement and maintain the utility bill relief  
11 program, including permanent forgiveness of arrears, but not  
12 including forgone late charges, are presumed to be reasonable  
13 unless the contrary is shown. Recovery of costs for the  
14 utility bill relief program shall not be amortized for longer  
15 than twice the time period it took for the costs to be incurred  
16 by the investor-owned public utility, unless a longer time  
17 period is requested by the investor-owned public utility. An  
18 investor-owned public utility may retain its costs for the  
19 utility bill relief program as a regulatory asset on its books  
20 pending recovery.

21 C. The public regulation commission shall ensure  
22 that the costs of the utility bill relief program are allocated  
23 equitably among all rate classes in a utility rate case.

24 D. An electric cooperative or a small public  
25 utility shall be entitled to recover all reasonable costs for

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1 implementation of the utility bill relief program, including  
2 the cost of permanent forgiveness of arrears under the program  
3 and administrative costs such as those incurred from the use of  
4 a third party or additional staffing or technology needed to  
5 determine customer eligibility and evaluate applications for  
6 economic hardship. An electric cooperative or small public  
7 utility shall have the option of recovering its reasonable  
8 costs for the utility bill relief program through a  
9 commission-approved tariff rider or in its next rate  
10 adjustment, or both. If an electric cooperative or small  
11 public utility seeks to recover reasonable costs through a  
12 commission-approved tariff rider, the commission shall consider  
13 the application on an expedited basis if requested by the  
14 electric cooperative or small public utility. All actual costs  
15 incurred by an electric cooperative or small public utility to  
16 establish, implement and maintain the utility bill relief  
17 program, including permanent forgiveness of arrears, but not  
18 including forgone late charges, are presumed to be reasonable  
19 unless the contrary is shown. Recovery of costs for the  
20 utility bill relief program shall not be amortized for longer  
21 than twice the time period it took for the costs to be incurred  
22 by the electric cooperative or small public utility, unless a  
23 longer time period is requested by the electric cooperative or  
24 small public utility.

25 SECTION 9. [NEW MATERIAL] ELECTRIC COOPERATIVE--ALLOWABLE

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1 DEDUCTION FROM FEES PAID TO THE STATE.--

2           A. In a year when an electric cooperative is  
3 applying permanent credits to partially or fully forgive  
4 customer arrears pursuant to the Utility Affordability and  
5 Relief Act, an electric cooperative may deduct from fees paid  
6 to the state pursuant to Section 62-8-8 NMSA 1978 an amount  
7 equal to fifty percent of the amount the cooperative will seek  
8 to collect from customers in that year to recover the  
9 cooperative's costs pursuant to the Utility Affordability and  
10 Relief Act. An electric cooperative's deductions pursuant to  
11 this section shall not exceed fifty percent of the fee assessed  
12 pursuant to Section 62-8-8 NMSA 1978 in the same year and the  
13 combined deductions pursuant to this section and Section  
14 62-15-36 NMSA 1978 shall not exceed the total amount of the  
15 fees the cooperative paid to the state pursuant to Section  
16 62-8-8 NMSA 1978.

17           B. If the state receives federal funds for utility  
18 bill forgiveness or support, the state may deposit in the  
19 general fund those funds in an amount equal to the funds not  
20 received from an electric cooperative pursuant to Section  
21 62-8-8 NMSA 1978 as a result of the deduction allowed by  
22 Subsection A of this section.

23           SECTION 10. [NEW MATERIAL] SHORT TITLE.--Sections 10  
24 through 16 of this act may be cited as the "Community Energy  
25 Efficiency Development Block Grant Act".

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1           SECTION 11. [NEW MATERIAL] DEFINITIONS.--As used in the  
2 Community Energy Efficiency Development Block Grant Act:

3           A. "affordable housing" means residential housing  
4 primarily for low-income persons, including housing currently  
5 occupied by low-income persons or housing that is affordable to  
6 low-income persons based on assessed value, rent or estimated  
7 mortgage;

8           B. "community energy efficiency project" means a  
9 project that provides improvements to residential buildings in  
10 an underserved community that will in the aggregate reduce  
11 energy consumption, energy-related operating costs or the  
12 carbon intensity of energy consumption;

13           C. "community partner" means an organization that  
14 provides services or outreach to an underserved community to  
15 implement a community energy efficiency project;

16           D. "department" means the energy, minerals and  
17 natural resources department;

18           E. "division" means the energy conservation and  
19 management division of the department;

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

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1           G. "low-income person" means an individual, couple  
2 or family whose annual household adjusted gross income, as  
3 defined in Section 62 of the federal Internal Revenue Code of  
4 1986, as that section may be amended or renumbered, does not  
5 exceed two hundred percent of the federal poverty level;

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

13           I. "residential housing" means:

14                 (1) a building, structure or portion thereof  
15 that is primarily occupied or designed for or intended  
16 primarily for occupancy as a residence by one or more  
17 households, including congregate housing, manufactured homes  
18 and other facilities; and

19                 (2) real property that is offered for sale or  
20 lease for the construction or location on that real property of  
21 a building, structure or portion thereof that is intended  
22 primarily for occupancy as a residence by one or more  
23 households; and

24           J. "underserved community" means an area in the  
25 state, including a county, municipality or neighborhood, or

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1 subset of an area, where:

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

6 (2) there is a high energy burden or limited  
7 access to energy efficiency services as determined by  
8 department rule.

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

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

14 B. If state or federal funds have been deposited  
15 into the community energy efficiency block grant fund, the  
16 department shall:

17 (1) adopt rules to:

18 (a) administer the community energy  
19 efficiency development program;

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

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

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1 (d) assess whether the value, rent or  
2 estimated mortgage of residential housing is affordable to  
3 persons or households of low income;

4 (2) solicit, review and prioritize community  
5 energy efficiency project applications;

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

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

18 (5) exchange information with the New Mexico  
19 mortgage finance authority detailing the work done in the state  
20 to implement energy efficiency measures.

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

25 D. By November 1 of each year in which a community

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1 energy efficiency project is in operation, the department shall  
2 provide to the interim legislative committee that addresses the  
3 status of the development of energy efficiency measures and  
4 programs a report on the status of participation in the  
5 community energy efficiency development program by people in  
6 underserved communities, the types of projects funded by grants  
7 made through the program and any recommended changes with  
8 respect to the program.

9 SECTION 13. [NEW MATERIAL] PROJECT REQUIREMENTS.--

10 A. A county, municipality or Indian nation, tribe  
11 or pueblo may submit an application to the department for a  
12 grant for a community energy efficiency project.

13 B. An application shall:

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

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

21 (3) identify the targeted underserved  
22 community;

23 (4) set forth the energy efficiency  
24 improvements to residential units located within an underserved  
25 community that meet the following eligibility criteria pursuant

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1 to Article 9, Section 14 of the constitution of New Mexico:

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

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

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

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

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

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

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1 underserved communities; and

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

6 C. The department may require that applications  
7 meet additional criteria consistent with the goal of improving  
8 the energy efficiency, livability or public health and safety  
9 of affordable housing in underserved communities.

10 SECTION 14. [NEW MATERIAL] REQUIRED GRANT OF AUTHORITY.--

11 A. The Community Energy Efficiency Development  
12 Block Grant Act is enacted to allow the state, a county or a  
13 municipality to provide or pay the costs of financing  
14 infrastructure necessary to support affordable housing projects  
15 as provided by Article 9, Section 14 of the constitution of New  
16 Mexico.

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

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1 approve an application for a community energy efficiency  
2 project if the county or municipality fails to enact an  
3 ordinance that gives formal approval for the terms and  
4 conditions approved by the department for the community energy  
5 efficiency development block grant and includes in the  
6 ordinance those exact terms and conditions.

7 C. Prior to the department's final approval of an  
8 application for a grant pursuant to the Community Energy  
9 Efficiency Development Block Grant Act, an applicant that is an  
10 Indian nation, tribe or pueblo shall provide the department  
11 with a copy of a resolution enacted by the Indian nation, tribe  
12 or pueblo that provides the Indian nation's, tribe's or  
13 pueblo's formal approval for a specific community energy  
14 efficiency development block grant and includes in the  
15 ordinance the terms and conditions of the grant approved by the  
16 department. The department shall not approve an application  
17 for a community energy efficiency project if an Indian nation,  
18 tribe or pueblo fails to enact a resolution that gives formal  
19 approval for the terms and conditions approved by the  
20 department for the community energy efficiency development  
21 block grant and includes in the resolution those exact terms  
22 and conditions.

23 SECTION 15. [NEW MATERIAL] SELECTION OF PROJECTS.--

24 A. When reviewing and selecting community energy  
25 efficiency projects for grants from the community energy

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1 efficiency development block grant fund, the department shall  
2 consider:

3 (1) the estimated reduction in energy use from  
4 the project;

5 (2) the geographic diversity of the portfolio  
6 of community energy efficiency projects to be approved by the  
7 department;

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

11 (4) whether the application includes a  
12 commitment by a service provider or community partner to employ  
13 apprentices from a registered apprenticeship program that  
14 promotes diversity or to provide paid internships to persons  
15 from the targeted underserved communities;

16 (5) the value of the project as a  
17 demonstration project to provide data for the effectiveness of  
18 implementing similar projects elsewhere; and

19 (6) the degree to which the project benefits  
20 an underserved community, including any non-energy benefits and  
21 health benefits provided by the project.

22 B. Provided that the criteria are published in the  
23 project solicitation, the department may further consider in  
24 its review and selection of community energy efficiency  
25 projects:

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1 (1) the degree to which the project will  
2 protect public health, including protecting underserved  
3 communities from a public health threat such as the coronavirus  
4 disease 2019;

5 (2) the degree to which the project will  
6 contribute to economic recovery, including from the coronavirus  
7 disease 2019 pandemic; or

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

11 SECTION 16. [NEW MATERIAL] COMMUNITY ENERGY EFFICIENCY  
12 DEVELOPMENT BLOCK GRANT FUND CREATED--ADMINISTRATION.--

13 A. The "community energy efficiency development  
14 block grant fund" is created as a nonreverting fund in the  
15 state treasury. The fund consists of appropriations, gifts,  
16 grants and donations to the fund and income from investment of  
17 the fund. Expenditures from the fund shall be made on warrant  
18 of the secretary of finance and administration pursuant to  
19 vouchers signed by the secretary of energy, minerals and  
20 natural resources or the secretary's authorized representative.

21 B. Money in the fund is subject to appropriation by  
22 the legislature to the department to carry out the purposes of  
23 the Community Energy Efficiency Development Block Grant Act;  
24 provided that money in the fund that is derived from the  
25 federal government may be expended by the department without

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1 legislative authorization for any purpose that is consistent  
2 with the goal of reducing the energy burden of low-income  
3 individuals or underserved communities as otherwise allowed by  
4 law, including carrying out the purposes of the community  
5 energy efficiency development block grant program.

6 SECTION 17. Section 58-18-5.2 NMSA 1978 (being Laws 1981,  
7 Chapter 173, Section 2, as amended) is amended to read:

8 "58-18-5.2. AUTHORITY DUTIES.--The authority shall:

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

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

16 SECTION 18. A new section of Chapter 62, Article 6 NMSA  
17 1978 is enacted to read:

18 "[NEW MATERIAL] UTILITY REPORTING ON DISCONNECTIONS,  
19 ARREARS AND PEOPLE WITHOUT SERVICE.--

20 A. By December 31, 2022, the commission shall  
21 promulgate rules requiring that each utility under the  
22 commission's jurisdiction report:

23 (1) on a quarterly basis the number of  
24 customers in each customer class that are disconnected, the  
25 reason for disconnection, the number of customers reconnected

1 after disconnection, the number of disconnected and reconnected  
2 customers that were eligible for the federal low-income home  
3 energy assistance program, the current number of customers  
4 eligible for disconnection due to arrears and the average  
5 amount of arrears for customers eligible for disconnection;

6 (2) on an annual basis the number, or best  
7 estimate of the number, of residential customers that are not  
8 receiving utility service in the utility's service territory  
9 and any information available about why those customers are not  
10 receiving service; and

11 (3) any other information the commission  
12 determines is necessary and available for understanding and  
13 monitoring the provision of uninterrupted electricity and gas  
14 service to all New Mexicans and low-income New Mexicans in  
15 particular.

16 B. For the purposes of this section, "low-income"  
17 means an annual household adjusted gross income, as defined in  
18 the Income Tax Act, of equal to or less than two hundred  
19 percent of the federal poverty level."

20 SECTION 19. A new section of Chapter 62, Article 6 NMSA  
21 1978 is enacted to read:

22 "[NEW MATERIAL] PUBLIC UTILITY REPORT ON ACHIEVING ENERGY  
23 AND WATER EQUITY.--

24 A. By December 31, 2022, the commission shall issue  
25 an order requiring each public utility providing electricity

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1 service to provide a report that includes the following:

2 (1) an analysis of the benefits, costs and  
3 feasibility of providing all prudent energy efficiency  
4 improvements to fifty percent of all low-income New Mexico  
5 households by 2030 and one hundred percent of all low-income  
6 New Mexico households by 2050, including an analysis of the  
7 benefits to energy affordability, utility load and greenhouse  
8 gas emissions;

9 (2) identifies whether the utility's rates are  
10 affordable to low-income customers in its service territory,  
11 and if not, identifies what type of low-income discount rate,  
12 alone or in combination with other actions such as energy  
13 efficiency improvements, the utility would recommend to achieve  
14 energy affordability; and

15 (3) identifies whether changes could be made  
16 to the utility's policies, to the rules or orders of the  
17 commission or in statute to improve energy affordability,  
18 reduce energy burden and ensure continuous energy access for  
19 low-income New Mexicans.

20 B. By December 31, 2022, the commission shall issue  
21 an order requiring each public utility providing water service  
22 and wastewater company under its jurisdiction to provide a  
23 report that includes an analysis of the benefits, costs and  
24 feasibility of providing adequate water service to fifty  
25 percent of all New Mexico households by 2030 and one hundred

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1 percent of all New Mexico households by 2050 that desire that  
2 service in their jurisdiction.

3 C. The commission shall request public comment on  
4 the reports required by this section and hold a public hearing  
5 on the reports to solicit recommendations on action that the  
6 commission may take.

7 D. By December 31, 2023, the commission shall  
8 promulgate rules or issue orders in response to recommendations  
9 made by utilities and members of the public to make immediate,  
10 reasonable and consistent improvements toward energy  
11 affordability and to reduce energy burden as allowed by law,  
12 with a goal of achieving fifty percent energy affordability for  
13 low-income New Mexicans by 2030 and one hundred percent by  
14 2050, provided that the commission may apply policies to a  
15 subset of low-income New Mexicans. In promulgating the rules  
16 or issuing the orders, the commission shall consider the degree  
17 to which the rules or orders:

- 18 (1) improve energy affordability;  
19 (2) reduce utility load;  
20 (3) reduce greenhouse gas emissions; and  
21 (4) impact ratepayers.

22 E. By December 31, 2023, the commission shall  
23 promulgate rules or issue orders in response to recommendations  
24 made by water utilities and wastewater companies under its  
25 jurisdiction and members of the public to make immediate,

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1 reasonable and consistent improvements to the access to water  
2 service, including wastewater connections, with a goal of  
3 providing adequate water service to fifty percent of all New  
4 Mexico households by 2030 and one hundred percent of all New  
5 Mexico households by 2050 that desire that service.

6 F. For the purposes of this section:

7 (1) "adequate water service" means service to  
8 a customer that provides the customer with access to piped or  
9 well water twenty-four hours a day, meets state and federal  
10 standards for safety and enables complete plumbing at the  
11 customer's residence, including a water heater, sink, shower or  
12 bathtub, toilet and a code-compliant system for removing  
13 wastewater;

14 (2) "energy affordability" means that the  
15 combination of electricity and gas bills do not equal more than  
16 five percent of the annual income of a customer's household;  
17 and

18 (3) "low-income" means an annual household  
19 adjusted gross income, as defined in the Income Tax Act, of  
20 equal to or less than two hundred percent of the federal  
21 poverty level."

22 SECTION 20. A new section of the Efficient Use of Energy  
23 Act is enacted to read:

24 "[NEW MATERIAL] ELIGIBILITY BASED ON UTILITY BILL RELIEF  
25 PROGRAM.--A customer eligible for the utility bill relief

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1 program pursuant to the Utility Affordability and Relief Act  
 2 shall be deemed eligible for low-income programs offered by  
 3 utilities pursuant to the Efficient Use of Energy Act unless  
 4 the programs require additional proof of eligibility under  
 5 federal or state law."

6 SECTION 21. Section 62-8-6 NMSA 1978 (being Laws 1941,  
 7 Chapter 84, Section 42, as amended) is amended to read:

8 "62-8-6. DISCRIMINATION.--

9 A. No public utility shall, as to rates or  
 10 services, make or grant any unreasonable preference or  
 11 advantage to ~~[any]~~ a corporation or person within any  
 12 classification or subject ~~[any]~~ a corporation or person within  
 13 any classification to any unreasonable prejudice or  
 14 disadvantage. ~~[No]~~ A public utility shall not establish and  
 15 maintain any unreasonable differences as to rates of service  
 16 either as between localities or as between classes of service.

17 B. Nothing shall prohibit ~~[however]~~ the commission  
 18 from approving:

- 19 (1) economic development rates; ~~[and]~~  
 20 (2) rates designed to retain load; ~~[or from~~  
 21 approving]  
 22 (3) energy efficiency programs designed to  
 23 reduce the burden of energy costs on low-income customers  
 24 pursuant to the Efficient Use of Energy Act; or  
 25 (4) rates designed to recover the costs of

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1 permanent forgiveness of arrears pursuant to the Utility  
2 Affordability and Relief Act.

3 C. Nothing in this section shall prohibit a public  
4 utility from making or granting a reasonable preference or  
5 advantage to low-income customers with approval of the  
6 commission, and the commission may approve a rate, charge,  
7 service, classification or facility that includes the  
8 reasonable preference or advantage. The implementation of such  
9 a commission-approved rate, charge, service, classification or  
10 facility by a public utility shall not be deemed to subject a  
11 person or corporation to any unreasonable prejudice or  
12 disadvantage or undue discrimination."