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AN ACT

RELATING TO PUBLIC FINANCING; PROVIDING A PROCESS FOR
ALLOCATING AND ISSUING QUALIFIED ENERGY CONSERVATION BONDS
PURSUANT TO THE FEDERAL INTERNAL REVENUE CODE.

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

SECTION 1. QUALIFIED ENERGY CONSERVATION BONDS--
ALLOCATION--ISSUANCE.--

A. As used in this section:

(1) "board" means the state board of
finance;

(2) "federal act" means Section 54D of the
federal Internal Revenue Code and includes federal rules and
guidelines adopted to carry out the provisions of that
section;

(3) "large local government" means:

(a) a municipality or county with a
population greater than one hundred thousand, as determined
pursuant to the provisions of the federal act; or

(b) an Indian tribal government;

(4) "qualified conservation purpose" means:

(a) capital expenditures incurred for
purposes of: 1) reducing energy consumption in publicly
owned buildings by at least twenty percent; 2) implementing
green community programs, including the use of loans, grants

1 or other repayment mechanisms to implement the programs;
2 3) rural development involving the production of electricity
3 from renewable energy resources; or 4) any qualified
4 facility, as determined under Section 45 (d) of the federal
5 Internal Revenue Code without regard to Paragraphs (8) and
6 (10) of that subsection and without regard to any placed in
7 service date;

8 (b) expenditures with respect to
9 research facilities and research grants to support research
10 in: 1) development of cellulosic ethanol or other nonfossil
11 fuels; 2) technologies for the capture and sequestration of
12 carbon dioxide produced through the use of fossil fuel;
13 3) increasing the efficiency of existing technologies for
14 producing nonfossil fuels; 4) automobile battery technologies
15 and other technologies to reduce fossil fuel consumption in
16 transportation; or 5) technologies to reduce energy use in
17 buildings;

18 (c) mass commuting facilities and
19 related facilities that reduce the consumption of energy,
20 including expenditures to reduce pollution from vehicles used
21 for mass commuting;

22 (d) demonstration projects designed to
23 promote the commercialization of: 1) green building
24 technology; 2) conversion of agricultural waste for use in
25 the production of fuel or otherwise; 3) advanced battery

1 manufacturing technologies; 4) technologies to reduce peak
2 use of electricity; or 5) technologies for the capture and
3 sequestration of carbon dioxide emitted from combusting
4 fossil fuels in order to produce electricity; or

5 (e) public education campaigns to
6 promote energy efficiency;

7 (5) "qualified energy conservation bond"
8 means a bond of a qualified issuer, the net proceeds from the
9 sale of which are used exclusively for qualified conservation
10 purposes and that meets all of the other requirements of the
11 federal act for a qualified energy conservation bond;

12 (6) "qualified issuer" means the state, a
13 county, a municipality or an Indian tribal government;

14 (7) "remaining allocation" means the state
15 allocation:

16 (a) less the amounts required by the
17 federal act to be allocated to large local governments; and

18 (b) plus any amount not used by a large
19 local government and reallocated by that large local
20 government to the state; and

21 (8) "state allocation" means the maximum
22 amount of qualified energy conservation bonds that may be
23 issued by qualified issuers in New Mexico pursuant to the
24 federal act.

25 B. The board shall determine the amount of the

1 state allocation that is required by the federal act to be
2 allocated to each large local government. The aggregate face
3 amount of all qualified energy conservation bonds issued by a
4 large local government shall not exceed the required
5 allocated amount determined for that large local government
6 unless the large local government applies for and receives an
7 additional allocation pursuant to Subsection D of this
8 section.

9 C. Excluding qualified energy conservation bonds
10 issued by large local governments from their allocation
11 required by the federal act, the aggregate face amount of all
12 qualified energy conservation bonds issued by qualified
13 issuers shall not exceed the remaining allocation. The board
14 is the state agency responsible for ensuring compliance with
15 the limitation of this subsection and for ensuring compliance
16 with the provisions of the federal act.

17 D. If a qualified issuer that has been authorized
18 to issue bonds, or is in the process of obtaining
19 authorization to issue bonds, desires to designate all or any
20 portion of the bonds as qualified energy conservation bonds,
21 unless exempted pursuant to Subsection E of this section, it
22 shall submit an application to the board for an allocation
23 distribution. The board shall, by rule, establish deadlines
24 for receiving applications from qualified issuers desiring to
25 designate bonds as qualified energy conservation bonds and

1 deadlines for issuing bonds that have been allocated by the
2 board. The application shall include:

3 (1) evidence that the requirements of the
4 federal act have been satisfied; and

5 (2) such other information as is required by
6 rule of the board.

7 E. A large local government for which an
8 allocation is required by the federal act shall be exempt
9 from the application requirement to the extent that the
10 amount of qualified energy conservation bonds to be issued by
11 that large local government does not exceed the required
12 allocation.

13 F. In the event that the face amount of all
14 proposed qualified energy conservation bonds in valid, timely
15 submitted applications exceeds the remaining allocation, the
16 board shall decide how the remaining allocation shall be
17 distributed to applicants by considering:

18 (1) the dates anticipated for the initial
19 expenditure of bond proceeds and for completion of the
20 project;

21 (2) the percent of the bond proceeds that
22 are likely to be expended within three years of the date of
23 the issuance of the bonds;

24 (3) whether the bond proceeds, together with
25 all other money available for the project, are sufficient to

1 complete the project; and

2 (4) such other criteria as deemed by rule of
3 the board to be relevant.

4 G. If the remaining allocation exceeds the total
5 amount of qualified energy conservation bonds allocated to
6 applicants and issued within the time frame required by the
7 board, the excess shall revert to the board and, together with
8 any unused amount reallocated by a large local government to
9 the state, shall be carried forward and included in another
10 application cycle pursuant to this section, if determined by
11 the board to be necessary.

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