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## FISCAL IMPACT REPORT

**SPONSOR** Padilla **ORIGINAL DATE** 1/13/15  
**LAST UPDATED** \_\_\_\_\_ **HB** \_\_\_\_\_

**SHORT TITLE** Colonias Infrastructure Act Definitions **SB** 25

**ANALYST** Kehoe

### APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY15	FY16		
	N/A	N/A	See Fiscal Narrative

(Parenthesis ( ) Indicate Expenditure Decreases)

### Relates to Senate Bill 172

### SOURCES OF INFORMATION

LFC Files

#### Responses Received From

New Mexico Finance Authority (NMFA)

### SUMMARY

#### Synopsis of Bill

Senate Bill 25 amends the Colonias Infrastructure Act to expand the definition of a “colonia.”

### FISCAL IMPLICATIONS

Laws 2010, Chapter 10, created the Colonias Infrastructure Act, the colonias board, and the colonias infrastructure project fund effective July 1, 2011. The legislation amended the Severance Tax Bonding Act (Section 7-27 NMSA 1978) to allow an allocation of five percent of the annual estimated senior severance tax bond (STB) capacity for deposit in the colonias infrastructure project fund beginning on January 1, 2012. Earmarked senior STB for deposit into the fund in FY15 totals \$16 million.

To date, approximately \$44.1 million has been earmarked in FY2012-FY2014 from senior STB for colonias projects. For the three funding cycles, the state funds have been matched with more than \$32 million from the US Department of Agriculture, Environmental Protection Agency, the

Border Environment Cooperation Commission, the Housing and Urban Development Department, and the New Mexico Department of Finance (Community Development Block Grant Program/10 percent set-aside for colonias). The following table lists the colonias projects funded (includes matching funds) to date:

<b>Colonias Infrastructure Fund Projects 2012 - 2014</b>		
<b>County</b>	<b># of Awards</b>	<b>Amount</b>
Catron	5	\$2,609,017
Chaves	3	\$1,538,245
Doña Ana	53	\$29,886,507
Eddy	13	\$5,949,239
Grant	23	\$11,070,411
Hidalgo	6	\$3,039,691
Lea	1	\$320,602
Lincoln	6	\$4,077,822
Luna	8	\$3,157,304
Otero	14	\$8,723,865
Sierra	2	\$5,340,000
Socorro	2	\$307,499
<b>TOTAL</b>	<b>136</b>	<b>\$76,020,202</b>

Source: NMFA Staff

The purpose of colonias funding is as follows:

- To ensure adequate financial resources for infrastructure development for colonia-recognized communities,
- to provide for the planning and development of infrastructure in an efficient and cost-effective manner,
- to develop infrastructure projects to improve quality of life, and
- To encourage economic development.

To qualify for colonias funding, an entity must:

- Be designated as a colonia by a municipality or county in which it is located,
- lack potable water supply,
- lack adequate sewage systems,
- lack decent, safe, and sanitary housing,
- has been in existence as a colonia prior to November 1990, and
- has submitted appropriate documentation to the colonias board to substantiate the aforementioned conditions

Eligible projects for funding include water systems, wastewater systems, solid waste disposal

facilities, flood and drainage control, and roads or housing infrastructure. A provision of the statute prohibits the use of funds for general operation and maintenance equipment, housing allowance payments, or mortgage subsidies.

Between 2005 and 2010, the Legislature appropriated \$25.5 million for the colonias initiative supported by the previous administration. During this period the funds were administered and allocated by the Department of Finance and Administration, Local Government Division (LGD). According to LGD, over \$45 million was leveraged from federal, state, and private funding for over 70 projects.

## **SIGNIFICANT ISSUES**

In current statute, “colonia” is defined as a rural community with a population of 25,000 or less located within 150 miles of the United States-Mexico border. The proposed bill expands the definition of a colonia by adding the following language: “or within fifty miles of a municipality with a population over two hundred fifty thousand (250,000).”

Currently there are over 155 designated colonias in 12 counties within New Mexico (Catron, Chaves, Dona Ana, Eddy, Grant, Hidalgo, Lea, Lincoln, Luna, Otero, Sierra, and Socorro). Dona Ana County alone has 35 designated colonias. The proposed bill will allow incorporated parts of Valencia County (Los Lunas, Belen, and Bosque Farms), Sandoval County, and parts of Santa Fe County (Edgewood, Moriarty, Santa Fe National Forest) to be defined as a colonia.

The colonias infrastructure board consists of seven voting members and five advisory members. The board is required to establish rules to govern the acceptance, evaluation, and prioritization of applications; prioritize qualified projects; and recommend the prioritized projects to the Board of the New Mexico Finance Authority for final financial approval. The board’s ranking criteria for financial assistance includes: 1) project urgency, 2) project readiness, 3) ability to leverage, 4) regionalization, 5) direct cost benefits, 6) long-term community benefit, and 7) longer-term sustainability, maintenance, and operations.

## **ADMINISTRATIVE IMPLICATIONS**

The NMFA staffs the colonias infrastructure board and under the direction of the board processes, reviews, evaluates applications for financial assistance, and oversees funded projects. The NMFA has not yet been reimbursed for its administrative costs related to the colonias program. To date, the expenses have been covered by the NMFA general fund.

## **CONFLICT, RELATIONSHIP**

Senate Bill 172, for the Land Grant Committee, changes the name of the Colonias Infrastructure Act to the “Colonias and Land Grants-Mercedes Infrastructure Act,” adds the Land Grant-Merced communities as eligible entities, expands the board to include the chair of the Land Grant-Merced and the executive director of the North Central New Mexico Economic Development district or their designees. The effective date of the bill is July 1, 2015.

**OTHER SUBSTANTIVE ISSUES**

According to the New Mexico Center on Law and Poverty Report dated July 2012 (paid for by the New Mexico State Bar, New Mexico Legal Services Commission, and others), some of the major legal concerns relating to colonias include: 1) New Mexico's real estate contract law offers weak protections to land and homebuyers, leaving purchasers vulnerable to harsh treatment from sellers; 2) lack of easements in illegal subdivisions can lead to undeveloped and/or substandard infrastructure; 3) New Mexico's colonias are prime targets for the placement of environmentally hazardous facilities; and 4) predatory lending is a pervasive problem for colonia communities.

LMK/aml