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\_\_\_\_\_ BILL

**56TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2023**

INTRODUCED BY

DISCUSSION DRAFT

AN ACT

RELATING TO FINANCE; UPDATING SECTIONS OF THE NEW MEXICO  
FINANCE AUTHORITY ACT; REVISING DEFINITIONS; AMENDING THE  
DEFINITION OF "QUALIFIED ENTITY"; REMOVING INTERIM LOANS,  
ACQUISITION OF SECURITIES AND THE SMALL LOAN PROGRAM FROM THE  
PUBLIC PROJECT REVOLVING FUND; CHANGING LOAN REPAYMENT TERMS;  
AMENDING SECTIONS OF THE WATER PROJECT FINANCE ACT; AMENDING  
SECTIONS OF THE STATEWIDE ECONOMIC DEVELOPMENT FINANCE ACT TO  
REMOVE LEGISLATIVE APPROVAL FOR STATE PROJECTS; AMENDING  
SECTIONS OF THE LOCAL ECONOMIC DEVELOPMENT ACT; AMENDING  
SECTIONS OF THE BEHAVIORAL HEALTH CAPITAL FUNDING ACT TO ALLOW  
CONTRACTING WITH ELIGIBLE ENTITIES; AMENDING SECTIONS OF THE  
COLONIAS INFRASTRUCTURE ACT; CHANGING DUTIES OF THE COLONIAS  
INFRASTRUCTURE BOARD; AMENDING APPROVAL REQUIREMENTS,  
INVESTMENT AND DEFAULT PROCEDURAL REQUIREMENTS UNDER THE  
VENTURE CAPITAL PROGRAM ACT; PROVIDING CONFIDENTIALITY FOR

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1 PROPRIETARY INFORMATION; AMENDING THE STRUCTURE OF THE  
2 OPPORTUNITY ENTERPRISE REVIEW BOARD; CHANGING REPORTING  
3 DEADLINES FOR ENTERPRISE ACTIONS BY THE NEW MEXICO FINANCE  
4 AUTHORITY; AMENDING THE PRIMARY CARE CAPITAL FUNDING ACT;  
5 PROVIDING FINANCIAL DUTIES AND REMEDIES FOR THE NEW MEXICO  
6 FINANCE AUTHORITY; REMOVING APPROVAL OF EXPENDITURES BY THE  
7 CHILDREN, YOUTH AND FAMILIES DEPARTMENT PURSUANT TO THE CHILD  
8 CARE FACILITY LOAN ACT; ADDING WATER TRUST BOARD DUTIES;  
9 AMENDING CONDITIONS FOR GRANTS AND LOANS FOR WATER PROJECTS;  
10 REMOVING LEGISLATIVE APPROVAL FOR WATER PROJECT LOANS AND  
11 GRANTS; AMENDING, REPEALING AND ENACTING SECTIONS OF THE NMSA  
12 1978.

13  
14 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

15 SECTION 1. Section 5-10-16 NMSA 1978 (being Laws 2021,  
16 Chapter 3, Section 10) is amended to read:

17 "5-10-16. GRANTS TO REIMBURSE RENT, LEASE OR MORTGAGE  
18 PAYMENTS FOR CERTAIN BUSINESSES.--

19 A. Prior to January 1, 2023, the department may  
20 transfer to the authority funds appropriated by the legislature  
21 to the department for the purpose of providing recovery grants  
22 to recovery entities pursuant to this section.

23 B. The department and the authority shall enter  
24 into a memorandum of understanding to develop a program for the  
25 authority to accept a transfer of funds from the department

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1 pursuant to Subsection A of this section, to provide recovery  
2 grants to recovery entities, to accept and review applications  
3 for recovery grants and to disburse recovery grants to recovery  
4 entities. The authority shall require documentation from  
5 applicants of employment levels and rent, lease and mortgage  
6 payments for taxable year 2020 and subsequent taxable years in  
7 which a recovery entity applies for a recovery grant. The  
8 authority shall prioritize funding to applicants that had the  
9 greatest decline in business revenues between comparable  
10 quarters in taxable year 2019 to taxable year 2020. The  
11 department shall provide oversight of the program and may set  
12 policies and promulgate rules in accordance with this section.  
13 The authority may designate one or more application periods and  
14 shall review applications received in each period and provide a  
15 determination to the applicant within a reasonable amount of  
16 time after review. The first application period shall accept  
17 applications no later than June 30, 2021, and the last  
18 application period shall accept applications no later than  
19 December 31, 2021; provided that an application period for  
20 funds set aside pursuant to Subsection E of this section shall  
21 accept applications no later than June 30, 2022. The authority  
22 shall prioritize funding to applicants that had the greatest  
23 decline in business revenues between comparable quarters in  
24 taxable year 2019 to taxable year 2020.

25 C. To receive a recovery grant, a recovery entity

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1 shall agree to:

2 (1) use the proceeds of the recovery grant for  
3 reimbursement of rent, lease or mortgage obligations of the  
4 recovery entity for its business locations within the state of  
5 New Mexico;

6 (2) provide a written certification signed by  
7 an appropriate officer of the recovery entity that certifies  
8 that:

9 (a) the officer understands that,  
10 pursuant to the Local Economic Development Act, the recovery  
11 grant shall be accompanied by new job creation in accordance  
12 with department rules and policies and the terms of the  
13 agreement issued by the authority to the recovery entity in  
14 advance of disbursement of the recovery grant;

15 (b) all documents submitted in support  
16 of the recovery grant application are true and accurate to the  
17 best of the officer's knowledge;

18 (c) the officer has a reasonable basis  
19 to believe that, as of the date of a recovery grant application  
20 and receipt of any recovery grant, the recovery entity does not  
21 expect to permanently cease business operations or file for  
22 bankruptcy;

23 (d) as of the date of a recovery grant  
24 application and of receipt of a recovery grant, the recovery  
25 entity is current on all obligations pursuant to the Income Tax

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1 Act, the Corporate Income and Franchise Tax Act, the  
2 Withholding Tax Act, the Gross Receipts and Compensating Tax  
3 Act and the Unemployment Compensation Law applicable to the  
4 recovery entity's business operations; and

5 (e) all recovery grant proceeds will be  
6 used for the purpose of payment of rent, lease or mortgage  
7 payments of the recovery entity pursuant to the Local Economic  
8 Development Act;

9 (3) provide documentation to the authority  
10 demonstrating a decline in business revenues between taxable  
11 years 2019 and 2020;

12 (4) upon request, provide the department and  
13 the authority with information relevant to the reporting  
14 requirements of the department and the authority pursuant to  
15 Subsection H of this section; and

16 (5) submit an application to the authority for  
17 a recovery grant pursuant to rules established by the  
18 authority, but no later than June 30, 2022.

19 D. Up to one hundred thousand dollars (\$100,000) in  
20 a recovery grant may be provided to each recovery entity in  
21 quarterly payments in an amount of up to twenty-five percent of  
22 the total amount of the recovery grant awarded to the recovery  
23 entity. The department shall promulgate rules to determine the  
24 amount of a recovery grant; provided that, for each quarterly  
25 payment a recovery entity may be awarded a specified amount for

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1 each job created depending on the wages provided and the  
2 relative decline in business revenues for taxable year 2020,  
3 not to exceed a total of twenty-five thousand dollars (\$25,000)  
4 per quarter. To remain eligible for additional quarterly  
5 payments, a recovery entity shall provide documentation to the  
6 department and to the authority demonstrating the following:

7 (1) the recovery entity remains active and  
8 open and can demonstrate a net increase in the number of full-  
9 time-equivalent employees relative to the immediately preceding  
10 quarter, as submitted quarterly to the workforce solutions  
11 department from the date of application to the date of receipt  
12 of a recovery grant payment;

13 (2) the recovery entity is current on state  
14 and local tax obligations; and

15 (3) the recovery entity paid rent, lease or  
16 mortgage obligations of the recovery entity for its business  
17 locations within the state of New Mexico from the date of  
18 application to the present request for a subsequent quarterly  
19 payment that exceeds all payments to the recovery entity to  
20 date pursuant to this section.

21 E. If, on the effective date of this section, there  
22 remains in effect a public health order that requires  
23 businesses to remain closed, the department and the authority  
24 shall set aside a portion of the funds available for recovery  
25 grants until such time as the public health order ceases to be

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1 in effect or is changed to permit all businesses subject to the  
2 public health order to be open. The portion set aside shall be  
3 estimated, at the discretion of the department and the  
4 authority, to represent the number of recovery entities and  
5 employees impacted by the public health order, but in no case  
6 shall exceed twenty percent of the total funds appropriated  
7 pursuant to Laws 2021, Chapter 3, Section 11 [~~of this 2021~~  
8 ~~act~~].

9 F. If a recovery entity loses eligibility in a  
10 quarter, the authority shall set aside funds for the recovery  
11 entity to access should the recovery entity become eligible  
12 again in a succeeding quarter.

13 G. Information obtained by the department and the  
14 authority regarding individual recovery entity grant applicants  
15 shall be confidential and not subject to inspection pursuant to  
16 the Inspection of Public Records Act; provided that nothing in  
17 this section shall prevent the department and the authority  
18 from disclosing broad demographic information and information  
19 relating to the total amount of recovery grants made, the total  
20 outstanding balance of recovery grants made and the names of  
21 the recovery entities that received recovery grants.

22 H. The department and the authority shall submit an  
23 annual report [~~in~~] by December 1 of each year of 2021 through  
24 2023 to the legislature, the legislative finance committee, the  
25 New Mexico finance authority oversight committee, the revenue

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1 stabilization and tax policy committee and the interim  
2 legislative committee concerning economic and rural  
3 development. The report shall provide information regarding  
4 recovery grants made pursuant to this section. The report  
5 shall include:

6 (1) the total dollar value of recovery grants  
7 made to date, along with breakouts of disbursements by  
8 quarterly payment number;

9 (2) the number of recovery entities assisted,  
10 in total and by county;

11 (3) the total number of new jobs created and  
12 the total number of employees currently employed by recovery  
13 entities that received grants;

14 (4) the total projected annual payroll for the  
15 jobs created;

16 (5) the total number of recovery grant  
17 applications;

18 (6) the number of recovery entities, if any,  
19 that received initial payments but were determined to be  
20 ineligible for additional quarterly payments; and

21 (7) an overview of the industries and types of  
22 business entities represented by recovery entities that  
23 received recovery grants.

24 I. As used in this section:

25 (1) "authority" means the New Mexico finance

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1 authority;

2 (2) "recovery entity" means a corporation,  
3 limited liability company, partnership, joint venture,  
4 syndicate, association or other person that:

5 (a) is a business operating in New  
6 Mexico with one or more employees but with fewer than seventy-  
7 five people employed at any of the business's business  
8 locations;

9 (b) is current on all state or local tax  
10 obligations; and

11 (c) experienced a decline in business  
12 revenue between one or more comparable quarters in taxable  
13 years 2019 and 2020, as determined by the economic development  
14 department and the authority based on documentation provided by  
15 the business;

16 (3) "recovery grant" means a grant disbursed  
17 to a recovery entity by the authority from funds provided by  
18 the department for the purpose of reimbursement of rent, lease  
19 or mortgage payments of the recovery entity pursuant to the  
20 Local Economic Development Act; and

21 (4) "taxable year" means "taxable year" as  
22 that term is used in the Income Tax Act or the Corporate Income  
23 and Franchise Tax Act, as applicable to a recovery entity."

24 SECTION 2. Section 6-21-2 NMSA 1978 (being Laws 1992,  
25 Chapter 61, Section 2, as amended) is amended to read:

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1 "6-21-2. [LEGISLATIVE FINDINGS] DECLARATION OF  
2 PURPOSE.--

3 ~~[A. The legislature finds that:~~

4 ~~(1) there are necessary state and local~~  
5 ~~capital improvement and infrastructure needs that cannot be met~~  
6 ~~with existing capital financing methods and funding sources;~~

7 ~~(2) there is no coordinating entity or process~~  
8 ~~for accomplishing long-term state and local capital planning,~~  
9 ~~needs assessment or inventory of needs; setting priorities; and~~  
10 ~~making more effective use of existing capital financing methods~~  
11 ~~and funding sources;~~

12 ~~(3) the uncertain nature of revenues available~~  
13 ~~from the proceeds of severance tax bonds and other state and~~  
14 ~~local revenues have frustrated state and local government~~  
15 ~~efforts to finance needed state and local capital projects; and~~

16 ~~(4) in order to meet public capital and~~  
17 ~~infrastructure needs, a central state mechanism to coordinate~~  
18 ~~the planning and financing of public projects is necessary.~~

19 ~~B. It is the purpose of] A.~~ The New Mexico Finance  
20 Authority ~~[Act] Act's purpose is~~ to create a governmental  
21 instrumentality to coordinate the planning and financing of  
22 state and local public projects, to provide for long-term  
23 planning and assessment of state and local capital needs and to  
24 improve cooperation among the executive and legislative  
25 branches of state government and local governments in financing

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1 public projects.

2           [~~G.~~] B. It is the further purpose of the New Mexico  
3 Finance Authority Act to provide financing for public projects  
4 in a manner that will not impair the capacity of the public  
5 project revolving fund to provide future financing to qualified  
6 entities for public projects. Funding shall not be provided  
7 from the public project revolving fund unless revenues in an  
8 amount sufficient to avoid a negative impact on the financing  
9 capacity of the public project revolving fund are  
10 contemporaneously pledged or dedicated for deposit to the  
11 public project revolving fund. Pursuant to Section 6-21-6.1  
12 NMSA 1978, the authority may provide funding from the public  
13 project revolving fund for the purposes of the Wastewater  
14 Facility Construction Loan Act, the Rural Infrastructure Act,  
15 the Solid Waste Act or the Drinking Water State Revolving Loan  
16 Fund Act."

17           **SECTION 3.** Section 6-21-3 NMSA 1978 (being Laws 1992,  
18 Chapter 61, Section 3, as amended) is amended to read:

19           "6-21-3. DEFINITIONS.--As used in the New Mexico Finance  
20 Authority Act:

21           A. "authority" means the New Mexico finance  
22 authority;

23           B. "bond" means any bonds, notes, certificates of  
24 participation or other evidence of indebtedness;

25           C. "bondholder" or "holder" means a person who is

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1 the owner of a bond, whether registered or not;

2 ~~[D. "emergency public project" means a public~~  
3 ~~project:~~

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

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

10 ~~E.]~~ D. "public project" means the acquisition,  
11 construction, improvement, alteration or reconstruction of  
12 assets of a long-term capital nature by a qualified entity,  
13 including land; buildings; water rights; water, sewerage and  
14 waste disposal systems; capitalized software; purchase power  
15 agreements; streets; airports; municipal utilities; public  
16 recreational facilities; public transportation systems; parking  
17 facilities; and machinery, furniture and equipment. "Public  
18 project" includes all proposed expenditures related to the  
19 entire undertaking. "Public project" also includes the  
20 acquisition, construction or improvement of real property,  
21 buildings, facilities and other assets by the authority for the  
22 purpose of leasing the property;

23 ~~[F.]~~ E. "qualified entity" means the state or an  
24 agency or institution of the state or a county, municipality,  
25 school district, two-year public post-secondary educational

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

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

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1 evidence of participation in a lease with a qualified entity."

2 SECTION 4. Section 6-21-4 NMSA 1978 (being Laws 1992,  
3 Chapter 61, Section 4, as amended) is amended to read:

4 "6-21-4. NEW MEXICO FINANCE AUTHORITY CREATED--  
5 MEMBERSHIP--QUALIFICATIONS--QUORUM--MEETINGS--COMPENSATION--  
6 BOND.--

7 A. There is created a public body politic and  
8 corporate, separate and apart from the state, constituting a  
9 governmental instrumentality to be known as the "New Mexico  
10 finance authority" for the performance of essential public  
11 functions.

12 B. The authority shall be composed of eleven  
13 members. The secretary of finance and administration, the  
14 secretary of economic development, the secretary of energy,  
15 minerals and natural resources, the secretary of environment,  
16 the executive director of the New Mexico municipal league and  
17 the executive director of the New Mexico association of  
18 counties or their designees shall be ex-officio members of the  
19 authority with voting privileges. The governor, with the  
20 advice and consent of the senate, shall appoint to the  
21 authority the chief financial officer of a state higher  
22 educational institution and four members who are residents of  
23 the state. The appointed members shall serve at the pleasure  
24 of the governor.

25 C. The appointed members of the authority shall be

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1 appointed to four-year terms. The initial members shall be  
2 appointed to staggered terms of four years or less, so that the  
3 term of at least one member expires on January 1 of each year.  
4 Vacancies shall be filled by appointment by the governor for  
5 the remainder of the unexpired term. Any member of the  
6 authority shall be eligible for reappointment.

7 D. Each appointed member before entering upon the  
8 member's duty shall take an oath of office to administer the  
9 duties of the member's office faithfully and impartially. A  
10 record of the oath shall be filed in the office of the  
11 secretary of state.

12 E. The governor shall designate an appointed member  
13 of the authority to serve as chair. The authority shall elect  
14 annually one of its members to serve as vice chair. The  
15 authority shall appoint and prescribe the duties of such other  
16 officers, who need not be members, as the authority deems  
17 necessary or advisable, including chief executive officer and a  
18 secretary, who may be the same person. The authority may  
19 delegate to one or more of its members, officers, employees or  
20 agents such powers and duties as it may deem proper and  
21 consistent with the New Mexico Finance Authority Act.

22 F. The chief executive officer of the authority  
23 shall direct the affairs and business of the authority, subject  
24 to the policies, control and direction of the authority. The  
25 ~~[secretary of the]~~ authority shall keep a record of the

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1 proceedings of the authority and shall be custodian of all  
2 books, documents and papers filed with the authority, the  
3 minute book or journal of the authority and its official seal.  
4 The [~~secretary~~] authority shall make copies of all minutes and  
5 other records and documents of the authority and give  
6 certificates signed by the appropriate authority members under  
7 the official seal of the authority to the effect that the  
8 copies are true copies, and all persons dealing with the  
9 authority may rely upon the certificates.

10 G. Meetings of the authority shall be held at the  
11 call of the chair or whenever three members shall so request in  
12 writing. A majority of members then serving constitutes a  
13 quorum for the transaction of any business. The affirmative  
14 vote of at least a majority of a quorum present shall be  
15 necessary for any action to be taken by the authority. An ex-  
16 officio member may designate in writing another person to  
17 attend meetings of the authority and to the same extent and  
18 with the same effect act in the ex-officio member's stead. No  
19 vacancy in the membership of the authority shall impair the  
20 right of a quorum to exercise all rights and perform all duties  
21 of the authority.

22 H. Each member of the authority shall give bond as  
23 provided in the Surety Bond Act. All costs of the surety bonds  
24 shall be borne by the authority.

25 I. The authority is not created or organized, and

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1 its operations shall not be conducted, for the purpose of  
2 making a profit. No part of the revenues or assets of the  
3 authority shall benefit or be distributable to its members,  
4 officers or other private persons. The members of the  
5 authority shall receive no compensation for their services, but  
6 shall be reimbursed for actual and necessary expenses at the  
7 same rate and on the same basis as provided for public officers  
8 in the Per Diem and Mileage Act.

9 J. The authority shall not be subject to the  
10 supervision or control of any other board, bureau, department  
11 or agency of the state except as specifically provided in the  
12 New Mexico Finance Authority Act. No use of the terms "state  
13 agency", ~~[or]~~ "instrumentality", "public body" or "political  
14 subdivision" in any other law of the state shall be deemed to  
15 refer to the authority unless the authority is specifically  
16 referred to in the law.

17 K. The authority is a governmental instrumentality  
18 for purposes of the Tort Claims Act."

19 SECTION 5. Section 6-21-6 NMSA 1978 (being Laws 1992,  
20 Chapter 61, Section 6, as amended) is amended to read:

21 "6-21-6. PUBLIC PROJECT REVOLVING FUND--PURPOSE--  
22 ADMINISTRATION.--

23 A. The "public project revolving fund" is created  
24 within the authority. The fund shall be administered by the  
25 authority as a separate account, but may consist of such

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1 subaccounts as the authority deems necessary to carry out the  
2 purposes of the fund. The authority may establish procedures  
3 and adopt rules as required to administer the fund in  
4 accordance with the New Mexico Finance Authority Act.

5 B. Except as otherwise provided in the New Mexico  
6 Finance Authority Act, money from payments of principal of and  
7 interest on loans and payments of principal of and interest on  
8 securities held by the authority for public projects authorized  
9 specifically by law shall be deposited in the public project  
10 revolving fund. The fund shall also consist of any other money  
11 appropriated, distributed or otherwise allocated to the fund  
12 for the purpose of financing public projects authorized  
13 specifically by law.

14 C. Money [~~appropriated~~] designated to pay  
15 administrative costs, money available for administrative costs  
16 from other sources and money from payments of interest on loans  
17 or securities held by the authority, including payments of  
18 interest on loans and securities held by the authority for  
19 public projects authorized specifically by law, that represents  
20 payments for administrative costs shall not be deposited in the  
21 public project revolving fund and shall be deposited in a  
22 separate account of the authority and may be used by the  
23 authority to meet administrative costs of the authority.

24 D. Except as otherwise provided in the New Mexico  
25 Finance Authority Act, money in the public project revolving

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1 fund is appropriated to the authority to pay the reasonably  
2 necessary costs of originating and servicing loans, grants or  
3 securities funded by the fund and to make loans or grants and  
4 to purchase or sell securities to assist qualified entities in  
5 financing public projects in accordance with the New Mexico  
6 Finance Authority Act and pursuant to specific authorization by  
7 law for each project.

8 E. Money in the public project revolving fund not  
9 needed for immediate disbursement, including money held in  
10 reserve, may be deposited with the state treasurer for  
11 short-term investment pursuant to Section 6-10-10.1 NMSA 1978  
12 or may be invested in direct and general obligations of or  
13 obligations fully and unconditionally guaranteed by the United  
14 States, obligations issued by agencies of the United States,  
15 obligations of this state or any political subdivision of the  
16 state, interest-bearing time deposits, commercial paper issued  
17 by corporations organized and operating in the United States  
18 and rated "prime" quality by a national rating service, other  
19 investments permitted by Section 6-10-10 NMSA 1978 or as  
20 otherwise provided by the trust indenture or bond resolution,  
21 if money is pledged for or secures payment of bonds issued by  
22 the authority.

23 F. The authority shall establish fiscal controls  
24 and accounting procedures that are sufficient to assure proper  
25 accounting for public project revolving fund payments,

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1 disbursements and balances.

2 ~~[G. Money on deposit in the public project~~  
3 ~~revolving fund may be used to make interim loans for a term not~~  
4 ~~exceeding two years to qualified entities for the purpose of~~  
5 ~~providing interim financing for any project approved or funded~~  
6 ~~by the legislature.~~

7 ~~H. Money on deposit in the public project revolving~~  
8 ~~fund may be used to acquire securities or to make loans to~~  
9 ~~qualified entities in connection with the small loan program.~~  
10 ~~As used in this subsection, "small loan program" means the~~  
11 ~~program of the authority designed to provide financing for~~  
12 ~~public projects in amounts not to exceed one million dollars~~  
13 ~~(\$1,000,000) per project. A public project financed pursuant~~  
14 ~~to the small loan program shall not require specific~~  
15 ~~authorization by law.~~

16 ~~[J.]~~ G. Money on deposit in the public project  
17 revolving fund may be designated as a reserve for any bonds  
18 issued by the authority, including bonds payable from sources  
19 other than the public project revolving fund, and the authority  
20 may covenant in any bond resolution or trust indenture to  
21 maintain and replenish the reserve from money deposited in the  
22 public project revolving fund after issuance of bonds by the  
23 authority.

24 ~~[J.]~~ H. Money on deposit in the public project  
25 revolving fund may be used to purchase bonds issued by the

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1 authority, which are payable from any designated source of  
2 revenues or collateral. Purchasing and holding the bonds in  
3 the public project revolving fund shall not, as a matter of  
4 law, result in cancellation or merger of the bonds  
5 notwithstanding the fact that the authority as the issuer of  
6 the bonds is obligated to make the required debt service  
7 payments and the public project revolving fund held by the  
8 authority is entitled to receive the required debt service  
9 payments.

10 ~~[K-]~~ I. Money on deposit in the public project  
11 revolving fund may be used to capitalize other financing  
12 programs of the authority authorized by law, either directly or  
13 from proceeds of bonds issued by the authority and secured by  
14 money in the public project revolving fund."

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

17 "6-21-6.1. PUBLIC PROJECT REVOLVING FUND--APPROPRIATIONS  
18 TO OTHER FUNDS.--

19 A. At the end of each fiscal year, after all debt  
20 service charges, replenishment of reserves and administrative  
21 costs on all outstanding bonds, notes or other obligations  
22 payable from the public project revolving fund are satisfied,  
23 an aggregate amount not to exceed thirty-five percent of the  
24 governmental gross receipts tax proceeds distributed to the  
25 public project revolving fund in the preceding fiscal year less

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1 all debt service charges and administrative costs of the  
2 authority paid in the preceding fiscal year on bonds issued  
3 pursuant to this section may be appropriated by the legislature  
4 from the public project revolving fund to:

5 (1) the following funds for local  
6 infrastructure financing:

7 (a) the wastewater facility construction  
8 loan fund for purposes of the Wastewater Facility Construction  
9 Loan Act;

10 (b) the rural infrastructure revolving  
11 loan fund for purposes of the Rural Infrastructure Act;

12 (c) the solid waste facility grant fund  
13 for purposes of the Solid Waste Act;

14 (d) the drinking water state revolving  
15 loan fund for purposes of the Drinking Water State Revolving  
16 Loan Fund Act; or

17 [~~(e) the water and wastewater project~~  
18 ~~grant fund for purposes specified in the New Mexico Finance~~  
19 ~~Authority Act; or~~

20 ~~(f)]~~ (e) the local government planning  
21 fund for purposes specified in the New Mexico Finance Authority  
22 Act; or

23 (2) the cultural affairs facilities  
24 infrastructure fund.

25 B. The authority and the department of finance and

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1 administration in coordination with the New Mexico finance  
2 authority oversight committee may recommend annually to each  
3 regular session of the legislature amounts to be appropriated  
4 to the funds listed in Subsection A of this section."

5 SECTION 7. Section 6-21-6.4 NMSA 1978 (being Laws 2002,  
6 Chapter 26, Section 2, as amended) is amended to read:

7 "6-21-6.4. LOCAL GOVERNMENT PLANNING FUND--CREATION--  
8 ADMINISTRATION--PURPOSES.--

9 A. The "local government planning fund" is created  
10 within the authority and shall be administered by the  
11 authority. The authority shall adopt rules necessary to  
12 administer the fund.

13 B. The following shall be deposited directly into  
14 the local government planning fund:

15 (1) the net proceeds from the sale of bonds  
16 issued pursuant to the provisions of Section 6-21-6.1 NMSA 1978  
17 for the purposes of the local government planning fund and  
18 payable from the public project revolving fund;

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

21 (3) any other public or private money  
22 dedicated to the fund.

23 C. Money in the local government planning fund is  
24 appropriated to the authority to make grants to qualified  
25 entities; to evaluate and to estimate the costs of implementing

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1 the most feasible alternatives for infrastructure, water and  
2 wastewater public project needs or to develop water  
3 conservation plans, long-term master plans, economic  
4 development plans, [~~or~~] energy audits or to provide flood  
5 mapping and other documents required to be filed with  
6 applicable state regulators; and to pay the administrative  
7 costs of the local government planning program.

8 D. The authority shall adopt rules governing the  
9 terms and conditions of grants made from the local government  
10 planning fund.

11 E. The authority may make grants from the local  
12 government planning fund to qualified entities without specific  
13 authorization by law for each grant."

14 SECTION 8. Section 6-21-23 NMSA 1978 (being Laws 1992,  
15 Chapter 61, Section 23, as amended) is amended to read:

16 "6-21-23. PROHIBITED ACTIONS.--The authority shall not:

17 A. lend money or make a grant other than to a  
18 qualified entity;

19 B. purchase securities other than from a qualified  
20 entity, [~~or~~] other than for investment as provided in the New  
21 Mexico Finance Authority Act or as otherwise authorized  
22 pursuant to law;

23 C. lease a [~~public~~] project to any entity other  
24 than a qualified entity or as otherwise authorized pursuant to  
25 law; except that the authority may lease a [~~public~~] project to

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1 any entity following termination of a lease of the [public]  
2 project to a qualified entity or any other entity as otherwise  
3 permitted in law if leasing the [public] project to [an]  
4 another entity [~~other than a qualified entity~~] is necessary to  
5 avoid forfeiture or impairment of the [public] project or a  
6 default on bonds whose payment is secured, in whole or in part,  
7 by the [public] project or by lease rentals from the [public]  
8 project;

9 D. deal in securities within the meaning of or  
10 subject to any securities law, securities exchange law or  
11 securities dealers law of the United States or of the state or  
12 of any other state or jurisdiction, domestic or foreign, except  
13 as authorized in the New Mexico Finance Authority Act or as  
14 otherwise authorized pursuant to law;

15 E. issue bills of credit or accept deposits of  
16 money for time on demand deposit or administer trusts or engage  
17 in any form or manner, or in the conduct of, any private or  
18 commercial banking business, or act as a savings bank or  
19 savings and loan association or any other kind of financial  
20 institution except as authorized in the New Mexico Finance  
21 Authority Act;

22 F. engage in any form of private or commercial  
23 banking business except as authorized [~~in the New Mexico~~  
24 ~~Finance Authority Act~~] pursuant to law;

25 G. disclose confidential financial and business

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1 records, including trade secret, proprietary or confidential  
2 information; or

3 [G.] H. lend money, issue bonds, including public-  
4 private partnership project bonds, or make a grant for the  
5 promotion of gaming or a gaming enterprise or for development  
6 of infrastructure for a gaming facility [~~or~~

7 ~~H. after December 31, 2005, except in case of an~~  
8 ~~emergency, accept an application for financial assistance from~~  
9 ~~a municipality, county or other covered entity for a water or~~  
10 ~~wastewater project unless it is submitted with a water~~  
11 ~~conservation plan or a water conservation plan is on file with~~  
12 ~~the state engineer in accordance with the provisions of Section~~  
13 ~~3 of this 2003 act]."~~

14 SECTION 9. Section 6-21-26 NMSA 1978 (being Laws 1992,  
15 Chapter 61, Section 26, as amended) is amended to read:

16 "6-21-26. COURT PROCEEDINGS--PREFERENCE--VENUE.--Any  
17 action or proceeding to which the authority or the people of  
18 the state may be a party in which any question arises as to the  
19 validity of the New Mexico Finance Authority Act or project or  
20 transaction undertaken by the authority pursuant to that act  
21 shall be preferred over all other civil cases in all courts of  
22 the state and shall be heard and determined in preference to  
23 all other civil business pending therein irrespective of  
24 position on the calendar. The same preference shall be granted  
25 upon application of counsel to the authority in any action or

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1 proceeding seeking a judicial declaration of the validity of  
2 the New Mexico Finance Authority Act or any project or  
3 transaction undertaken by the authority pursuant to that act.  
4 The venue of any [~~such~~] action or proceeding or any other  
5 action or proceeding [~~against~~] in which the authority is a  
6 party shall be [~~in the county in which the principal office of~~  
7 ~~the authority is located~~] the district court of the first  
8 judicial district."

9 SECTION 10. Section 6-21A-3 NMSA 1978 (being Laws 1997,  
10 Chapter 144, Section 3, as amended) is amended to read:

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

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

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

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

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

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

25 I. "Safe Drinking Water Act" means the federal Safe

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1 Drinking Water Act as amended in 1996 and its subsequent  
2 amendments or successor provisions."

3 SECTION 11. Section 6-21A-4 NMSA 1978 (being Laws 1997,  
4 Chapter 144, Section 4, as amended) is amended to read:

5 "6-21A-4. FUND CREATED--ADMINISTRATION.--

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

14 B. The following shall be deposited directly in the  
15 fund:

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

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

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

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1 (4) any other public or private money  
2 dedicated to the fund; and

3 (5) revenue transferred from other state  
4 revolving funds.

5 C. Money in the fund is appropriated for  
6 expenditure by the authority in a manner consistent with the  
7 terms and conditions of the federal capitalization grants and  
8 the Safe Drinking Water Act and may be used:

9 (1) to provide loans and grants for the  
10 construction or rehabilitation of drinking water facilities;

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

15 (3) to guarantee or purchase insurance for  
16 obligations of local authorities to improve credit market  
17 access or reduce interest rates;

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

20 (5) to provide a source of revenue or security  
21 for the repayment of principal and interest on bonds issued by  
22 the authority if the proceeds of the bonds are deposited in the  
23 fund or if the proceeds of the bonds are used to make loans to  
24 local authorities to the extent provided in the terms of the  
25 federal grant.

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

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

15           F. The authority shall maintain full authority for  
16 the operation of the fund in accordance with applicable federal  
17 and state law, including, in cooperation with the department,  
18 ensuring the loan recipients are on the state priority list or  
19 otherwise satisfy the Safe Drinking Water Act requirements.

20           G. The authority shall establish fiscal controls  
21 and accounting procedures that are sufficient to [~~assure~~]  
22 ensure proper accounting for fund payments, disbursements and  
23 balances and shall provide, in cooperation with the department,  
24 [~~a biannual~~] an annual report and an annual independent audit  
25 on the fund to the governor and to the United States

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1 environmental protection agency as required by the Safe  
2 Drinking Water Act."

3 SECTION 12. Section 6-21A-5 NMSA 1978 (being Laws 1997,  
4 Chapter 144, Section 5) is amended to read:

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

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

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

22 C. The department shall adopt regulations or  
23 internal procedures addressing the mechanism for the  
24 preparation of the annual intended use plan and the content of  
25 [~~such~~] the plan and shall prepare [~~such~~] the plan, with the

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1 assistance of the authority, as required by the Safe Drinking  
2 Water Act and the capitalization grant agreement. The  
3 department shall review all proposals for drinking water  
4 facility construction projects, including ~~[but not limited to]~~  
5 project plans and specifications for compliance with the  
6 requirements of the Safe Drinking Water Act and the  
7 requirements of state laws and regulations governing the  
8 construction and operation of drinking water supply facilities.  
9 The department also shall determine whether a local authority  
10 has demonstrated adequate technical and managerial capability  
11 to operate the drinking water supply facility for its useful  
12 life in compliance with the requirements of the Safe Drinking  
13 Water Act and with the requirements of state laws and  
14 regulations governing the operation of drinking water supply  
15 facilities.

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

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1           E. The department shall adopt regulations or  
2 internal procedures establishing the criteria and method for  
3 the distribution of annual capitalization grant funds between  
4 the fund and the nonproject activities (set-asides) allowed by  
5 the Safe Drinking Water Act and for the description in the  
6 intended use plan and annual report of the financial  
7 programmatic status of the nonproject activities (set-asides)  
8 allowed by the Safe Drinking Water Act.

9           F. The authority, with the assistance of the  
10 department, shall establish procedures to identify  
11 affordability criteria for a disadvantaged community and to  
12 extend a program to assist such communities.

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

20           H. The [~~department~~] authority shall prepare and  
21 submit applications for capitalization grants to the United  
22 States environmental protection agency as required by the Safe  
23 Drinking Water Act."

24           **SECTION 13.** Section 6-21A-6 NMSA 1978 (being Laws 1997,  
25 Chapter 144, Section 6) is amended to read:

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1 "6-21A-6. FINANCIAL ASSISTANCE--CRITERIA.--

2 A. Financial assistance shall be provided only to  
3 local authorities that:

4 (1) meet the requirements for financial  
5 capability set by the authority to ~~[assure]~~ ensure sufficient  
6 revenues to operate and maintain the drinking water facility  
7 for its useful life and to repay the financial assistance;

8 (2) appear on the priority list for the fund,  
9 developed and maintained by the department, regardless of rank  
10 on such list;

11 (3) are considered by the authority and the  
12 department ready to proceed with the project;

13 (4) demonstrate adequate technical and  
14 managerial capability to operate the drinking water facility  
15 for its useful life; and

16 (5) meet other requirements established by the  
17 authority and state laws, including ~~[but not limited to]~~  
18 procurement, recordkeeping and accounting.

19 B. Loans from the fund shall be made by the  
20 authority only to local authorities that establish one or more  
21 dedicated sources of revenue to repay the money received from  
22 the fund and to provide for operation, maintenance and  
23 equipment replacement expenses of the drinking water facility  
24 proposed for funding.

25 C. The authority, with assistance from the

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1 department, shall establish procedures addressing methods to  
2 provide financial assistance to local authorities in accordance  
3 with the criteria set forth in the Safe Drinking Water Act,  
4 Section 1452(a)(3).

5 D. Each loan made by the authority shall provide  
6 that repayment of the loan shall begin not later than [~~one~~  
7 year] eighteen months after completion of construction of the  
8 drinking water facility for which the loan was made and shall  
9 be repaid in full no later than [~~twenty~~] thirty years after  
10 completion of the construction, except in the case of a  
11 disadvantaged community [~~in which case~~]. The authority may  
12 extend the term of the loan to a disadvantaged community, as  
13 long as the extended term:

14 (1) terminates not later than the date that is  
15 [~~thirty~~] forty years after the date of project completion; and

16 (2) does not exceed the expected design life  
17 of the project.

18 E. Financial assistance may be made with an annual  
19 interest rate [~~which~~] that is less than a market rate as  
20 determined by procedures established by the authority and  
21 reported annually in the intended use plan prepared by the  
22 department, with the assistance of the authority.

23 F. Financial assistance pursuant to the Drinking  
24 Water State Revolving Loan Fund Act shall not be given to a  
25 local authority if the authority determines that the financial

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1 assistance is for a drinking water facility to be constructed  
2 in fulfillment or partial fulfillment of requirements made of a  
3 subdivider under the provisions of the Land Subdivision Act or  
4 the New Mexico Subdivision Act.

5 G. Financial assistance may be made to local  
6 authorities that employ or contract with a registered  
7 professional engineer to provide and be responsible for  
8 engineering services on the drinking water facility. Such  
9 services, if the authority determines such services are needed,  
10 may include ~~[but are not limited to]~~ an engineering report,  
11 facility plans, environmental evaluations, construction  
12 contract documents, supervision of construction and start-up  
13 services.

14 H. Financial assistance shall be made only for  
15 eligible items as described by authority procedures and as  
16 identified pursuant to the Safe Drinking Water Act."

17 SECTION 14. Section 6-21A-7 NMSA 1978 (being Laws 1997,  
18 Chapter 144, Section 7) is amended to read:

19 "6-21A-7. DEPARTMENT DUTIES--POWERS.--

20 A. The department with the approval of the governor  
21 and as authorized in the intended use plan may transfer up to  
22 one-third of a wastewater facility construction loan fund  
23 capitalization grant to the drinking water state revolving loan  
24 fund; provided the Wastewater Facility Construction Loan Act is  
25 amended to allow for such transfer. ~~[This provision is~~

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1 ~~available one year after the receipt of the first full~~  
2 ~~capitalization grant for the Drinking Water State Revolving~~  
3 ~~Loan Fund Act and will expire with the capitalization grant of~~  
4 ~~the year 2002. Before the department makes the transfer, the~~  
5 ~~department shall:~~

6 ~~(1) outline the transfer in the applicable~~  
7 ~~intended use plans for both the drinking water state revolving~~  
8 ~~loan fund and the wastewater facility construction loan fund;~~  
9 ~~and~~

10 ~~(2) report the intended transfer to the~~  
11 ~~legislature.]~~

12 B. The department in the annual intended use plan  
13 shall certify to the United States environmental protection  
14 agency the progress made regarding operator certification and  
15 capacity development programs as they relate to the receipt of  
16 capitalization grants available from the environmental  
17 protection agency under the Safe Drinking Water Act."

18 SECTION 15. Section 6-21A-8 NMSA 1978 (being Laws 1997,  
19 Chapter 144, Section 8) is amended to read:

20 "6-21A-8. AUTHORITY DUTIES--POWERS.--

21 A. The authority with the approval of the governor  
22 and as authorized in the intended use plan may transfer up to  
23 one-third of a drinking water state revolving loan fund  
24 capitalization grant to the wastewater facility construction  
25 loan fund. ~~[This provision is available one year after the~~

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1 ~~receipt of the first full capitalization grant and will expire~~  
2 ~~with the capitalization grant of the year 2002. Before the~~  
3 ~~authority makes the transfer, the authority shall:~~

4 ~~(1) outline the transfer in the applicable~~  
5 ~~intended use plans for both the drinking water state revolving~~  
6 ~~loan fund and the wastewater facility construction loan fund;~~  
7 ~~and~~

8 ~~(2) report the intended transfer to the~~  
9 ~~legislature.]~~

10 B. The authority [~~will have the power~~

11 ~~(1) to~~] may:

12 (1) foreclose upon or attach any drinking  
13 water facility, property or interest in the facility pledged,  
14 mortgaged or otherwise available as security for a project  
15 financed in whole or in part pursuant to the Drinking Water  
16 State Revolving Loan Fund Act in the event of a default by a  
17 local authority;

18 (2) [~~to~~] acquire and hold title [~~to~~] or  
19 leasehold interest in real and personal property and [~~to~~] sell,  
20 convey or lease that property for the purpose of satisfying a  
21 default or enforcing the provisions of a loan agreement; and

22 (3) [~~to~~] enforce its rights by suit or  
23 mandamus or [~~may utilize~~] use all other available remedies  
24 under state law in the event of default by a local authority.

25 C. The authority [~~will have the power to~~] may issue

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1 bonds or refunding bonds pursuant to the New Mexico Finance  
2 Authority Act and the Drinking Water State Revolving Loan Fund  
3 Act when the authority determines that a bond issue is required  
4 or desirable to implement the provisions of the Drinking Water  
5 State Revolving Loan Fund Act.

6 D. As security for the payment of the principal and  
7 interest on bonds issued by the authority, the authority is  
8 authorized to pledge, transfer and assign:

9 (1) any obligations of each local authority,  
10 payable to the authority;

11 (2) the security for the local authority  
12 obligations;

13 (3) any grant, subsidy or contribution from  
14 the United States or any of its agencies or instrumentalities;  
15 or

16 (4) any income, revenues, funds or other money  
17 of the authority from any other source appropriated or  
18 authorized for use for the purpose of implementing the  
19 provisions of the Drinking Water State Revolving Loan Fund Act,  
20 including the fund.

21 E. The bonds and other obligations issued by the  
22 authority shall be issued and delivered in accordance with the  
23 provisions of the New Mexico Finance Authority Act and may be  
24 sold at any time the authority determines appropriate. The  
25 authority may apply the proceeds of the sale of the bonds to:

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1 (1) the purposes of the Drinking Water State  
2 Revolving Loan Fund Act or the purposes for which the fund may  
3 be used;

4 (2) the payment of interest on bonds issued by  
5 the authority for a period not to exceed three years from the  
6 date of issuance of the bonds; and

7 (3) the payment of all expenses, including  
8 publication and printing charges, attorney fees, financial  
9 advisory and underwriter fees and premiums or commissions that  
10 the authority determines are necessary or advantageous in  
11 connection with the recommendation, advertisement, sale,  
12 creation and issuance of bonds.

13 F. [~~In the event that funds are~~] If money is not  
14 available for a loan for a drinking water facility project when  
15 application is made, in order to accelerate the completion of  
16 any drinking water facility project, the local authority may,  
17 with the approval of the authority, obligate [~~such local~~  
18 ~~authority~~] itself to provide local funds to pay that portion of  
19 the cost of the drinking water facility project that the  
20 authority agrees to make available by loan, and the authority  
21 may reimburse the amount expended on its behalf by the local  
22 authority.

23 G. Authority members or employees and any person  
24 executing bonds issued pursuant to the New Mexico Finance  
25 Authority Act and Drinking Water State Revolving Loan Fund Act

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1 shall not be liable personally on [~~such~~] the bonds or be  
2 subject to [~~any~~] personal liability or accountability by reason  
3 of the issuance [~~thereof~~] of the bonds.

4 H. All bonds, notes and certificates issued by the  
5 authority shall be special obligations of the authority,  
6 payable solely from the revenue, income, fees or charges that  
7 may, pursuant to the provisions of the New Mexico Finance  
8 Authority Act and the Drinking Water State Revolving Loan Fund  
9 Act, be pledged to the payment of such obligations, and the  
10 bonds, notes or certificates shall not create an obligation,  
11 debt or liability of the state. No breach of any pledge,  
12 obligation or agreement of the authority shall impose a  
13 pecuniary liability upon the state or a charge upon its general  
14 credit or taxing power."

15 SECTION 16. Section 6-25-3 NMSA 1978 (being Laws 2003,  
16 Chapter 349, Section 3, as amended) is amended to read:

17 "6-25-3. DEFINITIONS.--As used in the Statewide Economic  
18 Development Finance Act:

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

21 B. "department" means the economic development  
22 department;

23 C. "community development entity" means an entity  
24 designed to take advantage of the federal new markets tax  
25 credit program;

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1                   ~~[D. "economic development assistance provisions"~~  
2 ~~means the economic development assistance provisions of~~  
3 ~~Subsection D of Article 9, Section 14 of the constitution of~~  
4 ~~New Mexico;~~

5                   E.] D. "project revenue bonds" means bonds, notes  
6 or other instruments authorized in Section 6-25-7 NMSA 1978 and  
7 issued by the authority pursuant to the Statewide Economic  
8 Development Finance Act on behalf of eligible entities;

9                   ~~[F.]~~ E. "economic development goal" means:

10                   (1) assistance to rural and underserved areas  
11 designed to increase business activity, including agricultural  
12 enterprises, such as new or ongoing agricultural projects that  
13 add value to New Mexico agricultural products;

14                   (2) retention and expansion of existing  
15 business, including agricultural enterprises, such as new or  
16 ongoing agricultural projects that add value to New Mexico  
17 agricultural products;

18                   (3) attraction of new business, including  
19 agricultural enterprises, such as new or ongoing agricultural  
20 projects that add value to New Mexico agricultural products; or

21                   (4) creation and promotion of an environment  
22 suitable for the support of start-up and emerging business,  
23 including agricultural enterprises, such as new or ongoing  
24 agricultural projects that add value to New Mexico agricultural  
25 products within the state;

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1           ~~[G.]~~ F. "economic development revolving fund bonds"  
2 means bonds, notes or other instruments payable from the fund  
3 and issued by the authority pursuant to the Statewide Economic  
4 Development Finance Act;

5           ~~[H.]~~ G. "eligible entity" means a for-profit or  
6 not-for-profit business, including an agricultural enterprise,  
7 such as new or ongoing agricultural projects that add value to  
8 New Mexico agricultural products and including a corporation,  
9 limited liability company, partnership or other entity,  
10 determined by the department to be engaged in an enterprise  
11 that serves an economic development goal and is suitable for  
12 financing assistance;

13           ~~[I.]~~ H. "federal new markets tax credit program"  
14 means the tax credit program codified as Section 45D of the  
15 Internal Revenue Code of 1986, as that section may be amended  
16 or renumbered, and regulations issued pursuant to that section;

17           ~~[J.]~~ I. "financing assistance" means project  
18 revenue bonds, loans, loan participations or loan guarantees  
19 provided by the authority to or for eligible entities pursuant  
20 to the Statewide Economic Development Finance Act;

21           ~~[K.]~~ J. "fund" means the economic development  
22 revolving fund;

23           ~~[L.]~~ K. "mortgage" means a mortgage, deed of trust  
24 or pledge of any assets as a collateral security; and

25           ~~[M.] "opt-in agreement" means an agreement entered~~

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1 ~~into between the department and a qualifying county, a school~~  
2 ~~district and, if applicable, a qualifying municipality that~~  
3 ~~provides for county, school district and, if applicable,~~  
4 ~~municipal approval of a project, subject to compliance with all~~  
5 ~~local zoning, permitting and other land use rules, and for~~  
6 ~~payments in lieu of taxes to the qualifying county, school~~  
7 ~~district and, if applicable, qualifying municipality as~~  
8 ~~provided by the Statewide Economic Development Finance Act;~~

9 N. ~~"payment in lieu of taxes" means the total~~  
10 ~~annual payment, including any state in-lieu payment, paid as~~  
11 ~~compensation for the tax impact of a project, in an amount~~  
12 ~~negotiated and determined in the opt-in agreement between the~~  
13 ~~department and the qualifying county, the school district and,~~  
14 ~~if applicable, the qualifying municipality, which payment shall~~  
15 ~~be distributed to the county, municipality and school district~~  
16 ~~in the same proportion as property tax revenues are normally~~  
17 ~~distributed to those recipients;~~

18 O.] L. "[standard] project" means land, buildings,  
19 improvements, machinery and equipment, operating capital and  
20 other personal property for which financing assistance is  
21 provided for [adequate consideration, taking into account the  
22 anticipated quantifiable benefits of the standard project, for]  
23 use by an eligible entity as:

- 24 (1) industrial or manufacturing facilities;
- 25 (2) commercial facilities, including

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1 facilities for wholesale sales and services;

2 (3) health care facilities, including  
3 hospitals, clinics, laboratory facilities and related office  
4 facilities;

5 (4) educational facilities, including schools;

6 (5) arts, entertainment or cultural  
7 facilities, including museums, theaters, arenas or assembly  
8 halls;

9 (6) recreational and tourism facilities,  
10 including parks, pools, trails, open space and equestrian  
11 facilities; and

12 (7) agricultural enterprises, including new or  
13 ongoing agricultural projects and projects that add value to  
14 New Mexico agricultural products.

15 ~~P. "project" means a standard project or a state~~  
16 ~~project;~~

17 ~~Q. "qualifying municipality or county" means a~~  
18 ~~municipality or county that enters into an opt-in agreement;~~

19 ~~R. "quantifiable benefits" means a project's~~  
20 ~~advancement of an economic development goal as measured by a~~  
21 ~~variety of factors, including:~~

22 ~~(1) the benefits an eligible entity contracts~~  
23 ~~to provide, such as local hiring quotas, job training~~  
24 ~~commitments and installation of public facilities or~~  
25 ~~infrastructure; and~~

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1                   ~~(2) other benefits such as the total number of~~  
2 ~~direct and indirect jobs created by the project, total amount~~  
3 ~~of annual salaries to be paid as a result of the project, total~~  
4 ~~gross receipts and occupancy tax collections, total property~~  
5 ~~tax collections, total state corporate and personal income tax~~  
6 ~~collections and other fee and revenue collections resulting~~  
7 ~~from the project;~~

8                   ~~S. "school district" means a school district where~~  
9 ~~a project is located that is exempt from property taxes~~  
10 ~~pursuant to the Statewide Economic Development Finance Act;~~

11                   ~~F. "state in-lieu payment" means an annual payment,~~  
12 ~~in an amount determined by the department, that will be~~  
13 ~~distributed to a qualifying county, a school district and, if~~  
14 ~~applicable, a qualifying municipality in the same proportion as~~  
15 ~~property tax revenues are normally distributed to those~~  
16 ~~recipients;~~

17                   ~~U. "state project" means land, buildings or~~  
18 ~~infrastructure for facilities to support new or expanding~~  
19 ~~eligible entities for which financing assistance is provided~~  
20 ~~pursuant to the economic development assistance provisions; and~~

21                   ~~V. "tax impact of a project" means the annual~~  
22 ~~reduction in property tax revenue to affected property tax~~  
23 ~~revenue recipients directly resulting from the conveyance of a~~  
24 ~~project to the department.]"~~

25                   SECTION 17. Section 6-25-6 NMSA 1978 (being Laws 2016,

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1 Chapter 38, Section 1, as amended) is amended to read:

2 "6-25-6. NEW MEXICO FINANCE AUTHORITY--ADDITIONAL POWERS  
3 AND DUTIES.--

4 A. To implement a program to assist eligible  
5 entities in financing projects, the authority has the powers  
6 specified in this section.

7 ~~[B. State projects receiving financing assistance~~  
8 ~~with money in the fund shall first be approved by law. To~~  
9 ~~protect public money in the fund or other public resources,~~  
10 ~~rules of the authority relating to state projects shall include~~  
11 ~~provisions to ensure achievement of the economic development~~  
12 ~~goals of the state project and shall describe the means of~~  
13 ~~recovering public money or other public resources if an~~  
14 ~~eligible entity defaults on its obligations to the authority.~~

15 ~~C. Standard projects receiving financing assistance~~  
16 ~~with money in the fund shall be approved by the authority~~  
17 ~~pursuant to rules approved by the New Mexico finance authority~~  
18 ~~oversight committee. Beginning July 1, 2023, standard projects~~  
19 ~~shall first be approved by law.~~

20 ~~D.]~~ B. The authority may:

21 (1) issue project revenue bonds on behalf of  
22 an eligible entity, payable from the revenues of a project and  
23 other revenues authorized as security for the bonds, to finance  
24 a project on behalf of an eligible entity;

25 (2) make loans from the fund for projects to



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1 eligible entities that establish one or more dedicated sources  
2 of revenue to repay the loan from the authority;

3 (3) enter into loan participation agreements  
4 from the fund for projects, whether in the form of an interest  
5 rate buy-down, the purchase of loans or portions of loans  
6 originated and underwritten by third-party lenders or other  
7 similar arrangements;

8 (4) provide loan guarantees from the fund for  
9 projects;

10 (5) make, execute and enforce all contracts  
11 necessary, convenient or desirable for purposes of the  
12 authority or pertaining to project revenue bonds, economic  
13 development revolving fund bonds, loans, loan participations or  
14 loan guarantees and the Statewide Economic Development Finance  
15 Act and pay the reasonable value of services rendered to the  
16 authority pursuant to the contracts;

17 (6) purchase and hold loans and loan  
18 participations in the fund at prices and in a manner determined  
19 by the authority;

20 (7) sell loans and loan participations  
21 acquired or held by the authority in the fund at prices and in  
22 a manner determined by the authority;

23 (8) prescribe the form of application or  
24 procedure required of an eligible entity to apply for financing  
25 assistance;

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1 (9) fix the terms and conditions of the  
2 financing assistance, including the priority of lien and type  
3 of collateral or other security, and enter into agreements with  
4 eligible entities with respect to financing assistance;

5 (10) fix, revise from time to time, charge and  
6 collect fees and other charges in connection with the issuance  
7 of bonds; the making, purchase, participation in or guarantee  
8 of loans; and the review of proposed financing assistance to an  
9 eligible entity, whether or not the financing assistance is  
10 provided;

11 (11) employ architects, engineers, accountants  
12 and attorneys; construction and financial experts; and such  
13 other advisors, consultants and agents as may be necessary in  
14 its judgment, and fix and pay their compensation;

15 (12) to the extent allowed under its contracts  
16 with the holders of bonds of the authority, consent to  
17 modification of the rate of interest, time and payment of  
18 installments of principal or interest, security or any other  
19 term of financing assistance;

20 (13) consider the ability of the eligible  
21 entity to secure financing for a project from other sources and  
22 the costs of that financing;

23 (14) acquire fee simple, leasehold,  
24 mortgagor's or mortgagee's interests in real or personal  
25 property and sell, mortgage, convey, lease or assign that

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1 property for authority purposes; and

2 (15) in the event of default by an eligible  
3 entity, enforce its rights by suit, mandamus and all other  
4 remedies available under law.

5 ~~[E.]~~ C. The authority shall adopt rules subject to  
6 approval of the New Mexico finance authority oversight  
7 committee to:

8 (1) establish procedures for applying for  
9 financing assistance;

10 (2) establish credit qualifications for  
11 eligible entities and establish terms and conditions for  
12 financing assistance;

13 (3) establish economic development goals for  
14 projects in consultation with the department; and

15 ~~[(4) establish methods for determining~~  
16 ~~quantifiable benefits;~~

17 ~~(5) provide safeguards to protect public money~~  
18 ~~and other public resources provided for a state project;~~

19 ~~(6) establish procedures by which the~~  
20 ~~authority requests approval by law for projects receiving~~  
21 ~~financing assistance with money in the fund; and~~

22 ~~(7)]~~ (4) establish fees to pay the costs of  
23 evaluating, originating and administering financing assistance.

24 ~~[F. The authority shall coordinate with the~~  
25 ~~department to provide staffing and other assistance to the~~

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1 ~~department in carrying out the department's responsibilities~~  
2 ~~and activities pursuant to the Statewide Economic Development~~  
3 ~~Finance Act.~~

4           ~~G.]~~ D. The authority shall report to the New Mexico  
5 finance authority oversight committee twice each year regarding  
6 the total expenditures from the economic development revolving  
7 fund for the previous fiscal year, the purposes for which  
8 expenditures were made, an analysis of the progress of the  
9 projects funded and proposals for legislative action."

10           SECTION 18. Section 6-25-7 NMSA 1978 (being Laws 2003,  
11 Chapter 349, Section 7, as amended) is amended to read:

12           "6-25-7. PROJECT REVENUE BONDS.--

13           A. The authority may issue project revenue bonds on  
14 behalf of an eligible entity to provide funds for a project.  
15 Project revenue bonds issued pursuant to the Statewide Economic  
16 Development Finance Act shall not be a general obligation of  
17 the authority or the state within the meaning of any provision  
18 of the constitution of New Mexico and shall never give rise to  
19 a pecuniary liability of the authority or the state or a charge  
20 against the general credit or taxing powers of the state.  
21 Project revenue bonds shall be payable from the revenue derived  
22 from a project being financed by the bonds and from other  
23 revenues pledged by an eligible entity and may be secured in  
24 such manner as provided in the Statewide Economic Development  
25 Finance Act and as determined by the authority. Project

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1 revenue bonds may be executed and delivered at any time, may be  
2 in such form and denominations, may be payable in installments  
3 and at times not exceeding thirty years from their date of  
4 delivery, may bear or accrete interest at a rate or rates and  
5 may contain such provisions not inconsistent with the Statewide  
6 Economic Development Finance Act, all as provided in the  
7 resolution and proceedings of the authority authorizing  
8 issuance of the bonds. Project revenue bonds issued by the  
9 authority pursuant to the Statewide Economic Development  
10 Finance Act may be sold at public or private sale in such  
11 manner and from time to time as may be determined by the  
12 authority, and the authority may pay all expenses that the  
13 authority may determine necessary in connection with the  
14 authorization, sale and issuance of the bonds. All project  
15 revenue bonds issued pursuant to the Statewide Economic  
16 Development Finance Act shall be negotiable.

17 B. The principal of and interest on project revenue  
18 bonds issued pursuant to the Statewide Economic Development  
19 Finance Act shall be secured by a pledge of the revenues of the  
20 project being financed with the proceeds of the bonds, may be  
21 secured by a mortgage of all or a part of the project being  
22 financed or other collateral pledged by an eligible entity and  
23 may be secured by the lease of such project, which collateral  
24 and lease may be assigned, in whole or in part, by the  
25 department to the authority or to third parties to carry out

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1 the purposes of the Statewide Economic Development Finance Act.  
2 The resolution of the authority pursuant to which the project  
3 revenue bonds are authorized to be issued or any such mortgage  
4 may contain any agreement and provisions customarily contained  
5 in instruments securing bonds, including provisions respecting  
6 the fixing and collection of all revenues from any project to  
7 which the resolution or mortgage pertains, the terms to be  
8 incorporated in the lease of the project, the maintenance and  
9 insurance of the project, the creation and maintenance of  
10 special funds from the revenues of the project and the rights  
11 and remedies available in event of default to the bondholders  
12 or to the trustee under a mortgage, all as determined by the  
13 authority or the department and as shall not be in conflict  
14 with the Statewide Economic Development Finance Act; provided,  
15 however, that, in making any such agreements or provisions, the  
16 authority and the department may not obligate themselves except  
17 with respect to the project and application of the revenues  
18 from the project, and except as expressly permitted by the  
19 Statewide Economic Development Finance Act, and shall not have  
20 the power to incur a pecuniary liability or a charge or to  
21 pledge the general credit or taxing power of the state. The  
22 resolution authorizing the issuance of project revenue bonds  
23 may provide procedures and remedies in the event of default in  
24 payment of the principal of or interest on the bonds or in the  
25 performance of any agreement. No breach of any such agreement

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1 shall impose any pecuniary liability upon the authority, the  
2 department or the state or any charge against the general  
3 credit or taxing powers of the state.

4 C. The authority may arrange for such other  
5 guarantees, insurance or other credit enhancements or  
6 additional security provided by an eligible entity as  
7 determined by the authority for the project revenue bonds and  
8 may provide for the payment of the costs from the proceeds of  
9 the bonds or may require payment of the costs by the eligible  
10 entity on whose behalf the bonds are issued.

11 ~~[D. Project revenue bonds issued to finance a~~  
12 ~~project may also be secured by pledging a portion of the~~  
13 ~~qualifying municipal or county gross receipts tax revenues by~~  
14 ~~the municipality or county in which the project is located, as~~  
15 ~~permitted by the Local Economic Development Act.~~

16 E.] D. The project revenue bonds and the income  
17 from the bonds, all mortgages or other instruments executed as  
18 security for the bonds, all lease agreements made pursuant to  
19 the provisions of the Statewide Economic Development Finance  
20 Act and revenue derived from any sale or lease of a project  
21 shall be exempt from all taxation by the state or any political  
22 subdivision of the state. The authority may issue project  
23 revenue bonds the interest on which is exempt from taxation  
24 under federal law.

25 ~~[F.]~~ E. In any calendar year, no more than fifteen

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1 percent of the state ceiling allocated pursuant to the Private  
2 Activity Bond Act may be used for projects financed pursuant to  
3 the Statewide Economic Development Finance Act."

4 SECTION 19. Section 6-25-24 NMSA 1978 (being Laws 2005,  
5 Chapter 103, Section 21) is amended to read:

6 "6-25-24. AGREEMENT OF THE STATE.--The state pledges to  
7 and agrees with the holders of any economic development  
8 revolving fund bonds, project revenue bonds or notes issued by  
9 the authority under the Statewide Economic Development Finance  
10 Act that the state will not limit or alter the rights vested in  
11 the authority [~~or the department~~] to fulfill the terms of any  
12 agreements made with the holders of the economic development  
13 revolving fund bonds, project revenue bonds or notes or in any  
14 way impair the rights and remedies of those holders until the  
15 economic development revolving fund bonds, project revenue  
16 bonds or notes together with the interest on the economic  
17 development revolving fund bonds, project revenue bonds or  
18 notes, with interest on any unpaid installments of interest,  
19 and all costs and expenses in connection with any action or  
20 proceedings by or on behalf of those holders, are fully met and  
21 discharged. The authority may include this pledge and  
22 agreement of the state in any agreement with the holders of the  
23 economic development revolving fund bonds, project revenue  
24 bonds or notes."

25 SECTION 20. Section 6-25-27 NMSA 1978 (being Laws 2005,

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1 Chapter 103, Section 24) is amended to read:

2 "6-25-27. PROPRIETARY INFORMATION--CONFIDENTIALITY--  
3 PENALTY.--

4 A. The following information obtained by the  
5 department or the authority [~~that is~~] shall be confidential and  
6 not subject to inspection pursuant to the Inspection of Public  
7 Records Act:

8 (1) proprietary technical or business  
9 information; [~~or~~] and

10 (2) information related to the possible  
11 relocation or expansion of an eligible entity [~~shall be~~  
12 ~~confidential and not subject to inspection pursuant to the~~  
13 ~~Inspection of Public Records Act~~].

14 B. It is unlawful for any employee of the  
15 department or the authority, or any former employee of the  
16 department or the authority, to reveal to any person other than  
17 another employee of the department or the authority any  
18 confidential information obtained by the department or the  
19 authority that is proprietary technical or business information  
20 or related to the possible relocation or expansion of an  
21 eligible entity and not available from public sources, except  
22 in response to an order of a district court, an appellate court  
23 or a federal court.

24 C. Any employee or former employee of the  
25 department or the authority who reveals to another person any

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1 information that ~~he~~ the employee or former employee is  
2 prohibited from lawfully revealing is guilty of a misdemeanor  
3 and shall be sentenced in accordance with the provisions of  
4 Section 31-19-1 NMSA 1978."

5 SECTION 21. Section 6-26-2 NMSA 1978 (being Laws 2004,  
6 Chapter 71, Section 2) is amended to read:

7 "6-26-2. PURPOSE.--The purpose of the Behavioral Health  
8 Capital Funding Act is to provide funding for ~~capital~~  
9 projects to eligible entities in order to increase behavioral  
10 health care services to sick and indigent patients."

11 SECTION 22. Section 6-26-3 NMSA 1978 (being Laws 2004,  
12 Chapter 71, Section 3, as amended) is amended to read:

13 "6-26-3. DEFINITIONS.--As used in the Behavioral Health  
14 Capital Funding Act:

15 A. "authority" means the New Mexico finance  
16 authority;

17 B. "capital project" or "project" means  
18 acquisition, repair, renovation, ~~or~~ construction or purchase  
19 of a behavioral health facility; purchase of land; ~~or~~  
20 acquisition of capital equipment of a long-term nature; or  
21 operating capital to be used in the delivery of behavioral  
22 health care services to sick and indigent persons;

23 C. "department" means the human services department  
24 ~~of health~~;

25 D. "eligible entity" means:

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1 (1) a nonprofit behavioral health facility  
2 that is a 501(c)(3) nonprofit corporation for federal income  
3 tax purposes and serves primarily sick and indigent patients;  
4 or

5 (2) a behavioral health care clinic that  
6 operates in a rural or other health care underserved area of  
7 the state, that is owned by a county or municipality and that  
8 meets department requirements for eligibility; [~~and~~]

9 E. "fund" means the behavioral health capital fund;  
10 and

11 F. "operating capital" means funds needed to meet  
12 short-term obligations, including accounts payable, wages, debt  
13 services, leases and income tax payments."

14 SECTION 23. Section 6-26-4 NMSA 1978 (being Laws 2004,  
15 Chapter 71, Section 4, as amended) is amended to read:

16 "6-26-4. BEHAVIORAL HEALTH CAPITAL FUND.--

17 A. The "behavioral health capital fund" is created  
18 as a revolving fund in the authority. The fund shall consist  
19 of appropriations, loan repayments, gifts, grants, donations  
20 and interest earned on investment of the fund. Money in the  
21 fund shall not revert at the end of a fiscal year.

22 B. Money in the fund is appropriated to the  
23 authority for the purpose of making loans to eligible entities  
24 for [~~capital~~] projects pursuant to the Behavioral Health  
25 Capital Funding Act.

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1 C. The fund shall be administered by the authority.  
2 The authority may recover from the fund the actual costs of  
3 administering the fund and originating loans [~~up to an amount~~  
4 ~~equal to ten percent of original loan amounts~~]."

5 SECTION 24. Section 6-26-5 NMSA 1978 (being Laws 2004,  
6 Chapter 71, Section 5) is amended to read:

7 "6-26-5. [DEPARTMENT] AUTHORITY--RULES.--The [department]  
8 authority, in conjunction with the [authority] department,  
9 shall adopt rules to administer and implement the provisions of  
10 the Behavioral Health Capital Funding Act, including  
11 provisions:

12 A. establishing procedures and forms for applying  
13 for loans [~~for capital projects~~];

14 B. specifying the documentation required to be  
15 provided by the applicant to justify the need for the [capital]  
16 project;

17 C. specifying the documentation required to be  
18 provided by the applicant to demonstrate that the applicant is  
19 an eligible entity;

20 D. establishing procedures for review, evaluation  
21 and approval of loans, including the programmatic,  
22 organizational and financial information necessary to review,  
23 evaluate and approve an application;

24 E. for evaluating the ability and competence of an  
25 applicant to provide efficiently and adequately for the

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1 completion of a proposed [~~capital~~] project;

2 F. for the approval of loan applications, including  
3 provisions that accord priority attention to areas with the  
4 greatest need for behavioral health services;

5 G. that ensure fair geographic distribution of  
6 loans;

7 H. establishing requirements for repayment of  
8 loans, including payment schedules, interest rates, loan terms  
9 and other requirements;

10 I. for ensuring the [~~state's~~] authority's interest  
11 in any [~~capital~~] project by the filing of a lien equal to the  
12 total of the [~~state's~~] authority's financial participation in  
13 the project; and

14 J. for such other requirements deemed necessary by  
15 the department and the authority to ensure that the state  
16 receives the behavioral health services for which the  
17 legislature appropriates money and that the [~~state's interest~~]  
18 investment in a [~~capital~~] project is protected."

19 SECTION 25. Section 6-26-6 NMSA 1978 (being Laws 2004,  
20 Chapter 71, Section 6) is amended to read:

21 "6-26-6. DEPARTMENT--AUTHORITY--POWERS AND DUTIES.--

22 A. The department and the authority shall  
23 administer the loan programs established pursuant to the  
24 provisions of the Behavioral Health Capital Funding Act. The  
25 department and the authority shall:

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1 (1) enter into joint powers agreements with  
2 each other or other appropriate public agencies to carry out  
3 the provisions of that act; and

4 (2) apply to any appropriate federal, state or  
5 local governmental agency or private organization for grants  
6 and gifts to carry out the provisions of that act.

7 B. The department and the authority may:

8 (1) make and enter into contracts and  
9 agreements necessary to carry out their powers and duties  
10 pursuant to the provisions of the Behavioral Health Capital  
11 Funding Act; ~~and~~

12 (2) do all things necessary or appropriate to  
13 carry out the provisions of the Behavioral Health Capital  
14 Funding Act; and

15 (3) contract for services with an eligible  
16 entity to provide free or reduced-fee primary care services for  
17 sick and medically indigent persons as reasonably adequate  
18 legal consideration in exchange for providing money from the  
19 fund to the entity to acquire or construct a capital project to  
20 provide services.

21 C. The authority is responsible for all financial  
22 duties of the programs, including:

23 (1) administering the fund;

24 (2) accounting for all money received,  
25 controlled or disbursed for capital projects in accordance with

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1 the provisions of the Behavioral Health Capital Funding Act;

2 (3) evaluating and approving loans, including  
3 determining the financial capacity of an eligible entity;

4 (4) enforcing contract provisions of loans,  
5 including the ability to sue to recover money or property owed  
6 the state;

7 (5) determining interest rates and other  
8 financial aspects of a loan and relevant terms of a contract  
9 for services; and

10 (6) performing other duties in accordance with  
11 the provisions of the Behavioral Health Capital Funding Act,  
12 rules promulgated pursuant to that act or joint powers  
13 agreements entered into with the department.

14 D. The department is responsible for the following  
15 duties:

16 (1) defining sick and medically indigent  
17 persons for purposes of the Behavioral Health Capital Funding  
18 Act;

19 (2) establishing priorities for loans;

20 (3) determining the appropriateness of a  
21 [capital] project;

22 (4) evaluating the capability of an applicant  
23 to provide and maintain behavioral health services;

24 (5) selecting recipients of loans and eligible  
25 entities with which to contract for services; and

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1 (6) determining that [~~capital~~] projects comply  
2 with all state and federal licensing [~~and procurement~~]  
3 requirements.

4 E. The authority may make a loan to an eligible  
5 entity to acquire, construct, renovate or otherwise improve a  
6 capital project, provided there is a finding:

7 (1) by the department that the project will  
8 provide behavioral health services to sick and indigent persons  
9 as [~~defined~~] determined by the department; and

10 (2) by the authority that there is adequate  
11 protection, including loan guarantees, real property liens,  
12 title insurance, security interests in or pledges of accounts  
13 and other assets, loan covenants and warranties or restrictions  
14 or other encumbrances and pledges for the state funds extended  
15 for the loan."

16 SECTION 26. Section 6-26-7 NMSA 1978 (being Laws 2004,  
17 Chapter 71, Section 7) is amended to read:

18 "6-26-7. ELIGIBLE ENTITY--CHANGE IN STATUS.--If an  
19 eligible entity that has received a loan or contract for  
20 services for a capital project ceases to maintain its nonprofit  
21 status or ceases to deliver behavioral health services at the  
22 site of the capital project for twelve consecutive months, the  
23 [~~state~~] authority may pursue the remedies provided in the loan  
24 agreement or contract for services or as provided by law."

25 SECTION 27. Section 6-30-3 NMSA 1978 (being Laws 2010,

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1 Chapter 10, Section 3) is amended to read:

2 "6-30-3. DEFINITIONS.--As used in the Colonias  
3 Infrastructure Act:

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

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

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

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

12 (a) lack of potable water supply;

13 (b) lack of adequate sewage systems; or

14 (c) lack of decent, safe and sanitary  
15 housing;

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

18 (3) has submitted appropriate documentation to  
19 the board to substantiate the conditions of this subsection,  
20 including documentation that supports the designation of the  
21 municipality or county;

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

24 E. "project fund" means the colonias infrastructure  
25 project fund;

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1 F. "qualified entity" means a county, municipality  
2 or other entity recognized as a political subdivision of the  
3 state;

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

13 H. "trust fund" means the colonias infrastructure  
14 trust fund."

15 SECTION 28. Section 6-30-5 NMSA 1978 (being Laws 2010,  
16 Chapter 10, Section 5) is amended to read:

17 "6-30-5. BOARD--DUTIES.--The board shall:

18 A. promulgate such rules as are necessary to govern  
19 the acceptance, evaluation and prioritization of applications  
20 submitted by qualified entities for financial assistance;

21 B. ~~[after applications have been processed and~~  
22 ~~evaluated by the authority]~~ prioritize the qualified projects  
23 for financial assistance; and

24 C. ~~[upon such terms and conditions as are~~  
25 ~~established by the authority]~~ recommend the prioritized

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1 projects to the authority for financial assistance for:

2 (1) planning, designing, constructing,  
3 improving or expanding a qualified project;

4 (2) developing engineering feasibility reports  
5 for qualified projects;

6 (3) inspecting construction of qualified  
7 projects;

8 (4) providing professional services;

9 (5) completing environmental assessments or  
10 archaeological clearances and other surveys for qualified  
11 projects;

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

14 (7) paying legal costs [~~and fiscal agent fees~~]  
15 associated with development of qualified projects."

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

18 "6-30-6. AUTHORITY--DUTIES.--The authority shall:

19 A. provide staff support to the board;

20 B. administer the project fund;

21 C. [~~at the direction of the board~~] process, review  
22 and evaluate applications recommended by the board for  
23 financial assistance from qualified entities; [~~and~~]

24 D. [~~at the direction of the board, administer~~]  
25 provide financial assistance for qualified projects [~~that~~

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1 ~~receive financial assistance~~ on terms and conditions  
2 determined by the authority;

3 E. provide financial assistance to qualified  
4 entities for projects prioritized by the board; and

5 F. recover from the project fund the costs of  
6 administering the fund and origination financial assistance."

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

9 "6-30-7. COLONIAS INFRASTRUCTURE TRUST FUND--CREATED--  
10 INVESTMENT--DISTRIBUTION.--

11 A. The "colonias infrastructure trust fund" is  
12 created in the state treasury. The trust fund shall consist of  
13 money that is appropriated, donated or otherwise allocated to  
14 it. Money in the trust fund shall be invested by the state  
15 investment officer in the manner that land grant permanent  
16 funds are invested pursuant to Chapter 6, Article 8 NMSA 1978.  
17 Income from investment of the trust fund shall be credited to  
18 the fund. Money in the trust fund shall not be expended for  
19 any purpose, but an annual distribution from the trust fund  
20 shall be made to the project fund pursuant to this section.

21 B. On July 1 of each year in which adequate money  
22 is available in the trust fund, an annual distribution shall be  
23 made from the trust fund to the project fund [~~in the amount~~] of  
24 the lesser of the amount of the interest earned over the  
25 previous calendar year or ten million dollars (\$10,000,000)

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1 until the distribution is less than an amount equal to four and  
2 seven-tenths percent of the average of the year-end market  
3 values of the trust fund for the immediately preceding five  
4 calendar years. Thereafter, the amount of the annual  
5 distribution shall be four and seven-tenths percent of the  
6 average of the year-end market values of the trust fund for the  
7 immediately preceding five calendar years."

8 SECTION 31. Section 6-30-8 NMSA 1978 (being Laws 2010,  
9 Chapter 10, Section 8) is amended to read:

10 "6-30-8. COLONIAS INFRASTRUCTURE PROJECT FUND--CREATED--  
11 PURPOSE--APPROPRIATIONS.--

12 A. The "colonias infrastructure project fund" is  
13 created in the authority and shall be administered by the  
14 authority.

15 B. The project fund shall consist of:

16 (1) distributions from the trust fund;

17 (2) payments of principal and interest on  
18 loans for qualified projects;

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

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

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

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1 C. Except for severance tax bond proceeds required  
2 to revert to the severance tax bonding fund, balances in the  
3 project fund at the end of a fiscal year shall not revert to  
4 any other fund.

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

7 E. The authority may establish procedures and adopt  
8 rules as required to:

9 (1) administer the project fund;

10 (2) ~~[originate grants or loans]~~ provide  
11 financial assistance for qualified projects ~~[recommended]~~  
12 prioritized by the board;

13 (3) recover from the project fund the costs of  
14 administering the fund and originating the grants and loans;  
15 and

16 (4) govern the process through which qualified  
17 entities may apply for financial assistance from the project  
18 fund."

19 SECTION 32. Section 6-32-7 NMSA 1978 (being Laws 2020  
20 (1st S.S.), Chapter 6, Section 7, as amended) is amended to  
21 read:

22 "6-32-7. REPORTS--CONFIDENTIALITY.--

23 A. Prior to ~~[October]~~ December 1, 2021 and each  
24 ~~[October]~~ December 1 for the proceeding four years, the  
25 authority shall submit a report to the legislature, the

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1 legislative finance committee, the New Mexico finance authority  
2 oversight committee, the revenue stabilization and tax policy  
3 committee and any other appropriate legislative interim  
4 committee. The report shall provide details regarding the  
5 loans made pursuant to the Small Business Recovery and Stimulus  
6 Act. The report shall include:

7 (1) the total number of loans made pursuant to  
8 that act;

9 (2) the total number of loan applications;

10 (3) the average amount of money provided to  
11 loan applicants;

12 (4) the total number of loans and the amount  
13 of those loans, if any, in a delinquent status or default;

14 (5) the total number of loan recipients that  
15 are in the process of filing or have filed for bankruptcy;

16 (6) the total number of employees currently  
17 employed by a business that received a loan; and

18 (7) an overview of the industries and types of  
19 business entities represented by loan recipients.

20 B. Information obtained by the authority regarding  
21 individual loan applicants, including information used to  
22 analyze an application, is confidential and not subject to  
23 inspection pursuant to the Inspection of Public Records Act;  
24 provided that nothing in this section shall prevent the  
25 authority from disclosing broad demographic information and

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1 information relating to the total amount of loans made, the  
2 total outstanding balance of loans made pursuant to the Small  
3 Business Recovery and Stimulus Act and the names of the loan  
4 recipients."

5 SECTION 33. Section 6-33-1 NMSA 1978 (being Laws 2022,  
6 Chapter 21, Section 1) is amended to read:

7 "6-33-1. SHORT TITLE.--~~[This act]~~ Chapter 6, Article 33  
8 NMSA 1978 may be cited as the "Venture Capital Program Act"."

9 SECTION 34. A new section of the Venture Capital Program  
10 Act is enacted to read:

11 "[NEW MATERIAL] PROPRIETARY INFORMATION--  
12 CONFIDENTIALITY.--Information obtained by the authority in  
13 order to administer the Venture Capital Program Act and to make  
14 investments from the venture capital program fund that is  
15 proprietary, technical or business information shall be  
16 confidential and not subject to inspection pursuant to the  
17 Inspection of Public Records Act."

18 SECTION 35. Section 6-33-3 NMSA 1978 (being Laws 2022,  
19 Chapter 21, Section 3) is amended to read:

20 "6-33-3. VENTURE CAPITAL PROGRAM FUND.--

21 A. The "venture capital program fund" is created in  
22 the authority. The fund consists of appropriations, gifts,  
23 grants, deposits, transfers, donations and money earned from  
24 investment of the fund and otherwise accruing to the fund. The  
25 authority shall administer the fund. Money in the fund is

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1 appropriated to the authority for investment in New Mexico  
2 businesses and venture private equity funds pursuant to the  
3 Venture Capital Program Act and to pay the cost of  
4 administering that act. Balances remaining in the fund at the  
5 end of a fiscal year shall not revert. [~~Money from the fund~~  
6 ~~may be drawn only on warrants approved by the chief executive~~  
7 ~~officer of the authority pursuant to vouchers signed by the~~  
8 ~~chief financial officer of the authority.~~]

9 B. The authority shall adopt rules governing the  
10 terms and conditions of investments made from the venture  
11 capital program fund. The authority may make investments from  
12 the venture capital program fund as permitted pursuant to  
13 Subsection A of Section [~~4 of the Venture Capital Program Act~~]  
14 6-33-4 NMSA 1978 without specific authorization by law."

15 SECTION 36. Section 6-33-4 NMSA 1978 (being Laws 2022,  
16 Chapter 21, Section 4) is amended to read:

17 "6-33-4. INVESTMENTS--QUALIFICATIONS--BOARD APPROVAL.--

18 A. In making investments pursuant to the Venture  
19 Capital Program Act, the authority shall make:

20 (1) investments in venture private equity  
21 funds; or

22 (2) early stage investments in New Mexico  
23 businesses whose investments or enterprises enhance the  
24 economic development objectives of the state.

25 B. The authority is authorized to make investments

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1 in New Mexico businesses to create new job opportunities and to  
2 support new, emerging or expanding businesses in a manner  
3 consistent with the constitution of New Mexico if:

4 ~~[(1) the investments are made in conjunction~~  
5 ~~with cooperative investment agreements with parties that have~~  
6 ~~demonstrated abilities and relationships in making investments~~  
7 ~~in new, emerging or expanding businesses;~~

8 ~~(2)]~~ (1) an investment in any one business ~~[or~~  
9 ~~industry]~~ does not exceed ten percent of the balance of the  
10 venture capital program fund or an investment in any one  
11 industry does not exceed thirty percent of the venture capital  
12 program fund; and

13 ~~[(3)]~~ (2) the investments represent no more  
14 than fifty-one percent of the total investment capital in a  
15 business; provided ~~[however]~~ that nothing in this subsection  
16 prohibits the ownership of more than fifty-one percent of the  
17 total investment capital in a New Mexico business if the  
18 additional ownership interest:

19 (a) is due to foreclosure or other  
20 action by the authority pursuant to agreements with the  
21 business or other investors in that business;

22 (b) is necessary to protect the  
23 investment; and

24 (c) does not require an additional  
25 investment of the fund.

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1           C. The authority shall make investments pursuant to  
2 the Venture Capital Program Act only upon approval of the board  
3 of directors of the authority and within guidelines and  
4 policies established by the board."

5           **SECTION 37.** Section 6-33-6 NMSA 1978 (being Laws 2022,  
6 Chapter 21, Section 6) is amended to read:

7           "6-33-6. COMPROMISE--ADJUSTMENT.--In the event of default  
8 in the payment of principal of or interest on an investment  
9 made, the authority is authorized to institute proper  
10 proceedings to collect matured interest and principal; the  
11 authority may [~~after consultation with the board of directors~~  
12 ~~of the authority~~] accept for exchange purposes refunding bonds  
13 or other evidences of indebtedness at interest rates to be  
14 agreed upon with the obligor. The authority [~~after~~  
15 ~~consultation with the board of directors of the authority~~] is  
16 authorized to adjust past-due interest or principal in  
17 default."

18           **SECTION 38.** Section 6-33-7 NMSA 1978 (being Laws 2022,  
19 Chapter 21, Section 7) is amended to read:

20           "6-33-7. REPORTS.--No later than [~~July~~] December 1 of  
21 each year, the authority shall submit a report to the  
22 [~~legislative finance committee, the revenue stabilization and~~  
23 ~~tax policy committee and any other appropriate interim~~  
24 ~~legislative committee~~] governor and the legislature. The  
25 report shall provide for the prior calendar year the amounts

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1 invested in each venture private equity fund, as well as  
2 information about the objectives of the funds, the companies in  
3 which each venture private equity fund is invested and how each  
4 venture private equity investment enhances the economic  
5 development objectives of the state. Each report shall also  
6 provide the amounts invested in each New Mexico business during  
7 the prior ~~calendar~~ fiscal year."

8 SECTION 39. Section 6-34-2 NMSA 1978 (being Laws 2022,  
9 Chapter 57, Section 2) is amended to read:

10 "6-34-2. DEFINITIONS.--As used in the Opportunity  
11 Enterprise Act:

12 A. "authority" means the New Mexico finance  
13 authority;

14 B. "board" means the opportunity enterprise review  
15 board;

16 C. "department" means the economic development  
17 department;

18 D. "economic development opportunities" means the  
19 advancement of an environmentally sustainable economic  
20 development goal of the state as determined by the authority,  
21 in coordination with the department, and includes the creation  
22 of jobs, the provision of needed services and commodities to  
23 diverse communities across the state and the increase of tax  
24 and other revenue collections resulting from the enterprise  
25 development project;

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1 E. "enterprise assistance" means opportunity  
2 enterprise financing, an opportunity enterprise lease or an  
3 opportunity enterprise loan;

4 F. "enterprise development project" means the  
5 purchase, planning, designing, building, surveying, improving,  
6 operating, furnishing, equipping or maintaining of land,  
7 buildings or infrastructure to create or expand economic  
8 development opportunities within the state;

9 G. "fund" means the opportunity enterprise  
10 revolving fund;

11 H. "opportunity enterprise partner" means a  
12 domestic corporation, a general partnership, a limited  
13 liability company, a limited partnership, a public benefit  
14 corporation, a nonprofit entity or other private business  
15 entity or combination thereof that the authority determines is  
16 or will be engaged in an enterprise that creates or expands  
17 economic development opportunities within the state and is  
18 eligible for enterprise assistance pursuant to the Opportunity  
19 Enterprise Act; and

20 I. "opt-in agreement" means an agreement entered  
21 into among the authority, the department and a county,  
22 municipality or school district that ensures compliance with  
23 all local zoning, permitting and other land use rules and that  
24 provides for payments in lieu of taxes to the county,  
25 municipality or school district [~~and~~

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1                   J. ~~"payment in lieu of taxes" means the total~~  
2 ~~annual payment paid as compensation for the tax impact of an~~  
3 ~~enterprise development project, in an amount negotiated and~~  
4 ~~determined in the opt-in agreement among the authority, the~~  
5 ~~department and the county, school district or, if applicable,~~  
6 ~~municipality where the enterprise development project is~~  
7 ~~located in the same proportional amount as property tax~~  
8 ~~revenues are normally distributed to those recipients]."~~

9                   SECTION 40. Section 6-34-5 NMSA 1978 (being Laws 2022,  
10 Chapter 57, Section 5) is amended to read:

11                   "6-34-5. OPPORTUNITY ENTERPRISE REVIEW BOARD--CREATED--  
12 MEMBERSHIP.--

13                   A. The "opportunity enterprise review board" is  
14 created. The authority shall provide necessary administrative  
15 services to the board.

16                   B. The board is composed of the following twelve  
17 members:

18                                 (1) the secretary of economic development or  
19 the secretary's designee;

20                                 (2) the secretary of finance and  
21 administration or the secretary's designee;

22                                 (3) the secretary of general services or the  
23 secretary's designee;

24                                 (4) the state treasurer or the state  
25 treasurer's designee;

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1 (5) [~~the state auditor or the state auditor's~~  
2 ~~designee~~] the secretary of tourism or the secretary's designee;

3 (6) one representative appointed by the  
4 council of government organizations within the state; and

5 (7) six public members appointed by the New  
6 Mexico legislative council who shall have experience in any one  
7 or more of the following:

8 (a) the banking and finance industry;

9 (b) commercial or industrial credit;

10 (c) private equity, venture capital or  
11 mutual fund investments;

12 (d) commercial real estate development;

13 (e) engineering, construction and  
14 construction management;

15 (f) organized labor;

16 (g) urban planning; or

17 (h) environmentally sustainable  
18 construction and development.

19 C. Members of the board appointed pursuant to  
20 Paragraphs (6) and (7) of Subsection B of this section shall  
21 serve for staggered terms of six years; provided that the  
22 initial term of members appointed pursuant to Paragraph (7) of  
23 Subsection B of this section may be for a term of less than six  
24 years, as determined by the New Mexico legislative council, to  
25 ensure staggered membership of the board. Members of the board

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1 shall serve until their successors are appointed. A member of  
2 the board appointed pursuant to Paragraph (6) or (7) of  
3 Subsection B of this section may be removed from the board by  
4 the appointing authority for failure to attend three  
5 consecutive meetings or other cause. A vacancy on the board of  
6 an appointed member shall be filled by appointment by the  
7 original appointing authority for the remainder of the  
8 unexpired term of office; provided that a member who is removed  
9 pursuant to this section shall be ineligible for reappointment.

10 D. Members of the board appointed pursuant to  
11 Paragraphs (6) and (7) of Subsection B of this section shall:

12 (1) be governed by the provisions of the  
13 Governmental Conduct Act; and

14 (2) not hold any office or employment in a  
15 political party.

16 E. The members shall select a chair, vice chair and  
17 other officers that the board deems necessary, who shall serve  
18 a term of two years. The board shall maintain minutes of all  
19 meetings of the board, and all meetings shall be held pursuant  
20 to the Open Meetings Act."

21 SECTION 41. Section 6-34-8 NMSA 1978 (being Laws 2022,  
22 Chapter 57, Section 8) is amended to read:

23 "6-34-8. ENTERPRISE ASSISTANCE--GENERAL REQUIREMENTS.--

24 A. An application for enterprise assistance shall:

25 (1) describe the scope and plans of the

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1 enterprise development project or proposed use of leased  
2 property by the applicant;

3 (2) demonstrate that the enterprise  
4 development project or lease will create or expand economic  
5 development opportunities within the state;

6 (3) demonstrate that the proposed enterprise  
7 development project or lease will comply with applicable state  
8 and federal law;

9 (4) provide sufficient evidence that other  
10 means of financing a proposed enterprise development project  
11 are unavailable or insufficient; and

12 (5) include other documentation or  
13 certifications that the authority deems necessary.

14 B. The authority, in coordination with the  
15 department, shall:

16 (1) make the application publicly available,  
17 including a description of the scope and plans of the proposed  
18 enterprise development project or lease;

19 (2) ensure that all information relating to  
20 the enterprise development project or lease and the evaluation  
21 of the application is made publicly available, unless the  
22 information includes trade secrets or information that is  
23 otherwise unable to be disclosed as provided by law;

24 (3) prioritize applications for enterprise  
25 assistance that demonstrate local support and financial need;

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1 and

2 (4) prior to providing enterprise assistance,  
3 determine that:

4 (a) the proposed enterprise development  
5 project or lease will create or expand economic development  
6 opportunities within the state;

7 (b) the proposed enterprise development  
8 project or lease will comply with applicable state and federal  
9 law; and

10 (c) other means of financing a proposed  
11 enterprise development project are unavailable or insufficient.

12 C. A contract to provide enterprise assistance  
13 shall:

14 (1) define the roles and responsibilities of  
15 the authority and the opportunity enterprise partner;

16 (2) provide clawback or recapture provisions  
17 that protect the public investment in the event of a default on  
18 the contract;

19 (3) provide a finance plan detailing the  
20 financial contributions and obligations of the authority and  
21 opportunity enterprise partner;

22 (4) require an opportunity enterprise partner  
23 to provide guarantees, letters of credit or other acceptable  
24 forms of security, as determined by the authority;

25 (5) specify how rents, if applicable, will be

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1 collected and accounted for;

2 (6) specify how debts incurred on behalf of  
3 the opportunity enterprise partner will be repaid; and

4 (7) provide that, in the event of a default,  
5 the authority may:

6 (a) elect to take possession of the  
7 property, including the succession of all right, title and  
8 interest in the enterprise development project; and

9 (b) terminate the lease or cease any  
10 further funding and exercise any other rights and remedies that  
11 may be available.

12 D. The authority may require any document,  
13 guarantee or certification from a recipient of enterprise  
14 assistance that the authority determines is necessary to ensure  
15 economic development opportunities are advanced by the  
16 enterprise assistance.

17 E. The authority may prioritize an application for  
18 enterprise assistance for a proposed enterprise development  
19 project located in a nonurban community.

20 F. Enterprise assistance shall only be provided if  
21 compliant with the Opportunity Enterprise Act. All contracts  
22 for enterprise assistance shall be provided to the board no  
23 later than thirty days from the execution of that contract.

24 G. As used in this section, "nonurban community"  
25 means a municipality with a population of less than ~~[forty]~~

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1 sixty thousand according to the most recent federal decennial  
2 census or the unincorporated area of a county."

3 SECTION 42. Section 6-34-14 NMSA 1978 (being Laws 2022,  
4 Chapter 57, Section 14) is amended to read:

5 "6-34-14. REPORTS.--

6 A. Prior to [~~October~~] December 1, 2023 and each  
7 succeeding [~~October~~] December 1 thereafter, the authority shall  
8 submit a report to the governor, the legislature, the  
9 legislative finance committee, the New Mexico finance authority  
10 oversight committee, the revenue stabilization and tax policy  
11 committee and other appropriate legislative interim committees.  
12 The report shall provide details regarding enterprise  
13 assistance provided pursuant to the Opportunity Enterprise Act.  
14 The report shall include:

15 (1) the total amount of enterprise assistance  
16 provided for enterprise development projects and state revenue  
17 derived from each enterprise development project;

18 (2) the total number of loans made pursuant to  
19 the Opportunity Enterprise Act; the amount of those loans; the  
20 number of loan recipients in a delinquent status, in default or  
21 in the process of filing or that have filed for bankruptcy;

22 (3) an overview of the industries and types of  
23 business entities operating pursuant to an enterprise  
24 development project or lease;

25 (4) the total number of employees currently

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1 employed directly or indirectly related to an enterprise  
2 development project or lease; and

3 (5) any recommended changes to the Opportunity  
4 Enterprise Act to ensure proper safeguards for public money and  
5 to ensure enterprise assistance is able to efficiently advance  
6 the economic development interests of the state.

7 B. Information obtained by the authority regarding  
8 applicants for enterprise financing is confidential and not  
9 subject to inspection pursuant to the Inspection of Public  
10 Records Act; provided that nothing shall prevent the authority  
11 from disclosing:

12 (1) information required in the report  
13 pursuant to this section;

14 (2) public information pursuant to Paragraphs  
15 (1) and (2) of Subsection B of Section ~~[8 of the Opportunity~~  
16 ~~Enterprise Act]~~ 6-34-8 NMSA 1978; and

17 (3) the names of persons that have received  
18 enterprise assistance and the amount of enterprise assistance  
19 provided pursuant to the Opportunity Enterprise Act."

20 **SECTION 43.** Section 24-1C-2 NMSA 1978 (being Laws 1994,  
21 Chapter 62, Section 8) is amended to read:

22 "24-1C-2. PURPOSE.--The purpose of the Primary Care  
23 Capital Funding Act is to provide funding for ~~[capital]~~  
24 projects to eligible entities in order to increase health care  
25 services in rural and other health care underserved areas in

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1 the state."

2 SECTION 44. Section 24-1C-3 NMSA 1978 (being Laws 1994,  
3 Chapter 62, Section 9, as amended) is amended to read:

4 "24-1C-3. DEFINITIONS.--As used in the Primary Care  
5 Capital Funding Act:

6 A. "authority" means the New Mexico finance  
7 authority;

8 B. "capital project" means acquisition, repair,  
9 renovation or construction of a facility; purchase of land;  
10 acquisition of capital equipment of a long-term nature; or  
11 acquisition of capital equipment or operating capital to be  
12 used in the delivery of primary care, telehealth or hospice  
13 services;

14 C. "department" means the department of health;

15 D. "eligible entity" means:

16 (1) a community-based nonprofit primary care  
17 clinic or hospice that operates in a rural or other health care  
18 underserved area of the state, that is a 501(c)(3) nonprofit  
19 corporation for federal income tax purposes and that is  
20 eligible for funding pursuant to the Rural Primary Health Care  
21 Act;

22 (2) a school-based health center that operates  
23 in a public school district and that meets department  
24 requirements or that is funded by the federal department of  
25 health and human services;

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1 (3) a primary care clinic that operates in a  
2 rural or other health care underserved area of the state, that  
3 is owned by a county or municipality and that meets department  
4 requirements for eligibility; or

5 (4) a telehealth site that is operated by an  
6 entity described in this subsection;

7 E. "fund" means the primary care capital fund;  
8 [~~and~~]

9 F. "operating capital" means funds needed to meet  
10 short-term obligations such as accounts payable, wages, lease  
11 and income tax payments;

12 [~~F.~~] G. "primary care" means the first level of  
13 basic or general health care for an individual's health needs,  
14 including diagnostic and treatment services and including  
15 services delivered at a primary care clinic, a telehealth site  
16 or a school-based health center; "primary care" includes the  
17 provision of mental health services if those services are  
18 integrated into the eligible entity's service array; and

19 H. "project" means a capital project or operating  
20 capital needed to support the increase of primary care services  
21 to sick and medically indigent patients."

22 SECTION 45. Section 24-1C-4 NMSA 1978 (being Laws 1994,  
23 Chapter 62, Section 10, as amended) is amended to read:

24 "24-1C-4. PRIMARY CARE CAPITAL FUND--CREATION.--

25 A. The "primary care capital fund" is created as a  
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1 revolving fund in the [~~state treasury~~] authority. The fund  
2 shall consist of appropriations, loan repayments, gifts,  
3 grants, donations and interest earned on investment of the  
4 fund. A separate account shall be maintained for  
5 appropriations, loan repayments, gifts, grants, donations and  
6 interest earned on investment of the account for loans to  
7 school-based health centers and telehealth sites. Money in the  
8 fund shall not revert at the end of a fiscal year.

9 B. The fund shall be administered by the authority.  
10 The authority may recover from the fund the actual costs of  
11 administering the fund and originating loans [~~up to an amount~~  
12 ~~equal to ten percent of original loan amounts. Money in the~~  
13 ~~fund shall be expended only on warrants drawn by the secretary~~  
14 ~~of finance and administration pursuant to vouchers signed by~~  
15 ~~the chief executive officer of the authority or the chief~~  
16 ~~executive officer's authorized representative]."~~

17 SECTION 46. Section 24-1C-5 NMSA 1978 (being Laws 1994,  
18 Chapter 62, Section 11) is amended to read:

19 "24-1C-5. [~~REGULATIONS~~] RULES.--~~[A. Prior to September~~  
20 ~~15, 1994, the department, in conjunction with] The authority~~  
21 shall adopt [~~regulations~~] rules to administer and implement the  
22 provisions of the Primary Care Capital Funding Act, including  
23 providing for:

24 [~~(1)~~] A. the determination of rural or other health  
25 care underserved areas of the state in which eligible entities

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1 may receive loans or contracts for services from the fund;

2 [~~(2)~~] B. procedures and forms for applying for  
3 loans or contracts for services for capital projects;

4 [~~(3)~~] C. documentation required to be provided by  
5 the applicant to justify the need for the capital project;

6 [~~(4)~~] D. documentation required to be provided by  
7 the applicant to demonstrate that the applicant is an eligible  
8 entity;

9 [~~(5)~~] E. procedures for review, evaluation and  
10 approval of loans and contracts for services, including the  
11 programmatic, organizational and financial information  
12 necessary to review, evaluate and approve an application;

13 [~~(6)~~] F. evaluation of the ability and competence  
14 of an applicant to provide efficiently and adequately for the  
15 completion of a proposed capital project;

16 [~~(7)~~] G. approval of loan and contract for services  
17 applications, including provisions that accord priority  
18 attention to areas with the greatest need for primary care  
19 services;

20 [~~(8)~~] H. fair geographic distribution of loans and  
21 contracts for services; and

22 [~~(9)~~] ~~requirements for repayment of loans,~~  
23 ~~including payment schedules, interest rates, loan terms and~~  
24 ~~other requirements;~~

25 ~~(10) ensuring the state's interest in any~~

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1 ~~capital project by the filing of a lien equal to the total of~~  
2 ~~the state's financial participation in the project; and~~

3 ~~(11)]~~ I. such other requirements deemed necessary  
4 by the department to ensure that the state receives the primary  
5 care services for which the legislature appropriates money and  
6 that [~~protects~~] protect the state's interest in a capital  
7 project.

8 [~~B. Regulations adopted by the department shall~~  
9 ~~become effective when filed in accordance with the provisions~~  
10 ~~of the State Rules Act.]"~~

11 SECTION 47. Section 24-1C-6 NMSA 1978 (being Laws 1994,  
12 Chapter 62, Section 12, as amended) is amended to read:

13 "24-1C-6. DEPARTMENT--AUTHORITY--POWERS AND DUTIES.--

14 A. The department and the authority shall  
15 administer the loan programs and contracts for services  
16 established pursuant to the provisions of the Primary Care  
17 Capital Funding Act. The department and authority shall:

18 (1) enter into joint powers agreements with  
19 each other or other appropriate public agencies to carry out  
20 the provisions of that act; and

21 (2) apply to any appropriate federal, state or  
22 local governmental agency or private organization for grants  
23 and gifts to carry out the provisions of that act or to fund  
24 allied community-based health care programs.

25 B. The department or authority may, instead of a

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1 loan, contract for services with an eligible entity to provide  
2 free or reduced fee primary care services for sick and  
3 medically indigent persons as reasonably adequate legal  
4 consideration for money from the fund to the entity so it may  
5 acquire or construct a capital project to provide the services.

6 C. The department and authority may:

7 (1) make and enter into contracts and  
8 agreements necessary to carry out their powers and duties  
9 pursuant to the provisions of the Primary Care Capital Funding  
10 Act; and

11 (2) do all things necessary or appropriate to  
12 carry out the provisions of the Primary Care Capital Funding  
13 Act.

14 D. The authority is responsible for all financial  
15 duties of the programs, including:

16 (1) administering the fund;  
17 (2) accounting for all money received,  
18 controlled or disbursed for capital projects in accordance with  
19 the provisions of the Primary Care Capital Funding Act;

20 (3) evaluating and approving loans and  
21 contracts for services, including determining financial  
22 capacity of an eligible entity;

23 (4) enforcing contract provisions of loans and  
24 contracts for services, including the ability to sue to recover  
25 money or property owed the state;

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1 (5) determining requirements for repayment of  
2 loans, including interest rates, loan terms, payment schedules  
3 and other financial aspects of a loan and relevant terms of a  
4 contract for services; [~~and~~]

5 (6) ensuring the authority's interest in any  
6 project by the filing of a lien equal to the total of the  
7 authority's financial participation in the project; and

8 [~~(6)~~] (7) performing other duties in  
9 accordance with the provisions of the Primary Care Capital  
10 Funding Act, [~~regulations~~] rules promulgated pursuant to that  
11 act or joint powers agreements entered into with the  
12 department.

13 E. The department is responsible for the following  
14 duties:

15 (1) defining sick and medically indigent  
16 persons for purposes of the Primary Care Capital Funding Act;

17 (2) establishing priorities for loans and  
18 contracts for services;

19 (3) determining the appropriateness of the  
20 capital project;

21 (4) evaluating the capability of an applicant  
22 to provide and maintain primary care or hospice services;

23 (5) selecting recipients of loans and persons  
24 with whom to contract for services;

25 (6) determining that capital projects comply

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1 with all state and federal licensing and procurement  
2 requirements; and

3 (7) contracting with an eligible entity to  
4 provide primary care services without charge or at a reduced  
5 fee for sick and medically indigent persons as defined by the  
6 department.

7 F. The authority may make a loan to an eligible  
8 entity to acquire, construct, renovate or otherwise improve a  
9 capital project or to fund operating capital, provided there is  
10 a finding:

11 (1) by the department that the project will  
12 provide primary care services to sick and medically indigent  
13 persons as defined by the department; and

14 (2) by the authority that there is adequate  
15 protection, including loan guarantees, real property liens,  
16 title insurance, security interests in or pledges of accounts  
17 and other assets, loan covenants and warranties or restrictions  
18 on other encumbrances and pledges for the state funds extended  
19 for the loan.

20 G. The authority may make a loan to a school-based  
21 health center that operates in a public school district or to a  
22 telehealth site for a capital project; provided, however, that  
23 the loan shall not exceed the amount in the account reserved  
24 for school-based health center or telehealth site funding."

25 SECTION 48. Section 24-1C-9 NMSA 1978 (being Laws 1994,  
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1 Chapter 62, Section 15, as amended) is amended to read:

2 "24-1C-9. ELIGIBLE ENTITY--CHANGE IN STATUS.--If an  
3 eligible entity that has received a loan or contract for  
4 services for a capital project ceases to maintain its nonprofit  
5 status or ceases to deliver primary care services at the site  
6 of the capital project for twelve consecutive months, the  
7 [~~state~~] authority may pursue the remedies provided in the loan  
8 agreement or contract for services or as provided by law."

9 SECTION 49. Section 24-24-2 NMSA 1978 (being Laws 2003,  
10 Chapter 316, Section 2) is amended to read:

11 "24-24-2. PURPOSE.--The purpose of the Child Care  
12 Facility Loan Act is to support the physical improvement,  
13 repair, safety and maintenance of [~~licensed~~] child care  
14 facilities throughout New Mexico by providing long-term,  
15 low-interest funding through a revolving loan fund so as to  
16 ensure availability of healthy and safe teaching environments."

17 SECTION 50. Section 24-24-3 NMSA 1978 (being Laws 2003,  
18 Chapter 316, Section 3) is amended to read:

19 "24-24-3. DEFINITIONS.--As used in the Child Care  
20 Facility Loan Act:

21 A. "department" means the [~~children, youth and~~  
22 ~~families~~] early childhood education and care department;

23 B. "facility" means a child care facility operated  
24 by a provider, including both family home-based and  
25 center-based programs, licensed by the department to provide

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1 care to infants, toddlers and children;

2 C. "fund" means the child care facility revolving  
3 loan fund; and

4 D. "provider" means a person licensed by the  
5 department to provide child care to infants, toddlers and  
6 children pursuant to Section 9-2A-8 NMSA 1978."

7 SECTION 51. Section 24-24-4 NMSA 1978 (being Laws 2003,  
8 Chapter 316, Section 4) is amended to read:

9 "24-24-4. FUND CREATED--ADMINISTRATION.--

10 A. The "child care facility revolving loan fund" is  
11 created in the New Mexico finance authority to provide low-  
12 interest, long-term loans to providers to make health and  
13 safety improvements in their facilities. The fund shall  
14 consist of appropriations, gifts, grants and donations to the  
15 fund, which shall be invested as provided in the New Mexico  
16 Finance Authority Act. Money in the fund shall not revert and  
17 is appropriated to the department, which shall utilize the fund  
18 for the purposes of the Child Care Facility Loan Act.

19 Administrative costs of the authority may be paid from the  
20 fund. ~~[Expenditures from the fund for loans to providers shall  
21 be made upon warrants of the secretary of finance and  
22 administration pursuant to vouchers signed by the secretary of  
23 children, youth and families or his authorized representative.]~~

24 B. Money in the fund shall be used to make loans to  
25 providers that demonstrate the need to make health and safety

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1 improvements, including space expansion, in order to maintain  
2 an adequate and appropriate environment for their clients.  
3 Loans from the fund are to be made at ~~[the lowest legally~~  
4 ~~permissible]~~ an interest [rates] rate greater than zero percent  
5 ~~for [the longest amount of time in order to allow the providers~~  
6 ~~the maximum opportunity to maintain the business while repaying~~  
7 ~~the loan]~~ a term that does not exceed the useful life of the  
8 project being financed.

9 C. No more than twenty percent of the fund may be  
10 loaned to a single provider ~~[in]~~ for a single ~~[loan]~~ project.  
11 ~~[A provider that has received a loan from the fund in the~~  
12 ~~immediately preceding five years or that has not completed~~  
13 ~~repayment of a previous loan from the fund is ineligible for a~~  
14 ~~new loan.]~~ The department shall give priority for loans to  
15 facilities of providers that serve proportionately high numbers  
16 of state-subsidized clients and low-income families.

17 D. The department, in conjunction with the New  
18 Mexico finance authority, shall adopt rules to administer and  
19 implement the Child Care Facility Loan Act. The rules shall  
20 become effective when filed in accordance with the State Rules  
21 Act."

22 SECTION 52. Section 72-4A-3 NMSA 1978 (being Laws 2001,  
23 Chapter 164, Section 3, as amended) is amended to read:

24 "72-4A-3. DEFINITIONS.--As used in the Water Project  
25 Finance Act:

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1           A. "authority" means the New Mexico finance  
2 authority;

3           B. "board" means the water trust board;

4           C. "political subdivision" means a municipality,  
5 county, land grant-merced controlled and governed pursuant to  
6 Sections 49-1-1 through 49-1-18 or 49-4-1 through 49-4-21 NMSA  
7 1978, regional or local public water utility authority created  
8 by statute, irrigation district, conservancy district, special  
9 district, acequia, soil and water conservation district, water  
10 and sanitation district or an association organized and  
11 existing pursuant to the Sanitary Projects Act;

12           D. "qualifying water project" means a water project  
13 recommended by the board for funding ~~[by the legislature]~~; and

14           E. "qualifying entity" means a state agency,  
15 a political subdivision of the state, an intercommunity water  
16 or natural gas supply association or corporation organized  
17 under Chapter 3, Article 28 NMSA 1978, a recognized Indian  
18 nation, tribe or pueblo, the boundaries of which are located  
19 wholly or partially in New Mexico or an association of such  
20 entities created pursuant to the Joint Powers Agreements Act or  
21 other authorizing legislation for the exercise of their common  
22 powers."

23           **SECTION 53.** Section 72-4A-5 NMSA 1978 (being Laws 2001,  
24 Chapter 164, Section 5, as amended) is amended to read:

25           "72-4A-5. BOARD--DUTIES.--The board shall:

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1           A. adopt rules governing ~~[terms and conditions of~~  
2 ~~grants or loans recommended]~~ the evaluation and selection of  
3 projects recommended by the board to the authority for  
4 ~~[appropriation by the legislature]~~ grants or loans from the  
5 water project fund, giving priority to projects that have been  
6 identified as being urgent ~~[to meet the needs of a regional~~  
7 ~~water planning area that has a completed regional water plan~~  
8 ~~that has been accepted by the interstate stream commission]~~;  
9 that have matching contributions from federal or local funding  
10 sources available; and that have obtained all requisite state  
11 and federal permits and authorizations necessary to initiate  
12 the project;

13           B. authorize qualifying water projects to the  
14 authority that are for:

- 15                   (1) storage, conveyance or delivery of water  
16 to end users;
- 17                   (2) implementation of federal Endangered  
18 Species Act of 1973 collaborative programs;
- 19                   (3) restoration and management of watersheds;
- 20                   (4) flood prevention; or
- 21                   (5) water conservation or recycling, treatment  
22 or reuse of water as provided by law; and

23           ~~[G. create a drought strike team to coordinate~~  
24 ~~responses to emergency water shortages caused by drought~~  
25 ~~conditions; and~~

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1           D.] C. evaluate projects, including their  
2 environmental impacts, and recommend projects to the interstate  
3 stream commission pursuant to the provisions of Section  
4 72-14-45 NMSA 1978."

5           **SECTION 54.** Section 72-4A-6 NMSA 1978 (being Laws 2001,  
6 Chapter 164, Section 6, as amended) is amended to read:

7           "72-4A-6. ~~AUTHORITY--DUTIES.~~--The authority shall:

8           A. provide staff support for the board;

9           B. develop application procedures and forms for  
10 qualifying entities to apply for grants and loans from the  
11 water project fund; and

12           C. make loans or grants to qualifying entities for  
13 qualifying water projects [~~authorized by the legislature~~];  
14 provided that the service area for the project is wholly within  
15 the boundaries of the state or the project is an interstate  
16 project that directly benefits New Mexico."

17           **SECTION 55.** Section 72-4A-7 NMSA 1978 (being Laws 2001,  
18 Chapter 164, Section 7, as amended) is amended to read:

19           "72-4A-7. ~~CONDITIONS FOR GRANTS AND LOANS.~~--

20           A. Grants and loans shall be made only to  
21 qualifying entities that:

22                   (1) agree to operate and maintain a water  
23 project so that it will function properly over the structural  
24 and material design life; [~~which shall not be less than twenty~~  
25 ~~years~~];

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

4                   ~~(3)~~ (2) provide written assurance signed by  
5 an attorney or provide a title insurance policy that the  
6 qualifying entity has proper title, easements and rights of way  
7 to the property upon or through which a water project proposed  
8 for funding is to be constructed or extended;

9                   ~~(4)~~ (3) meet the requirements of the  
10 financial capability set by the board to ensure sufficient  
11 revenues to operate and maintain a water project for its useful  
12 life and to repay the loan;

13                   ~~(5)~~ (4) agree to properly maintain financial  
14 records [~~and to conduct an audit of a project's financial~~  
15 ~~records~~]; and

16                   ~~(6)~~ (5) agree to pay costs of originating  
17 grants and loans [~~as determined by rules adopted by the board;~~  
18 ~~and~~

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

23                   B. Plans and specifications for a water project  
24 shall be approved by [~~the authority, after review and upon the~~  
25 ~~recommendation of~~] the state engineer and the department of

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1 environment [~~before grant or loan disbursements to pay for~~  
2 ~~construction costs are made to a qualifying entity~~]. Plans and  
3 specifications for a water project shall incorporate available  
4 technologies and operational design for water use efficiency.

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

- 7 (1) to match federal and local cost shares;
- 8 (2) engineering feasibility reports;
- 9 (3) contracted engineering design;
- 10 (4) inspection of construction;
- 11 (5) special engineering services;
- 12 (6) environmental or archaeological surveys;
- 13 (7) construction;
- 14 (8) land acquisition;
- 15 (9) easements and rights of way; and
- 16 (10) legal costs [~~and fiscal agent fees~~]."

17 SECTION 56. Section 72-4A-8 NMSA 1978 (being Laws 2001,  
18 Chapter 164, Section 8) is amended to read:

19 "72-4A-8. WATER TRUST FUND--CREATED--INVESTMENT--  
20 DISTRIBUTION.--

21 A. The "water trust fund" is created in the state  
22 treasury. The fund shall consist of money appropriated,  
23 donated or otherwise accrued to the fund. Money in the fund  
24 shall be invested by the state investment officer as land grant  
25 permanent funds are invested pursuant to Chapter 6, Article 8

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1 NMSA 1978. Earnings from investment of the fund shall be  
2 credited to the fund. Money in the fund shall not be expended  
3 for any purpose, but an annual distribution shall be made to  
4 the water project fund in accordance with Subsection B of this  
5 section.

6 B. On July 1 of fiscal year 2003 and on July 1 of  
7 each fiscal year thereafter, an annual distribution shall be  
8 made from the water trust fund to the water project fund in  
9 ~~[the]~~ an amount [of] equal to the interest earned during the  
10 prior calendar year or four million dollars (\$4,000,000) until  
11 that amount is less than an amount equal to four and seven-  
12 tenths percent of the average of the year-end market values of  
13 the water trust fund for the immediately preceding five  
14 calendar years. Thereafter, the amount of the annual  
15 distribution shall be four and seven-tenths percent of the  
16 average of the year-end market values of the water trust fund  
17 for the immediately preceding five calendar years."

18 SECTION 57. Section 72-4A-9 NMSA 1978 (being Laws 2001,  
19 Chapter 164, Section 9, as amended) is amended to read:

20 "72-4A-9. WATER PROJECT FUND--CREATED--PURPOSE.--

21 A. The "water project fund" is created in the New  
22 Mexico finance authority and shall consist of distributions  
23 made to the fund from the water trust fund and payments of  
24 principal of and interest on loans for approved water projects.  
25 The fund shall also consist of any other money appropriated,

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1 distributed or otherwise allocated to the fund for the purpose  
2 of supporting water projects pursuant to provisions of the  
3 Water Project Finance Act. The fund shall be administered by  
4 the authority. Income from investment of the water project  
5 fund shall be credited to the fund. Balances in the fund at  
6 the end of any fiscal year shall not revert to the general  
7 fund. The water project fund may consist of such subaccounts  
8 as the authority deems necessary to carry out the purposes of  
9 the fund. The authority may establish procedures and adopt  
10 rules as required to administer the fund and to recover from  
11 the fund costs of administering the fund and originating grants  
12 and loans. Ten percent of all water project funds shall be  
13 dedicated to the state engineer for water rights adjudications,  
14 and twenty percent of the money dedicated for water rights  
15 adjudications shall be allocated to the administrative office  
16 of the courts for the courts' costs associated with those  
17 adjudications.

18 B. Money in the water project fund may be used to  
19 make loans or grants to qualified entities for any project  
20 ~~[approved by the legislature]~~ recommended by the board and for  
21 water rights adjudications.

22 C. The authority is authorized to issue revenue  
23 bonds payable from the proceeds of loan repayments made into  
24 the water project fund upon a determination by the authority  
25 that issuance of the bonds is necessary to replenish the

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1 principal balance of the fund. The net proceeds from the sale  
2 of the bonds shall be deposited in the water project fund. The  
3 bonds shall be authorized and issued by the authority in  
4 accordance with the provisions of the New Mexico Finance  
5 Authority Act."

6 SECTION 58. Section 72-4A-10 NMSA 1978 (being Laws 2001,  
7 Chapter 164, Section 10) is amended to read:

8 "72-4A-10. REPORT TO LEGISLATURE.--The board shall report  
9 to the legislature no later than [~~October~~] December 1 of each  
10 calender year the total expenditures from the water project  
11 fund, their purposes, an analysis of the accomplishments of the  
12 expenditures and recommendations for legislative action."

13 SECTION 59. REPEAL.--Sections 6-21-6.3, 6-21-6.5,  
14 6-21-6.8, 6-21-6.9, 6-21-6.12, 6-21-7, 6-25-4, 6-25-5, 6-25-8,  
15 6-25-14, 6-33-5, 72-4A-9.1 and 72-4A-11 NMSA 1978 (being Laws  
16 1999, Chapter 186, Section 2, Laws 2002, Chapter 26, Section 3,  
17 Laws 2005, Chapter 262, Sections 1 and 2, Laws 2007 (1st S.S.),  
18 Chapter 3, Section 2, Laws 1992, Chapter 61, Section 7, Laws  
19 2003, Chapter 349, Sections 4, 5, 8 and 14, Laws 2022, Chapter  
20 21, Section 5, Laws 2004, Chapter 85, Section 1 and Laws 2015,  
21 Chapter 88, Section 2, as amended) are repealed.

22 SECTION 60. EFFECTIVE DATE.--The effective date of the  
23 provisions of this act is July 1, 2023.