

1 HOUSE BILL 290

2 **57TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2025**

3 INTRODUCED BY

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10 AN ACT

11 RELATING TO PUBLIC FINANCE; ENACTING THE VIBRANT COMMUNITIES  
12 ACT; CREATING THE VIBRANT COMMUNITIES PROGRAM; PROVIDING PUBLIC  
13 ASSISTANCE TO QUALIFYING ENTITIES FOR THE COMPLETION OF PUBLIC  
14 PURPOSE PROJECTS UPON APPROPRIATIONS BY THE LEGISLATURE;  
15 REQUIRING THE DEPARTMENT OF FINANCE AND ADMINISTRATION TO  
16 ADMINISTER THE PROGRAM; SPECIFYING CONTRACTUAL TERMS; REQUIRING  
17 REPORTING; PROVIDING A CONTINGENT EFFECTIVE DATE.

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

20 SECTION 1. [NEW MATERIAL] SHORT TITLE.--This act may be  
21 cited as the "Vibrant Communities Act".

22 SECTION 2. [NEW MATERIAL] FINDINGS.--

23 A. The legislature finds that without the daily  
24 contributions and efforts of the thousands of valuable  
25 nonprofit organizations dedicated to serving communities

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1 throughout New Mexico, the state would be inundated with  
2 constant requests for health, human and social services for  
3 which the state does not have revenue or resources to provide.

4 B. The legislature finds that it is a direct,  
5 tangible benefit to the state, as well as for all residents and  
6 taxpayers, and that the state receives considerable value in  
7 return, when nonprofit organizations provide facilities and  
8 services to the public that the state otherwise cannot provide  
9 and that nonprofit organizations are not under any legal  
10 obligation to provide. Nonprofit organizations make  
11 contributions to the fabric of life in New Mexico that are  
12 indispensable.

13 SECTION 3. [NEW MATERIAL] DEFINITIONS.--As used in the  
14 Vibrant Communities Act:

15 A. "department" means the department of finance and  
16 administration;

17 B. "health council" means a county, tribal or  
18 regional health council;

19 C. "local government" means a county or  
20 municipality;

21 D. "municipality" means any incorporated city, town  
22 or village;

23 E. "program" means the vibrant communities program;

24 F. "public assistance" means a grant of public  
25 funds, a lease of publicly owned real property or any other

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1 provision of public funding or assistance that the legislature  
2 has appropriated or authorized to complete or facilitate a  
3 public purpose project;

4 G. "public purpose" means for the purpose of  
5 providing facilities or services for the benefit of the public  
6 health, safety or welfare;

7 H. "public purpose project" means a project  
8 proposed and performed by a qualifying entity to address a  
9 public purpose within the community in which the project would  
10 be located; and

11 I. "qualifying entity" means an organization that  
12 has demonstrated to the department that it has been granted  
13 exemption from the federal income tax by the United States  
14 commissioner of internal revenue as an organization described  
15 in Section 501(c)(3) or Section 501(c)(12) of the United States  
16 Internal Revenue Code of 1986, as amended or renumbered, in the  
17 conduct of functions described in Section 501(c)(3) or Section  
18 501(c)(12)."

19 SECTION 4. [NEW MATERIAL] VIBRANT COMMUNITIES PROGRAM--  
20 CREATED.--

21 A. The "vibrant communities program" is created  
22 within the department. The program shall provide public  
23 assistance to facilitate the development and funding of public  
24 purpose projects.

25 B. The department shall promulgate rules necessary  
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1 to carry out the provisions of the Vibrant Communities Act and  
2 to ensure the protection of public funds.

3 C. Public assistance shall be provided pursuant to  
4 the Vibrant Communities Act and subject to legislative  
5 appropriation and authorization. The department shall not  
6 transfer, adjust or otherwise use money for the Vibrant  
7 Communities Act or the program except as directed by the  
8 legislature.

9 SECTION 5. [NEW MATERIAL] VIBRANT COMMUNITIES PROGRAM--  
10 PRELIMINARY APPLICATIONS--LEGISLATIVE RECOMMENDATIONS.--

11 A. Annually, the department shall solicit  
12 preliminary applications for the program. Preliminary  
13 applications shall be submitted by qualifying entities that are  
14 requesting public assistance to finance a public purpose  
15 project pursuant to the Vibrant Communities Act.

16 B. Applications shall include:

17 (1) a description of the public purpose that  
18 the project will address, including how the public purpose  
19 relates to one or more of the priorities identified by a local  
20 government; an Indian nation, tribe or pueblo; a council of  
21 governments; or a health council;

22 (2) expected deliverables or outcomes  
23 associated with the public purpose project;

24 (3) benchmarks to evaluate the achievement of  
25 a public purpose;

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1 (4) a description of the population served by  
2 the public purpose project;

3 (5) any state, local, tribal, private or other  
4 actors that may have involvement or a known interest in a  
5 public purpose project;

6 (6) the amount of public assistance being  
7 requested and the value of the available private assets or any  
8 available grants or other funding sources available;

9 (7) a conflict-of-interest statement that  
10 includes all elected officials or those related to elected  
11 officials that are on the board or staff of the applying  
12 qualifying entity; and

13 (8) any other forms or information as  
14 determined by the department.

15 C. A preliminary application shall be on a form  
16 provided by the department and shall require such other  
17 information as the department deems necessary.

18 D. By April 30 of each year, the department shall  
19 review preliminary applications. Of those preliminary  
20 applications that have complied with the application process  
21 and the requirements thereof, the department shall provide to  
22 the legislature and the governor a list of proposed public  
23 purpose projects. The list shall include the locations of the  
24 proposed public purpose projects and the public assistance that  
25 is requested. The department shall differentiate the projects

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1 based on the demonstrated need within the community in which  
2 the proposed public purpose project would be located and the  
3 proposed safeguards to ensure responsible use of public  
4 assistance.

5 SECTION 6. [NEW MATERIAL] VIBRANT COMMUNITIES PROGRAM--  
6 APPROVAL--TERMS.--

7 A. The legislature shall appropriate money for the  
8 program by specific purpose and specific amount per public  
9 purpose project. Upon legislative appropriation and  
10 authorization of a public purpose project, the department  
11 shall:

12 (1) enter into contracts with a qualifying  
13 entity to provide public assistance for a public purpose  
14 project;

15 (2) make, execute and enforce all contracts  
16 necessary to carry out the provisions of the Vibrant  
17 Communities Act;

18 (3) provide public assistance to a qualifying  
19 entity for a public purpose project;

20 (4) enter into agreements with other state  
21 agencies and local governments, as necessary;

22 (5) pursue legal remedies available in the  
23 event that a qualifying entity breaches a contract; and

24 (6) require and request all other information  
25 needed to ensure that qualifying entities are in compliance

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1 with the contracts entered into pursuant to the Vibrant  
2 Communities Act.

3 B. Public assistance shall be provided pursuant to  
4 the legislative appropriation and the contract entered into  
5 between a qualifying entity and the department. A contract  
6 entered into pursuant to this subsection shall include:

7 (1) a statement that a public purpose project  
8 shall comply with applicable state, local and federal law,  
9 including requiring that the qualifying entity and all  
10 employees of the qualifying entity shall be subject to the  
11 Governmental Conduct Act;

12 (2) a statement that the state may seek  
13 reimbursement or recapture of funds or possession of leased or  
14 provided property in the event that a public purpose project  
15 fails to comply with the purpose of the Vibrant Communities  
16 Act;

17 (3) a statement that the qualifying entity  
18 shall be subject to ongoing reporting on the progress of a  
19 public purpose project or the public purpose served by a public  
20 purpose project;

21 (4) defined roles and responsibilities of the  
22 department and the qualifying entity;

23 (5) a finance plan detailing the issuance of  
24 public assistance and the obligations of the qualifying entity  
25 to continue to receive appropriated public assistance;

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1 (6) a specification of how debts incurred on  
2 behalf of the qualifying entity will be repaid;

3 (7) a requirement that the qualifying entity  
4 comply with the Audit Act;

5 (8) if applicable, terms of ownership of the  
6 property or asset and adequate security to ensure perpetual  
7 public purpose use for the life of the project;

8 (9) if applicable, a statement that the state  
9 shall have a reversionary interest in the property leased to  
10 the qualifying entity in the event that the qualifying entity  
11 ceases to exist or serve a public purpose in the performance of  
12 the public purpose project;

13 (10) if applicable, a statement that the  
14 department shall maintain a lien on the property or asset until  
15 the terms of the contract are fulfilled; and

16 (11) all other terms the department deems  
17 necessary and proper to protect public funds.

18 SECTION 7. [NEW MATERIAL] VIBRANT COMMUNITIES PROGRAM--  
19 PUBLIC PURPOSE PROJECT COMPLETION--TERMINATION.--Following the  
20 performance of the contract entered into pursuant to Section 6  
21 of the Vibrant Communities Act, the qualifying entity shall  
22 terminate the project. The qualifying entity shall provide  
23 written notice of the termination to the department at least  
24 sixty days prior to the completion of performance. Upon  
25 termination, the qualifying entity shall provide for the

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1 satisfying of existing contracts and the rights of the parties  
2 arising from those contracts.

3 SECTION 8. [NEW MATERIAL] VIBRANT COMMUNITIES PROGRAM--  
4 REPORTING.--Annually, the department shall submit a report to  
5 the governor, the legislature and the legislative finance  
6 committee that shall provide details regarding public  
7 assistance provided pursuant to the Vibrant Communities Act.  
8 The report shall include:

9 A. the total amount of public assistance provided,  
10 which shall differentiate public purpose projects that are  
11 considered fully funded, public purpose projects that are in  
12 the process of being fully funded and public purpose projects  
13 that are currently providing services to the communities in  
14 which those projects are located;

15 B. an overview of the types of services being  
16 provided by public purpose projects; and

17 C. recommended changes, if any, to the Vibrant  
18 Communities Act to ensure proper safeguards for public money.

19 SECTION 9. CONTINGENT EFFECTIVE DATE.--The provisions of  
20 this act shall become effective upon certification by the  
21 secretary of state that the constitution of New Mexico has been  
22 amended as proposed by a joint resolution of the first session  
23 of the fifty-seventh legislature, entitled "A JOINT RESOLUTION  
24 PROPOSING TO REPEAL AND REPLACE ARTICLE 9, SECTION 14 OF THE  
25 CONSTITUTION OF NEW MEXICO TO ALLOW THE STATE, COUNTIES, SCHOOL

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1 DISTRICTS AND MUNICIPALITIES TO MAKE DONATIONS OF PUBLIC FUNDS  
2 TO PRIVATE PERSONS OR PRIVATE ENTITIES FOR PUBLIC PURPOSES AND  
3 TO REPEAL ARTICLE 4, SECTION 31 OF THE CONSTITUTION OF NEW  
4 MEXICO, WHICH PROHIBITS APPROPRIATIONS FOR CHARITABLE,  
5 EDUCATIONAL OR OTHER BENEVOLENT PURPOSES TO A PERSON OR ENTITY  
6 NOT UNDER THE FULL CONTROL OF THE STATE.".

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