

1 HOUSE BILL 414

2 **56TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2023**

3 INTRODUCED BY

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10 AN ACT

11 RELATING TO STATE GOVERNMENT; CREATING THE HOUSING DEPARTMENT;
12 PROVIDING POWERS AND DUTIES; MAKING THE NEW MEXICO HOUSING
13 TRUST FUND A STATE TREASURY FUND; APPROVING TRANSFERS OF
14 FUNCTIONS, PERSONNEL, MONEY, APPROPRIATIONS AND PROPERTY OF
15 HOUSING PROGRAMS FROM OTHER STATE AGENCIES; MAKING
16 APPROPRIATIONS.
17

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

19 SECTION 1. Section 7-27-49 NMSA 1978 (being Laws 2022,
20 Chapter 38, Section 1) is amended to read:

21 "7-27-49. AUTHORIZATION FOR SEVERANCE TAX BONDS--NEW
22 MEXICO MORTGAGE FINANCE AUTHORITY--NEW MEXICO HOUSING TRUST
23 FUND.--

24 A. After the annual estimate of severance tax
25 bonding capacity is made pursuant to Subsection B of Section

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1 7-27-10.1 NMSA 1978, the board of finance division of the
2 department of finance and administration shall allocate two and
3 one-half percent of the estimated bonding capacity for the New
4 Mexico housing trust fund for the purposes of carrying out the
5 provisions of the New Mexico Housing Trust Fund Act.

6 B. The legislature authorizes the state board of
7 finance to issue severance tax bonds in the amount allocated
8 pursuant to this section for use by the [~~New Mexico mortgage~~
9 ~~finance authority~~] housing department to fund the New Mexico
10 housing trust fund for the purposes of carrying out the
11 provisions of the New Mexico Housing Trust Fund Act. The
12 housing department and the New Mexico mortgage finance
13 authority shall certify to the state board of finance the need
14 for issuance of bonds. The state board of finance may issue
15 and sell the bonds in the same manner as other severance tax
16 bonds in an amount not to exceed the authorized amount provided
17 for in this section. If necessary, the state board of finance
18 shall take the appropriate steps to comply with the federal
19 Internal Revenue Code of 1986, as that code may be amended or
20 renumbered. Proceeds from the sale of the bonds are
21 appropriated to the New Mexico housing trust fund for the
22 purposes certified by the department and the New Mexico
23 mortgage finance authority to the state board of finance.

24 C. Money from the severance tax bonds provided
25 for in this section shall not be used to pay indirect project

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1 costs. Any unexpended balance from proceeds of severance tax
2 bonds issued for projects pursuant to the New Mexico Housing
3 Trust Fund Act shall revert to the severance tax bonding
4 fund within one year of completion of the project. Any
5 unencumbered balance from the proceeds of severance tax bonds
6 issued pursuant to this section after three years from the
7 issuance of those bonds shall revert to the severance tax
8 bonding fund. The department and the New Mexico mortgage
9 finance authority shall monitor and ensure proper reversions of
10 the bond proceeds appropriated for the projects."

11 SECTION 2. [NEW MATERIAL] SHORT TITLE.--Sections 2
12 through 8 of this act may be cited as the "Housing Department
13 Act".

14 SECTION 3. [NEW MATERIAL] PURPOSE.--The purpose of the
15 Housing Department Act is to provide for the administration of
16 laws and programs that provide housing stabilization,
17 homelessness prevention, transitional housing, standardization
18 of housing services and increased development of housing, and
19 to exercise functions and administer laws pertaining to housing
20 services previously administered by other state agencies.

21 SECTION 4. [NEW MATERIAL] DEFINITIONS.--As used in the
22 Housing Department Act:

23 A. "department" means the housing department;

24 B. "fund" means the New Mexico housing trust fund;

25 and

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1 C. "superintendent" means the superintendent of
2 housing.

3 SECTION 5. [NEW MATERIAL] DEPARTMENT CREATED--POWERS AND
4 DUTIES.--The "housing department" is created as a non-cabinet
5 department of the executive branch. The department includes
6 the following:

- 7 A. office of the superintendent;
- 8 B. administrative services division;
- 9 C. development and revitalization division;
- 10 D. housing equity division;
- 11 E. housing stability division; and
- 12 F. services quality and standards division.

13 SECTION 6. [NEW MATERIAL] SUPERINTENDENT OF HOUSING--
14 GENERAL POWERS AND DUTIES.--

15 A. The governor, with the advice and consent of the
16 senate, shall appoint the "superintendent of housing". The
17 superintendent is responsible to the governor for the operation
18 of the department. It is the superintendent's duty to manage
19 all operations of the department and to administer and enforce
20 the laws with which the superintendent or the department is
21 charged.

22 B. To perform the superintendent's duties, the
23 superintendent has every power expressly enumerated in the
24 laws, whether granted to the superintendent, the department or
25 any division of the department, except where authority

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1 conferred upon a division is explicitly exempted from the
2 superintendent's authority by statute. In accordance with
3 these provisions, the superintendent shall:

4 (1) exercise general supervisory and authority
5 over department employees, subject to applicable personnel laws
6 and rules;

7 (2) delegate authority to subordinates as
8 the superintendent deems necessary and appropriate, clearly
9 delineating such delegated authority and the limitations to
10 that delegation;

11 (3) organize the department into those
12 organizational units the superintendent deems will enable it to
13 function most efficiently, subject to provisions of law
14 requiring or establishing specific organizational units;

15 (4) within the limitations of available
16 appropriations and applicable laws, employ and fix the
17 compensation of those persons necessary to discharge the
18 superintendent's duties;

19 (5) take administrative action by issuing
20 orders and instructions, not inconsistent with the law, to
21 ensure implementation of and compliance with the provisions of
22 law for whose administration or execution the superintendent is
23 responsible and to enforce those orders and instructions by
24 appropriate administrative action in the courts;

25 (6) conduct research and studies that will

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1 improve the operations of the department and the provision of
2 services to the residents of the state;

3 (7) provide courses of instruction and
4 practical training for employees of the department and other
5 persons involved in the administration of programs with the
6 objective of improving the operations and efficiency of
7 administration; and

8 (8) prepare an annual budget of the
9 department.

10 C. The superintendent may apply for and receive,
11 with the governor's approval, in the name of the department,
12 any public or private funds, including United States government
13 funds, available to the department to carry out its programs,
14 duties or services.

15 D. Where functions of the department and other
16 state agencies under the control of the governor overlap or a
17 function assigned to one state agency could better be performed
18 by another state agency, the superintendent may recommend
19 appropriate legislation to the next session of the legislature
20 for its approval.

21 E. The superintendent may make and adopt such
22 reasonable procedural rules as may be necessary to carry out
23 the duties of the department. Rules shall be adopted, amended
24 or repealed in accordance with the provisions of the State
25 Rules Act.

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1 SECTION 7. [NEW MATERIAL] DIVISIONS--GENERAL DUTIES.--In
2 addition to duties assigned to each division of the department
3 by the superintendent:

4 A. the administrative services division shall
5 provide clerical, recordkeeping and administrative support to
6 the department in the areas of personnel, finance and grants,
7 budget, procurement and contracting;

8 B. the development and revitalization division
9 shall administer laws and programs pertaining to improving
10 development standards that incentivize development and
11 renovation of affordable housing;

12 C. the housing equity division shall work with
13 local governments and Indian nations, tribes and pueblos to:

14 (1) broaden access to affordable housing
15 across the state; and

16 (2) develop and recommend strategies to
17 eliminate housing discrimination and housing inequities;

18 D. the housing stability division shall administer
19 housing stability programs, including eviction assistance,
20 homeownership assistance and housing voucher programs; and

21 E. the services quality and standards division
22 shall establish criteria and monitor best practices for housing
23 and sheltering services.

24 SECTION 8. [NEW MATERIAL] ORGANIZATIONAL UNITS OF THE
25 DEPARTMENT--POWERS AND DUTIES SPECIFIED BY LAW--ACCESS TO

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1 INFORMATION.--Those organizational units of the department and
2 the officers of those units specified by law shall have all of
3 the powers and duties enumerated in the specific laws involved.
4 However, the carrying out of those powers and duties shall be
5 subject to the direction and supervision of the superintendent,
6 who shall retain the final decision-making authority and
7 responsibility for the administration of any such laws as
8 provided in the Housing Department Act. The department shall
9 have access to all records, data and information of other state
10 departments, agencies and institutions, including its own
11 organizational units, not specifically held confidential by
12 law.

13 SECTION 9. Section 58-18C-1 NMSA 1978 (being Laws 2005,
14 Chapter 105, Section 1) is amended to read:

15 "58-18C-1. SHORT TITLE.--~~[Sections 1 through 9 of this~~
16 ~~act]~~ Chapter 58, Article 18C NMSA 1978 may be cited as the "New
17 Mexico Housing Trust Fund Act"."

18 SECTION 10. Section 58-18C-3 NMSA 1978 (being Laws 2005,
19 Chapter 105, Section 3, as amended) is amended to read:

20 "58-18C-3. DEFINITIONS.--As used in the New Mexico
21 Housing Trust Fund Act:

22 A. "affordable housing" means residential housing
23 primarily for persons or households of low or moderate income;

24 B. "authority" means the New Mexico mortgage
25 finance authority;

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1 C. "committee" means the New Mexico housing trust
2 fund advisory committee;

3 D. "department" means the housing department;

4 [~~D.~~] E. "fund" means the New Mexico housing trust
5 fund;

6 [~~E.~~] F. "persons of low or moderate income" means
7 persons and households within the state who are determined by
8 the authority to lack sufficient income to pay enough to cause
9 private enterprise to build and preserve an adequate supply of
10 decent, safe and sanitary residential housing in their locality
11 or in an area reasonably accessible to their locality and whose
12 incomes are below the income levels established by the
13 authority to be in need of the assistance made available by the
14 New Mexico Housing Trust Fund Act, taking into consideration,
15 without limitation, such factors as defined under that act; and

16 [~~F.~~] G. "residential housing" means [~~any~~] a
17 building, structure or portion [~~thereof~~] of a building or
18 structure that is primarily occupied, or designed or intended
19 primarily for occupancy, as a residence by one or more
20 households and any real property that is offered for sale or
21 lease for the construction or location [~~thereon~~] of such a
22 building, structure or portion [~~thereof~~] of a building or
23 structure. "Residential housing" includes congregate housing,
24 manufactured homes and housing intended to provide or providing
25 transitional or temporary housing for homeless persons."

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1 SECTION 11. Section 58-18C-4 NMSA 1978 (being Laws 2005,
2 Chapter 105, Section 4, as amended) is amended to read:

3 "58-18C-4. NEW MEXICO HOUSING TRUST FUND CREATED.--

4 A. The "New Mexico housing trust fund" is created
5 as a nonreverting fund in the [~~authority~~] state treasury. The
6 fund [~~shall consist~~] consists of all distributions,
7 appropriations and other allocations made to the fund.
8 Earnings of the fund shall be credited to the fund, and
9 unexpended and unencumbered balances in the fund shall not
10 revert to any other fund except as provided in Subsection D of
11 this section. The [~~authority~~] department shall be the trustee
12 for the fund, and the state investment council shall be the
13 investment agent for the fund. The fund may consist of such
14 subaccounts as the [~~authority~~] department deems necessary to
15 carry out the purpose of the fund.

16 B. The fund [~~shall consist~~] consists of revenue
17 from the following recurring sources:

18 (1) appropriations and transfers from the
19 general fund;

20 (2) proceeds of severance tax bonds issued
21 pursuant to Section [~~1 of this 2022 act~~] 7-27-49 NMSA 1978 and
22 any payments of principal of and interest on loans for projects
23 funded by the proceeds of those bonds;

24 (3) any other money appropriated or
25 distributed to the fund; or

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1 (4) any other governmental or private
2 contributions to the fund.

3 C. Money in the fund is appropriated to the
4 department to contract with the authority [~~for the purposes of~~
5 ~~carrying~~] to carry out the provisions of the New Mexico Housing
6 Trust Fund Act. The authority shall prioritize expending or
7 encumbering balances in the fund from payments of principal of
8 and interest on loans for projects funded by the proceeds of
9 earlier severance tax bonds prior to expending or encumbering
10 any proceeds from more recently issued bonds.

11 D. The department and the authority shall monitor
12 and ensure proper reversions of severance tax bond proceeds as
13 required by Section [~~1 of this 2022 act~~] 7-27-49 NMSA 1978."

14 SECTION 12. Section 58-18C-5 NMSA 1978 (being Laws 2005,
15 Chapter 105, Section 5, as amended) is amended to read:

16 "58-18C-5. ADVISORY COMMITTEE CREATED.--

17 A. The "New Mexico housing trust fund advisory
18 committee" is created. The committee [~~shall consist~~] consists
19 of the following nine members who shall [~~represent~~
20 ~~geographically the state~~] be affordable housing advocates and
21 practitioners appointed so as to provide representation of
22 geographic areas of the state:

23 (1) three public members appointed by the
24 governor;

25 (2) three public members appointed by the

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1 president pro tempore of the senate; and

2 (3) three public members appointed by the
3 speaker of the house of representatives.

4 B. Members of the committee shall be appointed for
5 two-year terms and shall be eligible for reappointment.
6 Vacancies shall be filled by the appropriate appointing
7 authority.

8 C. The committee shall be advisory to the
9 department and the authority and shall be subject to oversight
10 by the Mortgage Finance Authority Act oversight committee.

11 D. The committee shall review all project
12 applications or program guidelines and make recommendations to
13 the [~~authority~~] department on guidelines and projects for
14 funding [~~them~~]. The committee shall not be involved in or
15 advisory to the [~~authority~~] department or the state investment
16 office in matters relating to the investment of the fund.

17 E. The committee shall adopt rules regarding:

18 (1) the time, place and procedures of
19 committee meetings; and

20 (2) the procedures for the review of and
21 standards for recommending applications or program guidelines
22 for loans or grant projects."

23 SECTION 13. Section 58-18C-6 NMSA 1978 (being Laws 2005,
24 Chapter 105, Section 6, as amended) is amended to read:

25 "58-18C-6. AWARD OF FUNDS--ACCOUNTABILITY.--

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1 A. Trust funds that the authority receives shall be
2 awarded either on a competitive basis or based on need as
3 determined by the department and the authority. The
4 department's and the authority's staff shall work with the
5 committee to develop an application and applicant scoring
6 mechanism or program guidelines that encourage applicants to
7 develop solutions that are responsive to local needs and are
8 consistent with sound housing policy.

9 B. The authority's governing body shall be
10 responsible for ensuring that on an overall basis the total
11 funds awarded for housing activities attract at least three
12 times as much funding from other sources."

13 SECTION 14. Section 58-18C-7 NMSA 1978 (being Laws 2005,
14 Chapter 105, Section 7) is amended to read:

15 "58-18C-7. USE OF FUNDS--ELIGIBLE ACTIVITIES.--Money from
16 the fund and matching funds from other sources may be used to
17 finance in whole or in part any loans or grant projects that
18 will provide affordable housing. [~~Money from the fund may also
19 be used to reimburse the authority for actual expenses incurred
20 in administering the fund in an amount not to exceed five
21 percent of total funds disbursed from the fund]."~~

22 SECTION 15. TEMPORARY PROVISION--TRANSFER OF FUNCTIONS,
23 PERSONNEL, PROPERTY, CONTRACTS AND REFERENCES IN LAW--
24 TRANSITION.--

25 A. Functions, personnel, appropriations, money,
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1 records, equipment, supplies and other property of state-
2 administered housing or homeless services and programs shall be
3 transferred as provided in this section.

4 B. It is the intent of the legislature that
5 consolidation of state services and programs into the housing
6 department be accomplished as quickly as practicable, without
7 disruption in services, as follows:

8 (1) the functions of the services for homeless
9 students program administered by the public education
10 department, including the coordinator for students experiencing
11 homelessness and federal funding, shall be transferred to the
12 housing department by November 1, 2023;

13 (2) the functions of the federally funded
14 emergency rental assistance program, foreclosure prevention
15 program and eviction diversion and prevention program
16 administered by the department of finance and administration
17 shall be transferred to the housing department by November 1,
18 2023; and

19 (3) the functions of the linkages supportive
20 housing vouchers program administered by the human services
21 department shall be transferred to the housing department by
22 January 1, 2024.

23 C. The governor's office and the state budget
24 division of the department of finance and administration shall
25 assist in the identification of functions, personnel, money,

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1 appropriations, records, equipment, supplies and other property
2 to be transferred and shall certify to the legislature that
3 resources transferred from other state agencies to the housing
4 department are sufficient to continue the same level of
5 services.

6 D. Contractual and other obligations of an agency
7 related to housing services that are being transferred to the
8 housing department shall be binding on the housing department.

9 E. References in law to an agency whose housing
10 services program has been transferred to the housing department
11 shall be deemed to be references to the housing department as
12 pertaining to such program.

13 F. The superintendent of housing shall provide
14 periodic updates to the legislative finance committee on the
15 progress of the transition and integration plan and the
16 establishment of the housing department. By January 15, 2024,
17 the department shall provide the legislature with a
18 comprehensive plan to provide housing programs and related
19 services for all populations, including recommendations, if
20 any, for the transfer of additional programs from other
21 departments to the housing department. The plan shall be
22 developed with public input and the assistance of an advisory
23 committee appointed by the superintendent of housing that
24 represents consumers, developers, advocacy organizations,
25 providers, the New Mexico mortgage finance authority and other

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1 departments and stakeholders.

2 SECTION 16. EFFECTIVE DATE.--The effective date of the
3 provisions of this act is July 1, 2023.

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