

1 SENATE BILL 198

2 **51ST LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2014**

3 INTRODUCED BY

4 Michael S. Sanchez

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10 AN ACT

11 RELATING TO PUBLIC MONEY; CHANGING THE PROCESS BY WHICH WATER
12 PROJECTS ARE APPLIED FOR, EVALUATED, PRIORITIZED, RECOMMENDED
13 AND FUNDED WITH PUBLIC MONEY; REQUIRING ALL STATE AGENCIES THAT
14 FUND OR ADMINISTER WATER PROJECTS TO PARTICIPATE IN THE WATER
15 PROJECT PROCESS; REQUIRING WATER PROJECT APPLICATIONS TO BE
16 EVALUATED PURSUANT TO THE STATE WATER PLAN AND THE STATE WATER
17 CAPITAL PLAN; MAKING ASSET MANAGEMENT PLANS ELIGIBLE ITEMS FOR
18 PAYMENT FROM LOANS AND GRANTS; CHANGING THE POWERS AND DUTIES
19 OF THE WATER TRUST BOARD; CHANGING THE APPOINTING POWER FOR
20 SOME MEMBERS; CREATING THE WATER TRUST OFFICE; PRESCRIBING
21 POWERS AND DUTIES; REQUIRING THE WATER TRUST BOARD TO DEVELOP A
22 STANDARDIZED APPLICATION FORM AND PROCESS FOR FUNDING WATER
23 PROJECTS; MAKING CERTAIN FUNDS STATE TREASURY FUNDS; REQUIRING
24 CONTINUING LEGISLATIVE OVERSIGHT OF THE ACTIVITIES OF THE WATER
25 TRUST BOARD; AMENDING, REPEALING AND ENACTING SECTIONS OF THE

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1 NMSA 1978; MAKING AN APPROPRIATION.

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

4 SECTION 1. Section 72-4A-2 NMSA 1978 (being Laws 2001,
5 Chapter 164, Section 2, as amended) is amended to read:

6 "72-4A-2. FINDINGS AND PURPOSE.--

7 A. The legislature finds that:

8 (1) New Mexico is in a desert where water is a
9 scarce resource;

10 (2) the economy depends on reasonable and fair
11 allocation of water for all purposes;

12 (3) the public welfare depends on efficient
13 use and conservation of water;

14 (4) New Mexico must comply with its delivery
15 obligations under interstate compacts; and

16 (5) public confidence and support for water
17 use efficiency and conservation is based on a reasonable
18 balance of investments in water infrastructure and management.

19 B. The legislature finds further that:

20 (1) there is an extensive need for water
21 projects;

22 (2) state agencies lack adequate staff and
23 other resources to administer the state's water resources and
24 to complete important projects such as statewide planning and
25 adjudications;

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1 (3) leveraging nonstate funds, particularly
2 federal funds, increasingly depends on the state planning and
3 prioritizing its water project needs and matching those
4 nonstate funds with state appropriations; and

5 (4) private sector participation in financing
6 water projects depends on adequate revenues as well as state
7 investments to make private capital secure.

8 C. The legislature finds further that:

9 (1) the state responsibility for planning and
10 financing water projects is fragmented across state agencies,
11 and the authority and financing decisions are too often made
12 piecemeal and without regard for the total cost of a water
13 project; and

14 (2) effective use of monetary resources
15 requires an integrated, whole-state approach to the planning
16 and funding of water infrastructure and other water projects.

17 ~~[B-]~~ D. The purpose of the Water Project Finance
18 Act is to provide for a rational, cogent statewide process for
19 priority ranking of water project applications based on the
20 short- and long-term water capital plan that encourages water
21 use efficiency, resource conservation and protection and fair
22 distribution and allocation of New Mexico's scarce water
23 resources for beneficial purposes of use within the state while
24 assuring consistency with the constitution of New Mexico."

25 SECTION 2. Section 72-4A-3 NMSA 1978 (being Laws 2001,
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1 Chapter 164, Section 3, as amended) is amended to read:

2 "72-4A-3. DEFINITIONS.--As used in the Water Project
3 Finance Act:

4 ~~[A. "authority" means the New Mexico finance~~
5 ~~authority;~~

6 B.] A. "board" means the water trust board;

7 B. "office" means the water trust office;

8 C. "political subdivision" means a municipality,
9 county, land grant-merced controlled and governed pursuant to
10 Sections 49-1-1 through 49-1-18 or 49-4-1 through 49-4-21 NMSA
11 1978, regional or local public water utility authority created
12 by statute, irrigation district, conservancy district, special
13 district, acequia, soil and water conservation district, water
14 and sanitation district or an association organized and
15 existing pursuant to the Sanitary Projects Act;

16 D. "qualifying water project" means a water project
17 ~~[recommended by the board for funding by the legislature; and]~~
18 approved by the board;

19 E. "qualifying entity" means a state agency,
20 a political subdivision of the state ~~[an intercommunity water~~
21 ~~or natural gas supply association or corporation organized~~
22 ~~under Chapter 3, Article 28 NMSA 1978],~~ a recognized Indian
23 nation, tribe or pueblo, the boundaries of which are located
24 wholly or partially in New Mexico or an association of such
25 entities created pursuant to the Joint Powers Agreements Act or

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1 other authorizing legislation for the exercise of their common
2 powers;

3 F. "technical review team" means an interagency
4 staff team of technical, financial and other necessary
5 expertise that reviews a water project application;

6 G. "threshold requirements" means the initial
7 requirements of a water project application that must be
8 satisfied before the application can be evaluated for priority
9 ranking and funding recommendations; and

10 H. "water project" means a project that meets
11 federal and state requirements and is:

12 (1) for:

13 (a) storage, conveyance or delivery of
14 water to end users;

15 (b) wastewater treatment, collection and
16 disposal;

17 (c) recoverable water, including
18 brackish water, produced water, gray water and wastewater
19 reuse;

20 (d) implementation of federal Endangered
21 Species Act of 1973 collaborative programs;

22 (e) restoration and management of
23 watersheds;

24 (f) flood control; or

25 (g) water conservation or recycling,

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1 treatment or reuse; and

2 (2) a project for which the service area is
3 wholly within the boundaries of the state or is determined by
4 the board to be an interstate water project that directly
5 benefits New Mexico."

6 SECTION 3. Section 72-4A-4 NMSA 1978 (being Laws 2001,
7 Chapter 164, Section 4, as amended) is amended to read:

8 "72-4A-4. WATER TRUST BOARD CREATED.--

9 A. The "water trust board" is created and is
10 administratively attached to the office. The board is composed
11 of the following [~~sixteen~~] eighteen members:

12 (1) the state engineer or the state engineer's
13 designee;

14 (2) the secretary of finance and
15 administration or the secretary's designee;

16 (3) the executive director of the New Mexico
17 finance authority or the executive director's designee;

18 (4) the secretary of environment or the
19 secretary's designee;

20 (5) the secretary of energy, minerals and
21 natural resources or the secretary's designee;

22 (6) the director of the department of game and
23 fish or the director's designee;

24 (7) the director of the New Mexico department
25 of agriculture or the director's designee;

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1 (8) the ~~[executive director of the New Mexico~~
2 ~~municipal league or the executive director's designee]~~ head of
3 a statewide association representing municipalities;

4 (9) the ~~[executive director of the New Mexico]~~
5 head of a statewide association ~~[of]~~ representing counties ~~[or~~
6 ~~the executive director's designee];~~

7 (10) ~~[five]~~ seven public members appointed by
8 the ~~[governor and confirmed by the senate and]~~ New Mexico
9 legislative council who represent:

10 (a) the environmental community;

11 (b) an irrigation or conservancy
12 district that uses surface water;

13 (c) an irrigation or conservancy
14 district that uses ground water;

15 (d) acequia water users; ~~[and]~~

16 (e) soil and water conservation
17 districts;

18 (f) water associations organized under
19 the Sanitary Projects Act, Laws 1947, Chapter 206, Laws 1949,
20 Chapter 79 or Laws 1951, Chapter 52; and

21 (g) colonias;

22 (11) one public member appointed by the Indian
23 affairs commission; and

24 (12) representative of the Navajo Nation who
25 lives in New Mexico appointed by the president of the Navajo

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1 Nation [~~or the president's designee~~].

2 B. The chair of the board shall be elected by a
3 quorum of the board members. The board shall meet at the call
4 of the chair or whenever three members submit a request in
5 writing to the chair, but not less often than once each
6 calendar year. A majority of members constitutes a quorum for
7 the transaction of business. The affirmative vote of at least
8 a majority of a quorum present shall be necessary for an action
9 to be taken by the board.

10 C. Each public member of the board [~~appointed by~~
11 ~~the governor~~] shall be appointed to a four-year term. To
12 provide for staggered terms, two of the initially [~~governor-~~
13 ~~appointed~~] appointed public members shall be appointed for
14 terms of two years and three members for terms of four years.
15 Thereafter, all [~~governor-appointed~~] public members shall be
16 appointed for four-year terms. Vacancies in public member
17 positions shall be filled by appointment by the [~~governor~~] New
18 Mexico legislative council for the remainder of the unexpired
19 term.

20 D. Public members of the board shall be reimbursed
21 for attending meetings of the board as provided for nonsalaried
22 public officers in the Per Diem and Mileage Act and shall
23 receive no other compensation, perquisite or allowance.

24 E. Public members of the board are appointed public
25 officials of the state while carrying out their duties and

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1 activities under the Water Project Finance Act.

2 F. The public members of the water trust board on
3 July 1, 2014 shall finish out the terms for which they were
4 appointed. If a vacancy occurs in a public member's term after
5 July 1, 2014, the New Mexico legislative council shall fill the
6 vacancy by appointment of a qualified person for the remainder
7 of the term."

8 SECTION 4. Section 72-4A-5 NMSA 1978 (being Laws 2001,
9 Chapter 164, Section 5, as amended) is repealed and a new
10 Section 72-4A-5 NMSA 1978 is enacted to read:

11 "72-4A-5. [NEW MATERIAL] BOARD--POWERS AND DUTIES.--

12 A. The board may employ staff, including a director
13 and no more than one deputy or assistant director, and such
14 technical and clerical staff as necessary to implement the
15 provisions of the Water Project Finance Act.

16 B. The board shall adopt and promulgate such rules
17 as necessary to carry out its duties pursuant to the Water
18 Project Finance Act, including rules that:

19 (1) establish a standardized water project
20 application form that shall be used by all qualifying entities
21 applying for water project funding in this state;

22 (2) establish threshold requirements for water
23 project applications;

24 (3) establish water project ranking
25 priorities, including high priority for those projects that:

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1 (a) address federal Safe Drinking Water
2 Act compliance;

3 (b) are technically sound and comply
4 with the water capital plan and the state water plan;

5 (c) address public health and safety
6 issues in a way that fit into longer-term solutions;

7 (d) have matching contributions from
8 federal, local or private funding sources;

9 (e) if applicable, have obtained all
10 requisite state and federal permits and authorizations
11 necessary to initiate the project;

12 (f) have demonstrated capacity to
13 oversee, operate and maintain the water project; and

14 (g) meet other requirements established
15 by rule of the board for priority ranking; and

16 (4) govern terms and conditions of loans and
17 grants from the water project fund.

18 C. The board shall:

19 (1) hold a public hearing at which qualifying
20 entities that have met threshold requirements have the
21 opportunity to testify on the need for their water projects and
22 public comment pertaining to the projects is received;

23 (2) determine, with advice from the technical
24 review teams and the state and federal agencies and
25 instrumentalities that have funding available for water

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1 projects in New Mexico, the priority rank of each water project
2 and the funding mix of loans and grants that are available for
3 each project;

4 (3) authorize qualifying water projects based
5 on recommendations from the technical review teams;

6 (4) develop its water project funding request
7 for the legislature and the governor for capital outlay funds
8 additional to the severance tax bond set-aside and the water
9 trust fund distribution; and

10 (5) carry out its powers and duties in
11 accordance with the provisions of the Water Project Finance Act
12 or other laws, as applicable."

13 SECTION 5. A new section of the Water Project Finance Act
14 is enacted to read:

15 "[NEW MATERIAL] OFFICE--DIRECTOR--STAFF--QUALIFICATIONS--
16 DUTIES.--

17 A. The "water trust office" is created as the staff
18 agency for the board. The office is an adjunct agency as
19 provided in the Executive Reorganization Act. The board shall
20 appoint a director who shall be well-versed in civil
21 engineering, public finance or other appropriate field and who
22 shall have managerial experience. The director shall be
23 appointed without regard to political affiliation and solely on
24 the basis of qualifications and fitness for the position. The
25 director may be fired only for cause.

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1 B. The director may employ no more than one deputy
2 or assistant director with the approval of the board and,
3 subject to budgetary constraints, may employ or contract with
4 such technical and clerical personnel as necessary to carry out
5 the provisions of this section.

6 C. The office may enter into contracts, memoranda
7 of understanding, joint powers agreements and other agreements
8 to carry out the provisions of the Water Project Finance Act
9 and the directions of the board.

10 D. The office shall:

11 (1) serve as staff to the board;

12 (2) as directed by the board, provide
13 assistance to qualifying entities and oversight of qualifying
14 water projects, either directly or through participation on a
15 technical review team;

16 (3) recommend evaluation procedures for
17 adoption by the board to ensure that all applications receive
18 appropriate technical review and financial analyses and that
19 any conditions recommended by the technical review team are
20 appropriate;

21 (4) assist the board in the development and
22 updating of the water capital plan; and

23 (5) coordinate receipt of invoices or vouchers
24 and payments to qualifying entities or their fiscal agents from
25 the various funding entities for water project work

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1 accomplished and approved for payment."

2 SECTION 6. A new section of the Water Project Finance Act
3 is enacted to read:

4 "[NEW MATERIAL] STATEWIDE COMPREHENSIVE MULTIYEAR
5 CAPITAL PLAN FOR WATER PROJECTS.--The board shall take the lead
6 in developing a statewide comprehensive multiyear "water
7 capital plan" for water infrastructure and other water purposes
8 throughout the state and the types of water projects necessary
9 to meet stated short- and long-term planning strategies,
10 priorities and objectives to provide both water quality and
11 quantity to address public health and safety and the
12 socioeconomic needs of the state. The water capital plan shall
13 be based on the state water plan. The water capital plan shall
14 be updated on a regular basis, but at least biennially, and
15 shall include a discussion of how past and current water
16 projects are affecting priorities, goals and objectives."

17 SECTION 7. A new section of the Water Project Finance Act
18 is enacted to read:

19 "[NEW MATERIAL] WATER PROJECTS--INTERAGENCY TECHNICAL
20 REVIEW TEAM--MEMBERS--DUTIES--INTERAGENCY COOPERATION.--

21 A. Each water project application shall be
22 evaluated by an interagency "technical review team". The
23 following state agencies and the New Mexico finance authority
24 shall participate in technical review teams as necessary and
25 appropriate, and they shall assign the appropriate staff to

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1 review water project applications in concert with other members
2 of the teams:

- 3 (1) the office;
- 4 (2) the interstate stream commission;
- 5 (3) the office of the state engineer;
- 6 (4) the department of environment;
- 7 (5) the department of finance and
8 administration;
- 9 (6) the department of game and fish;
- 10 (7) the energy, minerals and natural resources
11 department; and
- 12 (8) any other state agency that the office
13 requests to assist in evaluating a water project.

14 B. The technical review team shall:

- 15 (1) determine if threshold requirements for a
16 water project application have been met;
- 17 (2) evaluate the water project applicant for
18 technical, managerial and financial capacity;
- 19 (3) evaluate the application as provided in
20 Section 9 of this 2014 act;
- 21 (4) advise the board on best practices and
22 appropriate technical solutions to water project issues;
- 23 (5) advise the board on funding packages for
24 ranked projects;
- 25 (6) advise and comment on water policy issues

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1 pertaining to applications; and

2 (7) assist the board in the development and
3 updating of the water capital plan."

4 SECTION 8. A new section of the Water Project Finance Act
5 is enacted to read:

6 "[NEW MATERIAL] THRESHOLD REQUIREMENTS.--

7 A. Threshold requirements for evaluation of a water
8 project application shall include that the qualifying entity:

9 (1) has completed the state engineer's water
10 project questionnaire;

11 (2) has a financial plan and is in compliance
12 with the Audit Act;

13 (3) has a rate structure that covers expenses,
14 builds necessary reserves and encourages conservation;

15 (4) has an asset management plan;

16 (5) is in full compliance with federal and
17 state laws and state engineer and department of environment
18 regulatory requirements;

19 (6) has a governance structure adequate for
20 proper direction and oversight of the system that the water
21 project is a part of and that meets all applicable state and
22 federal laws;

23 (7) has a plan to support the water project
24 development, operation and maintenance;

25 (8) has an energy efficiency strategy for its

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1 water project; and

2 (9) meets other threshold requirements
3 established by the board.

4 B. If an applicant does not meet threshold
5 requirements, the technical review team shall work with the
6 applicant to address deficiencies and help the applicant to
7 qualify in the next application period."

8 SECTION 9. A new section of the Water Project Finance Act
9 is enacted to read:

10 "[NEW MATERIAL] WATER PROJECTS--APPLICATION--EVALUATION BY
11 TECHNICAL REVIEW TEAM--BOARD RANKINGS--REQUIREMENTS.--

12 A. The board shall publish a schedule of water
13 project request deadlines each year, including dates for:

14 (1) notifications of intent to submit an
15 application;

16 (2) applications;

17 (3) assignment of applications to technical
18 review teams;

19 (4) the qualifying entities' hearing to be
20 held by the board;

21 (5) evaluations and recommendations, including
22 funding types and sources, from the technical review teams to
23 the board; and

24 (6) review of final recommendations, including
25 priority ranking of water projects and the type and sources of

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1 funding for each project, by the board.

2 B. A qualifying entity shall submit only one
3 application for a water project, even if the water project
4 includes component parts and involves more than one state
5 agency, and may request funding from loans or grants from
6 several sources. The application shall be submitted to the
7 board.

8 C. The office shall forward the application to a
9 technical review team to determine if the threshold
10 requirements have been met.

11 D. If the application passes the threshold
12 requirements, the technical review team shall evaluate the
13 application to determine:

14 (1) if the application proposes the best
15 feasible technical solution to the identified problem;

16 (2) if the water project is in compliance with
17 applicable state and federal laws and rules adopted in
18 accordance with those laws, including the federal Safe Drinking
19 Water Act, Clean Water Act of 1977, National Environmental
20 Policy Act of 1969 and Endangered Species Act of 1973;

21 (3) if the water project is in compliance with
22 the office of the state engineer's water rights and permit
23 requirements;

24 (4) if the water project is consistent with
25 the state water plan and the water capital plan;

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1 (5) the financial and management capability of
2 the applicant; and

3 (6) other requirements required by rule of the
4 board.

5 E. The office shall coordinate the technical review
6 team's evaluation, including data collection and analyses, and
7 shall participate as a member of the technical review team in
8 the evaluation of applications and development of
9 recommendations. The recommendations to the board shall
10 include priority ranking and funding types and sources, and may
11 include technical or other substantive conditions to be
12 included in the final water project approval. The technical
13 review team shall endeavor, insofar as practicable, to make a
14 single consensus recommendation for each water project,
15 including priority ranking and a full funding package that
16 specifies funding sources to the board.

17 F. To be a qualifying water project, the project
18 must be funded as a whole project or be phased in such a way
19 that the result of each phase is a water project with
20 independent utility. The technical review team shall develop a
21 full funding package of the appropriate combination of service
22 rates; state, federal, local and private loans, grants and
23 matching funds; and any other funding sources before ranking a
24 water project as a priority for that year and for the board's
25 consideration.

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1 G. The board shall consider the recommendations of
2 the technical review team and shall take public comments on the
3 recommendations before taking action. The board may change or
4 reject any technical review team recommendation before adopting
5 its own tentative recommendations.

6 H. After a water project is tentatively adopted by
7 the board, it shall submit the water project and its funding
8 package to the state agencies or other entities from which
9 funding is being sought for their approval or denial of the
10 funding request. If a funding request for a water project is
11 denied by a state agency or other entity, the board may:

12 (1) consider other funding mixes;

13 (2) change the water project's priority
14 ranking; or

15 (3) reject the application.

16 I. Based on recommendations from the technical
17 review team and feedback from the state agencies and other
18 entities from which funding is sought, the board shall make its
19 final decisions on priority ranking of applications, funding
20 sources and project conditions."

21 **SECTION 10.** Section 72-4A-7 NMSA 1978 (being Laws 2001,
22 Chapter 164, Section 7, as amended) is amended to read:

23 "72-4A-7. CONDITIONS FOR GRANTS AND LOANS.--

24 A. Grants and loans shall be made only to
25 qualifying entities that:

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1 (1) agree to operate and maintain a water
2 project so that it will function properly over the structural
3 and material design life, which shall not be less than twenty
4 years;

5 (2) require the contractor of a construction
6 project to post a performance and payment bond in accordance
7 with the requirements of Section 13-4-18 NMSA 1978;

8 (3) provide written assurance signed by an
9 attorney or provide a title insurance policy that the
10 qualifying entity has proper title, easements and rights of way
11 to the property upon or through which a water project proposed
12 for funding is to be constructed or extended;

13 (4) meet the requirements of the financial
14 capability set by the board to ensure sufficient revenues to
15 operate and maintain a water project for its useful life and to
16 repay the loan;

17 (5) agree to properly maintain financial
18 records and to conduct an audit of a project's financial
19 records;

20 (6) agree to pay costs of originating grants
21 and loans as determined by rules adopted by the board; and

22 (7) except in the case of an emergency,
23 submit a water conservation plan with its application if
24 required to do so and one is not on file with the state
25 engineer, pursuant to Section 72-14-3.2 NMSA 1978.

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1 B. Plans and specifications for a water project
2 shall be approved by the [~~authority, after review and upon the~~
3 ~~recommendation of the state engineer and the department of~~
4 ~~environment~~] technical review team before grant or loan
5 disbursements to pay for construction costs are made to a
6 qualifying entity. Plans and specifications for a water
7 project shall incorporate available technologies and
8 operational design for water use efficiency.

9 C. Grants and loans shall be made only for eligible
10 items, which include:

- 11 (1) to match federal and local cost shares;
- 12 (2) engineering feasibility reports and asset
13 management plans;
- 14 (3) contracted engineering design;
- 15 (4) inspection of construction;
- 16 (5) special engineering services;
- 17 (6) environmental reports or archaeological
18 clearances and other surveys;
- 19 (7) construction;
- 20 (8) land acquisition;
- 21 (9) easements and rights of way; and
- 22 (10) legal costs and fiscal agent fees, as
23 allowed by law."

24 SECTION 11. Section 72-4A-8 NMSA 1978 (being Laws 2001,
25 Chapter 164, Section 8) is amended to read:

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1 "72-4A-8. WATER TRUST FUND--CREATED--INVESTMENT--
2 DISTRIBUTION.--

3 A. The "water trust fund" is created in the state
4 treasury. The fund shall consist of money appropriated,
5 donated or otherwise accrued to the fund. Money in the fund
6 shall be invested by the state investment officer as land grant
7 permanent funds are invested pursuant to Chapter 6, Article 8
8 NMSA 1978. Earnings from investment of the fund shall be
9 credited to the fund. Money in the fund shall not be expended
10 for any purpose, but an annual distribution shall be made to
11 the water project fund in accordance with Subsection B of this
12 section.

13 B. On July 1 of fiscal year 2003 and on July 1 of
14 each fiscal year thereafter, an annual distribution shall be
15 made from the water trust fund to the water project fund in the
16 amount of four million dollars (\$4,000,000) until that amount
17 is less than an amount equal to four and seven-tenths percent
18 of the average of the year-end market values of the water trust
19 fund for the immediately preceding five calendar years.
20 Thereafter, the amount of the annual distribution shall be four
21 and seven-tenths percent of the average of the year-end market
22 values of the water trust fund for the immediately preceding
23 five calendar years or four million dollars (\$4,000,000),
24 whichever is less."

25 SECTION 12. Section 72-4A-9 NMSA 1978 (being Laws 2001,
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1 Chapter 164, Section 9, as amended) is amended to read:

2 "72-4A-9. WATER PROJECT FUND--CREATED--PURPOSE.--

3 A. The "water project fund" is created as a
4 nonreverting fund in the [~~New Mexico finance authority~~] state
5 treasury and shall consist of distributions made to the fund
6 from the water trust fund and payments of principal of and
7 interest on loans for approved water projects. The fund shall
8 also consist of any other money appropriated, distributed or
9 otherwise allocated to the fund for the purpose of supporting
10 water projects pursuant to provisions of the Water Project
11 Finance Act. The fund shall be administered by the [~~authority~~]
12 office. Income from investment of the water project fund shall
13 be credited to the fund. Balances in the fund at the end of
14 any fiscal year shall not revert to [~~the general~~] any other
15 fund. The water project fund may consist of such subaccounts
16 as the [~~authority~~] office deems necessary to carry out the
17 purposes of the fund. The [~~authority~~] office may establish
18 procedures and adopt rules as required to administer the fund
19 [~~and to recover from the fund costs of administering the fund~~
20 ~~and originating grants and loans~~].

21 B. Ten percent of [~~all~~] the severance tax bond and
22 water trust fund distributions to the water project [~~funds~~]
23 fund shall be dedicated to the state engineer for water rights
24 adjudications, and twenty percent of the money dedicated for
25 water rights adjudications shall be allocated to the

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1 administrative office of the courts for the courts' costs
2 associated with those adjudications.

3 ~~[B.]~~ C. Money in the water project fund may be used
4 to make loans or grants to ~~[qualified]~~ qualifying entities for
5 any qualifying water project ~~[approved by the legislature]~~ and
6 for water rights adjudications.

7 ~~[G.]~~ D. The board may request the New Mexico
8 finance authority ~~[is authorized]~~ to issue revenue bonds
9 payable from the proceeds of loan repayments made into the
10 water project fund upon a determination by the ~~[authority]~~
11 office that issuance of the bonds is necessary to replenish the
12 principal balance of the fund. The net proceeds from the sale
13 of the bonds shall be deposited in the water project fund. The
14 bonds shall be authorized and issued by the New Mexico finance
15 authority in accordance with the provisions of the New Mexico
16 Finance Authority Act."

17 **SECTION 13.** Section 72-4A-9.1 NMSA 1978 (being Laws 2004,
18 Chapter 85, Section 1) is amended to read:

19 "72-4A-9.1. ACEQUIA PROJECT FUND.--The "acequia project
20 fund" is created in the state treasury. The fund shall consist
21 of money appropriated, donated or otherwise accrued to the
22 fund. The fund shall be administered by the ~~[authority]~~
23 office. Income from investment of money in the acequia project
24 fund shall be credited to the fund. Balances in the fund at
25 the end of any fiscal year shall not revert to ~~[the general]~~

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1 any other fund. The acequia project fund may consist of such
2 subaccounts as the [authority] office deems necessary to carry
3 out the purposes of the fund. The [authority] office may
4 establish procedures and adopt rules as required to administer
5 the fund [~~and to recover from the fund costs of administering~~
6 ~~the fund~~]. Money in the acequia project fund may be used to
7 make grants to acequias for any project approved by the
8 [legislature] board."

9 SECTION 14. Section 72-4A-10 NMSA 1978 (being Laws 2001,
10 Chapter 164, Section 10) is repealed and a new Section 72-4A-10
11 NMSA 1978 is enacted to read:

12 "72-4A-10. [NEW MATERIAL] PERIODIC AND ANNUAL REPORTS TO
13 INTERIM COMMITTEES, THE LEGISLATURE AND THE GOVERNOR.--

14 A. The office shall make periodic reports to the
15 appropriate interim committee that focuses on water issues and
16 to the New Mexico finance authority oversight committee to keep
17 them apprised of the work of the board and office. The board
18 shall submit an annual report by December 1 of each year of the
19 activities of the board and office to the legislature and the
20 governor. The report to the legislature shall be filed with
21 the legislative council service library and the legislative
22 finance committee and provided to the chairs of the appropriate
23 interim and standing committees of the legislature and to
24 interested legislators and other interested persons.

25 B. The periodic and annual reports shall include:

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1 (1) the current status of qualifying water
2 projects;

3 (2) the progress of applications through the
4 board's technical review process;

5 (3) how applications fit with the state water
6 plan and the water capital plan;

7 (4) the number and kind of applications that
8 did not meet threshold requirements and the reasons for their
9 failure to meet the requirements;

10 (5) a breakdown of funding sources for
11 priority-ranked water projects;

12 (6) a discussion of updates to the state water
13 plan and the water capital plan; and

14 (7) other information requested by legislative
15 committees or that the board deems of interest to the
16 legislature or the governor.

17 C. The board shall request to present the annual
18 report to appropriate standing committees of the legislature."

19 SECTION 15. Section 6-21-3 NMSA 1978 (being Laws 1992,
20 Chapter 61, Section 3, as amended) is amended to read:

21 "6-21-3. DEFINITIONS.--As used in the New Mexico Finance
22 Authority Act:

23 A. "authority" means the New Mexico finance
24 authority;

25 B. "bond" means any bonds, notes, certificates of

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1 participation or other evidence of indebtedness;

2 C. "bondholder" or "holder" means a person who is
3 the owner of a bond, whether registered or not;

4 D. "emergency public project" means a public
5 project:

6 (1) made necessary by an unforeseen occurrence
7 or circumstance threatening the public health, safety or
8 welfare; and

9 (2) requiring the immediate expenditure of
10 money that is not within the available financial resources of
11 the qualified entity as determined by the authority;

12 E. "public project" means the acquisition,
13 construction, improvement, alteration or reconstruction of
14 assets of a long-term capital nature by a qualified entity,
15 including land; buildings; water rights; water, sewerage and
16 waste disposal systems; streets; airports; municipal utilities;
17 public recreational facilities; public transportation systems;
18 parking facilities; and machinery, furniture and equipment.

19 "Public project" includes all proposed expenditures related to
20 the entire undertaking. "Public project" also includes the
21 acquisition, construction or improvement of real property,
22 buildings, facilities and other assets by the authority for the
23 purpose of leasing the property;

24 F. "qualified entity" means the state or an agency
25 or institution of the state or a county, municipality, school

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1 district, two-year public post-secondary educational
2 institution, charter school, land grant corporation, acequia
3 association, public improvement district, federally chartered
4 college located in New Mexico, intercommunity water or natural
5 gas supply association or corporation, special water, drainage,
6 irrigation or conservancy district or other special district
7 created pursuant to law, nonprofit foundation or other support
8 organization affiliated with a public university, college or
9 other higher educational institution located in New Mexico,
10 including a university research park corporation, an Indian
11 nation, tribe or pueblo located wholly or partially in New
12 Mexico, including a political subdivision or a wholly owned
13 enterprise of an Indian nation, tribe or pueblo or a consortium
14 of those Indian entities or a consortium of any two or more
15 qualified entities created pursuant to law; ~~and~~

16 G. "security" or "securities", unless the context
17 indicates otherwise, means bonds, notes or other evidence of
18 indebtedness issued by a qualified entity or leases or
19 certificates or other evidence of participation in the lessor's
20 interest in and rights under a lease with a qualified entity
21 and that are payable from taxes, revenues, rates, charges,
22 assessments or user fees or from the proceeds of funding or
23 refunding bonds, notes or other evidence of indebtedness of a
24 qualified entity or from certificates or evidence of
25 participation in a lease with a qualified entity; and

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1 H. "water project" means a project that meets
2 federal and state requirements and is:

3 (1) for:

4 (a) storage, conveyance or delivery of
5 water to end users;

6 (b) wastewater treatment, collection and
7 disposal;

8 (c) recoverable water, including
9 brackish water, produced water, gray water and wastewater
10 reuse;

11 (d) implementation of federal Endangered
12 Species Act of 1973 collaborative programs;

13 (e) restoration and management of
14 watersheds;

15 (f) flood control; or

16 (g) water conservation or recycling,
17 treatment or reuse; and

18 (2) a project for which the service area is
19 wholly within the boundaries of the state or is determined by
20 the water trust board to be an interstate water project that
21 directly benefits New Mexico."

22 SECTION 16. Section 6-21-6.1 NMSA 1978 (being Laws 1994,
23 Chapter 145, Section 2, as amended) is amended to read:

24 "6-21-6.1. PUBLIC PROJECT REVOLVING FUND--APPROPRIATIONS
25 TO OTHER FUNDS.--

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1 A. The authority and the department of environment
2 may enter into a joint powers agreement pursuant to the Joint
3 Powers Agreements Act for the purpose of describing and
4 allocating duties and responsibilities with respect to creation
5 of an integrated loan and grant program to be financed through
6 issuance of bonds payable from the public project revolving
7 fund. The bonds may be issued in installments or at one time
8 by the authority in amounts authorized by law. The aggregate
9 amount of bonds authorized and outstanding pursuant to this
10 subsection shall not be greater than the amount of bonds that
11 may be annually repaid from an amount not to exceed thirty-five
12 percent of the governmental gross receipts tax proceeds
13 distributed to the public project revolving fund in the
14 preceding fiscal year. The net proceeds may be used for
15 purposes of the [~~water and wastewater~~] local government
16 planning fund and the water and wastewater project grant fund,
17 as specified in the New Mexico Finance Authority Act and the
18 Water Project Finance Act, or for purposes of the Wastewater
19 Facility Construction Loan Act, the Rural Infrastructure Act,
20 the Solid Waste Act or the Drinking Water State Revolving Loan
21 Fund Act, as provided in the Water Project Finance Act.

22 B. Public projects funded pursuant to the
23 Wastewater Facility Construction Loan Act, the Rural
24 Infrastructure Act, the Solid Waste Act or the Drinking Water
25 State Revolving Loan Fund Act shall not require specific

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1 authorization by law as required in Sections 6-21-6 and 6-21-8
2 NMSA 1978.

3 C. At the end of each fiscal year, after all debt
4 service charges, replenishment of reserves and administrative
5 costs on all outstanding bonds, notes or other obligations
6 payable from the public project revolving fund are satisfied,
7 an aggregate amount not to exceed thirty-five percent of the
8 governmental gross receipts tax proceeds distributed to the
9 public project revolving fund in the preceding fiscal year less
10 all debt service charges and administrative costs of the
11 authority paid in the preceding fiscal year on bonds issued
12 pursuant to this section may be appropriated by the legislature
13 from the public project revolving fund to the following funds
14 for local infrastructure financing; provided that water
15 projects have been priority ranked by the water trust board for
16 the upcoming funding cycle:

17 (1) the wastewater facility construction loan
18 fund for purposes of the Wastewater Facility Construction Loan
19 Act;

20 (2) the rural infrastructure revolving loan
21 fund for purposes of the Rural Infrastructure Act;

22 (3) the solid waste facility grant fund for
23 purposes of the Solid Waste Act;

24 (4) the drinking water state revolving loan
25 fund for purposes of the Drinking Water State Revolving Loan

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1 Fund Act;

2 (5) the water and wastewater project grant
3 fund for purposes specified in the New Mexico Finance Authority
4 Act; or

5 (6) the ~~[water and wastewater]~~ local
6 government planning fund for purposes specified in the New
7 Mexico Finance Authority Act.

8 D. The water trust board, the authority and the
9 department of environment in coordination with the New Mexico
10 finance authority oversight committee may recommend annually to
11 each regular session of the legislature amounts to be
12 appropriated to the funds listed in Subsection C of this
13 section for local infrastructure financing."

14 SECTION 17. Section 6-21-6.3 NMSA 1978 (being Laws 1999,
15 Chapter 186, Section 2, as amended) is amended to read:

16 "6-21-6.3. WATER AND WASTEWATER PROJECT GRANT FUND--
17 CREATION--ADMINISTRATION--PURPOSES.--

18 A. There is created in the authority the "water and
19 wastewater project grant fund", which shall be administered by
20 the authority. The authority shall adopt, in accordance with
21 the New Mexico Finance Authority Act, rules necessary to
22 administer the fund.

23 B. The following shall be deposited directly into
24 the water and wastewater project grant fund:

25 (1) the net proceeds from the sale of bonds

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1 issued pursuant to the provisions of Section 6-21-6.1 NMSA 1978
2 for the purposes of the water and wastewater project grant fund
3 and payable from the public project revolving fund;

4 (2) money appropriated by the legislature to
5 implement the provisions of this section; and

6 (3) any other public or private money
7 dedicated to the fund.

8 C. Money in the water and wastewater project grant
9 fund is appropriated to the authority to make grants to
10 qualified entities for water or wastewater public projects
11 [~~pursuant to specific authorization by law for each project~~]
12 approved by the water trust board, as provided in the Water
13 Project Finance Act, and to pay administrative costs of the
14 water and wastewater project grant program.

15 D. The authority shall adopt rules governing the
16 terms and conditions of grants made from the water and
17 wastewater project grant fund. Except in the circumstances set
18 forth in Subsection F of this section, grants may be made from
19 the fund only with participation from the qualified entity in
20 the form of a local match, which shall be determined by a
21 sliding scale based on the qualified entity's financial
22 capacity to pay a portion of the project from local resources.
23 Grants from the water and wastewater project grant fund may be
24 made only as all or part of financing for a complete project
25 after the [authority] water trust board has determined that the

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1 financing for the complete project is cost effective.

2 E. The authority may make grants from the water and
3 wastewater project grant fund to qualified entities for
4 emergency public projects [~~without specific authorization by~~
5 ~~law~~] approved by the water trust board. Each emergency public
6 project shall be designated as such by the authority prior to
7 making the grant. The aggregate amount of grants for emergency
8 public projects in fiscal years 2003, 2004 and 2005 shall not
9 exceed six million dollars (\$6,000,000) for each fiscal year.
10 The aggregate amount of grants for emergency public projects in
11 fiscal year 2006 and subsequent fiscal years shall not exceed
12 three million dollars (\$3,000,000) for each fiscal year.

13 F. To encourage consolidation of water or
14 wastewater systems and to discourage proliferation of multiple
15 water or wastewater systems, the authority may determine the
16 local match requirement based on the financial capacity of:

17 (1) the residents of the geographic area
18 benefitting from the improvements to be financed with the
19 proceeds of the grant received on their behalf by the qualified
20 entity; or

21 (2) the qualified entity benefitting from the
22 improvements to be financed with the proceeds of the grant when
23 the benefitting qualified entity agrees to consolidate with the
24 qualified entity receiving the grant."

25 SECTION 18. Section 6-21-8 NMSA 1978 (being Laws 1992,

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1 Chapter 61, Section 8, as amended) is amended to read:

2 "6-21-8. PUBLIC PROJECT FINANCE PROGRAM--LOANS--PURCHASE
3 OR SALE OF SECURITIES.--

4 A. To implement a program to assist qualified
5 entities in financing public projects, the authority has the
6 powers specified in this section; provided that the authority
7 shall take no action concerning a project financed with money
8 in the public project revolving fund unless the project is
9 specifically authorized by law or by the water trust board in
10 the case of water projects or authorized pursuant to other
11 provisions of the New Mexico Finance Authority Act.

12 B. The application, evaluation and approval of
13 water projects shall be as provided in the Water Project
14 Finance Act, but the authority's power to provide financing for
15 water projects through the public project finance program and
16 an eligible entity's obligations for water project financing
17 through the authority shall be as provided in this section and
18 Section 6-21-9 NMSA 1978.

19 C. The authority may:

20 [~~A.-~~] (1) make loans to qualified entities that
21 establish one or more dedicated sources of revenue to repay the
22 loan from the authority;

23 [~~B.-~~] (2) make, enter into and enforce all
24 contracts necessary, convenient or desirable for the purposes
25 of the authority or pertaining to:

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1 [~~1~~] (a) a loan to a qualified entity;

2 [~~2~~] (b) a grant to a qualified entity

3 from money available to the authority except money in the

4 public project revolving fund;

5 [~~3~~] (c) a purchase or sale of

6 securities individually or on a pooled basis; or

7 [~~4~~] (d) the performance of its duties

8 and execution of its powers under the New Mexico Finance

9 Authority Act;

10 [~~6~~] (3) purchase or hold securities at prices

11 and in a manner the authority considers advisable, giving due

12 consideration to the financial capability of the qualified

13 entity, and sell securities acquired or held by it at prices

14 without relation to cost and in a manner the authority

15 considers advisable;

16 [~~D~~] (4) prescribe the form of application or

17 procedure required of a qualified entity for a loan or purchase

18 of its securities, fix the terms and conditions of the loan or

19 purchase and enter into agreements with qualified entities with

20 respect to loans or purchases;

21 [~~E~~] (5) charge for its costs and services in

22 review or consideration of a proposed loan to a qualified

23 entity or purchase by the authority of securities, whether or

24 not the loan is made or the securities purchased;

25 [~~F~~] (6) fix and establish terms and

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1 provisions with respect to:

2 [~~(1)~~] (a) a purchase of securities by
3 the authority, including date and maturities of the securities;

4 [~~(2)~~] (b) redemption or payment before
5 maturity; and

6 [~~(3)~~] (c) any other matters that in
7 connection with the purchase are necessary, desirable or
8 advisable in the judgment of the authority;

9 [~~(6)~~] (7) to the extent permitted under its
10 contracts with the holders of bonds of the authority, consent
11 to modification of the rate of interest, time and payment of
12 installment of principal or interest, security or any other
13 term of a bond, contract or agreement of any kind to which the
14 authority is a party;

15 [~~(H)~~] (8) in connection with the purchase of
16 any securities, consider the ability of the qualified entity to
17 secure financing from other sources and the costs of that
18 financing and the particular public project or purpose to be
19 financed or refinanced with the proceeds of the securities to
20 be purchased by the authority;

21 [~~(I)~~] (9) acquire fee simple, leasehold,
22 mortgagor's or mortgagee's interests in real and personal
23 property and to sell, mortgage, convey or lease that property
24 for authority purposes; and

25 [~~(J)~~] (10) in the event of default by a

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1 qualified entity, enforce its rights by suit or mandamus or may
2 use all other available remedies under state law."

3 SECTION 19. Section 6-21A-1 NMSA 1978 (being Laws 1997,
4 Chapter 144, Section 1) is amended to read:

5 "6-21A-1. SHORT TITLE.--~~[Sections 1 through 9 of this~~
6 ~~act]~~ Chapter 6, Article 21A NMSA 1978 may be cited as the
7 "Drinking Water State Revolving Loan Fund Act"."

8 SECTION 20. Section 6-21A-3 NMSA 1978 (being Laws 1997,
9 Chapter 144, Section 3, as amended) is amended to read:

10 "6-21A-3. DEFINITIONS.--As used in the Drinking Water
11 State Revolving Loan Fund Act:

- 12 A. "authority" means the New Mexico finance
13 authority;
- 14 B. "department" means the department of
15 environment;
- 16 C. "drinking water facility construction project"
17 means the acquisition, design, construction, improvement,
18 expansion, repair or rehabilitation of all or part of any
19 structure, facility or equipment necessary for a drinking water
20 system or water supply system;
- 21 D. "drinking water supply facility" means any
22 structure, facility or equipment necessary for a drinking water
23 system or water supply system;
- 24 E. "financial assistance" means loans, the purchase
25 or refinancing of debt obligation of a local authority at an

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1 interest rate that is less than or equal to the market interest
2 rate in any case in which a debt obligation is incurred after
3 July 1, 1993, loan guarantees, bond insurance or security for
4 revenue bonds issued by the authority;

5 F. "fund" means the drinking water state revolving
6 loan fund;

7 G. "local authority" means any municipality,
8 county, incorporated county, sanitation district, water and
9 sanitation district or any similar district, public or private
10 water cooperative or association or any similar organization,
11 public or private community water system or nonprofit
12 noncommunity water system or any other agency created pursuant
13 to a joint powers agreement acting on behalf of any entity
14 listed in this subsection with a publicly owned drinking water
15 system or water supply system that qualifies as a community
16 water system or nonprofit noncommunity system as defined by the
17 Safe Drinking Water Act. "Local authority" does not include
18 systems owned by federal agencies;

19 H. "operate and maintain" means to perform all
20 necessary activities, including the replacement of equipment or
21 appurtenances, to assure the dependable and economical function
22 of a drinking water facility in accordance with its intended
23 purpose; ~~[and]~~

24 I. "Safe Drinking Water Act" means the federal Safe
25 Drinking Water Act as amended in 1996 and its subsequent

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1 amendments or successor provisions; and

2 J. "technical review team" means the team of state
3 agencies and other entities, including the authority, that
4 review drinking water facility construction projects for
5 priority ranking for funding purposes pursuant to the Water
6 Project Finance Act."

7 SECTION 21. Section 6-21A-4 NMSA 1978 (being Laws 1997,
8 Chapter 144, Section 4, as amended) is amended to read:

9 "6-21A-4. FUND CREATED--ADMINISTRATION.--

10 A. There is created in the authority a revolving
11 loan fund to be known as the "drinking water state revolving
12 loan fund", which shall be administered by the authority. The
13 authority is authorized to establish procedures required to
14 administer the fund in accordance with the Safe Drinking Water
15 Act and state laws. [~~The authority and the department shall,~~
16 ~~whenever possible, coordinate application procedures and~~
17 ~~funding cycles with the New Mexico Community Assistance Act.~~]

18 B. The following shall be deposited directly in the
19 fund:

20 (1) grants from the federal government or its
21 agencies allotted to the state for capitalization of the fund;

22 (2) funds as appropriated by the legislature
23 to implement the provisions of the Drinking Water State
24 Revolving Loan Fund Act or to provide state matching funds that
25 are required by the terms of any federal grant under the Safe

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1 Drinking Water Act;

2 (3) loan principal, interest and penalty
3 payments if required by the terms of any federal grant under
4 the Safe Drinking Water Act;

5 (4) any other public or private money
6 dedicated to the fund; and

7 (5) revenue transferred from other state
8 revolving funds.

9 C. Money in the fund is appropriated for
10 expenditure by the authority in a manner consistent with the
11 terms and conditions of the federal capitalization grants and
12 the Safe Drinking Water Act and may be used:

13 (1) to provide loans for the construction or
14 rehabilitation of drinking water facilities;

15 (2) to buy or refinance the debt obligation of
16 a local authority at an interest rate that is less than or
17 equal to the market interest rate in any case in which a debt
18 obligation is incurred after July 1, 1993;

19 (3) to guarantee or purchase insurance for
20 obligations of local authorities to improve credit market
21 access or reduce interest rates;

22 (4) to provide loan guarantees for similar
23 revolving funds established by local authorities; and

24 (5) to provide a source of revenue or security
25 for the repayment of principal and interest on bonds issued by

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1 the authority if the proceeds of the bonds are deposited in the
2 fund or if the proceeds of the bonds are used to make loans to
3 local authorities to the extent provided in the terms of the
4 federal grant.

5 D. If needed to cover administrative expenses,
6 pursuant to procedures established by the authority, the
7 authority may impose and collect a fee from each local
8 authority that receives financial assistance from the fund,
9 which fee shall be used solely for the costs of administering
10 the fund and which fee shall be kept outside the fund.

11 E. Money not currently needed for the operation of
12 the fund or otherwise dedicated may be invested pursuant to the
13 New Mexico Finance Authority Act and all interest earned on
14 such investments shall be credited to the fund. Money
15 remaining in the fund at the end of the fiscal year shall not
16 revert to the general fund but shall accrue to the credit of
17 the fund.

18 F. The authority shall maintain full authority for
19 the operation of the fund in accordance with applicable federal
20 and state law, including, in cooperation with the department,
21 ensuring the loan recipients are on the [~~state~~] water trust
22 board's priority ranking list [~~or~~] and otherwise satisfy the
23 Safe Drinking Water Act requirements.

24 G. The authority shall establish fiscal controls
25 and accounting procedures that are sufficient to assure proper

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1 accounting for fund payments, disbursements and balances and
2 shall provide, in cooperation with the department, a biannual
3 report and an annual independent audit on the fund to the
4 governor and to the United States environmental protection
5 agency as required by the Safe Drinking Water Act."

6 SECTION 22. Section 6-21A-5 NMSA 1978 (being Laws 1997,
7 Chapter 144, Section 5) is amended to read:

8 "6-21A-5. LOAN PROGRAM--ADMINISTRATION.--

9 A. The authority shall establish a program to
10 provide financial assistance from the fund to local
11 authorities, individually or jointly, for acquisition,
12 construction or modification of drinking water facilities. The
13 authority is authorized to enter into memoranda of
14 understanding, contracts and other agreements to carry out the
15 provisions of the Drinking Water State Revolving Loan Fund Act,
16 including but not limited to memoranda of understanding,
17 contracts and agreements with federal agencies, the department,
18 the water trust board, local authorities and other parties.

19 B. The department shall [~~adopt, by regulation, a~~
20 ~~system for the~~] use the water trust board's priority ranking of
21 drinking water facility construction projects requesting
22 financial assistance [~~and for the development of a priority~~
23 ~~list~~], which will be part of the annual intended use plan, as
24 required by the Safe Drinking Water Act.

25 C. The department shall adopt [~~regulations~~] rules

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1 or internal procedures addressing the mechanism for the
2 preparation of the annual intended use plan and the content of
3 ~~[such]~~ the plan and shall prepare ~~[such]~~ the plan, with the
4 assistance of the water trust board and the authority, as
5 required by the Safe Drinking Water Act and the capitalization
6 grant agreement. The ~~[department]~~ technical review team shall
7 review all proposals for drinking water facility construction
8 projects, including but not limited to project plans and
9 specifications for compliance with the requirements of the Safe
10 Drinking Water Act and the requirements of state laws and
11 ~~[regulations]~~ rules governing the construction and operation of
12 drinking water supply facilities. The ~~[department]~~ technical
13 review team also shall determine whether a local authority has
14 demonstrated adequate technical and managerial capability to
15 operate the drinking water supply facility for its useful life
16 in compliance with the requirements of the Safe Drinking Water
17 Act and with the requirements of state laws and ~~[regulations]~~
18 rules governing the operation of drinking water supply
19 facilities.

20 D. The department and the authority shall enter
21 into an agreement for the purpose of describing and allocating
22 duties and responsibilities with respect to monitoring the
23 construction of drinking water facility construction projects
24 that have been provided financial assistance pursuant to the
25 provisions of the Drinking Water State Revolving Loan Fund Act
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1 to ensure compliance with the requirements of the Safe Drinking
2 Water Act and with the requirements of state laws and
3 [~~regulations~~] rules governing construction and operation of
4 drinking water supply facilities.

5 E. The department shall adopt [~~regulations~~] rules
6 or internal procedures that do not conflict with the Water
7 Project Finance Act establishing the criteria and method for
8 the distribution of annual capitalization grant funds between
9 the fund and the nonproject activities (set-asides) allowed by
10 the Safe Drinking Water Act and for the description in the
11 intended use plan and annual report of the financial
12 programmatic status of the nonproject activities (set-asides)
13 allowed by the Safe Drinking Water Act.

14 F. The authority, with the assistance of the
15 department and the water trust board, shall establish
16 procedures to identify affordability criteria for a
17 disadvantaged community and to extend a program to assist such
18 communities.

19 G. The department shall set up separate accounts
20 outside the fund to use for nonproject activities (set-asides)
21 [~~activities~~] authorized under the Safe Drinking Water Act,
22 Sections 1452 (g) and 1452 (k), and the authority shall set up
23 a separate account outside the fund for administration of the
24 fund. The department shall also provide the additional match
25 for Safe Drinking Water Act, Section 1452 (g) (2) activities.

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1 H. In consultation with the water trust board, the
2 department shall prepare and submit applications for
3 capitalization grants to the United States environmental
4 protection agency as required by the Safe Drinking Water Act."

5 SECTION 23. Section 6-21A-6 NMSA 1978 (being Laws 1997,
6 Chapter 144, Section 6) is amended to read:

7 "6-21A-6. FINANCIAL ASSISTANCE--CRITERIA.--

8 A. Financial assistance shall be provided only to
9 local authorities that:

10 (1) meet the requirements for financial
11 capability set by the water trust board and the authority to
12 assure sufficient revenues to operate and maintain the drinking
13 water facility for its useful life and to repay the financial
14 assistance;

15 (2) appear on the priority list for the fund,
16 developed and maintained by the [~~department~~] water trust board,
17 regardless of rank on such list;

18 (3) are considered by the water trust board,
19 the authority and the department ready to proceed with the
20 project;

21 (4) demonstrate adequate technical and
22 managerial capability to operate the drinking water facility
23 for its useful life; and

24 (5) meet other requirements established by the
25 water trust board, the authority and state laws, including but

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1 not limited to procurement, recordkeeping and accounting.

2 B. Loans from the fund shall be made by the
3 authority only to local authorities that establish one or more
4 dedicated sources of revenue to repay the money received from
5 the fund and to provide for operation, maintenance and
6 equipment replacement expenses of the drinking water facility
7 proposed for funding.

8 C. The authority, with assistance from the
9 department and the water trust board, shall establish
10 procedures addressing methods to provide financial assistance
11 to local authorities in accordance with the criteria set forth
12 in the Safe Drinking Water Act, Section 1452 (a) (3).

13 D. Each loan made by the authority shall provide
14 that repayment of the loan shall begin not later than one year
15 after completion of construction of the drinking water facility
16 for which the loan was made and shall be repaid in full no
17 later than twenty years after completion of the construction,
18 except in the case of a disadvantaged community [~~in which~~
19 ~~case~~]. The authority may extend the term of the loan to a
20 disadvantaged community, as long as the extended term:

21 (1) terminates not later than the date that is
22 thirty years after the date of project completion; and

23 (2) does not exceed the expected design life
24 of the project.

25 E. Financial assistance may be made with an annual

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1 interest rate [~~which~~] that is less than a market rate as
2 determined by procedures established by the authority and
3 reported annually in the intended use plan prepared by the
4 department, with the assistance of the authority and the water
5 trust board.

6 F. Financial assistance pursuant to the Drinking
7 Water State Revolving Loan Fund Act shall not be given to a
8 local authority if the technical review team, the water trust
9 board or the authority determines that the financial assistance
10 is for a drinking water facility to be constructed in
11 fulfillment or partial fulfillment of requirements made of a
12 subdivider under the provisions of the Land Subdivision Act or
13 the New Mexico Subdivision Act.

14 G. Financial assistance may be made to local
15 authorities that employ or contract with a registered
16 professional engineer to provide and be responsible for
17 engineering services on the drinking water facility. Such
18 services, if the water trust board and the authority determines
19 such services are needed, may include but are not limited to an
20 engineering report, facility plans, environmental evaluations,
21 construction contract documents, supervision of construction
22 and start-up services.

23 H. Financial assistance shall be made only for
24 eligible items as described by authority procedures and as
25 identified pursuant to the federal Safe Drinking Water Act."

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1 SECTION 24. Section 6-29-1 NMSA 1978 (being Laws 2005,
2 Chapter 146, Section 1) is amended to read:

3 "6-29-1. SHORT TITLE.--~~[This act]~~ Chapter 6, Article 29
4 NMSA 1978 may be cited as the "Tribal Infrastructure Act"."

5 SECTION 25. Section 6-29-3 NMSA 1978 (being Laws 2005,
6 Chapter 146, Section 3) is amended to read:

7 "6-29-3. DEFINITIONS.--As used in the Tribal
8 Infrastructure Act:

9 A. "board" means the tribal infrastructure board;

10 B. "department" means the Indian affairs
11 department;

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

14 D. "governor" means the governor of New Mexico;

15 E. "project fund" means the tribal infrastructure
16 project fund;

17 F. "qualified project" means a tribal
18 infrastructure project selected by the board for financial
19 assistance pursuant to the Tribal Infrastructure Act;

20 G. "tribe" means a federally recognized Indian
21 nation, tribe or pueblo located wholly or partially in New
22 Mexico or any of its governmental entities or subdivisions;
23 [~~and~~]

24 H. "trust fund" means the tribal infrastructure
25 trust fund; and

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1 I. "water project" means a project that meets
2 federal and state requirements and is:

3 (1) for:

4 (a) storage, conveyance or delivery of
5 water to end users;

6 (b) wastewater treatment, collection and
7 disposal;

8 (c) recoverable water, including
9 brackish water, produced water, gray water and wastewater
10 reuse;

11 (d) implementation of federal Endangered
12 Species Act of 1973 collaborative programs;

13 (e) restoration and management of
14 watersheds;

15 (f) flood control; or

16 (g) water conservation or recycling,
17 treatment or reuse; and

18 (2) a project for which the service area is
19 wholly within the boundaries of the state or is determined by
20 the water trust board to be an interstate water project that
21 directly benefits New Mexico."

22 SECTION 26. Section 6-29-5 NMSA 1978 (being Laws 2005,
23 Chapter 146, Section 5) is amended to read:

24 "6-29-5. BOARD--DUTIES.--

25 A. Except as provided in Subsection B of this

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1 section, the board shall:

2 [~~A-~~] (1) adopt rules governing terms,
3 conditions and priorities for providing financial assistance to
4 tribes, including developing application and evaluation
5 procedures and forms and qualifications for applicants and for
6 projects;

7 [~~B-~~] (2) provide financial assistance to
8 tribes for qualified projects on terms and conditions
9 established by the board; and

10 [~~C-~~] (3) authorize funding for qualified
11 projects, including:

12 [~~(1)~~] (a) planning, designing,
13 constructing, improving, expanding or equipping water and
14 wastewater facilities, major water systems, electrical power
15 lines, communications infrastructure, roads, health
16 infrastructure, emergency response facilities and
17 infrastructure needed to encourage economic development;

18 [~~(2)~~] (b) developing engineering
19 feasibility reports for infrastructure projects;

20 [~~(3)~~] (c) inspecting construction of
21 qualified projects;

22 [~~(4)~~] (d) providing special engineering
23 services;

24 [~~(5)~~] (e) completing environmental
25 assessments or archaeological clearances and other surveys for

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1 infrastructure projects;

2 [~~(6)~~] (f) acquiring land, easements or
3 rights of way; and

4 [~~(7)~~] (g) paying legal costs and fiscal
5 agent fees associated with development of qualified projects.

6 B. All applications for water project funding shall
7 be submitted to the water trust board pursuant to the Water
8 Project Finance Act. After a water project application that
9 relates to tribal land has been evaluated and priority ranked
10 by the water trust board, its recommendation on the water
11 project, including loans or grants from the project fund, shall
12 be submitted to the tribal infrastructure board for its
13 approval or rejection of the water trust board's funding
14 request. If the tribal infrastructure board rejects the water
15 trust board's recommendation for funding from the project fund,
16 the water project may be denied by the water trust board."

17 SECTION 27. Section 6-29-7 NMSA 1978 (being Laws 2005,
18 Chapter 146, Section 7) is amended to read:

19 "6-29-7. TRIBAL INFRASTRUCTURE PROJECT FUND--
20 CREATED--PURPOSE--APPROPRIATIONS.--

21 A. The "tribal infrastructure project fund" is
22 created in the state treasury and:

23 (1) the department of finance and
24 administration shall administer the project fund;

25 (2) the project fund shall consist of:

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1 (a) distributions made to it from the
2 trust fund;

3 (b) payments of principal and interest
4 on loans for qualified projects;

5 (c) other money appropriated by the
6 legislature or distributed or otherwise allocated to the
7 project fund for the purpose of supporting qualified projects;
8 and

9 (d) income from investment of the money
10 in the project fund that shall be credited to the project fund;

11 (3) balances in the project fund at the end of
12 a fiscal year shall not revert to the trust fund or to the
13 general fund; and

14 (4) the project fund may consist of
15 subaccounts as determined to be necessary by the department of
16 finance and administration.

17 B. The department of finance and administration may
18 establish procedures and adopt rules as required to administer
19 the project fund and to originate grants or loans for qualified
20 projects approved by the board.

21 C. Beginning in fiscal year 2006 and in subsequent
22 years, the lesser of one percent of the project fund or one
23 hundred thousand dollars (\$100,000) is appropriated from the
24 project fund to the department of finance and administration
25 for expenditure in the fiscal year in which it is appropriated,

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1 to administer the project fund. Any unexpended or unencumbered
2 balance remaining at the end of any fiscal year shall revert to
3 the project fund.

4 D. Beginning in fiscal year 2006 and in each
5 subsequent year, the lesser of five percent of the project fund
6 or five hundred thousand dollars (\$500,000) is appropriated
7 from the project fund to the Indian affairs department for
8 expenditure in the fiscal year in which it is appropriated to
9 administer the Tribal Infrastructure Act, to pay per diem and
10 mileage as required by that act and for operation of the board.
11 Any unexpended or unencumbered balance remaining at the end of
12 any fiscal year shall revert to the project fund.

13 E. The balance in the project fund not otherwise
14 appropriated in this section is appropriated to the department
15 of finance and administration for expenditure in fiscal year
16 2006 and in subsequent fiscal years to carry out the provisions
17 of the Tribal Infrastructure Act by providing grants or loans
18 for qualified projects; provided that in fiscal year 2015 and
19 subsequent fiscal years, grants or loans for water projects
20 shall not be provided unless evaluated, approved and priority
21 ranked by the water trust board. Any unexpended or
22 unencumbered balance remaining at the end of a fiscal year
23 shall revert to the project fund."

24 SECTION 28. Section 6-30-1 NMSA 1978 (being Laws 2010,
25 Chapter 10, Section 1) is amended to read:

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1 "6-30-1. SHORT TITLE.--~~[Sections 1 through 8 of this act]~~
2 Chapter 6, Article 30 NMSA 1978 may be cited as the "Colonias
3 Infrastructure Act"."

4 SECTION 29. Section 6-30-3 NMSA 1978 (being Laws 2010,
5 Chapter 10, Section 3) is amended to read:

6 "6-30-3. DEFINITIONS.--As used in the Colonias
7 Infrastructure Act:

8 A. "authority" means the New Mexico finance
9 authority;

10 B. "board" means the colonias infrastructure board;

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

14 (1) has been designated as a colonia by the
15 municipality or county in which it is located because of a:

16 (a) lack of potable water supply;

17 (b) lack of adequate sewage systems; or

18 (c) lack of decent, safe and sanitary

19 housing;

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

22 (3) has submitted appropriate documentation to
23 the board to substantiate the conditions of this subsection,
24 including documentation that supports the designation of the
25 municipality or county;

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

3 E. "project fund" means the colonias infrastructure
4 project fund;

5 F. "qualified entity" means a county, municipality
6 or other entity recognized as a political subdivision of the
7 state;

8 G. "qualified project" means a capital outlay
9 project selected by the board for financial assistance that is
10 primarily intended to develop colonias infrastructure. A
11 qualified project may include a water system, a wastewater
12 system, solid waste disposal facilities, flood and drainage
13 control, roads or housing infrastructure; but "qualified
14 project" does not include general operation and maintenance,
15 equipment, housing allowance payments or mortgage subsidies;
16 [~~and~~]

17 H. "trust fund" means the colonias infrastructure
18 trust fund; and

19 I. "water project" means a project that meets
20 federal and state requirements and is:

21 (1) for:

22 (a) storage, conveyance or delivery of
23 water to end users;

24 (b) wastewater treatment, collection and
25 disposal;

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1 (c) recoverable water, including
2 brackish water, produced water, gray water and wastewater
3 reuse;

4 (d) implementation of federal Endangered
5 Species Act of 1973 collaborative programs;

6 (e) restoration and management of
7 watersheds;

8 (f) flood control; or

9 (g) water conservation or recycling,
10 treatment or reuse; and

11 (2) a project for which the service area is
12 wholly within the boundaries of the state or is determined by
13 the water trust board to be an interstate water project that
14 directly benefits New Mexico."

15 SECTION 30. Section 6-30-5 NMSA 1978 (being Laws 2010,
16 Chapter 10, Section 5) is amended to read:

17 "6-30-5. BOARD--DUTIES.--

18 A. Except as provided in Subsection B of this
19 section, the board shall:

20 [~~A-~~] (1) promulgate such rules as are
21 necessary to govern the acceptance, evaluation and
22 prioritization of applications submitted by qualified entities
23 for financial assistance;

24 [~~B-~~] (2) after applications have been
25 processed and evaluated by the authority, prioritize the

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1 qualified projects for financial assistance; and

2 [~~6-~~] (3) upon such terms and conditions as are
3 established by the authority, recommend the prioritized
4 projects to the authority for financial assistance for:

5 [~~1~~] (a) planning, designing,
6 constructing, improving or expanding a qualified project;

7 [~~2~~] (b) developing engineering
8 feasibility reports for qualified projects;

9 [~~3~~] (c) inspecting construction of
10 qualified projects;

11 [~~4~~] (d) providing professional
12 services;

13 [~~5~~] (e) completing environmental
14 assessments or archaeological clearances and other surveys for
15 qualified projects;

16 [~~6~~] (f) acquiring land, water rights,
17 easements or rights of way; or

18 [~~7~~] (g) paying legal costs and fiscal
19 agent fees associated with development of qualified projects.

20 B. All applications for water project funding shall
21 be submitted to the water trust board pursuant to the Water
22 Project Finance Act. After a water project application that
23 relates to a colonia has been evaluated and priority ranked by
24 the water trust board, its recommendation on the water project,
25 including loans or grants from the project fund, shall be

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1 submitted to the colonias infrastructure board for its approval
2 or rejection of the water trust board's funding request. If
3 the colonias infrastructure board rejects the water trust
4 board's recommendation for funding from the project fund, the
5 water project may be denied by the water trust board."

6 SECTION 31. Section 6-30-6 NMSA 1978 (being Laws 2010,
7 Chapter 10, Section 6) is amended to read:

- 8 "6-30-6. AUTHORITY--DUTIES.--The authority shall:
- 9 A. provide staff support to the board;
 - 10 B. administer the project fund;
 - 11 C. at the direction of the board, process, review
12 and evaluate applications for financial assistance from
13 qualified entities except applications for water projects; and
 - 14 D. at the direction of the board, administer
15 qualified projects that receive financial assistance."

16 SECTION 32. Section 6-30-8 NMSA 1978 (being Laws 2010,
17 Chapter 10, Section 8) is amended to read:

- 18 "6-30-8. COLONIAS INFRASTRUCTURE PROJECT FUND--
19 CREATED--PURPOSE--APPROPRIATIONS.--
- 20 A. The "colonias infrastructure project fund" is
21 created in the authority and shall be administered by the
22 authority.
 - 23 B. The project fund shall consist of:
 - 24 (1) distributions from the trust fund;
 - 25 (2) payments of principal and interest on

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1 loans for qualified projects;

2 (3) other money appropriated by the
3 legislature or distributed or otherwise allocated to the
4 project fund for the purpose of supporting qualified projects;

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

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

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

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

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

17 (1) administer the project fund;

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

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

23 (4) except for water projects, govern the
24 process through which qualified entities may apply for
25 financial assistance from the project fund."

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1 SECTION 33. Section 7-27-10.1 NMSA 1978 (being Laws 2003,
2 Chapter 134, Section 1, as amended) is amended to read:

3 "7-27-10.1. BONDING CAPACITY--AUTHORIZATION FOR SEVERANCE
4 TAX BONDS--PRIORITY FOR WATER PROJECTS AND TRIBAL
5 INFRASTRUCTURE PROJECTS.--

6 A. By January 15 of each year, the board of finance
7 division of the department of finance and administration shall
8 estimate the amount of bonding capacity available for severance
9 tax bonds to be authorized by the legislature.

10 B. The division shall allocate ten percent of the
11 estimated bonding capacity each year for water projects, and
12 the legislature authorizes the state board of finance to issue
13 severance tax bonds in the annually allocated amount for use by
14 the water trust board to fund water projects statewide, except
15 for projects authorized in Subsection E of this section. The
16 water trust board shall certify to the state board of finance
17 the need for issuance of bonds for water projects. The state
18 board of finance may issue and sell the bonds in the same
19 manner as other severance tax bonds in an amount not to exceed
20 the authorized amount provided for in this subsection. If
21 necessary, the state board of finance shall take the
22 appropriate steps to comply with the federal Internal Revenue
23 Code of 1986, as amended. Proceeds from the sale of the bonds
24 are appropriated to the water project fund [~~in the New Mexico~~
25 ~~finance authority~~] for the purposes certified by the water

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1 trust board to the state board of finance.

2 C. The board of finance division shall allocate
3 five percent of the estimated bonding capacity each year for
4 tribal infrastructure projects, and the legislature authorizes
5 the state board of finance to issue severance tax bonds in the
6 annually allocated amount for use by the tribal infrastructure
7 board to fund tribal infrastructure projects. The tribal
8 infrastructure board shall certify to the state board of
9 finance the need for issuance of bonds for tribal
10 infrastructure projects. The state board of finance may issue
11 and sell the bonds in the same manner as other severance tax
12 bonds in an amount not to exceed the authorized amount provided
13 for in this subsection. If necessary, the state board of
14 finance shall take the appropriate steps to comply with the
15 federal Internal Revenue Code of 1986, as amended. Proceeds
16 from the sale of the bonds are appropriated to the tribal
17 infrastructure project fund for the purposes certified by the
18 tribal infrastructure board to the state board of finance.

19 D. Money from the severance tax bonds provided for
20 in this section shall not be used to pay indirect project
21 costs. Any unexpended balance from proceeds of severance tax
22 bonds issued for a water project or a tribal infrastructure
23 project shall revert to the severance tax bonding fund within
24 six months of completion of the project. The ~~[New Mexico~~
25 ~~finance authority]~~ water trust board shall monitor and ensure

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1 proper reversions of the bond proceeds appropriated for water
2 projects, and the department of finance and administration
3 shall monitor and ensure proper reversions of the bond proceeds
4 appropriated for tribal infrastructure projects.

5 E. The board of finance division of the department
6 of finance and administration shall:

7 (1) void the authorization to the water
8 project fund held at the New Mexico finance authority to make
9 grants or loans of severance tax bond proceeds for projects
10 pursuant to Subsection U of Section 1 of Chapter 41 of Laws
11 2006 for the northwest New Mexico council of governments in
12 McKinley county for a water distribution project and Subsection
13 25 of Section 1 of Chapter 139 of Laws 2007 for the Navajo
14 Nation division of natural resources department of water
15 resources water management branch for a regional water project
16 in Rio Arriba, Sandoval, McKinley, San Juan and Cibola
17 counties; and

18 (2) authorize the department of environment to
19 make a grant of the unexpended proceeds of severance tax bonds
20 issued in fiscal years 2006 and 2007 for the purposes of the
21 water project fund to be used for the authorizations identified
22 in Paragraph (1) of this subsection and appropriate to the
23 department of environment five million three hundred seventy-
24 five thousand two hundred forty-four dollars (\$5,375,244) for
25 the Navajo Nation division of natural resources department of

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1 water resources water management branch for a regional water
2 distribution project in Rio Arriba, Sandoval, McKinley, San
3 Juan and Cibola counties. Any unexpended balance of the funds
4 authorized for expenditure in this section shall revert to the
5 severance tax bonding fund at the end of fiscal year 2013 or
6 upon completion of the project, whichever is earlier.

7 F. As used in this section:

8 (1) "tribal infrastructure project" means a
9 qualified project under the Tribal Infrastructure Act; and

10 (2) "water project" means a ~~[capital outlay~~
11 ~~project for:~~

12 ~~(a) the storage, conveyance or delivery~~
13 ~~of water to end users;~~

14 ~~(b) the implementation of federal~~
15 ~~Endangered Species Act of 1973 collaborative programs;~~

16 ~~(c) the restoration and management of~~
17 ~~watersheds;~~

18 ~~(d) flood prevention; or~~

19 ~~(e) conservation, recycling, treatment~~
20 ~~or reuse of water] project that meets federal and state~~
21 requirements and is:

22 (a) for: 1) storage, conveyance or
23 delivery of water to end users; 2) wastewater treatment,
24 collection and disposal; 3) recoverable water, including
25 brackish water, produced water, gray water and wastewater

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1 reuse; 4) implementation of federal Endangered Species Act of
2 1973 collaborative programs; 5) restoration and management of
3 watersheds; 6) flood control; or 7) water conservation or
4 recycling, treatment or reuse; and

5 (b) a project for which the service area
6 is wholly within the boundaries of the state or is determined
7 by the water trust board to be an interstate water project that
8 directly benefits New Mexico."

9 SECTION 34. Section 11-6-3 NMSA 1978 (being Laws 1977,
10 Chapter 299, Section 3, as amended) is amended to read:

11 "11-6-3. DEFINITIONS.--As used in the New Mexico
12 Community Assistance Act:

13 A. "council" means the New Mexico community
14 development council;

15 B. "project" means, except as limited by the
16 [~~state~~] constitution of New Mexico, the purchase, construction,
17 lease, gift, grant, reconstruction, improvement, option to
18 purchase or other acquisition of educational, cultural,
19 recreational, community, municipal, social service or other
20 facilities by a political subdivision, including but not
21 limited to publicly owned water systems, sewer systems,
22 municipal utilities, roads, streets, highways, curbs, gutters,
23 sidewalks, storm sewers, street lighting, traffic control
24 devices, parking facilities, vocational training and
25 rehabilitation facilities, airports, hospitals, nursing homes,

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1 publicly owned mental health, alcohol and drug abuse, child
2 abuse and family counseling facilities, juvenile detention
3 homes, swimming pools, parks, auditoriums, public buildings,
4 libraries, fire and police stations, jails, waste disposal
5 systems and sites, special assessment district improvements and
6 all necessary real and personal property therefor, but does not
7 include facilities for the public schools;

8 C. "community assistance program" means a program
9 to assist political subdivisions with infrastructure
10 development, which may include but is not limited to:

11 (1) a grant or loan of funds to the political
12 subdivisions;

13 (2) gathering data about the political
14 subdivisions;

15 (3) providing technical assistance to analyze
16 the needs and seek solutions to problems related to
17 infrastructure development in political subdivisions; and

18 (4) providing technical assistance in seeking
19 funds from sources other than the council;

20 D. "division" means the local government division
21 of the department of finance and administration; ~~[and]~~

22 E. "political subdivision" means any county;
23 incorporated city, town or village; drainage, conservancy,
24 irrigation, water and sanitation or other district; mutual
25 domestic association; public water cooperative association; or

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1 community ditch association; and

2 F. "water project" means a project that meets
3 federal and state requirements and is:

4 (1) for:

5 (a) storage, conveyance or delivery of
6 water to end users;

7 (b) wastewater treatment, collection and
8 disposal;

9 (c) recoverable water, including
10 brackish water, produced water, gray water and wastewater
11 reuse;

12 (d) implementation of federal Endangered
13 Species Act of 1973 collaborative programs;

14 (e) restoration and management of
15 watersheds;

16 (f) flood control; or

17 (g) water conservation or recycling,
18 treatment or reuse; and

19 (2) a project for which the service area is
20 wholly within the boundaries of the state or is determined by
21 the water trust board to be an interstate water project that
22 directly benefits New Mexico."

23 SECTION 35. Section 11-6-4.1 NMSA 1978 (being Laws 1981
24 (1st S.S.), Chapter 11, Section 3, as amended) is amended to
25 read:

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1 "11-6-4.1. [~~REGULATIONS~~] RULES.--

2 A. The council, after public hearing, shall adopt
3 [~~regulations~~] rules to provide for:

4 (1) procedures and forms for making grants
5 under the New Mexico Community Assistance Act;

6 (2) documentation to be provided by the
7 proposed grantee to justify the need for the community
8 assistance program;

9 (3) procedures for review, evaluation and
10 approval of grants;

11 (4) procedures for reporting by the grantee of
12 programmatic, organizational and financial information
13 necessary to the review, evaluation and approval of a proposed
14 or existing grant to be funded or [~~which~~] that is funded by the
15 council;

16 (5) a guide for the evaluation of the ability
17 and competence of a proposed or existing grantee to efficiently
18 and adequately provide for the completion of the project;

19 (6) development and phase-in of a common
20 application form and funding cycle insofar as practical for all
21 state and federal grant or loan programs for local community
22 infrastructure development administered or coordinated by the
23 division;

24 (7) procedures for the coordination and
25 handling of applications for all state and federal grant or

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1 loan programs administered and coordinated by the division;
2 provided that water projects shall follow the procedures
3 specified in the Water Project Finance Act;

4 (8) procedures to control the number of
5 applications from each political subdivision; and

6 (9) such other requirements deemed necessary
7 by the council to ensure that the state receives the services
8 for which the legislature appropriated money.

9 B. [~~Regulations~~] Rules adopted by the council shall
10 become effective when filed according to the provisions of the
11 State Rules Act."

12 SECTION 36. Section 11-6-5.1 NMSA 1978 (being Laws 1984,
13 Chapter 5, Section 7) is amended to read:

14 "11-6-5.1. POWERS AND DUTIES OF THE DIVISION.--The
15 division, in accordance with [~~regulations~~] rules adopted
16 pursuant to Section 11-6-4.1 NMSA 1978, shall have the power
17 and duty to:

18 A. act as a clearinghouse, provide coordination and
19 handle applications for all state and federal grant or loan
20 programs for local community infrastructure development, except
21 water projects, which shall be applied for, coordinated and
22 ranked as provided in the Water Project Finance Act;

23 B. develop and adopt, insofar as possible, a common
24 application form and funding cycle for [~~all~~] state and federal
25 grant or loan programs for local community infrastructure

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1 development, including but not limited to programs under the
2 New Mexico Community Assistance Act, the [~~Water Supply~~
3 ~~Construction~~] Rural Infrastructure Act, the development fund,
4 any state or federal solid waste management program [~~the~~
5 ~~federal wastewater treatment construction grants program, any~~
6 ~~state wastewater treatment construction grant or loan programs]~~
7 and federal community development block grant funds; provided
8 that water projects eligible for local community infrastructure
9 development funding shall be those priority-ranked projects
10 approved by the water trust board;

11 [~~G. forward all applications for federal wastewater~~
12 ~~treatment construction grants to the water quality control~~
13 ~~commission or its designated constituent agency within five~~
14 ~~working days of receipt; provided that the water quality~~
15 ~~control commission and its designated constituent agency shall~~
16 ~~have authority for the administration of federal wastewater~~
17 ~~treatment construction grant funds, including determining~~
18 ~~eligibility of grant applicants, establishing priority systems~~
19 ~~and priority lists for grant applicants, technically reviewing~~
20 ~~grant applications and approving or denying grant applications;~~

21 ~~D.]~~ C. administer federal community development
22 block grant funds and all other federal and state grant or loan
23 programs for local community infrastructure development for
24 which the council has oversight responsibility or where such
25 administration is not otherwise provided for by law; [~~and~~

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1 ~~E.]~~ D. make and enter into all contracts and
2 agreements necessary or incident to its duties and the
3 execution of its powers under the New Mexico Community
4 Assistance Act; and

5 E. participate as required by the Water Project
6 Finance Act on technical review teams to evaluate local water
7 infrastructure applications and make recommendations to the
8 water trust board on priority ranking of applications, with
9 their proposed funding packages."

10 SECTION 37. Section 11-6-6 NMSA 1978 (being Laws 1977,
11 Chapter 299, Section 6, as amended) is amended to read:

12 "11-6-6. COMMUNITY ASSISTANCE APPLICATION REQUIREMENTS.--

13 A. A political subdivision desiring a grant of
14 funds from the council for projects other than water projects
15 shall file an application for a grant of funds with the
16 council, which shall contain at least the following:

17 (1) a general description of the proposed
18 project and a general description of related existing
19 facilities, if any;

20 (2) a general description of all real estate,
21 if any, necessary for the proposed project;

22 (3) preliminary plans and other documents
23 necessary to show the type, structure and general character of
24 the proposed project;

25 (4) estimates of cost of the proposed project;

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1 (5) a general description and statement of
2 value of any property, real or personal, of the political
3 subdivision applied or to be applied to the proposed project;

4 (6) a statement of cash funds previously
5 applied or currently held by or on behalf of the political
6 subdivision [~~which~~] that are available for and are to be
7 applied to the proposed project;

8 (7) evidence of the arrangement made by the
9 political subdivision for the financing of all costs of the
10 proposed project in excess of the requested assistance from the
11 council;

12 (8) evidence that the political subdivision
13 has the organizational and technical competence to [~~utilize~~]
14 use the requested funds efficiently; and

15 (9) evidence that the political subdivision
16 can properly operate and maintain the facility to be
17 constructed for its useful life.

18 B. After receipt of an application for a grant of
19 funds, the division shall provide copies of the application to
20 appropriate state agencies, [~~who~~] which shall have fifteen
21 working days to review the application and communicate their
22 comments to the council. The division shall also review all
23 applications and submit its recommendations to the council. In
24 deciding whether [~~or not~~] to approve assistance funds, the
25 council except as provided by applicable federal law shall

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1 consider, but is not limited to:

2 (1) the health and safety of the residents to
3 be served by the proposed project;

4 (2) the needs of other political subdivisions
5 for infrastructure development funding; and

6 (3) other sources of funds available to the
7 political subdivision to fund the proposed project.

8 C. All action shall be taken by vote of a majority
9 of the members of the council.

10 D. The division shall, upon a decision by the
11 council to approve assistance funds to a political subdivision,
12 notify all appropriate state agencies of the project and
13 request that they monitor it to assure that all statutes and
14 rules [~~and regulations~~] are compiled with and that standards
15 are maintained."

16 SECTION 38. Section 11-6-6.1 NMSA 1978 (being Laws 1979,
17 Chapter 166, Section 4, as amended) is amended to read:

18 "11-6-6.1. REQUIREMENTS.--

19 A. No project [~~which~~] that will result in increased
20 demand for water in the area of the project shall be
21 recommended for approval by the council until the water trust
22 board has certified to the council [~~is satisfied~~] that the
23 political subdivision either holds or can acquire water rights
24 sufficient to meet the increase in demand. Nothing in this
25 subsection shall be construed to require any political

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1 subdivision to submit information in an application under
2 Section 11-6-6 NMSA 1978, which information would not be
3 required under that section.

4 B. The council shall not approve a grant of funds
5 for any political subdivision unless the council is satisfied
6 that the political subdivision has taken all reasonable steps
7 to use other sources of funding.

8 C. Of the grants made in any one fiscal year, at
9 least fifteen percent of the dollar amount shall be made to
10 counties with populations of less than fifteen thousand and
11 other political subdivisions with populations of less than
12 three thousand or on behalf of areas with populations of less
13 than three thousand. For such grants, regardless of funding
14 source, the council may, if it finds such to be in the public
15 interest, waive any requirements to use other sources of
16 funding.

17 D. No grant in excess of five hundred thousand
18 dollars (\$500,000) for any one project shall be made to a
19 political subdivision in any one fiscal year; provided that
20 this maximum does not apply to state funds for matching federal
21 wastewater treatment facility construction grants.

22 E. In making grants from state funds that are not
23 limited to a particular type of project, the council shall give
24 priority to the needs of political subdivisions [~~impacted~~]
25 affected either by rapid growth or loss of tax base."

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1 SECTION 39. Section 74-6A-4 NMSA 1978 (being Laws 1991,
2 Chapter 172, Section 4, as amended) is amended to read:

3 "74-6A-4. WASTEWATER FACILITY CONSTRUCTION LOAN FUND
4 CREATED--ADMINISTRATION.--

5 A. There is created in the state treasury a
6 revolving loan fund to be known as the "wastewater facility
7 construction loan fund", which shall be administered by the
8 division as agent for the commission and operated as a separate
9 account. The commission is authorized to establish procedures
10 and adopt [~~regulations~~] rules as required to administer the
11 fund in accordance with the Clean Water Act and state law. Any
12 [~~regulations~~] rules relating to the issuance of bonds and the
13 expenditure of proceeds of bond issues shall be approved by the
14 board. [~~The commission shall, whenever possible, coordinate~~
15 ~~application procedures and funding cycles with the New Mexico~~
16 ~~Community Assistance Act.~~]

17 B. The following shall be deposited directly in the
18 fund:

19 (1) grants from the federal government or its
20 agencies allotted to the state for capitalization of the fund;

21 (2) funds as appropriated by the legislature
22 to implement the provisions of the Wastewater Facility
23 Construction Loan Act or to provide state matching funds that
24 are required by the terms of any federal grant under the Clean
25 Water Act;

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1 (3) loan principal, interest and penalty
2 payments if required by the terms of any federal grant under
3 the Clean Water Act;

4 (4) money transferred from the account as
5 needed to fulfill requirements of the Clean Water Act; and

6 (5) any other public or private money
7 dedicated to the fund.

8 C. Money in the fund is appropriated for
9 expenditure by the commission in a manner consistent with the
10 terms and conditions of the federal capitalization grants
11 [~~and~~], the Clean Water Act and the Water Project Finance Act
12 and may be used:

13 (1) to provide loans for the construction or
14 rehabilitation of wastewater facilities;

15 (2) to purchase, refund or refinance
16 obligations incurred by local authorities in the state for
17 wastewater facilities where the obligations were incurred and
18 construction commenced after March 7, 1985;

19 (3) to guarantee, or purchase insurance for,
20 obligations of local authorities to improve credit market
21 access or reduce interest rates;

22 (4) to provide a source of revenue or security
23 for the payments of principal and interest on bonds recommended
24 by the commission and issued by the board if the proceeds of
25 the bonds are deposited in the fund to the extent provided in

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1 the terms of the federal grant;

2 (5) to provide loan guarantees for similar
3 revolving funds established by local authorities;

4 (6) to fund the administrative expenses of the
5 board, the commission and the division necessary to implement
6 the provisions of the Wastewater Facility Construction Loan
7 Act, including but not limited to costs of servicing loans and
8 issuing bonds, fund start-up costs, financial management and
9 legal consulting fees and reimbursement costs for support
10 services from other state agencies; and

11 (7) to fund other programs for which the
12 federal government authorizes use of wastewater grants or to
13 provide for any other expenditure consistent with the Clean
14 Water Act grant program and state law.

15 D. Pursuant to [~~regulations~~] rules adopted by the
16 commission, the division may impose and collect an
17 administrative fee from each local authority that receives
18 financial assistance from the fund, which fee shall not exceed
19 five percent of the total loan amount and which shall be
20 deposited in the clean water administrative fund.

21 E. Money not currently needed for the operation of
22 the fund or otherwise dedicated may be invested according to
23 the provisions of Chapter 6, Article 10 NMSA 1978, and all
24 interest earned on such investments shall be credited to the
25 fund. Money remaining in the fund at the end of any fiscal

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1 year shall not revert to the general fund but shall accrue to
2 the credit of the fund.

3 F. Acting as agent for the commission, the division
4 shall maintain full authority for the operation of the fund in
5 accordance with applicable federal and state law [~~including but~~
6 ~~not limited to preparing~~] and shall prepare the annual intended
7 use plan and [~~ensuring~~] ensure that loan recipients are on the
8 [~~state~~] water trust board's priority list [~~or otherwise~~] and
9 satisfy Clean Water Act requirements.

10 G. The division shall establish fiscal controls and
11 accounting procedures that are sufficient to ensure proper
12 accounting for fund payments, disbursements and balances and
13 shall provide an annual report and an annual independent audit
14 on the fund to the governor and to the United States
15 environmental protection agency as required by the Clean Water
16 Act."

17 SECTION 40. Section 74-6A-7 NMSA 1978 (being Laws 1991,
18 Chapter 172, Section 5) is amended to read:

19 "74-6A-7. LOAN PROGRAM--ADMINISTRATION.--~~[A.]~~ The
20 division shall establish a program to provide financial
21 assistance to local authorities, individually or jointly, for
22 acquisition, construction or modification of wastewater
23 facilities. The division as agent of the commission is
24 authorized to enter into contracts and other agreements with
25 federal agencies, local authorities and other parties to carry

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1 out the provisions of the Wastewater Facility Loan Construction
2 Act [~~including but not limited to contracts and agreements with~~
3 ~~federal agencies, local authorities and other parties.~~

4 B. ~~The commission shall adopt a system for the~~
5 ~~ranking of wastewater facility construction projects for~~
6 ~~financial assistance]."~~

7 SECTION 41. Section 74-6A-8 NMSA 1978 (being Laws 1991,
8 Chapter 172, Section 6) is amended to read:

9 "74-6A-8. FINANCIAL ASSISTANCE--CRITERIA.--

10 A. Financial assistance shall be provided only to
11 local authorities that:

12 (1) meet the requirements for financial
13 capability set by the [~~division~~] water trust board to assure
14 sufficient revenues to operate and maintain the wastewater
15 facility for its useful life and to repay the financial
16 assistance;

17 (2) agree to operate and maintain the
18 wastewater facility so that the facility will function properly
19 over its structural and material design life;

20 (3) agree to maintain separate project
21 accounts, to maintain project accounts properly in accordance
22 with generally accepted governmental accounting standards and
23 to conduct an audit of the project's financial records;

24 (4) provide a written assurance, signed by an
25 attorney, that the local authority has or will acquire proper

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1 title, easements and rights of way to the property upon or
2 through which the wastewater facility proposed for funding is
3 to be constructed or extended;

4 (5) require the contractor of the wastewater
5 facility construction project to post a performance and payment
6 bond in accordance with the requirements of Section 13-4-18
7 NMSA 1978 and its subsequent amendments and successor
8 provisions;

9 (6) provide a written notice of completion and
10 start of operation of the wastewater facility;

11 (7) appear on the water trust board's priority
12 ranking list [~~of the fund, regardless of rank on such list~~];
13 and

14 (8) provide such information to the division
15 as required by the commission in order to comply with the
16 provisions of the Clean Water Act and state law.

17 B. Loans shall be made only to local authorities
18 that establish one or more dedicated sources of revenue to
19 repay the money received from the commission and to provide for
20 operation, maintenance and equipment replacement expenses. A
21 local authority, any existing statute to the contrary
22 notwithstanding, may do any of the following:

23 (1) obligate itself to pay to the commission
24 at periodic intervals a sum sufficient to provide all or any
25 part of bond debt service with respect to the bonds recommended

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1 by the commission and issued by the board to fund the loan for
2 the wastewater facility project of the local authority and pay
3 over the debt service to the account of the wastewater facility
4 project for deposit to the fund;

5 (2) fulfill any obligation to pay the
6 commission by the issuance of bonds, notes or other obligations
7 in accordance with the laws authorizing issuance of local
8 authority obligations; provided, however, that notwithstanding
9 the provisions of [~~Sections~~] Section 4-54-3 or 6-15-5 NMSA 1978
10 or other statute or law requiring the public sale of local
11 authority obligations, such obligations may be sold at private
12 sale to the commission at the price and upon the terms and
13 conditions the local authority shall determine;

14 (3) levy, collect and pay over to the
15 commission and obligate itself to continue to levy, collect and
16 pay over to the commission the proceeds of one or more of the
17 following:

18 (a) sewer or waste disposal service fees
19 or charges;

20 (b) licenses, permits, taxes and fees;

21 (c) special assessments on the property
22 served or benefited by the wastewater facility project; [~~and~~]
23 or

24 (d) other revenue available to the local
25 authority;

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1 (4) undertake and obligate itself to pay its
2 contractual obligation to the commission solely from the
3 proceeds from any of the sources specified in Paragraph (3) of
4 this subsection or, in accordance with the laws authorizing
5 issuance of local authority obligations, impose upon itself a
6 general obligation pledge to the commission additionally
7 secured by a pledge of any of the sources specified in
8 Paragraph (3) of this subsection; [~~and~~] or

9 (5) enter into agreements, perform acts and
10 delegate functions and duties as its governing body shall
11 determine is necessary or desirable to enable the division as
12 agent for the commission to fund a loan to the local authority
13 to aid it in the construction or acquisition of a wastewater
14 facility project.

15 C. Each loan made by the division as agent for the
16 commission shall provide that repayment of the loan shall begin
17 not later than one year after completion of construction of the
18 wastewater facility project for which the loan was made and
19 shall be repaid in full no later than twenty years after
20 completion of the construction. All principal and interest on
21 loan payments shall be deposited in the fund.

22 D. Financial assistance shall be made with an
23 annual interest rate to be five percent or less as determined
24 by the commission.

25 E. A zero-percent interest rate may be approved by

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1 the division when the following conditions have been met by the
2 local authority:

3 (1) the local authority's average user cost is
4 at least fifteen dollars (\$15.00) per month or a higher amount
5 as determined by the commission; and

6 (2) the local authority's median household
7 income is less than three-fourths of the statewide
8 nonmetropolitan median household income.

9 F. A local authority may use the proceeds from
10 financial assistance received under the Wastewater Facility
11 Construction Loan Act to provide a local match or any other
12 nonfederal share of a wastewater facility construction project
13 as allowed pursuant to the Clean Water Act.

14 G. Financial assistance received pursuant to the
15 Wastewater Facility Construction Loan Act shall not be used by
16 a local authority on any wastewater facility project
17 constructed in fulfillment or partial fulfillment of
18 requirements made of a subdivider under the provisions of the
19 Land Subdivision Act or the New Mexico Subdivision Act.

20 H. Financial assistance shall be made only to local
21 authorities that employ or contract with a registered
22 professional engineer to provide and be responsible for
23 engineering services on the wastewater facility project. Such
24 services include but are not limited to an engineering report,
25 construction contract documents, supervision of construction

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1 and start-up services.

2 I. Financial assistance shall be made only for
3 eligible items. For financial assistance composed entirely of
4 state funds, eligible items include but are not limited to the
5 costs of engineering feasibility reports, contracted
6 engineering design, inspection of construction, special
7 engineering services, start-up services, contracted
8 construction, materials purchased or equipment leased for force
9 account construction, land or acquisition of existing
10 facilities, but eligible items do not include the costs of
11 water rights and local authority administrative costs. For
12 financial assistance made from federal funds, eligible items
13 are those identified pursuant to the Clean Water Act.

14 J. In the event of default by the local authority,
15 the commission may enforce its rights by suit or mandamus or
16 may [~~utilize~~] use all other available remedies under state
17 law."

18 SECTION 42. Section 75-1-3 NMSA 1978 (being Laws 1973,
19 Chapter 333, Section 3, as amended) is amended to read:

20 "75-1-3. RURAL INFRASTRUCTURE REVOLVING LOAN FUND
21 CREATED--ADMINISTRATION--EMERGENCY FUND.--

22 A. [~~A special fund is created to be known as~~] The
23 "rural infrastructure revolving loan fund" is created in the
24 state treasury. Money appropriated to the fund or to the
25 department to carry out the provisions of the Rural

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1 Infrastructure Act may be used to make loans and grants to
2 local authorities, individually or jointly, for water supply,
3 wastewater or solid waste facilities. [~~Appropriations made to~~
4 ~~the fund but not expended at the end of the fiscal year for~~
5 ~~which appropriated] Money in the fund shall not revert to the
6 general fund but shall accrue to the credit of the fund.~~

7 Earnings on the balance in the fund shall be credited to the
8 fund. In addition, when the proceeds from the issuance of
9 severance tax bonds appropriated to the fund are deposited in
10 the state treasury, interest earned on that money during the
11 period from deposit in the state treasury until the actual
12 transfer of the money to the fund shall be credited to the
13 fund.

14 B. Ten percent of any appropriation to the fund or
15 to the department to carry out the provisions of the Rural
16 Infrastructure Act shall be set aside for emergency grants and
17 loans pursuant to Section 75-1-5 NMSA 1978.

18 C. All water supply, wastewater and solid waste
19 facilities shall be designed in compliance with the engineering
20 requirements established by the secretary after consulting with
21 and considering the recommendations of the professional
22 engineering societies operating in New Mexico. The secretary
23 shall also establish, by [~~regulation~~] rule, guidelines for the
24 ranking of solid waste projects for top priority based on
25 public health needs.

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1 D. All applications for water supply facilities or
2 wastewater supply facilities shall be submitted to the water
3 trust board as provided in the Water Project Finance Act.
4 After the applications have been evaluated by technical review
5 teams and priority ranked by the water trust board, its
6 recommendations on water supply facilities and wastewater
7 supply facilities, including loans or grants from the fund,
8 shall be submitted to the department for its approval or
9 rejection of the funding request. If the department rejects
10 the water trust board's recommendation for funding from the
11 fund, the water supply facility or wastewater supply facility
12 project may be denied by the water trust board.

13 ~~[D-]~~ E. The department shall administer the fund
14 and shall make grant and loan disbursements in accordance with
15 the Rural Infrastructure Act. The secretary shall adopt
16 ~~[regulations]~~ rules to govern the application procedure and
17 requirements for disbursing grants and loans under the Rural
18 Infrastructure Act, including requirements consistent with the
19 purpose of the act for determining the eligibility and priority
20 of local authorities for such grants and loans.

21 ~~[E-]~~ F. Receipts from the repayment of loans,
22 including loans approved by the state board of finance pursuant
23 to Section 75-1-5 NMSA 1978, shall be deposited in the fund by
24 the department, including receipts from the repayment of loans
25 made pursuant to appropriations to carry out the purposes of

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1 the Water Supply Construction Act made prior to the effective
2 date of the Rural Infrastructure Act.

3 ~~[F-]~~ G. Money in the fund is appropriated to the
4 department to carry out the provisions of the Rural
5 Infrastructure Act. The department may allocate up to two
6 percent of the total balance in the fund to pay for
7 administrative expenses necessary to carry out the provisions
8 of the Rural Infrastructure Act. Money allocated for
9 administrative expenses shall be placed in a separate
10 administrative account in the fund to be used solely for
11 administrative expenses, and the department shall at the
12 beginning of the fiscal year determine the projected
13 administrative costs for the year and deposit in the account
14 the appropriate amount; provided that the amount to be
15 deposited does not exceed two percent of the total balance in
16 the fund. Money in the account shall remain in the account at
17 the end of a fiscal year.

18 ~~[G-]~~ H. Loans and grants made pursuant to the
19 provisions of the Rural Infrastructure Act shall not be used by
20 the local authority on any project constructed in fulfillment
21 or partial fulfillment of requirements made of a subdivider by
22 the provisions of the Land Subdivision Act or the New Mexico
23 Subdivision Act."

24 **SECTION 43.** Section 75-1-4 NMSA 1978 (being Laws 1973,
25 Chapter 333, Section 4, as amended) is amended to read:

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1 "75-1-4. CONDITIONS FOR GRANTS AND LOANS.--

2 A. Grants and loans shall be made only to local
3 authorities that:

4 (1) agree to operate and maintain the water
5 supply, wastewater or solid waste facilities so that the
6 facilities will function properly over the structural and
7 material design life, which shall not be less than twenty
8 years;

9 (2) require the contractor of the construction
10 project to post a performance and payment bond in accordance
11 with the requirements of Section 13-4-18 NMSA 1978;

12 (3) provide a written assurance, signed by an
13 attorney, that the local authority has proper title, easements
14 and rights of way to the property upon or through which the
15 water supply, wastewater or solid waste facility proposed for
16 funding is to be constructed or extended;

17 (4) meet the requirements of the financial
18 capability set by the ~~[department]~~ water trust board to assure
19 sufficient revenues to operate and maintain the facility for
20 its useful life and to repay the loan;

21 (5) pledge sufficient revenues for repayment
22 of the loan, provided that such revenues may by law be pledged
23 for that purpose; and

24 (6) agree to properly maintain financial
25 records and to conduct an audit of the project's financial

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1 records.

2 B. Except as otherwise provided in the Rural
3 Infrastructure Act, a loan shall be for a period of time not to
4 exceed twenty years. Loans may be interest free or bear an
5 annual interest rate set by the secretary that is at or below
6 market interest rates. The repayment of loans shall be in
7 annual, quarterly or monthly installments, as approved by the
8 department, beginning one year after completion of the project.
9 The repayment of the interest on the loan accumulated during
10 the design and construction of a project may be included in the
11 final loan amount, but it shall not be counted in determining
12 the maximum loan amount.

13 C. No loan recipient eligible to receive a grant
14 under the Rural Infrastructure Act shall receive grants in any
15 one year totaling more than five hundred thousand dollars
16 (\$500,000).

17 D. The maximum assistance, including both loans and
18 grants, that a local authority may receive under the Rural
19 Infrastructure Act in any one year is two million dollars
20 (\$2,000,000).

21 E. Plans and specifications for a water supply,
22 wastewater or solid waste facility construction project shall
23 be approved by the department before grant or loan
24 disbursements to pay for construction costs are made to a local
25 authority. Interim loan disbursements to pay for engineering

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1 and other professional services may be made by the department
2 prior to the approval of the plans and specifications.

3 F. Privately owned water supply, wastewater or
4 solid waste facilities are not eligible for assistance under
5 the Rural Infrastructure Act.

6 G. Grants and loans shall be made only for eligible
7 items. Eligible items include but are not limited to the costs
8 of engineering feasibility reports, contracted engineering
9 design, inspection of construction, special engineering
10 services, archaeological surveys and contracted construction.
11 The costs of water rights, land, system acquisition, easements
12 and rights of way, refinancing of program loans, legal costs
13 and fiscal agents' fees are eligible items only for loan funds.
14 Local authority administrative costs shall not be included as
15 eligible items.

16 H. The department may:

17 (1) conduct periodic reviews of the operation
18 of a local authority that has received funding from the
19 department;

20 (2) require the local authority to submit
21 information relevant to the loan to the department;

22 (3) require the submission of financial
23 reports relevant to the ability of the local authority to repay
24 the loan; and

25 (4) review and require changes to the

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1 rate-setting analysis that supports the loan payments.

2 I. In the event the local authority fails to make
3 the prescribed loan repayment, the department is authorized to
4 set solid waste, water or wastewater user rates in the area of
5 the local authority's jurisdiction in order to provide
6 sufficient money for repayment of the loan and proper operation
7 and maintenance. Funds sufficient to provide for repayment of
8 the loan and proper operation and maintenance shall be
9 identified through a rate-setting analysis that will ensure
10 enough revenue to cover yearly expenses and emergencies, a
11 reserve fund for nonmajor capital items and equitable pay for
12 staff. The rate-setting analysis may be reviewed and changed
13 on a yearly basis if necessary.

14 J. The department may enforce its rights as
15 provided by law."

16 SECTION 44. Section 75-2-4 NMSA 1978 (being Laws 1975,
17 Chapter 265, Section 4, as amended) is amended to read:

18 "75-2-4. INTERSTATE STREAM COMMISSION--ADDITIONAL POWERS
19 AND DUTIES.--In addition to its other powers and duties, the
20 interstate stream commission shall:

21 A. meet upon the call of its [~~chairman~~] chair;

22 B. review and approve or deny water research,
23 conservation or development project proposals submitted to the
24 commission by [~~institutions of higher learning, political~~
25 ~~subdivisions or other appropriate nonprofit research or~~

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1 ~~development entities]~~ the water trust board on the basis of
2 potential merit, benefit to the state and feasibility;

3 C. adopt guidelines for project [~~preparation,~~
4 ~~review, application and]~~ approval;

5 D. upon approval of a project, allocate available
6 funds for [~~such]~~ the water research, conservation or
7 development project; provided that:

8 (1) no single project shall receive more than
9 forty percent of the total available funds;

10 (2) no less than forty percent of the total
11 available funds shall be allocated for conservation or
12 development projects [~~which]~~ that have the potential of
13 providing immediate solutions to problems facing the people of
14 the state; and

15 (3) no funds appropriated to the water
16 research, conservation and development fund shall be used for
17 water distribution system construction, including [~~but not~~
18 ~~limited to]~~ irrigation canals, acequias, reservoirs, dams or
19 domestic or municipal water distribution systems;

20 E. adopt reporting and monitoring procedures for
21 evaluation of research, conservation or development projects
22 being conducted by recipients of disbursements under the Water
23 Research, Conservation and Development Act, and after making
24 the appropriate evaluation of the project, make arrangements
25 for termination of the project, if so indicated;

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1 F. report annually to the governor, ~~and~~ the
2 legislature and the water trust board on the status of the
3 various research, conservation or development projects,
4 including a report on total funds expended under ~~[this]~~ the
5 Water Research, Conservation and Development Act, including the
6 amounts and sources of outside matching funds; and

7 G. expend no more than fifteen thousand dollars
8 (\$15,000) from the water research, conservation and development
9 fund for the administrative purposes of the Water Research,
10 Conservation and Development Act during any fiscal year."

11 SECTION 45. APPROPRIATION.--Seven hundred fifty thousand
12 dollars (\$750,000) is appropriated from the general fund to the
13 office of the state engineer for expenditure in fiscal year
14 2015 to establish the water trust office. Any unexpended or
15 unencumbered balance remaining at the end of fiscal year 2015
16 shall revert to the general fund.

17 SECTION 46. REPEAL.--Sections 72-4A-5.1 and 72-4A-6 NMSA
18 1978 (being Laws 2003, Chapter 131, Section 2 and Laws 2003,
19 Chapter 137, Section 2 and Laws 2001, Chapter 164, Section 6,
20 as amended) are repealed.

21 SECTION 47. EFFECTIVE DATE.--The effective date of the
22 provisions of this act is July 1, 2014.