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AN ACT

RELATING TO THE PUBLIC PEACE, HEALTH, SAFETY AND WELFARE;  
ENACTING THE COLONIAS INFRASTRUCTURE ACT; CREATING A BOARD;  
PRESCRIBING POWERS AND DUTIES; CREATING A TRUST FUND;  
CREATING A PROJECT FUND; ALLOCATING SEVERANCE TAX BONDING  
CAPACITY FOR COLONIAS INFRASTRUCTURE PROJECTS; AUTHORIZING  
SEVERANCE TAX BONDS; MAKING APPROPRIATIONS.

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

Section 1. SHORT TITLE.--Sections 1 through 8 of this  
act may be cited as the "Colonias Infrastructure Act".

Section 2. FINDINGS AND PURPOSE.--

A. The legislature finds that:

- (1) colonias lack basic infrastructure  
resulting in poor social, health and economic conditions;
- (2) adequate infrastructure such as water  
and wastewater systems, solid waste disposal facilities,  
flood and drainage control, roads and housing infrastructure  
are essential to improved health, safety and welfare of all  
New Mexicans, including residents of the colonia communities;
- (3) local efforts and resources have been  
insufficient to develop and maintain a consistent and  
adequate level of infrastructure;
- (4) addressing the urgent need of replacing,  
improving and developing infrastructure through the use of an

1 alternative financing mechanism is a long-term cost savings  
2 benefit to both the state and the communities; and

3 (5) adequate infrastructure development  
4 allows colonia residents to achieve the basic conditions  
5 necessary to improve the quality of their lives.

6 B. The purposes of the Colonias Infrastructure Act  
7 are to:

8 (1) ensure adequate financial resources for  
9 infrastructure development for colonia recognized  
10 communities;

11 (2) provide for the planning and development  
12 of infrastructure in an efficient and cost-effective manner;  
13 and

14 (3) develop infrastructure projects to  
15 improve quality of life and encourage economic development.

16 Section 3. DEFINITIONS.--As used in the Colonias  
17 Infrastructure Act:

18 A. "authority" means the New Mexico finance  
19 authority;

20 B. "board" means the colonias infrastructure  
21 board;

22 C. "colonia" means a rural community with a  
23 population of twenty-five thousand or less located within one  
24 hundred fifty miles of the United States-Mexico border that:

25 (1) has been designated as a colonia by the

1 municipality or county in which it is located because of a:

2 (a) lack of potable water supply;

3 (b) lack of adequate sewage systems; or

4 (c) lack of decent, safe and sanitary

5 housing;

6 (2) has been in existence as a colonia prior  
7 to November 1990; and

8 (3) has submitted appropriate documentation  
9 to the board to substantiate the conditions of this  
10 subsection, including documentation that supports the  
11 designation of the municipality or county;

12 D. "financial assistance" means providing grants  
13 or loans on terms and conditions approved by the authority;

14 E. "project fund" means the colonias  
15 infrastructure project fund;

16 F. "qualified entity" means a county, municipality  
17 or other entity recognized as a political subdivision of the  
18 state;

19 G. "qualified project" means a capital outlay  
20 project selected by the board for financial assistance that  
21 is primarily intended to develop colonias infrastructure. A  
22 qualified project may include a water system, a wastewater  
23 system, solid waste disposal facilities, flood and drainage  
24 control, roads or housing infrastructure; but "qualified  
25 project" does not include general operation and maintenance,

1 equipment, housing allowance payments or mortgage subsidies;  
2 and

3 H. "trust fund" means the colonias infrastructure  
4 trust fund.

5 Section 4. COLONIAS INFRASTRUCTURE BOARD CREATED.--

6 A. The "colonias infrastructure board" is created.

7 B. The board shall consist of seven voting members  
8 as follows:

9 (1) the secretary of finance and  
10 administration or the secretary's designee from the  
11 department of finance and administration;

12 (2) the secretary of environment or the  
13 secretary's designee from the department of environment;

14 (3) the chief executive officer of the  
15 authority or the chief executive officer's designee from the  
16 authority;

17 (4) one member appointed by the president  
18 pro tempore of the senate;

19 (5) one member appointed by the minority  
20 leader of the senate;

21 (6) one member appointed by the speaker of  
22 the house of representatives; and

23 (7) one member appointed by the minority  
24 leader of the house of representatives.

25 C. The members appointed pursuant to Paragraphs

1 (4) through (7) of Subsection B of this section shall be  
2 appointed with the advice and consent of the senate, serve at  
3 the pleasure of the appointing authority, be residents of the  
4 colonias area and have experience in capital project  
5 development or administration, and they may receive per diem  
6 and mileage as provided for nonsalaried public officers in  
7 the Per Diem and Mileage Act but shall receive no other  
8 compensation, perquisite or allowance.

9 D. There shall be five advisory, nonvoting members  
10 of the board as follows:

11 (1) the executive director of the south  
12 central council of governments or the director's designee;

13 (2) the executive director of the southwest  
14 New Mexico council of governments or the director's designee;

15 (3) the executive director of the  
16 southeastern New Mexico economic development district or the  
17 director's designee;

18 (4) the executive director of the New Mexico  
19 association of counties or the director's designee; and

20 (5) the executive director of the New Mexico  
21 mortgage finance authority or the director's designee.

22 E. The board shall choose a chair and vice chair  
23 from among its members and such other officers as it deems  
24 necessary. A majority of members constitutes a quorum for  
25 the transaction of business. The affirmative vote of at

1 least a majority of a quorum shall be necessary for an action  
2 to be taken by the board. The board shall meet whenever a  
3 voting member submits a request in writing to the chair, but  
4 not less than quarterly.

5 F. All meetings of the board shall be open to the  
6 public and subject to the Open Meetings Act and, at each  
7 meeting, the board shall provide an opportunity for public  
8 comment.

9 Section 5. BOARD--DUTIES.--The board shall:

10 A. promulgate such rules as are necessary to  
11 govern the acceptance, evaluation and prioritization of  
12 applications submitted by qualified entities for financial  
13 assistance;

14 B. after applications have been processed and  
15 evaluated by the authority, prioritize the qualified projects  
16 for financial assistance; and

17 C. upon such terms and conditions as are  
18 established by the authority, recommend the prioritized  
19 projects to the authority for financial assistance for:

20 (1) planning, designing, constructing,  
21 improving or expanding a qualified project;

22 (2) developing engineering feasibility  
23 reports for qualified projects;

24 (3) inspecting construction of qualified  
25 projects;

1 (4) providing professional services;

2 (5) completing environmental assessments or  
3 archaeological clearances and other surveys for qualified  
4 projects;

5 (6) acquiring land, water rights, easements  
6 or rights of way; or

7 (7) paying legal costs and fiscal agent fees  
8 associated with development of qualified projects.

9 Section 6. AUTHORITY--DUTIES.--The authority shall:

10 A. provide staff support to the board;

11 B. administer the project fund;

12 C. at the direction of the board, process, review  
13 and evaluate applications for financial assistance from  
14 qualified entities; and

15 D. at the direction of the board, administer  
16 qualified projects that receive financial assistance.

17 Section 7. COLONIAS INFRASTRUCTURE TRUST FUND--  
18 CREATED--INVESTMENT--DISTRIBUTION.--

19 A. The "colonias infrastructure trust fund" is  
20 created in the state treasury. The trust fund shall consist  
21 of money that is appropriated, donated or otherwise allocated  
22 to it. Money in the trust fund shall be invested by the  
23 state investment officer in the manner that land grant  
24 permanent funds are invested pursuant to Chapter 6, Article 8  
25 NMSA 1978. Income from investment of the trust fund shall be

1 credited to the fund. Money in the trust fund shall not be  
2 expended for any purpose, but an annual distribution from the  
3 trust fund shall be made to the project fund pursuant to this  
4 section.

5 B. On July 1 of each year in which adequate money  
6 is available in the trust fund, an annual distribution shall  
7 be made from the trust fund to the project fund in the amount  
8 of ten million dollars (\$10,000,000) until the distribution  
9 is less than an amount equal to four and seven-tenths percent  
10 of the average of the year-end market values of the trust  
11 fund for the immediately preceding five calendar years.  
12 Thereafter, the amount of the annual distribution shall be  
13 four and seven-tenths percent of the average of the year-end  
14 market values of the trust fund for the immediately preceding  
15 five calendar years.

16 Section 8. COLONIAS INFRASTRUCTURE PROJECT FUND--  
17 CREATED--PURPOSE--APPROPRIATIONS.--

18 A. The "colonias infrastructure project fund" is  
19 created in the authority and shall be administered by the  
20 authority.

21 B. The project fund shall consist of:

- 22 (1) distributions from the trust fund;  
23 (2) payments of principal and interest on  
24 loans for qualified projects;  
25 (3) other money appropriated by the

1 legislature or distributed or otherwise allocated to the  
2 project fund for the purpose of supporting qualified  
3 projects;

4 (4) the proceeds of severance tax bonds  
5 appropriated to the fund for qualified projects; and

6 (5) income from investment of the project  
7 fund that shall be credited to the project fund.

8 C. Except for severance tax bond proceeds required  
9 to revert to the severance tax bonding fund, balances in the  
10 project fund at the end of a fiscal year shall not revert to  
11 any other fund.

12 D. The project fund may consist of subaccounts as  
13 determined to be necessary by the authority.

14 E. The authority may establish procedures and  
15 adopt rules as required to:

16 (1) administer the project fund;

17 (2) originate grants or loans for qualified  
18 projects recommended by the board;

19 (3) recover from the project fund the costs  
20 of administering the fund and originating the grants and  
21 loans; and

22 (4) govern the process through which  
23 qualified entities may apply for financial assistance from  
24 the project fund.

25 Section 9. A new section of the Severance Tax Bonding

1 Act is enacted to read:

2 "AUTHORIZATION FOR SEVERANCE TAX BONDS--PRIORITY FOR  
3 INFRASTRUCTURE PROJECTS FOR COLONIAS.--

4 A. After the annual estimate of severance tax  
5 bonding capacity pursuant to Subsection A of Section  
6 7-27-10.1 NMSA 1978, the board of finance division of the  
7 department of finance and administration shall allocate five  
8 percent of the estimated bonding capacity each year for  
9 colonias infrastructure projects, and the legislature  
10 authorizes the state board of finance to issue severance tax  
11 bonds in the annually allocated amount for use by the  
12 colonias infrastructure board to fund the projects. The  
13 colonias infrastructure board shall certify to the state  
14 board of finance the need for issuance of bonds for colonias  
15 infrastructure projects. The state board of finance may  
16 issue and sell the bonds in the same manner as other  
17 severance tax bonds in an amount not to exceed the authorized  
18 amount provided for in this subsection. If necessary, the  
19 state board of finance shall take the appropriate steps to  
20 comply with the federal Internal Revenue Code of 1986, as  
21 amended. Proceeds from the sale of the bonds are  
22 appropriated to the colonias infrastructure project fund for  
23 the purposes certified by the colonias infrastructure board  
24 to the state board of finance.

25 B. Money from the severance tax bonds provided for

