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SENATE BILL

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

INTRODUCED BY

DISCUSSION DRAFT

AN ACT

RELATING TO PUBLIC FINANCE; CHANGING THE NAME OF THE NEW MEXICO
COMMUNITY ASSISTANCE ACT TO THE NEW MEXICO DISADVANTAGED
COMMUNITY ASSISTANCE ACT; CHANGING THE NAME OF THE NEW MEXICO
COMMUNITY DEVELOPMENT COUNCIL TO THE NEW MEXICO DISADVANTAGED
COMMUNITY ASSISTANCE BOARD WITH A DIFFERENT COMPOSITION AND
SPECIFIC PROJECT REVIEW DUTIES; CREATING THE NEW MEXICO
DISADVANTAGED COMMUNITY ASSISTANCE TRUST FUND AND THE NEW
MEXICO DISADVANTAGED ASSISTANCE PROJECT FUND; AUTHORIZING
FUNDING FOR THE NEW MEXICO DISADVANTAGED COMMUNITY ASSISTANCE
TRUST FUND FROM SEVERANCE TAX PROCEED DISTRIBUTIONS;
AUTHORIZING THE NEW MEXICO FINANCE AUTHORITY TO ASSIST THE NEW
MEXICO DISADVANTAGED COMMUNITY ASSISTANCE BOARD AND ADMINISTER
THE NEW MEXICO DISADVANTAGED COMMUNITY ASSISTANCE PROJECT FUND;
MAKING AN APPROPRIATION.

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

2 SECTION 1. Section 11-6-1 NMSA 1978 (being Laws 1977,
3 Chapter 299, Section 1) is amended to read:

4 "11-6-1. SHORT TITLE.--~~[This act]~~ Chapter 11, Article 6
5 NMSA 1978 may be cited as the "New Mexico Disadvantaged
6 Community Assistance Act"."

7 SECTION 2. Section 11-6-2 NMSA 1978 (being Laws 1984,
8 Chapter 5, Section 2) is repealed and a new Section 11-6-2 NMSA
9 1978 is enacted to read:

10 "11-6-2. [NEW MATERIAL] FINDINGS AND PURPOSE.--

11 A. The legislature finds that:

12 (1) disadvantaged communities lack basic
13 infrastructure resulting in poor social, health and economic
14 conditions;

15 (2) adequate infrastructure such as water and
16 wastewater systems, solid waste disposal facilities, roads and
17 housing infrastructure are essential to improved health, safety
18 and welfare of all New Mexicans, including residents of the
19 disadvantaged communities;

20 (3) local efforts and resources have been
21 insufficient to develop and maintain a consistent and adequate
22 level of infrastructure;

23 (4) addressing the urgent need of replacing,
24 improving and developing infrastructure through the use of an
25 alternative financing mechanism is a long-term cost savings

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1 benefit to both the state and the disadvantaged communities;
2 and

3 (5) adequate infrastructure development would
4 allow disadvantaged community residents to achieve the basic
5 conditions necessary to improve the quality of their lives.

6 B. The purposes of the New Mexico Disadvantaged
7 Community Assistance Act are to:

8 (1) ensure adequate financial resources for
9 infrastructure development for disadvantaged communities;

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

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

15 SECTION 3. Section 11-6-3 NMSA 1978 (being Laws 1977,
16 Chapter 299, Section 3, as amended) is repealed and a new
17 Section 11-6-3 NMSA 1978 is enacted to read:

18 "11-6-3. [NEW MATERIAL] DEFINITIONS.--As used in the New
19 Mexico Disadvantaged Community Assistance Act:

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

22 B. "board" means the New Mexico disadvantaged
23 community assistance board;

24 C. "disadvantaged community" means an
25 unincorporated rural community or an association organized

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1 under the provisions of the Sanitary Projects Act or Laws 1947,
2 Chapter 206, Sections 1 through 15, Laws 1949, Chapter 79,
3 Sections 1 through 19, or Laws 1951, Chapter 52, Sections 1
4 through 19:

- 5 (1) all of whose members live with a lack of:
 - 6 (a) potable water supply;
 - 7 (b) adequate sewage systems; or
 - 8 (c) decent, safe and sanitary housing;
- 9 (2) that is ineligible for funding under the
10 colonias infrastructure project fund;
- 11 (3) that is ineligible for funding under the
12 tribal infrastructure project fund; and
- 13 (4) that has submitted appropriate
14 documentation to the board to substantiate the conditions of
15 this subsection;

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

18 E. "project fund" means the New Mexico
19 disadvantaged community assistance project fund;

20 F. "qualified entity" means a county, municipality
21 or other entity recognized as a political subdivision of the
22 state;

23 G. "qualified project" means a capital outlay
24 project selected by the board for financial assistance that is
25 primarily intended to develop disadvantaged community

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1 infrastructure. A qualified project may include a water
2 system, a wastewater system, solid waste disposal facilities,
3 roads or housing infrastructure; but "qualified project" does
4 not include general operation and maintenance, equipment,
5 housing allowance payments or mortgage subsidies; and

6 H. "trust fund" means the New Mexico disadvantaged
7 community assistance trust fund."

8 SECTION 4. Section 11-6-4 NMSA 1978 (being Laws 1977,
9 Chapter 299, Section 4, as amended) is repealed and a new
10 Section 11-6-4 NMSA 1978 is enacted to read:

11 "11-6-4. [NEW MATERIAL] NEW MEXICO DISADVANTAGED
12 COMMUNITY ASSISTANCE BOARD CREATED.--

13 A. The "New Mexico disadvantaged community
14 assistance board" is created.

15 B. The board shall consist of seven voting members
16 as follows:

17 (1) the secretary of finance and
18 administration or the secretary's designee from the department
19 of finance and administration;

20 (2) the secretary of environment or the
21 secretary's designee from the department of environment;

22 (3) the chief executive officer of the
23 authority or the chief executive officer's designee from the
24 authority;

25 (4) one member appointed by the president pro

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1 tempore of the senate;

2 (5) one member appointed by the minority
3 leader of the senate;

4 (6) one member appointed by the speaker of the
5 house of representatives; and

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

8 C. The members appointed pursuant to Paragraphs (4)
9 through (7) of Subsection B of this section shall be appointed
10 with the advice and consent of the senate, serve at the
11 pleasure of the appointing authority, be residents of the
12 disadvantaged community area and have experience in capital
13 project development or administration, and they may receive per
14 diem and mileage as provided for nonsalaried public officers in
15 the Per Diem and Mileage Act but shall receive no other
16 compensation, perquisite or allowance.

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

19 (1) the chair of the New Mexico council of
20 governments or the chair's designee;

21 (2) the executive director of the New Mexico
22 municipal league or the director's designee;

23 (3) the executive director of the New Mexico
24 association of counties or the director's designee;

25 (4) the executive director of the New Mexico

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1 mortgage finance authority or the director's designee; and

2 (5) a representative of a disadvantaged
3 community.

4 E. The board shall choose a chair and vice chair
5 from among its members and such other officers as it deems
6 necessary. A majority of members constitutes a quorum for the
7 transaction of business. The affirmative vote of at least a
8 majority of a quorum shall be necessary for an action to be
9 taken by the board. The board shall meet whenever a voting
10 member submits a request in writing to the chair, but not less
11 than quarterly.

12 F. All meetings of the board shall be open to the
13 public and subject to the Open Meetings Act, and at each
14 meeting, the board shall provide an opportunity for public
15 comment."

16 SECTION 5. Section 11-6-5 NMSA 1978 (being Laws 1977,
17 Chapter 299, Section 5, as amended) is repealed and a new
18 Section 11-6-5 NMSA 1978 is enacted to read:

19 "11-6-5. [NEW MATERIAL] BOARD--DUTIES.--The board shall
20 have all the powers necessary to carry out the purposes and
21 provisions of the New Mexico Disadvantaged Community Assistance
22 Act, including but not limited to the power to:

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

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1 B. after applications have been processed and
2 evaluated by the authority, prioritize the qualified projects
3 for financial assistance; and

4 C. upon such terms and conditions as are
5 established by the authority, recommend the prioritized
6 projects to the authority for financial assistance for:

7 (1) planning, designing, constructing,
8 improving or expanding a qualified project;

9 (2) developing engineering feasibility reports
10 for qualified projects;

11 (3) inspecting construction of qualified
12 projects;

13 (4) providing professional services; or

14 (5) completing environmental assessments or
15 archaeological clearances and other surveys for qualified
16 projects."

17 **SECTION 6.** Section 11-6-6 NMSA 1978 (being Laws 1977,
18 Chapter 299, Section 6, as amended) is repealed and a new
19 Section 11-6-6 NMSA 1978 is enacted to read:

20 "11-6-6. [NEW MATERIAL] ~~AUTHORITY--DUTIES.~~--The authority
21 shall:

22 A. provide staff support to the board;

23 B. administer the project fund;

24 C. at the direction of the board, process, review
25 and evaluate applications for financial assistance from 9

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1 qualified entities; and

2 D. at the direction of the board, administer
3 qualified projects that receive financial assistance."

4 SECTION 7. Section 11-6-7 NMSA 1978 (being Laws 1977,
5 Chapter 299, Section 8) is repealed and a new Section 11-6-7
6 NMSA 1978 is enacted to read:

7 "11-6-7. [NEW MATERIAL] NEW MEXICO DISADVANTAGED
8 COMMUNITY ASSISTANCE TRUST FUND--CREATED--INVESTMENT--
9 DISTRIBUTION.--

10 A. The "New Mexico disadvantaged community
11 assistance trust fund" is created in the state treasury. The
12 trust fund shall consist of money that is appropriated, donated
13 or otherwise allocated to it. Money in the trust fund shall be
14 invested by the state investment officer in the manner that
15 land grant permanent funds are invested pursuant to Chapter 6,
16 Article 8 NMSA 1978. Income from investment of the trust fund
17 shall be credited to the fund. Money in the trust fund shall
18 not be expended for any purpose, but an annual distribution
19 from the trust fund shall be made to the project fund pursuant
20 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 ten million dollars (\$10,000,000) until the distribution is
25 less than an amount equal to four and seven-tenths percent of

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

7 SECTION 8. Section 11-6-8 NMSA 1978 (being Laws 1977,
8 Chapter 299, Section 9, as amended) is repealed and a new
9 Section 11-6-8 NMSA 1978 is enacted to read:

10 "11-6-8. [NEW MATERIAL] NEW MEXICO DISADVANTAGED
11 COMMUNITY ASSISTANCE PROJECT FUND--CREATED--PURPOSE--
12 APPROPRIATIONS.--

13 A. The "New Mexico disadvantaged community
14 assistance project fund" is created in the authority and shall
15 be administered by the authority.

16 B. The project fund shall consist of:

17 (1) distributions from the trust fund;

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

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

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

25 (5) income from investment of the project fund

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1 that shall be credited to the project fund.

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

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

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

10 (1) administer the project fund;

11 (2) originate grants or loans for qualified
12 projects recommended by the board;

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

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

19 SECTION 9. REPEAL.--Sections 11-6-4.1, 11-6-5.1, 11-6-6.1
20 and 11-6-9 NMSA 1978 (being Laws 1981 (1st S.S.), Chapter 11,
21 Section 3, Laws 1984, Chapter 5, Section 7, Laws 1979, Chapter
22 166, Section 4 and Laws 1977, Chapter 299, Section 10, as
23 amended) are repealed.

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