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**HOUSE BILL 644**

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

**INTRODUCED BY**

**John A. Heaton**

**AN ACT**

**RELATING TO MUNICIPAL UTILITIES; AUTHORIZING MUNICIPALITIES TO ESTABLISH A MUNICIPAL UTILITY PERMANENT FUND; PROVIDING FOR AN ELECTION FOR VOTER APPROVAL FOR EXPENDITURE FROM THE PERMANENT FUND; PROVIDING FOR BUDGET AND APPROPRIATION OF THE EARNINGS FROM INVESTMENT OF THE PERMANENT FUND FOR MUNICIPAL UTILITY PURPOSES.**

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

**Section 1. A new section of Chapter 3, Article 23 NMSA 1978 is enacted to read:**

**"[NEW MATERIAL] MUNICIPAL UTILITY PERMANENT FUND. --**

**A. The governing body of a municipality may by ordinance establish a municipal utility permanent fund for each utility owned and operated by the municipality.**

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1           B. The municipal utility permanent fund shall be a  
2 fund in the municipal treasury into which may be deposited  
3 money from the sale of municipal utility assets or any portion  
4 of the unappropriated utility fund cash surplus that is in  
5 excess of fifty percent of the prior fiscal year's municipal  
6 utility budget. Money in the fund may be invested by the  
7 municipal board of finance as provided in Sections 6-10-10,  
8 6-10-36 and 6-10-44 NMSA 1978.

9           C. Earnings from investment of a municipal utility  
10 permanent fund may be budgeted and appropriated by the  
11 governing body of the municipality for expenditure for any  
12 purpose related to the operation, maintenance and improvement  
13 of the municipal utility or deposited in the municipal utility  
14 permanent fund.

15           D. Money in the municipal utility permanent fund  
16 may be appropriated or expended only pursuant to approval of  
17 the voters of the municipality. The municipality may adopt a  
18 resolution calling for an election on the question of the  
19 expenditure of a specified amount of the municipal utility  
20 permanent fund for a specified purpose. The election shall be  
21 held within sixty days after the adoption of the resolution by  
22 the governing body. The election shall be called, conducted,  
23 counted and canvassed substantially in the manner provided by  
24 law for special municipal elections pursuant to the Municipal  
25 Election Code. If a majority of the voters of the municipality

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1 voting on the question vote to approve the expenditure, that  
2 amount of money shall be available for appropriation from the  
3 municipal utility permanent fund for expenditure by the  
4 municipality for the specified purpose. If a majority of the  
5 voters of the municipality voting on the question vote against  
6 the expenditure, no money in the municipal utility permanent  
7 fund may be appropriated or expended for that purpose.  
8 Following an election at which the question was not approved,  
9 that question shall not again be submitted to the voters of the  
10 municipality for at least one year from the date of that  
11 election. "