

HOUSE BILL 469

57TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2025

INTRODUCED BY

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This document may incorporate amendments proposed by a committee, but not yet adopted, as well as amendments that have been adopted during the current legislative session. The document is a tool to show amendments in context and cannot be used for the purpose of adding amendments to legislation.

AN ACT

RELATING TO BORDER DEVELOPMENT; AMENDING THE BORDER DEVELOPMENT ACT; CHANGING THE COMPOSITION OF THE BORDER AUTHORITY; PROVIDING PROFESSIONAL QUALIFICATION REQUIREMENTS FOR THE POSITION OF EXECUTIVE DIRECTOR; MAKING TECHNICAL AND CLARIFYING CHANGES; AMENDING AND REPEALING SECTIONS OF THE NMSA 1978.

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

SECTION 1. Section 58-27-3 NMSA 1978 (being Laws 1991,

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Chapter 131, Section 3, as amended) is amended to read:

"58-27-3. DEFINITIONS.--As used in the Border Development Act:

A. "authority" means the border authority;

B. "bond" includes notes and obligations;

C. "bondholder" means the owner of a registered or unregistered bond;

~~[B-]~~ D. "financial assistance" means grants and loans provided for projects to a qualified entity on terms and conditions approved by the authority;

~~[G-]~~ E. "mortgage" means a mortgage or a mortgage and deed of trust or the pledge and hypothecation of any assets as collateral security;

~~[D-]~~ F. "port of entry" means an international port of entry in New Mexico at which customs services are provided by the United States customs and border protection;

~~[E-]~~ G. "project" means ~~[any]~~ land, ~~[or]~~ a building or ~~[any]~~ other ~~[improvements]~~ improvement acquired as a part of a port of entry, ~~[or]~~ associated with a port of entry or to aid commerce in connection with a port of entry, including ~~[all]~~ real ~~[and]~~ or personal property ~~[deemed]~~ acquired as necessary in connection therewith, whether or not now in existence. A project shall be suitable for use by, or for, one or more of the following:

- (1) a port of entry, a foreign trade zone, an

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inspection station, an emergency response station or any other facilities to be used by ~~[any]~~ an agency or entity of the United States government, ~~[by]~~ another qualified entity or ~~[by any other]~~ a foreign international state;

(2) an industry for the manufacturing, processing or ~~[assembling of any]~~ assembly of an agricultural, mining or manufactured product;

(3) a railroad switching yard, railroad station, bus terminal, airport or other passenger, commuter or mass transportation system or freight transportation system;

(4) a commercial business or other enterprise engaged in storing, warehousing, distributing or selling products of manufacturing, agriculture, mining or related industries, not including facilities designed for the distribution to the public of electricity or gas;

(5) an enterprise in which all or part of the activities of the enterprise involve supplying services to the general public or to governmental agencies or to a specific industry or customer;

(6) any industrial, commercial, agricultural, professional or other business enterprise seeking to occupy office space;

(7) infrastructure development involving acquiring, repairing, improving or maintaining storm sewers and other drainage improvements, sanitary sewers, sewage treatment,

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water utilities or solid waste disposal facilities, including acquiring rights of way or water rights;

(8) infrastructure development involving reconstructing, resurfacing, maintaining, repairing or improving existing alleys, streets, roads or bridges or laying off, opening, constructing or acquiring new alleys, streets, roads or bridges, including acquiring rights of way;

(9) any industry that involves any water distribution or irrigation system, including pumps, distribution lines, transmission lines, fences, dams and similar facilities and equipment, including acquiring rights of way; or

(10) fire protection services or equipment or police protection services or equipment;

[F-] H. "property" means land, improvements to the land, buildings and improvements to the buildings, machinery and equipment of any kind necessary to the project, operating capital and any other personal properties deemed necessary in connection with the project; and

[G-] I. "qualified entity" means the state or one of its agencies, instrumentalities, institutions or political subdivisions or the United States or any corporation, department, instrumentality or agency of the federal government

[H. ~~"bond" means any bonds, notes or other obligations; and~~

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~~I. "bondholder" means a person who is the owner of a bond, regardless of whether the bond is registered]."~~

SECTION 2. Section 58-27-4 NMSA 1978 (being Laws 1991, Chapter 131, Section 4, as amended) is amended to read:

"58-27-4. BORDER AUTHORITY CREATED--MEMBERSHIP.--

A. The "border authority" is created. The authority is a state agency and is administratively attached to the economic development department.

~~B. [The authority consists of seven voting members, six of whom shall be appointed by the governor. No more than three of those appointed shall belong to the same political party. The seventh member shall be the secretary of economic development or the secretary's designee. The voting members appointed by the governor shall be confirmed by the senate.]~~
The lieutenant governor shall serve as a nonvoting ex-officio member. ~~[The chair may appoint a nonvoting advisory committee to provide advice and recommendations on authority matters.~~

~~C. The six voting members of the authority appointed by the governor shall be citizens of the state and shall serve for terms of four years except for the initial appointees who shall be appointed so that the terms are staggered after initial appointment. Initial appointees shall serve terms as follows: two members for two years, two members for three years and two members for four years.]~~

C. The authority consists of the following nine

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members:

(1) the secretary of economic development or the secretary's designee;

(2) the secretary of transportation or the secretary's designee;

(3) three members appointed by the governor, subject to the advice and consent of the senate, who:

(a) are New Mexico residents;

(b) represent the private sector; and

(c) have professional experience in: 1)

accounting; 2) agriculture; 3) business logistics or freight shipping; 4) business management; 5) economic or land development; 6) economics; 7) engineering; 8) finance; 9) international commerce; or 10) the practice of law;

(4) one member appointed by the governor, subject to the advice and consent of the senate, who is a city councilor or mayor of a municipality with a jurisdiction that is within HCEDC→twenty←HCEDC HCEDC→fifteen←HCEDC miles of a port of entry;

(5) one member appointed by the governor, subject to the advice and consent of the senate, who is a member of a board of county commissioners of a county with a jurisdiction that includes a port of entry;

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

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(7) one member appointed by the president pro tempore of the senate.

D. The members of the authority appointed by the governor pursuant to Subsection HCEDC→B←HCEDC HCEDC→C←HCEDC of this section shall serve the following terms:

- (1) one initial appointee, a one-year term;
- (2) one initial appointee, a two-year term;
- (3) one initial appointee, a three-year term;
- (4) one initial appointee, a four-year term;

and

- (5) all other appointees, a five-year term.

E. The authority shall invite the following officials to serve as advisory members of the authority:

- (1) the two United States senators representing New Mexico or those senators' designees;
- (2) the United States representative representing New Mexico's second congressional district or the representative's designee;
- (3) the governor of the state of Chihuahua, Mexico, or the governor's designee;
- (4) the governor of the state of Sonora, Mexico, or the governor's designee;
- (5) a person involved with business development in Mexico; and
- (6) additional members as deemed necessary and

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approved by the authority."

SECTION 3. Section 58-27-6 NMSA 1978 (being Laws 1991, Chapter 131, Section 6, as amended) is amended to read:

"58-27-6. OFFICERS OF THE AUTHORITY.--The ~~[secretary of economic development shall serve as the chairman of the authority. Authority members shall elect any other officers from the membership that the authority determines appropriate]~~ members of the authority shall elect a voting member to be its chair and a voting member to be its vice chair. The members of the authority may establish other officer positions as the members deem appropriate. All officer positions shall be for a term of one year."

SECTION 4. Section 58-27-10 NMSA 1978 (being Laws 1991, Chapter 131, Section 10, as amended) is amended to read:

"58-27-10. POWERS AND DUTIES OF AUTHORITY.--

A. The authority shall:

(1) advise the governor and the governor's staff and the New Mexico finance authority oversight committee on ~~[methods, proposals]~~ programs and initiatives ~~[involving the New Mexico-Chihuahua]~~ for development in the New Mexico-Mexico border area that may [further] stimulate the border economy and provide additional employment opportunities for New Mexico [citizens] residents and on the methods and proposals related to those programs and initiatives;

(2) subject to the provisions of the Border

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Development Act, initiate, develop, acquire, own, construct and maintain border development projects;

(3) create programs to expand economic opportunities beyond the [~~New Mexico-Chihuahua~~] New Mexico-Mexico border area to other areas of the state;

(4) create avenues of communication between New Mexico and [~~Chihuahua and the Republic of~~] Mexico concerning economic development, trade, [~~and~~] commerce, transportation and industrial affairs;

(5) promote legislation that will further the goals of the authority and development of the border [~~region~~] area;

(6) produce or cause to have produced promotional literature [~~related to explanation and fulfillment of~~] explaining the authority's goals and reporting on the progress made toward those goals;

(7) actively recruit industries and establish programs that will result in the location and relocation of new industries in the state;

(8) coordinate and expedite the involvement of the [~~executive department's~~] state agency border area development efforts;

(9) perform or cause to be performed environmental, transportation, communication, land use and other technical studies necessary or advisable for projects or

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programs or to secure port-of-entry approval by the United States and the Mexican governments and other appropriate governmental agencies; and

(10) administer the border project fund and projects financed with expenditures from that fund pursuant to Section 58-27-25.1 NMSA 1978.

B. The authority may:

(1) solicit and accept federal, state, local and private grants of funds, property or financial or other aid in any form [~~for the purpose of carrying out~~] to carry out the provisions of the Border Development Act;

(2) adopt rules governing [~~the manner in which its business is transacted and the manner in which the powers of the authority are exercised and its duties performed~~] its transaction of business, the exercise of its powers or the performance of its duties;

(3) act as an applicant for and the operator of port-of-entry facilities and, as the applicant, carry out all related tasks and functions, including: [~~acquisition by purchase or gift of any real property necessary for port-of-entry facilities, acquisition by purchase, gift or construction of any facilities or other real or personal property necessary for a port of entry and filing all necessary documents and follow-up of such filings with appropriate agencies~~]

(a) acquiring by purchase or gift real

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property necessary for port-of-entry facilities;

(b) acquiring by purchase, gift or construction facilities or other real or personal property necessary for a port of entry; and

(c) filing necessary documents and following up on those filings with the appropriate agencies;

(4) as part of a port of entry, give or transfer real property, facilities and improvements owned by the authority to the United States government;

(5) acquire by construction, purchase, gift or lease projects [~~that shall be located within~~] in the state;

(6) sell, lease or otherwise dispose of a project upon terms and conditions acceptable to the authority and in the best interests of the state;

(7) enter into agreements with the [~~federal~~] United States government for the operation, improvement and expansion of federal border facilities;

(8) enter into joint ventures, partnerships or other business relationships with qualified entities and private persons for the joint funding and operation of projects;

(9) enter into agreements with private persons concerning the advance of money by private persons for public purposes or the granting of real property by private persons for public purposes;

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~~[(9)]~~ (10) issue revenue bonds and borrow money ~~[for the purpose of defraying]~~ to defray the cost of acquiring a project by purchase or construction and to secure the payment of ~~[the]~~ project bonds or ~~[repayment of a]~~ the repayment of a project loan;

~~[(10)]~~ (11) expend funds or incur debt for the improvement, maintenance, repair or addition to property owned by the authority, the state or the United States government; and

~~[(11)]~~ (12) refinance a project.

C. In exercising its authority, the authority shall not incur debt as a general obligation of the state or pledge the full faith and credit of the state to repay debt."

SECTION 5. Section 58-27-12 NMSA 1978 (being Laws 1991, Chapter 131, Section 12, as amended) is amended to read:

"58-27-12. AUTHORITY STAFF--CONTRACTS.--

~~[A. The authority shall hire an executive director who shall employ the necessary professional, technical and clerical staff to enable the authority to function efficiently.]~~

~~B. The executive director of the authority shall direct the affairs and business of the authority, subject to the policies, control and direction of the authority]~~

A. The authority shall hire an executive director, who shall have the following minimum qualifications:

(1) a doctorate in jurisprudence or a

baccalaureate degree in accounting, agronomy, business, economics, engineering or finance; and

(2) four years of professional experience in business management, economic or land development or freight shipping or supply chain logistics, including at least two years of experience in a managerial and policy-making position at a business entity.

B. The executive director of the authority shall:

(1) hire professional, technical and clerical staff as necessary to enable the authority to function efficiently; and

(2) direct the affairs and business of the authority, subject to the policies, control and direction of the authority.

C. The authority may contract with any other competent private or public organization or individual to assist in the fulfillment of its duties."

SECTION 6. Section 58-27-13 NMSA 1978 (being Laws 1991, Chapter 131, Section 13) is amended to read:

"58-27-13. LOCATION OF AUTHORITY.--The authority shall be located in the [~~New Mexico-Chihuahua~~] New Mexico-Mexico border area."

SECTION 7. Section 58-27-21 NMSA 1978 (being Laws 1991, Chapter 131, Section 21) is amended to read:

"58-27-21. [~~BORDER~~] AUTHORITY REVENUE BONDS--REFUNDING

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AUTHORIZATION.--

A. The authority may issue refunding revenue bonds ~~[for the purpose of refinancing, paying and discharging all or any]~~ to refinance, pay or discharge all or part of the outstanding authority revenue bonds of ~~[any]~~ one or more ~~[or all]~~ outstanding issues to:

(1) ~~[for the acceleration, deceleration or other modification of]~~ accelerate, decelerate or otherwise modify the payment of such obligations, including ~~[without limitation]~~ any capitalization of ~~[any]~~ interest ~~[thereon]~~ on those obligations in arrears or about to become due for ~~[any period not exceeding]~~ a period of one year from the date of the refunding bonds;

(2) ~~[for the purpose of reducing]~~ reduce interest costs or ~~[effecting]~~ effect other economies; and

(3) ~~[for the purpose of modifying or eliminating]~~ modify or eliminate restrictive contractual limitations pertaining to the issuance of additional bonds, otherwise concerning the outstanding bonds or to any facilities relating ~~[thereto; or~~

~~(4) for any combination of those purposes]~~ to those bonds.

B. The authority may pledge irrevocably for the payment of interest and principal on refunding bonds the appropriate pledged revenues ~~[which]~~ that may be pledged to an

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original issue of bonds.

C. Bonds for refunding and bonds for any purpose permitted by the Border Development Act may be issued separately or issued in combination in one series or more."

SECTION 8. Section 58-27-25 NMSA 1978 (being Laws 1991, Chapter 131, Section 25, as amended) is amended to read:

"58-27-25. FUND CREATED.--

A. The "border authority fund" is created in the state treasury. Separate accounts within the fund may be created for [~~any project~~] projects. Money in the fund is appropriated to the authority for the purposes of carrying out the provisions of the Border Development Act. Money in the fund shall not revert at the end of a fiscal year.

B. Except as provided in Subsections E and F of this section, money received by the authority shall be deposited in the border authority fund, including [~~but not limited to~~] all:

(1) [~~the~~] proceeds of bonds issued by the authority or from any loan to the authority made pursuant to the Border Development Act;

(2) interest earned [~~upon~~] on money in the fund;

(3) [~~any~~] property or securities acquired through the use of money belonging to the fund and earnings from those assets;

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~~[(4) all earnings of such property or securities;~~

~~(5)]~~ (4) lease or rental payments received by the authority from ~~[any]~~ a project and distributed to the fund pursuant to Subsection F of this section;

~~[(6) all]~~ (5) other money received by the authority from any public or private source except ~~[that, if the public or private source expresses an intent that the money be used]~~ money designated by the source for projects pursuant to Section 58-27-25.1 NMSA 1978, ~~[then the money]~~ which shall instead be deposited into the border project fund ~~[and not the border authority fund]~~; and

~~[(7)]~~ (6) tolls, fees, rents or other charges imposed and collected by the authority and distributed to the fund pursuant to Subsection F of this section.

C. Disbursements from the border authority fund shall be made only upon warrant drawn by the secretary of finance and administration pursuant to vouchers signed by the executive director of the authority or the executive director's designee pursuant to the Border Development Act; provided that in the event the position of executive director is vacant, vouchers may be signed by the chair of the authority.

D. Earnings on the balance in the border authority fund shall be credited to the fund. In addition, in the event that the proceeds from the issuance of bonds or from money

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borrowed by the authority are deposited in the state treasury, interest earned on that money during the period commencing with the deposit in the state treasury until the actual transfer of the money to the fund shall be credited to the fund.

E. All proceeds from issuing revenue bonds shall be placed in trust with a chartered bank to be ~~dispersed~~ disbursed by the trustee, pursuant to the terms ~~set forth~~ in the bonding resolution adopted by the authority.

F. Ten percent of the tolls, fees, rents, lease payments and other charges that are imposed, collected and received by the authority shall be deposited ~~into~~ in the border project fund and the remaining ninety percent shall be deposited into the border authority fund; provided that the money deposited ~~into~~ in the border authority fund shall be expended only as appropriated and in accordance with a budget approved by the state budget division of the department of finance and administration."

SECTION 9. Section 58-27-25.1 NMSA 1978 (being Laws 2011, Chapter 59, Section 4) is amended to read:

"58-27-25.1. BORDER PROJECT FUND--CREATED--PURPOSE--EXPENDITURES.--

A. The "border project fund" is created in the state treasury.

B. The border project fund shall consist of:

(1) payments of principal and interest on

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loans for projects;

(2) [~~the~~] that portion of the tolls, fees, rents, lease payments or other charges that are imposed, collected and received by the authority and distributed to the fund pursuant to Subsection F of Section 58-27-25 NMSA 1978;

(3) money from public or private sources [~~and~~] that is deposited into the fund pursuant to Paragraph [~~(6)~~] (5) of Subsection B of Section 58-27-25 NMSA 1978;

(4) money appropriated by the legislature or distributed or otherwise allocated to the fund;

(5) the proceeds of severance tax bonds appropriated to the fund for projects; and

(6) income from investment of the fund, which shall be credited to the border project fund.

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

D. The [~~border project fund may consist of subaccounts as determined to be necessary by the~~] authority may establish one or more subaccounts of the border project fund as it deems necessary.

E. The border project fund is appropriated to the authority for the following purposes:

(1) providing financial assistance in the form

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of grants or loans with terms and conditions approved by the authority to qualified entities for projects;

(2) [~~costs incurred in the operation of a port of entry or related project pursuant to a joint powers agreement entered into with the federal government~~] paying costs incurred pursuant to agreements with private persons concerning the advance of money by a private person for a public purpose; or

(3) paying costs incurred in the joint funding or operation of a project as part of a joint venture [~~partnership or other business relationship with a qualified entity or private person~~].

F. The authority may establish procedures and adopt rules as required to:

(1) administer the border project fund;
(2) originate financial assistance in the form of grants or loans with terms and conditions approved by the authority for projects selected by the authority; and

(3) govern the process through which qualified entities may apply for financial assistance from the border project fund."

SECTION 10. Section 58-27-26 NMSA 1978 (being Laws 1995, Chapter 192, Section 21) is amended to read:

"58-27-26. NEW MEXICO FINANCE AUTHORITY OVERSIGHT COMMITTEE--REPORTS--OVERSIGHT POWERS AND DUTIES.--

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A. On or before November 30, 2026 and on or before November 30 of each subsequent year, the authority shall provide a report concerning the status of its projects to the legislative finance committee.

B. The New Mexico finance authority oversight committee shall serve as the oversight committee to the border authority. The New Mexico finance authority oversight committee shall:

[A-] (1) monitor and oversee the operation of the border authority;

[B-] (2) meet on a regular basis to receive and review reports from the border authority on implementation of the provisions of the Border Development Act and to review and approve regulations proposed for adoption pursuant to that act;

[C-] (3) monitor and provide assistance and advice on the project financing program of the border authority;

[D-] (4) oversee and monitor state and local government capital planning and financing and take testimony from state and local officials on border and port of entry capital needs;

[E-] (5) provide advice and assistance to the border authority and cooperate with the executive branch of state government and local governments on planning, setting

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priorities for and financing of border and port of entry capital projects;

[F.] (6) undertake an ongoing examination of the statutes, constitutional provisions, regulations and court decisions governing border and port of entry capital financing in New Mexico; and

[G.] (7) report its findings and recommendations, including recommended legislation or necessary changes, to the governor and to each session of the legislature. The report and proposed legislation shall be made available on or before December 15 each year."

SECTION 11. TEMPORARY PROVISION--RESTRUCTURING OF BORDER AUTHORITY.--On July 1, 2026 the terms of the voting members of the border authority as of June 30, 2026 shall end, and voting members appointed pursuant to Section 2 of this act shall be installed as voting members of the authority.

SECTION 12. REPEAL.--Section 58-27-7 NMSA 1978 (being Laws 1991, Chapter 131, Section 7) is repealed.

SECTION 13. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2025.