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HOUSE BILL 159

45TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2001

INTRODUCED BY

James G. Taylor

FOR THE NEW MEXICO FINANCE AUTHORITY OVERSIGHT COMMITTEE

AN ACT

**RELATING TO THE DRINKING WATER STATE REVOLVING LOAN FUND ACT;
AMENDING THE ACT TO ALLOW PRIVATE COMMUNITY WATER SYSTEMS TO
QUALIFY FOR FUNDING UNDER THE ACT; ELIMINATING A RESTRICTION
ON REFINANCING OUTSTANDING DEBT; DECLARING AN EMERGENCY.**

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

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

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

- A. "authority" means the New Mexico finance
authority;**
- B. "department" means the department of
environment;**
- C. "drinking water facility construction project"**

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1 means the acquisition, design, construction, improvement,
2 expansion, repair or rehabilitation of all or part of any
3 structure, facility or equipment necessary for a drinking
4 water system or water supply [~~systems~~] system;

5 D. "drinking water supply facility" means any
6 structure, facility or equipment necessary for a drinking
7 water system or water supply system;

8 E. "financial assistance" means loans, the
9 purchase or refinancing of debt obligation of a local
10 authority at an interest rate that is less than or equal to
11 the market interest rate in any case in which a debt
12 obligation is incurred after July 1, 1993, loan guarantees,
13 bond insurance or security for revenue bonds issued by the
14 authority;

15 F. "fund" means the drinking water state revolving
16 loan fund;

17 G. "local authority" means any municipality,
18 county, incorporated county, sanitation district, water and
19 sanitation district or any similar district, public or private
20 water cooperative or association or any similar organization,
21 public or private community water system or nonprofit
22 noncommunity water system or any other agency created pursuant
23 to a joint powers agreement acting on behalf of any entity
24 listed in this subsection with a publicly owned drinking water
25 system or water supply system [~~which~~] that qualifies as a

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1 community water system or nonprofit noncommunity system as
2 defined by the Safe Drinking Water Act. "Local authority"
3 does not include systems owned by federal agencies;

4 H. "operate and maintain" means to perform all
5 necessary activities, including the replacement of equipment
6 or appurtenances, to assure the dependable and economical
7 function of a drinking water facility in accordance with its
8 intended purpose; and

9 I. "Safe Drinking Water Act" means the federal
10 Safe Drinking Water Act as amended in 1996 and its subsequent
11 amendments or successor provisions. "

12 Section 2. Section 6-21A-4 NMSA 1978 (being Laws 1997,
13 Chapter 144, Section 4) is amended to read:

14 "6-21A-4. FUND CREATED--ADMINISTRATION.--

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

23 B. The following shall be deposited directly in
24 the fund:

25 (1) grants from the federal government or its

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1 agencies allotted to the state for capitalization of the fund;

2 (2) funds as appropriated by the legislature
3 to implement the provisions of the Drinking Water State
4 Revolving Loan Fund Act or to provide state matching funds
5 that are required by the terms of any federal grant under the
6 Safe Drinking Water Act;

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

10 (4) any other public or private money
11 dedicated to the fund; and

12 (5) revenue transferred from other state
13 revolving funds.

14 C. Money in the fund is appropriated for
15 expenditure by the authority in a manner consistent with the
16 terms and conditions of the federal capitalization grants and
17 the Safe Drinking Water Act and may be used:

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

20 (2) to buy or refinance the debt obligation
21 of a local authority [~~if combined with a new project~~] at an
22 interest rate that is less than or equal to the market
23 interest rate in any case in which a debt obligation is
24 incurred after July 1, 1993;

25 (3) to guarantee or purchase insurance for

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1 obligations of local authorities to improve credit market
2 access or reduce interest rates;

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

5 (5) to provide a source of revenue or
6 security for the repayment of principal and interest on bonds
7 issued by the authority if the proceeds of the bonds are
8 deposited in the fund or if the proceeds of the bonds are used
9 to make loans to local authorities to the extent provided in
10 the terms of the federal grant.

11 D. If needed to cover administrative expenses,
12 pursuant to procedures established by the authority, the
13 authority may impose and collect a fee from each local
14 authority that receives financial assistance from the fund,
15 which fee shall be used solely for the costs of administering
16 the fund and which fee shall be kept outside the fund.

17 E. Money not currently needed for the operation of
18 the fund or otherwise dedicated may be invested pursuant to
19 the New Mexico Finance Authority Act and all interest earned
20 on such investments shall be credited to the fund. Money
21 remaining in the fund at the end of the fiscal year shall not
22 revert to the general fund but shall accrue to the credit of
23 the fund.

24 F. The authority shall maintain full authority for
25 the operation of the fund in accordance with applicable

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1 federal and state law, including, [~~but not limited to~~] in
2 cooperation with the department, ensuring the loan recipients
3 are on the state priority list or otherwise satisfy the Safe
4 Drinking Water Act requirements.

5 G. The authority shall establish fiscal controls
6 and accounting procedures that are sufficient to assure proper
7 accounting for fund payments, disbursements and balances and
8 shall provide, in cooperation with the department, a biannual
9 report and an annual independent audit on the fund to the
10 governor and to the United States environmental protection
11 agency as required by the Safe Drinking Water Act. "

12 Section 3. EMERGENCY.--It is necessary for the public
13 peace, health and safety that this act take effect
14 immediately.