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AN ACT  
RELATING TO WATER; AMENDING THE WATER PROJECT FINANCE ACT TO  
EXPAND THE SCOPE OF PERMITTED PROJECTS TO INCLUDE WATER  
CONSERVATION MEASURES; ALLOWING INDIAN NATIONS, TRIBES AND  
PUEBLOS TO RECEIVE DIRECT FINANCIAL ASSISTANCE FROM THE  
WATER TRUST BOARD; DECLARING AN EMERGENCY.

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

Section 1. Section 72-4A-2 NMSA 1978 (being Laws 2001,  
Chapter 164, Section 2) is amended to read:

"72-4A-2. FINDINGS AND PURPOSE. --

A. The legislature finds that:

- (1) New Mexico is in a desert where water is a scarce resource;
- (2) the economy depends on reasonable and fair allocation of water for all purposes;
- (3) the public welfare depends on efficient use and conservation of water;
- (4) New Mexico must comply with its delivery obligations under interstate compacts; and
- (5) public confidence and support for water use efficiency and conservation is based on a reasonable balance of investments in water infrastructure and management.

B. The purpose of the Water Project Finance Act

1 is to provide for water use efficiency, resource  
2 conservation and protection and fair distribution and  
3 allocation of New Mexico's scarce water resources for  
4 beneficial purposes of use within the state."

5 Section 2. Section 72-4A-3 NMSA 1978 (being Laws 2001,  
6 Chapter 164, Section 3) is amended to read:

7 "72-4A-3. DEFINITIONS.--As used in the Water Project  
8 Finance Act:

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

11 B. "board" means the water trust board;

12 C. "political subdivision" means a municipality,  
13 county, irrigation district, conservancy district, special  
14 district, acequia, soil and water conservation district,  
15 water and sanitation district or an association organized  
16 and existing pursuant to the Sanitary Projects Act;

17 D. "qualifying water project" means a project  
18 recommended by the board for funding by the legislature; and

19 E. "qualifying entity" means a state agency,  
20 a political subdivision of the state or a recognized Indian  
21 nation, tribe or pueblo, the boundaries of which are located  
22 wholly or partially in New Mexico."

23 Section 3. Section 72-4A-5 NMSA 1978 (being Laws 2001,  
24 Chapter 164, Section 5) is amended to read:

25 "72-4A-5. BOARD--DUTIES.--The board shall:

1           A. adopt rules governing terms and conditions of  
2 grants or loans recommended by the board for appropriation  
3 by the legislature from the water project fund, giving  
4 priority to projects identified as being urgent to meet the  
5 needs of a regional water planning area that has had a  
6 completed regional water plan accepted by the interstate  
7 stream commission and that have matching contributions from  
8 federal or local funding sources available, and that has  
9 obtained all requisite state and federal permits and  
10 authorizations necessary to initiate the project; and

11           B. authorize qualifying water projects to the  
12 authority that are for:

13                   (1) storage, conveyance or delivery of  
14 water to end users;

15                   (2) implementation of federal Endangered  
16 Species Act of 1973 collaborative programs;

17                   (3) restoration and management of  
18 watersheds;

19                   (4) flood prevention; or

20                   (5) conservation, recycling, treatment or  
21 reuse of water as provided by law. "

22           Section 4. Section 72-4A-6 NMSA 1978 (being Laws 2001,  
23 Chapter 164, Section 6) is amended to read:

24           "72-4A-6. AUTHORITY--DUTIES.--The authority shall:

25           A. provide staff support for the board;

1           B. develop application procedures and forms for  
2 qualifying entities to apply for grants and loans from the  
3 water project fund; and

4           C. make loans or grants to qualifying entities  
5 for qualifying water projects authorized by the legislature,  
6 provided that the service area for the project is wholly  
7 within the boundaries of the state. "

8           Section 5. Section 72-4A-7 NMSA 1978 (being Laws 2001,  
9 Chapter 164, Section 7) is amended to read:

10           "72-4A-7. CONDITIONS FOR GRANTS AND LOANS. --

11           A. Grants and loans shall be made only to  
12 qualifying entities that:

13                   (1) agree to operate and maintain the water  
14 project so that it will function properly over the  
15 structural and material design life, which shall not be less  
16 than twenty years;

17                   (2) require the contractor of the  
18 construction project to post a performance and payment bond  
19 in accordance with the requirements of Section 13-4-18 NMSA  
20 1978;

21                   (3) provide written assurance signed by an  
22 attorney or provide a title insurance policy that the  
23 qualifying entity has proper title, easements and rights of  
24 way to the property upon or through which the water project  
25 proposed for funding is to be constructed or extended;

1 (4) meet the requirements of the financial  
2 capability set by the board to ensure sufficient revenues to  
3 operate and maintain the water project for its useful life  
4 and to repay the loan;

5 (5) agree to properly maintain financial  
6 records and to conduct an audit of the project's financial  
7 records; and

8 (6) agree to pay costs of originating  
9 grants and loans as determined by rules adopted by the  
10 board.

11 B. Plans and specifications for a water project  
12 shall be approved by the authority, after review and upon  
13 the recommendation of the state engineer and department of  
14 environment, before grant or loan disbursements to pay for  
15 construction costs are made to a qualifying entity.

16 C. Grants and loans shall be made only for  
17 eligible items, which include:

- 18 (1) to match federal and local cost shares;  
19 (2) engineering feasibility reports;  
20 (3) contracted engineering design;  
21 (4) inspection of construction;  
22 (5) special engineering services;  
23 (6) environmental or archaeological  
24 surveys;  
25 (7) construction;

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- (8) land acquisition;
- (9) easements and rights of way; and
- (10) legal costs and fiscal agent fees."

Section 6. EMERGENCY.--It is necessary for the public  
peace, health and safety that this act take effect  
immediately. \_\_\_\_\_