



States' Biofuels Statutes

STATE OF NEW MEXICO

This project was undertaken in partnership with the USDA Office of the Chief Economist, The Office of Energy Policy and New Uses. For information on the full project, visit [States' Biofuels Statutory Citations](#).

Current through the 2013 Legislative Session of the New Mexico General Assembly.

§ 6-21E-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 or other repayment mechanisms to implement the programs; 3) rural development involving the production of electricity from renewable energy resources; or 4) any qualified facility, as determined under Section 45 (d) of the federal Internal Revenue Code without regard to Paragraphs (8) and (10) of that subsection and without regard to any placed in service date;
 - (b) expenditures with respect to research facilities and research grants to support research in: 1) development of cellulosic ethanol or other nonfossil fuels; 2) technologies for the capture and sequestration of carbon dioxide produced through the use of fossil fuel; 3) increasing the efficiency of existing technologies for producing nonfossil fuels; 4) automobile battery technologies and other technologies to reduce fossil fuel consumption in transportation; or 5) technologies to reduce energy

use in buildings;

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

(d) demonstration projects designed to promote the commercialization of: 1) green building technology; 2) conversion of agricultural waste for use in the production of fuel or otherwise; 3) advanced battery manufacturing technologies; 4) technologies to reduce peak use of electricity; or 5) technologies for the capture and sequestration of carbon dioxide emitted from combusting fossil fuels in order to produce electricity; or

(e) public education campaigns to promote energy efficiency;

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

(6) “qualified issuer” means the state, a county, a municipality or an Indian tribal government;

(7) “remaining allocation” means the state allocation:

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

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

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

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

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

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

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

- (1) evidence that the requirements of the federal act have been satisfied; and
- (2) such other information as is required by rule of the board.

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

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

- (1) the dates anticipated for the initial expenditure of bond proceeds and for completion of the project;
- (2) the percent of the bond proceeds that are likely to be expended within three years of the date of the issuance of the bonds;
- (3) whether the bond proceeds, together with all other money available for the project, are sufficient to complete the project; and
- (4) such other criteria as deemed by rule of the board to be relevant.

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

Credits: Added by L. 2013, Ch. 46, § 1, eff. June 14, 2013.