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AN ACT
RELATING TO PUBLIC FINANCE; RAISING THE CAP ON RURAL
INFRASTRUCTURE LOANS; EXPANDING THE SCOPE OF ELIGIBLE
COMMUNITIES; MAKING SOLID WASTE DISPOSAL PROJECTS ELIGIBLE
FOR FUNDING; ALLOWING FOR ADMINISTRATIVE COSTS; MAKING AN
APPROPRIATION.

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

Section 1. Section 75-1-2 NMSA 1978 (being Laws 1973,
Chapter 333, Section 2, as amended by Laws 2001, Chapter 250,
Section 1 and by Laws 2001, Chapter 265, Section 1) is
amended to read:

"75-1-2. DEFINITIONS.--As used in the Rural
Infrastructure Act:

- A. "department" means the department of environment;
- B. "fund" means the rural infrastructure revolving loan fund;
- C. "local authority" means a mutual domestic association or water and sanitation district that supplies water, wastewater or solid waste services to, or a municipality that has, a population of less than twenty thousand or a county with a population of less than two hundred thousand;
- D. "operate and maintain" means all necessary

1 activities, including replacement of equipment or
2 appurtenances to assure the dependable and economical
3 function of a facility in accordance with its intended
4 purpose;

5 E. "secretary" means the secretary of environment;

6 F. "solid waste facility" includes transfer and
7 convenience facilities, landfills or other equipment or
8 systems used for the processing, transformation, recycling or
9 disposal of solid waste;

10 G. "wastewater facility" includes collection
11 lines, pumping equipment, treatment works and disposal piping
12 or process units; and

13 H. "water supply facility" includes the source of
14 supply of water, pumping equipment, storage facilities,
15 transmission lines, treatment works and distribution
16 systems."

17 Section 2. Section 75-1-2.1 NMSA 1978 (being Laws 1983,
18 Chapter 173, Section 3, as amended by Laws 2001, Chapter 250,
19 Section 2 and by Laws 2001, Chapter 265, Section 2) is
20 amended to read:

21 "75-1-2.1. PURPOSE OF ACT.--The purpose of the Rural
22 Infrastructure Act is to provide financial assistance to
23 local authorities for the planning, design and construction
24 or modification of water supply, wastewater and solid waste
25 facilities."

1 Section 3. Section 75-1-3 NMSA 1978 (being Laws 1973,
2 Chapter 333, Section 3, as amended by Laws 2001, Chapter 250,
3 Section 3 and by Laws 2001, Chapter 265, Section 3) is
4 amended to read:

5 "75-1-3. FUND CREATED--ADMINISTRATION--EMERGENCY
6 FUND.--

7 A. A special fund is created to be known as the
8 "rural infrastructure revolving loan fund". Money
9 appropriated to the fund or to the department to carry out
10 the provisions of the Rural Infrastructure Act may be used to
11 make loans and grants to local authorities, individually or
12 jointly, for water supply, wastewater or solid waste
13 facilities. Appropriations made to the fund but not expended
14 at the end of the fiscal year for which appropriated shall
15 not revert to the general fund but shall accrue to the credit
16 of the fund. Earnings on the balance in the fund shall be
17 credited to the fund. In addition, when the proceeds from
18 the issuance of severance tax bonds appropriated to the fund
19 are deposited in the state treasury, interest earned on that
20 money during the period from deposit in the state treasury
21 until the actual transfer of the money to the fund shall be
22 credited to the fund.

23 B. Ten percent of any appropriation to the fund or
24 to the department to carry out the provisions of the Rural
25 Infrastructure Act shall be set aside for emergency grants

1 and loans pursuant to Section 75-1-5 NMSA 1978.

2 C. All water supply, wastewater and solid waste
3 facilities shall be designed in compliance with the
4 engineering requirements established by the secretary after
5 consulting with and considering the recommendations of the
6 professional engineering societies operating in New Mexico.
7 The secretary shall also establish, by regulation, guidelines
8 for the ranking of projects for top priority based on public
9 health needs.

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

18 E. Receipts from the repayment of loans, including
19 loans approved by the state board of finance pursuant to
20 Section 75-1-5 NMSA 1978, shall be deposited in the fund by
21 the department, including receipts from the repayment of
22 loans made pursuant to appropriations to carry out the
23 purposes of the Water Supply Construction Act made prior to
24 the effective date of the Rural Infrastructure Act.

25 F. Money in the fund is appropriated to the

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

15 G. Loans and grants made pursuant to the
16 provisions of the Rural Infrastructure Act shall not be used
17 by the local authority on any project constructed in
18 fulfillment or partial fulfillment of requirements made of a
19 subdivider by the provisions of the Land Subdivision Act or
20 the New Mexico Subdivision Act."

21 Section 4. Section 75-1-4 NMSA 1978 (being Laws 1973,
22 Chapter 333, Section 4, as amended by Laws 2001, Chapter 250,
23 Section 4 and by Laws 2001, Chapter 265, Section 4) is
24 amended to read:

25 "75-1-4. CONDITIONS FOR GRANTS AND LOANS.--

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

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

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

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

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

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

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

1 records.

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

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

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

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

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

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

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

17 H. The department may:

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

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

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

1 (4) review and require changes to the
2 rate-setting analysis that supports the loan payments.

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

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

17 Section 5. Section 75-1-5 NMSA 1978 (being Laws 1987,
18 Chapter 175, Section 4, as amended by Laws 2001, Chapter 250,
19 Section 5 and by Laws 2001, Chapter 265, Section 5) is
20 amended to read:

21 "75-1-5. EMERGENCY LOANS AND GRANTS.--Ten percent of
22 the proceeds of each severance tax bond issuance or other
23 appropriation for the purpose of carrying out the provisions
24 of the Rural Infrastructure Act shall be reserved for
25 emergencies and shall be allocated by the department only

1 upon approval of the state board of finance. This amount
2 shall not be deposited in the fund and shall be allocated
3 only for emergency loans and grants. Emergency loans and
4 grants shall be made in accordance with the applicable
5 provisions for loans pursuant to the Rural Infrastructure
6 Act; provided that a grant shall not exceed five hundred
7 thousand dollars (\$500,000). At the end of the third quarter
8 of each fiscal year, the unexpended balance of the reserved
9 amount may be transferred by the department to the fund for
10 use in accordance with the Rural Infrastructure Act."

11 Section 6. Section 75-1-6 NMSA 1978 (being Laws 1988,
12 Chapter 28, Section 7, as amended by Laws 2001, Chapter 250,
13 Section 6 and by Laws 2001, Chapter 265, Section 6) is
14 amended to read:

15 "75-1-6. AVERAGE RESIDENTIAL USER COST REDUCTION GRANTS
16 AND ZERO PERCENT LOANS.--

17 A. No more than twenty-five percent of the
18 proceeds of each severance tax bond issuance or other
19 appropriation for the purpose of carrying out the provisions
20 of the Rural Infrastructure Act shall be reserved for average
21 residential user cost reduction grants or zero percent loans
22 to reduce average residential user cost to a reasonable level
23 for eligible financially needy loan recipients whose water
24 supply or wastewater facilities serve less than three
25 thousand persons.

1 B. Average residential user cost reduction grants
2 and zero percent loans shall be allocated by the department
3 in accordance with the provisions for grants and loans
4 pursuant to the Rural Infrastructure Act, provided that an
5 average residential user cost reduction grant or zero percent
6 loan shall not exceed five hundred thousand dollars
7 (\$500,000). Such grants and loans shall reduce only the
8 principal and interest portion of the average residential
9 user cost to a reasonable cost as determined by the
10 department.

11 C. A zero percent loan or average residential user
12 cost reduction grant shall be approved by the department
13 when, after construction bids have been received, the
14 following conditions have been met by the local authority
15 whose average residential user costs are in need of
16 reduction:

17 (1) the construction project is designed
18 using the most cost-effective and dependable option;

19 (2) the system is designed with adequate
20 built-in expansion capacity;

21 (3) other sources of grant funds have been
22 sought and are not available in a timely manner;

23 (4) the project cannot feasibly be reduced
24 in scope or phased so as to bring it within available loan
25 funds and within reasonable user cost; and

