

1 SENATE BILL 83

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

3 INTRODUCED BY

4 Richard C. Martinez

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6
7
8 FOR THE LAND GRANT COMMITTEE

9
10 AN ACT

11 RELATING TO LAND GRANTS; INCORPORATING LAND GRANTS-MERCEDES
12 INTO THE COLONIAS INFRASTRUCTURE ACT; CHANGING THE NAME OF THE
13 COLONIAS INFRASTRUCTURE ACT TO THE "COLONIAS AND LAND GRANTS-
14 MERCEDES INFRASTRUCTURE ACT".

15
16 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

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

19 "6-30-1. SHORT TITLE.--~~[Sections 1 through 8 of this act]~~
20 Chapter 6, Article 30 NMSA 1978 may be cited as the "Colonias
21 and Land Grants-Mercedes Infrastructure Act"."

22 SECTION 2. Section 6-30-2 NMSA 1978 (being Laws 2010,
23 Chapter 10, Section 2) is amended to read:

24 "6-30-2. FINDINGS AND PURPOSE.--

25 A. The legislature finds that:

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1 (1) colonias and land grants-mercedes lack
2 basic infrastructure resulting in poor social, health and
3 economic conditions;

4 (2) adequate infrastructure such as water and
5 wastewater systems, solid waste disposal facilities, flood and
6 drainage control, roads and housing infrastructure are
7 essential to improved health, safety and welfare of all New
8 Mexicans, including residents of the colonia and land grant-
9 merced communities;

10 (3) local efforts and resources have been
11 insufficient to develop and maintain a consistent and adequate
12 level of infrastructure;

13 (4) addressing the urgent need of replacing,
14 improving and developing infrastructure through the use of an
15 alternative financing mechanism is a long-term cost savings
16 benefit to both the state and the communities; and

17 (5) adequate infrastructure development allows
18 colonia and land grant-merced residents to achieve the basic
19 conditions necessary to improve the quality of their lives.

20 B. The purposes of the Colonias and Land Grants-
21 Mercedes Infrastructure Act are to:

22 (1) ensure adequate financial resources for
23 infrastructure development for colonia and land grant-merced
24 recognized communities;

25 (2) provide for the planning and development

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1 of infrastructure in an efficient and cost-effective manner;
2 and

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

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

7 "6-30-3. DEFINITIONS.--As used in the Colonias and Land
8 Grants-Mercedes Infrastructure Act:

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

11 B. "board" means the colonias and land grants-
12 mercedes infrastructure board;

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

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

18 (a) lack of potable water supply;
19 (b) lack of adequate sewage systems; or
20 (c) lack of decent, safe and sanitary
21 housing;

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

24 (3) has submitted appropriate documentation to
25 the board to substantiate the conditions of this subsection,

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1 including documentation that supports the designation of the
2 municipality or county;

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

5 E. "land grant-merced" means a community land grant
6 organized and governed pursuant to Chapter 49, Article 1 or 4
7 NMSA 1978 and operating as a political subdivision of the
8 state;

9 [~~E.~~] F. "project fund" means the colonias and land
10 grants-mercedes infrastructure project fund;

11 [~~F.~~] G. "qualified entity" means a county,
12 municipality or other entity recognized as a political
13 subdivision of the state;

14 [~~G.~~] H. "qualified project" means a capital outlay
15 project selected by the board for financial assistance that is
16 primarily intended to develop colonias or land grants-mercedes
17 infrastructure. A qualified project may include a water
18 system, a wastewater system, solid waste disposal facilities,
19 flood and drainage control, roads or housing infrastructure;
20 but "qualified project" does not include general operation and
21 maintenance, equipment, housing allowance payments or mortgage
22 subsidies; and

23 [~~H.~~] I. "trust fund" means the colonias and land
24 grants-mercedes infrastructure trust fund."

25 SECTION 4. Section 6-30-4 NMSA 1978 (being Laws 2010,

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1 Chapter 10, Section 4) is amended to read:

2 "6-30-4. COLONIAS AND LAND GRANTS-MERCEDES INFRASTRUCTURE
3 BOARD CREATED.--

4 A. The "colonias and land grants-mercedes
5 infrastructure board" is created.

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

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

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

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

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

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

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

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

24 C. The members appointed pursuant to Paragraphs (4)
25 through (7) of Subsection B of this section shall be appointed

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1 with the advice and consent of the senate, serve at the
2 pleasure of the appointing authority, be residents of the
3 colonias area or a member of a land grant-merced and have
4 experience in capital project development or administration,
5 and they may receive per diem and mileage as provided for
6 nonsalaried public officers in the Per Diem and Mileage Act but
7 shall receive no other compensation, perquisite or allowance.

8 D. There shall be [~~five~~] seven advisory, nonvoting
9 members of the board as follows:

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

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

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

17 (4) the executive director of the north
18 central New Mexico economic development district or the
19 director's designee;

20 (5) the chair of the land grant council or the
21 chair's designee;

22 [~~(4)~~] (6) the executive director of the New
23 Mexico association of counties or the director's designee; and

24 [~~(5)~~] (7) the executive director of the New
25 Mexico mortgage finance authority or the director's designee.

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

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

13 SECTION 5. Section 6-30-7 NMSA 1978 (being Laws 2010,
14 Chapter 10, Section 7) is amended to read:

15 "6-30-7. COLONIAS AND LAND GRANTS-MERCEDES INFRASTRUCTURE
16 TRUST FUND--CREATED--INVESTMENT--DISTRIBUTION.--

17 A. The "colonias and land grants-mercedes
18 infrastructure trust fund" is created in the state treasury.
19 The trust fund shall consist of money that is appropriated,
20 donated or otherwise allocated to it. Money in the trust fund
21 shall be invested by the state investment officer in the manner
22 that land grant permanent funds are invested pursuant to
23 Chapter 6, Article 8 NMSA 1978. Income from investment of the
24 trust fund shall be credited to the fund. Money in the trust
25 fund shall not be expended for any purpose, but an annual

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1 distribution from the trust fund shall be made to the project
2 fund pursuant to this section.

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

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

16 "6-30-8. COLONIAS AND LAND GRANTS-MERCEDES INFRASTRUCTURE
17 PROJECT FUND-CREATED--PURPOSE--APPROPRIATIONS.--

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

- 21 B. The project fund shall consist of:
- 22 (1) distributions from the trust fund;
 - 23 (2) payments of principal and interest on
 - 24 loans for qualified projects;
 - 25 (3) other money appropriated by the

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

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

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

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

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

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

15 (1) administer the project fund;

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

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

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

24 SECTION 7. Section 7-27-12.5 NMSA 1978 (being Laws 2010,
25 Chapter 10, Section 9) is amended to read:

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1 "7-27-12.5. AUTHORIZATION FOR SEVERANCE TAX BONDS--
2 PRIORITY FOR INFRASTRUCTURE PROJECTS FOR COLONIAS AND LAND
3 GRANTS-MERCEDES.--

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

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1 B. Money from the severance tax bonds provided for
2 in this section shall not be used to pay indirect project
3 costs. Any unexpended balance from proceeds of severance tax
4 bonds issued for a colonias or land grants-mercedes
5 infrastructure project shall revert to the severance tax
6 bonding fund within six months of completion of the project.
7 The colonias and land grants-mercedes infrastructure board
8 shall monitor and ensure proper reversions of the bond proceeds
9 appropriated for the projects.

10 C. As used in this section, "colonias or land
11 grants-mercedes infrastructure project" means a qualified
12 project under the Colonias and Land Grants-Mercedes
13 Infrastructure Act."

14 **SECTION 8. EFFECTIVE DATE.**--The effective date of the
15 provisions of this act is July 1, 2014.