

HOUSE ENERGY, ENVIRONMENT AND NATURAL RESOURCES COMMITTEE
SUBSTITUTE FOR
HOUSE CONSUMER AND PUBLIC AFFAIRS COMMITTEE SUBSTITUTE FOR
HOUSE BILL 206

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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;
PROVIDING ELIGIBILITY REQUIREMENTS; AUTHORIZING COST RECOVERY
FOR PUBLIC UTILITIES; ALLOWING ELECTRIC COOPERATIVES TO DEDUCT
A PORTION OF INSPECTION AND SUPERVISION FEES OWED THE STATE TO
RECOVER COSTS PURSUANT TO THE UTILITY AFFORDABILITY AND RELIEF
ACT; 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

1 ENERGY EFFICIENCY DEVELOPMENT BLOCK GRANTS; MANDATING UTILITY
2 REPORTING OF CUSTOMER DISCONNECTIONS, ARREARS AND HOUSEHOLDS
3 WITHOUT SERVICE; REQUIRING UTILITIES TO SUBMIT REPORTS ON
4 ENERGY AFFORDABILITY AND ACCESS TO ELECTRIC AND WATER UTILITY
5 SERVICE; AUTHORIZING UTILITY RATE PREFERENCES FOR LOW-INCOME
6 CUSTOMERS; DIRECTING RULEMAKING; CREATING A FUND; DECLARING AN
7 EMERGENCY.

8
9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

10 SECTION 1. [NEW MATERIAL] SHORT TITLE.--Sections 1
11 through 8 of this act may be cited as the "Utility
12 Affordability and Relief Act."

13 SECTION 2. [NEW MATERIAL] DEFINITIONS.--As used in the
14 Utility Affordability and Relief Act:

15 A. "arrears" means payments owed for electric, gas,
16 water or wastewater utility service that are at least thirty
17 days overdue, regardless of whether an installment agreement
18 has been entered into between the customer and the utility;

19 B. "certification of economic hardship" means a
20 written declaration signed by a customer under penalty of
21 perjury that is submitted to a public utility to certify that
22 the customer is prevented from being able to make payments on
23 an installment agreement due to economic hardship;

24 C. "commission" means the public regulation
25 commission;

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1 D. "coronavirus disease 2019 public health
2 emergency" means the period of time for which a declaration by
3 the governor has established a state of public health emergency
4 due to the coronavirus disease 2019, regardless of the year in
5 which the declaration is in effect;

6 E. "installment agreement" means an agreement
7 between a customer and a public utility for the customer to pay
8 arrears on the customer's account over a set term;

9 F. "permanent credit" means a credit applied by a
10 public utility to the account of a customer participating in
11 the utility bill relief program to permanently forgive some or
12 all of the customer's arrears incurred during the coronavirus
13 disease 2019 public health emergency and relieve the customer
14 of any obligation to pay back the amount forgiven;

15 G. "public utility" means a public utility as
16 defined in the Public Utility Act that provides electricity,
17 gas, water or wastewater utility service and includes an
18 electric cooperative organized pursuant to the Rural Electric
19 Cooperative Act; and

20 H. "small public utility" means a public utility,
21 other than an electric cooperative, that provides service to
22 less than fifty thousand residential customers.

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

24 A. The commission shall promulgate rules or issue
25 orders to effectuate the provisions of the Utility

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1 Affordability and Relief Act. The orders and rules may address
2 how arrears incurred prior to or after the coronavirus disease
3 2019 public health emergency are addressed by a public utility
4 when a customer also has arrears incurred during the
5 coronavirus disease 2019 public health emergency.

6 B. Within sixty days of the effective date of the
7 Utility Affordability and Relief Act, the commission shall, by
8 adoption of a rule or issuance of an order, direct public
9 utilities to file regular reports for the duration of the
10 utility bill relief program on the number of customers that are
11 participating in the program, the amount of arrears that have
12 been temporarily and permanently forgiven, the number of
13 customers that have submitted a certification of economic
14 hardship, the number of customers that have been granted a
15 deferral for economic hardship, the number of residential
16 customers eligible for the low-income home energy assistance
17 program that have been disconnected for failure to pay arrears
18 incurred during the coronavirus disease 2019 public health
19 emergency and any other information the commission determines
20 to aid in overseeing the program.

21 C. The commission may contract with a third party,
22 including a governmental agency, or may enter into a memorandum
23 of understanding with a governmental agency, to qualify public
24 utility customers for the utility bill relief program or to
25 process certifications of economic hardship made by public

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1 utility customers and may assess costs for this service to
 2 public utilities; provided that utilities may recover the costs
 3 pursuant to Section 7 of the Utility Affordability and Relief
 4 Act. The commission may share customer data with a third party
 5 for these purposes.

6 D. The commission shall coordinate with the
 7 department of finance and administration to ensure that to the
 8 maximum extent possible any funding from the federal emergency
 9 rental assistance program available for payment of utility
 10 arrears is provided to public utilities and applied to
 11 qualifying customer accounts; provided that nothing in the
 12 Utility Affordability and Relief Act shall limit the federal
 13 emergency rental assistance program from paying the maximum
 14 amount of rental arrears allowable for a qualifying renter,
 15 regardless of whether the renter has entered into an
 16 installment agreement with a public utility or has had
 17 temporary or permanent credits placed on the renter's public
 18 utility account.

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

21 A. A public utility shall offer its residential
 22 customers with arrears incurred during the coronavirus disease
 23 2019 public health emergency an installment agreement with a
 24 payback term that is at least double the number of months for
 25 which a customer failed to pay at least fifty percent of the

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1 amount owed for that month; provided that a public utility
2 shall not be required to offer a payback term of more than
3 twenty-four months, and a customer may request a shorter
4 payback term.

5 B. A public utility shall not assess nor seek to
6 recover late fees against a residential customer for arrears
7 incurred during the coronavirus disease 2019 public health
8 emergency. An installment agreement entered into pursuant to
9 Subsection A of this section shall not include late fees for
10 arrears incurred during the coronavirus disease 2019 public
11 health emergency.

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

16 (1) the customer enters into an installment
17 agreement and makes payments under the installment agreement;
18 or

19 (2) the customer's payments are deferred or
20 forgiven due to economic hardship.

21 SECTION 5. [NEW MATERIAL] UTILITY BILL RELIEF PROGRAM--
22 REQUIREMENTS--ACCOUNT CREDITS.--

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

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1 B. A public utility shall enroll in the utility
2 bill relief program a residential customer who has arrears
3 incurred during the coronavirus disease 2019 public health
4 emergency if the customer requests to participate in the
5 utility bill relief program and:

6 (1) the customer meets the qualifications to
7 receive assistance pursuant to the federal low income home
8 energy assistance program; or

9 (2) the customer has an annual income equal to
10 or less than two hundred fifty percent of the federal poverty
11 level proven by:

12 (a) verification that a member of the
13 customer's household has qualified for public assistance
14 through the federal supplemental nutrition assistance program,
15 the federal temporary assistance for needy families program,
16 the UCB patient assistance program, the federal special
17 supplemental nutrition program for women, infants, and children
18 or the children, youth and families department's child care
19 assistance program; or

20 (b) a certification of economic hardship
21 establishing that the customer's annual household adjusted
22 gross income, as defined in the Income Tax Act, is below two
23 hundred fifty percent of the federal poverty level.

24 C. A public utility may enroll into the utility
25 bill relief program a residential customer who has arrears

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1 incurred during the coronavirus disease 2019 public health
2 emergency, who requests to be enrolled in the program and who
3 submits to the public utility a certification of economic
4 hardship. A residential customer may submit a certification of
5 economic hardship to the public utility if the customer is
6 prevented from being able to make payments on an installment
7 agreement because the customer or a member of the customer's
8 household:

9 (1) became unemployed during the coronavirus
10 disease 2019 public health emergency and remains unemployed;

11 (2) had working hours reduced by forty percent
12 or more during the coronavirus disease 2019 public health
13 emergency and remains working under reduced hours;

14 (3) is suffering or has suffered severe
15 symptoms of the coronavirus disease 2019 resulting in a present
16 financial impact on the customer;

17 (4) left employment to care for one or more
18 dependents that needed care because of the coronavirus disease
19 2019 public health emergency and continues to provide such
20 care; or

21 (5) is otherwise experiencing a significant
22 financial hardship specified by the customer that prevents the
23 customer from being able to make payments on an installment
24 agreement.

25 D. For a residential customer enrolled in the

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1 utility bill relief program pursuant to submitting a
2 certification of economic hardship, the public utility shall
3 defer the start of an installment agreement by at least four
4 months unless the customer requests a shorter time period. If
5 a public utility determines upon a showing of good cause that a
6 residential customer who submits a certification of economic
7 hardship will not be able to foreseeably repay arrears incurred
8 during the coronavirus disease 2019 public health emergency
9 through an installment agreement, the public utility may
10 forgive all of the customer's arrears.

11 E. For a residential customer enrolled in the
12 utility bill relief program, a public utility shall apply to
13 the customer's account a temporary credit equal to one-half of
14 the arrears incurred by the customer during the coronavirus
15 disease 2019 public health emergency and shall enter into an
16 installment agreement, or modify an existing installment
17 agreement, with the customer for the customer to pay the
18 remainder of the arrears on the customer's account incurred
19 during the coronavirus disease 2019 public health emergency.
20 The temporary credit shall represent the amount of arrears
21 incurred by the customer during the coronavirus disease 2019
22 public health emergency that could be permanently forgiven by
23 the public utility pursuant to the utility bill relief program.
24 If the customer makes all payments on the installment
25 agreement, the temporary credit applied to the customer's

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1 account shall become a permanent credit and the customer's
2 arrears incurred during the coronavirus disease 2019 public
3 health emergency shall be satisfied.

4 F. If a residential customer defaults on an
5 installment agreement entered into pursuant to Subsection E of
6 this section, the temporary credit of one-half of the arrears
7 incurred during the coronavirus disease 2019 public health
8 emergency shall be removed from the residential customer's
9 account and replaced by a permanent credit that is equal to and
10 in addition to the amount paid by the customer on the
11 installment agreement before default. After the permanent
12 credit and all payments made by the customer before default are
13 applied to the customer's account, the customer shall be
14 responsible for the remaining amount due on the account. A
15 public utility may collect remaining arrears from a residential
16 customer who defaults on an installment agreement as allowed by
17 law.

18 G. A public utility, with the agreement of the
19 customer, may modify an installment agreement entered into
20 pursuant to Subsection E of this section at any time to allow a
21 customer additional time to make payments on outstanding
22 arrears and prevent the customer from defaulting on the
23 installment agreement.

24 H. An electric cooperative may stop enrolling
25 customers in the utility bill relief program if the electric

1 cooperative determines that the total costs of the utility bill
 2 relief program to be recovered from customers, reflecting
 3 actually applied temporary and permanent credits and projected
 4 administrative costs, would exceed one percent of total
 5 customer electricity bills from the prior year; provided that
 6 an electric cooperative shall not stop enrolling in the utility
 7 bill relief program customers who qualify for the program
 8 pursuant to Paragraph (1) of Subsection B of this section.

9 I. A public utility may rely on a signed and
 10 submitted certification of economic hardship without further
 11 documentation or verification of the facts in the
 12 certification; provided that a public utility may verify the
 13 facts in a certification of economic hardship if verification
 14 appears warranted, and the public utility may use a third party
 15 to conduct verifications and share customer data with the third
 16 party for these purposes as allowed by law.

17 J. A residential customer who qualifies for the
 18 utility bill relief program shall be deemed eligible for low-
 19 income programs offered by a public utility under the Efficient
 20 Use of Energy Act for the current and following calendar years
 21 unless the programs in question require additional proof of
 22 eligibility under federal or state law.

23 SECTION 6. [NEW MATERIAL] UTILITY CUSTOMER NOTIFICATION
 24 REQUIREMENTS.--

25 A. No later than sixty days after the effective

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1 date of the Utility Affordability and Relief Act or, if the
2 coronavirus disease 2019 public health emergency has not
3 terminated, after the expiration of the coronavirus disease
4 2019 public health emergency, a public utility shall:

5 (1) notify residential customers with arrears
6 incurred during the coronavirus disease 2019 public health
7 emergency that a customer may enter into an installment
8 agreement to pay back arrears over a term that may be at least
9 double the number of months for which a customer failed to pay
10 at least fifty percent of the amount owed for that month and
11 shall provide contact information for a customer to establish
12 an installment agreement; and

13 (2) notify residential customers with arrears
14 incurred during the coronavirus disease 2019 public health
15 emergency that:

16 (a) if a residential customer qualifies
17 for the utility bill relief program, up to fifty percent of the
18 customer's arrears could be forgiven, and the public utility
19 shall provide contact information for a residential customer to
20 apply for the utility bill relief program; and

21 (b) if a residential customer is
22 continuing to experience economic hardship due to coronavirus
23 disease 2019, including unemployment, underemployment or
24 illness, that would prevent the customer from currently paying
25 back arrears, including through an installment agreement, the

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1 customer may apply to the public utility for a limited deferral
2 of the first payment on an installment agreement or of payments
3 under an existing installment agreement, and the public utility
4 shall provide contact information for a residential customer to
5 submit a certification of economic hardship.

6 B. In addition to the notifications of Subsection A
7 of this section, a public utility that is an electric
8 cooperative shall notify its residential customers with arrears
9 incurred during the coronavirus disease 2019 public health
10 emergency that the funds available for arrears forgiveness due
11 to economic hardship may be limited and will be made available
12 on a first-come, first-served basis.

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

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

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1 applied for the purposes of cost recovery prior to any
2 deduction from fees pursuant to Section 8 of the Utility
3 Affordability and Relief Act.

4 B. An investor-owned public utility that is subject
5 to the rate regulation by the commission pursuant to Section
6 62-8-7 NMSA 1978, but not including a small public utility,
7 shall be entitled to recover all reasonable costs for
8 implementation of the utility bill relief program, including
9 the cost of permanent forgiveness of arrears under the program
10 and administrative costs such as those incurred from the use of
11 a third party or additional staffing or technology needed to
12 determine customer eligibility and evaluate applications for
13 economic hardship. An investor-owned public utility shall have
14 the option of recovering its reasonable costs for the utility
15 bill relief program through a commission-approved tariff rider,
16 base rates or both. All actual costs incurred by an
17 investor-owned public utility to establish, implement and
18 maintain the utility bill relief program, including permanent
19 forgiveness of arrears, but not including forgone late charges,
20 are presumed to be reasonable unless the contrary is shown.
21 Recovery of costs for the utility bill relief program shall not
22 be amortized for longer than twice the time period it took for
23 the costs to be incurred by the investor-owned public utility,
24 unless a longer time period is requested by the investor-owned
25 public utility. An investor-owned public utility may retain

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1 its costs for the utility bill relief program as a regulatory
2 asset on its books pending recovery.

3 C. The commission shall ensure that the costs of
4 the utility bill relief program are allocated equitably among
5 all rate classes in a utility rate case.

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

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1 unless the contrary is shown. Recovery of costs for the
2 utility bill relief program shall not be amortized for longer
3 than twice the time period it took for the costs to be incurred
4 by the electric cooperative or small public utility, unless a
5 longer time period is requested by the electric cooperative or
6 small public utility.

7 SECTION 8. [NEW MATERIAL] ELECTRIC COOPERATIVE--ALLOWABLE
8 DEDUCTION FROM FEES PAID TO THE STATE.--

9 A. In a year when an electric cooperative is
10 applying permanent credits to partially or fully forgive
11 customer arrears pursuant to the Utility Affordability and
12 Relief Act, an electric cooperative may deduct from fees paid
13 to the state pursuant to Section 62-8-8 NMSA 1978 an amount
14 equal to fifty percent of the amount the cooperative will seek
15 to collect from customers in that year to recover the
16 cooperative's costs pursuant to the Utility Affordability and
17 Relief Act. An electric cooperative's deductions pursuant to
18 this section shall not exceed fifty percent of the fee assessed
19 pursuant to Section 62-8-8 NMSA 1978 in the same year and the
20 combined deductions pursuant to this section and Section
21 62-15-36 NMSA 1978 shall not exceed the total amount of the
22 fees the cooperative paid to the state pursuant to Section
23 62-8-8 NMSA 1978.

24 B. If the state receives federal funds for utility
25 bill forgiveness or support, the state may deposit in the

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1 general fund those funds in an amount equal to the funds not
2 received from an electric cooperative pursuant to Section
3 62-8-8 NMSA 1978 as a result of the deduction allowed by
4 Subsection A of this section.

5 SECTION 9. [NEW MATERIAL] SHORT TITLE.--Sections 9
6 through 15 of this act may be cited as the "Community Energy
7 Efficiency Development Block Grant Act".

8 SECTION 10. [NEW MATERIAL] DEFINITIONS.--As used in the
9 Community Energy Efficiency Development Block Grant Act:

10 A. "affordable housing" means residential housing
11 primarily for low-income persons, including housing currently
12 occupied by low-income persons or housing that is affordable to
13 low-income persons based on assessed value, rent or estimated
14 mortgage;

15 B. "community energy efficiency project" means a
16 project that provides improvements to residential buildings in
17 an underserved community that will in the aggregate reduce
18 energy consumption, energy-related operating costs or the
19 carbon intensity of energy consumption;

20 C. "community partner" means an organization that
21 provides services or outreach to an underserved community to
22 implement a community energy efficiency project;

23 D. "department" means the energy, minerals and
24 natural resources department;

25 E. "division" means the energy conservation and

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1 management division of the department;

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

8 G. "low-income person" means an individual, couple
9 or family whose annual household adjusted gross income, as
10 defined in Section 62 of the federal Internal Revenue Code of
11 1986, as that section may be amended or renumbered, does not
12 exceed two hundred percent of the federal poverty level;

13 H. "registered apprenticeship program that promotes
14 diversity" means an apprenticeship program registered pursuant
15 to the Apprenticeship Assistance Act that encourages diversity
16 among participants, participation by those underrepresented in
17 the industry associated with the apprenticeship program and
18 participation from disadvantaged communities as determined by
19 the workforce solutions department;

20 I. "residential housing" means:

21 (1) a building, structure or portion thereof
22 that is primarily occupied or designed for or intended
23 primarily for occupancy as a residence by one or more
24 households, including congregate housing, manufactured homes
25 and other facilities; and

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1 (2) real property that is offered for sale or
2 lease for the construction or location on that real property of
3 a building, structure or portion thereof that is intended
4 primarily for occupancy as a residence by one or more
5 households; and

6 J. "underserved community" means an area in the
7 state, including a county, municipality or neighborhood, or
8 subset of an area, where:

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

13 (2) there is a high energy burden or limited
14 access to energy efficiency services as determined by
15 department rule.

16 SECTION 11. [NEW MATERIAL] COMMUNITY ENERGY EFFICIENCY
17 DEVELOPMENT BLOCK GRANT--PROGRAM CREATED--RULEMAKING--REPORT TO
18 LEGISLATURE.--

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

21 B. If state or federal funds have been deposited
22 into the community energy efficiency block grant fund, the
23 department shall:

24 (1) adopt rules to:

25 (a) administer the community energy

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1 efficiency development program;

2 (b) restrict eligibility for certain
3 funds, if required by the entity that provided the funding to
4 the program;

5 (c) govern the acceptance, evaluation
6 and prioritization of applications submitted by qualified
7 entities for grants made pursuant to the Community Energy
8 Efficiency Development Block Grant Act;

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

11 (e) assess whether the value, rent or
12 estimated mortgage of residential housing is affordable to
13 persons or households of low income;

14 (2) solicit, review and prioritize community
15 energy efficiency project applications;

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

19 (4) approve and enter into contracts with
20 grantees to implement selected affordable housing energy
21 efficiency projects; provided that the contracts shall include
22 project performance measures, penalties or other provisions
23 that ensure the successful completion of the projects in
24 accordance with Article 9, Section 14 of the constitution of
25 New Mexico and reporting on project performance, energy savings

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1 and non-energy benefits resulting from energy efficiency
2 measures.

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

7 D. In a year in which state or federal funds have
8 been deposited into the community energy efficiency block grant
9 fund or in which a community energy efficiency project is in
10 operation, the department and the New Mexico mortgage finance
11 authority shall coordinate on the work done in the state to
12 implement energy efficiency measures.

13 E. By November 1 of each year in which a community
14 energy efficiency project is in operation, the department shall
15 provide to the interim legislative committee that addresses the
16 status of the development of energy efficiency measures and
17 programs a report on the status of participation in the
18 community energy efficiency development program by people in
19 underserved communities, the types of projects funded by grants
20 made through the program and any recommended changes with
21 respect to the program.

22 SECTION 12. [NEW MATERIAL] PROJECT REQUIREMENTS.--

23 A. A county, municipality, Indian nation, tribe or
24 pueblo or the New Mexico mortgage finance authority may submit
25 an application to the department for a grant for a community

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1 energy efficiency project.

2 B. An application shall:

3 (1) describe the community energy efficiency
4 project for which a grant is requested and how the project
5 would support infrastructure improvements for affordable
6 housing;

7 (2) describe how the community energy
8 efficiency project would benefit an underserved community in
9 which it is located;

10 (3) identify the targeted underserved
11 community;

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

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

18 (b) residential housing units within an
19 underserved community that otherwise meet the criteria for
20 housing that is affordable to low-income persons as established
21 by the department in rule;

22 (5) propose a series of energy efficiency
23 measures expected to reduce energy use in targeted households
24 and the estimated reduction of energy use from the
25 implementation of the measures;

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1 (6) identify a service provider that will
2 implement the energy efficiency measures in targeted households
3 and set forth the experience of the service provider in working
4 with the targeted underserved community;

5 (7) identify one or more community partners
6 that will identify and work with targeted households to
7 implement a community energy efficiency project in an
8 underserved community and set forth the experience of the
9 community partner in working with the targeted underserved
10 community;

11 (8) set forth any commitment by a service
12 provider or community partner to employ apprentices from a
13 registered apprenticeship program that promotes diversity or to
14 provide paid internships to persons from the targeted
15 underserved communities; and

16 (9) provide a project budget detailing
17 anticipated expenditures and additional sources of funding that
18 would complement a grant obtained pursuant to the Community
19 Energy Efficiency Development Block Grant Act.

20 C. Notwithstanding the application requirements of
21 Subsection B of this section, the New Mexico mortgage finance
22 authority may submit an application that:

23 (1) describes the community energy efficiency
24 project for which a grant is requested and how the project
25 would support infrastructure improvements for affordable

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1 housing that would complement and not duplicate other energy
2 efficiency programs in the state;

3 (2) either meets the requirements of
4 Paragraphs (2) through (4) of Subsection B of this section or
5 sets forth the energy efficiency improvements to residential
6 housing units, regardless of whether the residential housing
7 units are located in an underserved community if the
8 residential housing units meet the eligibility criteria
9 established by the New Mexico mortgage finance authority
10 pursuant to Article 9, Section 14 of the constitution of New
11 Mexico; provided that the application shall describe how energy
12 efficiency improvements to the residential housing units will
13 help to reduce the energy burden of low-income households that
14 may not qualify for other energy efficiency programs in the
15 state;

16 (3) proposes a series of energy efficiency
17 measures expected to reduce energy use in targeted households
18 and the estimated reduction of energy use from the
19 implementation of the measures;

20 (4) identifies a service provider that will
21 implement the energy efficiency measures in targeted households
22 and sets forth the experience of the service provider in
23 working with underserved communities;

24 (5) identifies one or more community partners
25 that will identify and work with targeted households and sets

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1 forth the experience of the community partner in working with
2 underserved communities; and

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

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

11 SECTION 13. [NEW MATERIAL] REQUIRED GRANT OF AUTHORITY.--

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

18 B. 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 a
21 county or a municipality shall provide the department with a
22 copy of the ordinance enacted by the county or municipality
23 that provides the county's or municipality's formal approval
24 for a specific community energy efficiency development block
25 grant and includes in the ordinance the terms and conditions of

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

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

24 D. Prior to the department's final approval of an
25 application from the New Mexico mortgage finance authority for

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1 a grant pursuant to the Community Energy Efficiency Development
2 Block Grant Act, the New Mexico mortgage finance authority
3 shall provide the department with formal approval of the New
4 Mexico mortgage finance authority to accept a specific
5 community energy efficiency development block grant.

6 SECTION 14. [NEW MATERIAL] SELECTION OF PROJECTS.--

7 A. When reviewing and selecting community energy
8 efficiency projects for grants from the community energy
9 efficiency development block grant fund, the department shall
10 consider:

11 (1) the estimated reduction in energy use from
12 the project;

13 (2) the geographic diversity of the portfolio
14 of community energy efficiency projects to be approved by the
15 department;

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

19 (4) whether the application includes a
20 commitment by a service provider or community partner to employ
21 apprentices from a registered apprenticeship program that
22 promotes diversity or to provide paid internships to persons
23 from the targeted underserved communities;

24 (5) the value of the project as a
25 demonstration project to provide data for the effectiveness of

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1 implementing similar projects elsewhere; and

2 (6) the degree to which the project benefits
3 an underserved community, including any non-energy benefits and
4 health benefits provided by the project.

5 B. Provided that the criteria are published in the
6 project solicitation, the department may further consider in
7 its review and selection of community energy efficiency
8 projects:

9 (1) the degree to which the project will
10 protect public health, including protecting underserved
11 communities from a public health threat such as the coronavirus
12 disease 2019;

13 (2) the degree to which the project will
14 contribute to economic recovery, including from the coronavirus
15 disease 2019 pandemic; or

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

19 C. In considering an application from the New
20 Mexico mortgage finance authority, the department shall
21 consider whether full or partial funding of the New Mexico
22 mortgage finance authority application would:

23 (1) promote geographic diversity of the
24 portfolio of community energy efficiency projects;

25 (2) reduce the energy burden of low-income

1 persons, within or outside of underserved communities, who
 2 would not be likely to otherwise receive energy efficiency
 3 improvements through other state programs; or

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

7 SECTION 15. [NEW MATERIAL] COMMUNITY ENERGY EFFICIENCY
 8 DEVELOPMENT BLOCK GRANT FUND CREATED--ADMINISTRATION.--

9 A. The "community energy efficiency development
 10 block grant fund" is created as a nonreverting fund in the
 11 state treasury. The fund consists of appropriations, gifts,
 12 grants and donations to the fund and income from investment of
 13 the fund, but shall not consist of federal funding allocated to
 14 the state for the federal weatherization assistance program
 15 pursuant to 42 U.S.C. Section 6863 or the federal low income
 16 home energy assistance program pursuant to 42 U.S.C. Sections
 17 8621 through 8630. Expenditures from the fund shall be made on
 18 warrant of the secretary of finance and administration pursuant
 19 to 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 including the administrative costs of the department; provided
 25 that money in the fund that is derived from the federal

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1 government may be expended by the department without
2 legislative authorization for any purpose that is consistent
3 with the goal of reducing the energy burden of low-income
4 individuals or underserved communities as otherwise allowed by
5 law, including carrying out the community energy efficiency
6 development block grant program and the administrative costs of
7 the department.

8 SECTION 16. A new section of Chapter 62, Article 6 NMSA
9 1978 is enacted to read:

10 "[~~NEW MATERIAL~~] UTILITY REPORTING ON DISCONNECTIONS,
11 ARREARS AND PEOPLE WITHOUT SERVICE.--

12 A. By December 31, 2022, the commission shall
13 promulgate rules requiring that each utility under the
14 commission's jurisdiction report:

15 (1) on a quarterly basis the number of
16 customers in each customer class that are disconnected, the
17 reason for disconnection, the number of customers reconnected
18 after disconnection, the number of disconnected and reconnected
19 customers that were eligible for the federal low-income home
20 energy assistance program, the current number of customers
21 eligible for disconnection due to arrears and the average
22 amount of arrears for customers eligible for disconnection;

23 (2) on an annual basis the number, or best
24 estimate of the number, of prospective residential customers
25 that are not receiving utility service in the utility's service

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1 territory and any information available about why those
2 customers are not receiving service; and

3 (3) any other information the commission
4 determines is necessary and available for understanding and
5 monitoring the provision of uninterrupted electricity and gas
6 service to all New Mexicans and low-income New Mexicans in
7 particular.

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

12 SECTION 17. A new section of Chapter 62, Article 6 NMSA
13 1978 is enacted to read:

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

16 A. By December 31, 2022, the commission shall issue
17 an order requiring each public utility providing electricity
18 service to provide a report that includes the following:

19 (1) an analysis of the benefits, costs and
20 feasibility of providing all prudent energy efficiency
21 improvements to fifty percent of all low-income New Mexico
22 households by 2030 and one hundred percent of all low-income
23 New Mexico households by 2050, including an analysis of the
24 benefits to energy affordability, utility load and greenhouse
25 gas emissions;

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

7 (3) identifies whether changes could be made
8 to the utility's policies, to the rules or orders of the
9 commission or in statute to improve energy affordability,
10 reduce energy burden and ensure continuous energy access for
11 low-income New Mexicans.

12 B. By December 31, 2022, the commission shall issue
13 an order requiring each public utility providing water service
14 and wastewater company under its jurisdiction to provide a
15 report that includes an analysis of the benefits, costs and
16 feasibility of providing adequate water service to fifty
17 percent of all New Mexico households by 2030 and one hundred
18 percent of all New Mexico households by 2050 that desire that
19 service in their jurisdiction.

20 C. The commission shall request public comment on
21 the reports required by this section and hold a public hearing
22 on the reports to solicit recommendations on action that the
23 commission may take.

24 D. By December 31, 2023, the commission shall
25 promulgate rules or issue orders in response to recommendations

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1 made by utilities and members of the public to make immediate,
2 reasonable and consistent improvements toward energy
3 affordability and to reduce energy burden as allowed by law,
4 with a goal of achieving fifty percent energy affordability for
5 low-income New Mexicans by 2030 and one hundred percent by
6 2050, provided that the commission may apply policies to a
7 subset of low-income New Mexicans. In promulgating the rules
8 or issuing the orders, the commission shall consider the degree
9 to which the rules or orders:

- 10 (1) improve energy affordability;
- 11 (2) reduce utility load;
- 12 (3) reduce greenhouse gas emissions; and
- 13 (4) impact ratepayers.

14 E. By December 31, 2023, the commission shall
15 promulgate rules or issue orders in response to recommendations
16 made by water utilities and wastewater companies under its
17 jurisdiction and members of the public to make immediate,
18 reasonable and consistent improvements to the access to water
19 service, including wastewater connections, with a goal of
20 providing adequate water service to fifty percent of all New
21 Mexico households by 2030 and one hundred percent of all New
22 Mexico households by 2050 that desire that service.

23 F. For the purposes of this section:

24 (1) "adequate water service" means service to
25 a customer that provides the customer with access to piped or

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1 well water twenty-four hours a day, meets state and federal
2 standards for safety and enables complete plumbing at the
3 customer's residence, including a water heater, sink, shower or
4 bathtub, toilet and a code-compliant system for removing
5 wastewater;

6 (2) "energy affordability" means that the
7 combination of electricity and gas bills do not equal more than
8 five percent of the annual income of a customer's household;
9 and

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

14 SECTION 18. A new section of the Efficient Use of Energy
15 Act is enacted to read:

16 "[NEW MATERIAL] ELIGIBILITY BASED ON UTILITY BILL RELIEF
17 PROGRAM.--A customer eligible for the utility bill relief
18 program pursuant to the Utility Affordability and Relief Act
19 shall be deemed eligible for low-income programs offered by
20 utilities pursuant to the Efficient Use of Energy Act unless
21 the programs require additional proof of eligibility under
22 federal or state law."

23 SECTION 19. Section 62-8-6 NMSA 1978 (being Laws 1941,
24 Chapter 84, Section 42, as amended) is amended to read:

25 "62-8-6. DISCRIMINATION.--

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1 A. No public utility shall, as to rates or
2 services, make or grant any unreasonable preference or
3 advantage to ~~[any]~~ a corporation or person within any
4 classification or subject ~~[any]~~ a corporation or person within
5 any classification to any unreasonable prejudice or
6 disadvantage. ~~[No]~~ A public utility shall not establish and
7 maintain any unreasonable differences as to rates of service
8 either as between localities or as between classes of service.

9 B. Nothing shall prohibit ~~[however]~~ the commission
10 from approving:

11 (1) economic development rates; ~~[and]~~

12 (2) rates designed to retain load; ~~[or from~~
13 approving]

14 (3) energy efficiency programs designed to
15 reduce the burden of energy costs on low-income customers
16 pursuant to the Efficient Use of Energy Act; or

17 (4) rates designed to recover the costs of
18 permanent forgiveness of arrears pursuant to the Utility
19 Affordability and Relief Act.

20 C. Nothing in this section shall prohibit a public
21 utility from making or granting a reasonable preference or
22 advantage to low-income customers with approval of the
23 commission, and the commission may approve a rate, charge,
24 service, classification or facility that includes the
25 reasonable preference or advantage. The implementation of such

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1 a commission-approved rate, charge, service, classification or
2 facility by a public utility shall not be deemed to subject a
3 person or corporation to any unreasonable prejudice or
4 disadvantage or undue discrimination."

5 SECTION 20. EMERGENCY.--It is necessary for the public
6 peace, health and safety that this act take effect immediately.