

Revised: September 29, 2020

**TENTATIVE AGENDA
for the
SECOND MEETING
of the
MORTGAGE FINANCE AUTHORITY ACT OVERSIGHT COMMITTEE**

**October 8, 2020
Video Conference**

Thursday, October 8

- 10:00 a.m. **Call to Order and Introductions**
—Senator Nancy Rodriguez, Chair
—Representative Eliseo Lee Alcon, Vice Chair
- 10:05 a.m. (1) **Executive Director Update**
—Isidoro "Izzy" Hernandez, Executive Director, New Mexico Mortgage
Finance Authority (MFA)
- 10:10 a.m. (2) **MFA 2021 Budget**
—Gina Hickman, Deputy Director of Finance and Administration, MFA
- 10:30 a.m. (3) **New Mexico Housing Trust Fund Update**
—George Maestas, Assistant Director of Housing Development, MFA
—Tim Martinez, Development Loan Manager, MFA
—Sabrina Su, Reporting and Grant Specialist, MFA
- 10:50 a.m. (4) **Regional Housing Authority Update**
—Donna Maestas-De Vries, Deputy Director of Programs, MFA
—Gina Bell, Assistant Director of Community Development, MFA
—Julian J. Barela, Division Director, Office of Public Housing, Region 6,
United States Department of Housing and Urban Development
- 11:05 a.m. (5) **Proposed Amendments to the New Mexico Housing Trust Fund Act and
Rules**
—Rebecca Velarde, Director of Policy and Planning, MFA
- 11:20 a.m. (6) **MFA 2021 Legislative Agenda: Final Review of Bills**
—Isidoro "Izzy" Hernandez, Executive Director, MFA
—Rebecca Velarde, Director of Policy and Planning, MFA
- 11:35 a.m. **Public Comment***
- 11:45 a.m. **Adjourn**

*The State Capitol is closed to the public, but the meeting will be webcast and can be viewed by clicking the video icon beneath the meeting agenda on the Mortgage Finance Authority Act Oversight Committee [web page](#). Members of the public may make comments during the public comment portion of the meeting by following the instructions under the "Extra Information" portion of the [web page](#).

Tab 1

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Executive Director's
update will be
Provided

Tab 2



FY2020-2021 Budget Overview

Gina Hickman, Deputy Director of Finance & Admin

Legislative Oversight Committee

October 8, 2020

Production & Financial Highlights



2011 INNOVATION & NEW RESOURCES:

- Wells Fargo & USDA-Rural Development loan funding for Housing Opportunity Fund *Production/Assets Managed, Revenue*

2012 FEDERAL BUDGET REDUCTIONS:

- High Multi-family loan payoffs *Assets Managed, Revenue*
- HUD HOME funding reductions (-2014) *Production/Assets Managed, Revenue*
- DOE Weatherization Assistance Program funding reductions (-2013) *Production/Assets Managed, Revenue*
- Increase in rental demand (-2016) *Production/Assets Managed, Revenue*
- HUD Section 8 Project Based Contract Administration (PBCA) program scope changes (-2016) *Revenue, Expenses*

2013 INNOVATION & NEW RESOURCES :

- To Be Announced (TBA) Single Family Loan Execution (-2020) *Production, Revenue*

2014 INNOVATION & NEW RESOURCES:

- Decrease in Single Family Prepayment Activity (-2018) *Revenue, Assets Managed*
- Ventana Fund Contribution (-2018) *Expense, Production for NM*
- Small Business Investment Council loan funding for Housing Opportunity Fund (-2018) *Production/Assets Managed, Revenue*

2015 STABILIZED HOUSING MARKET & ECONOMY:

- Increase in Single Family Mortgage Production (-2020) *Revenue, Production/Assets Managed*
- 40th Anniversary Celebration

2016 PROGRAM EXPANSION:

- HUD Section 8 PBCA Management Occupancy Reviews reinstated (-2019) *Revenue, Expenses*
- Servicing Expansion implemented-Milestone 1 *Revenue, Expenses Assets Managed*
- National Housing Trust Fund Program (-2020) *Revenue, Expenses Production/Assets Managed*
- Increase in Qualified Contracts (-2018) *Revenue, Expenses, Assets Managed*

2017 MANAGING GROWTH & OPPORTUNITY:

- Record year in Single Family Mortgage Production (-2020) *Revenue, Production/Assets Managed*
- First full year of Servicing Expansion implementation *Revenue, Expenses, Assets Managed*
- Selected as SW Regional Lead for HUD PBCA Procurement
- Secured \$500k of CDBG funding *Revenue, Expenses, Assets Managed*

2018 POSITIVE MARKET TRENDS:

- Second record year of Single Family Mortgage Production *Revenue, Production/Assets Managed*
- New Funding from Capital Magnet Fund *Revenue, Production/Assets Managed, Expenses*
- Stabilized/increasing federal funding *Revenue, Production/Assets Managed*
- Viable Single Family bonding execution *Revenue, Production/Assets Managed*

2019 FINANCIAL STRENGTH AND GROWTH:

- Third record year of Single Family Mortgage Production *Revenue, Production/Assets Managed*
- New/Increased Funding *Revenue, Production/Assets Managed, Expenses*
- Legislative Funding Success: \$4.5M
- Veteran's Home Rehab
- Expanded Service Providers & Areas (WAP, HOPWA, Rehab, HOMENow) *Expenses*
- Technology and Cyber Security Enhancements *Expenses*
- \$4.2B of Managed Assets *Revenue, Production/Assets Managed*

2020 RESPONSIVENESS, CHANGE MANAGEMENT & BUSINESS CONTINUITY:

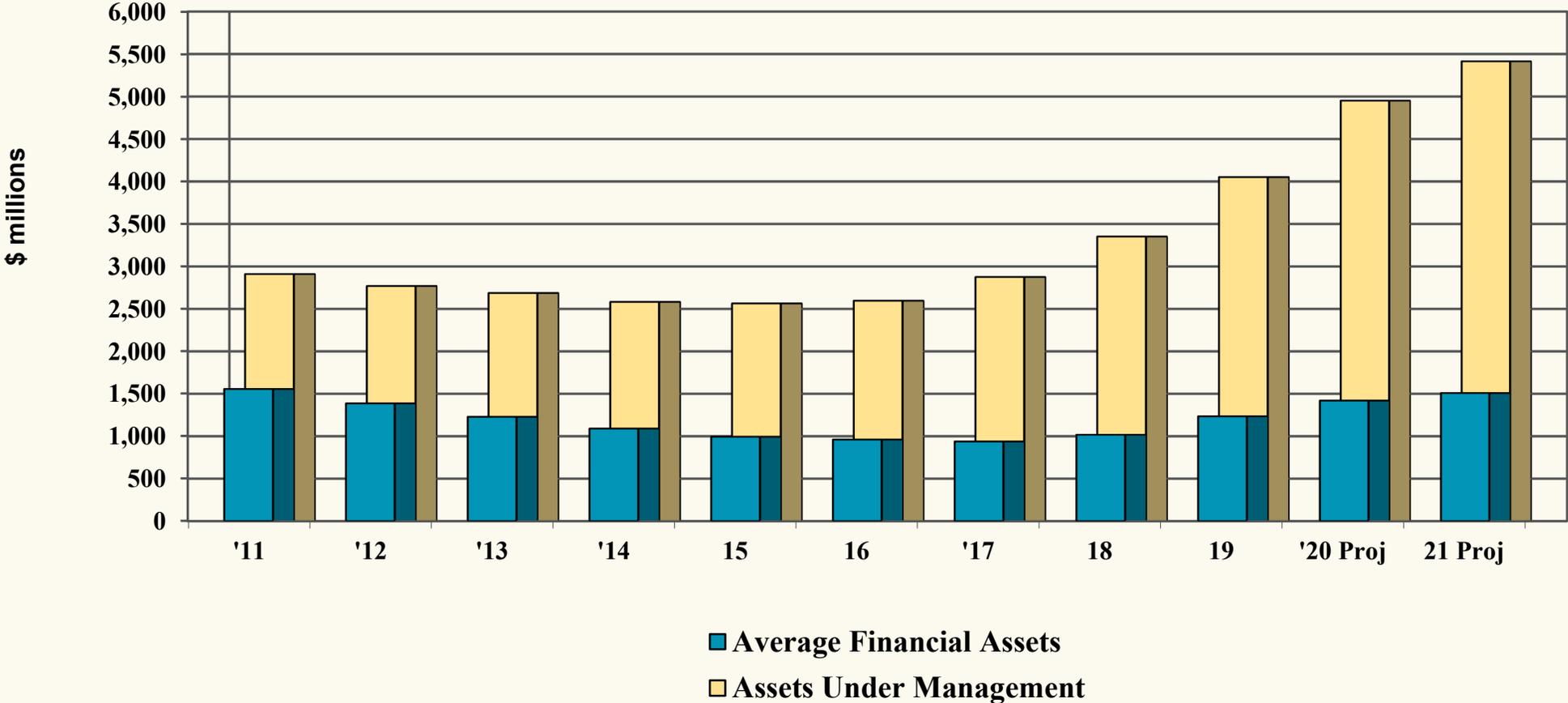
- COVID-19: market volatility, servicing liquidity and delinquency management, CARES Act Awards (~\$24mm), decreased home rehabilitation and property monitoring *Revenue, Expenses, Assets Managed, Liquidity*
- Fourth record year of Single Family Mortgage Production *Revenue, Production/Assets Managed*
- Technology solutions including telecommuting support *Expenses*
- Maintained Moody's issuer credit rating
- Best Places to Work nomination

IMPACT LEGEND:

Red : Negative Impact
Green: Positive Impact

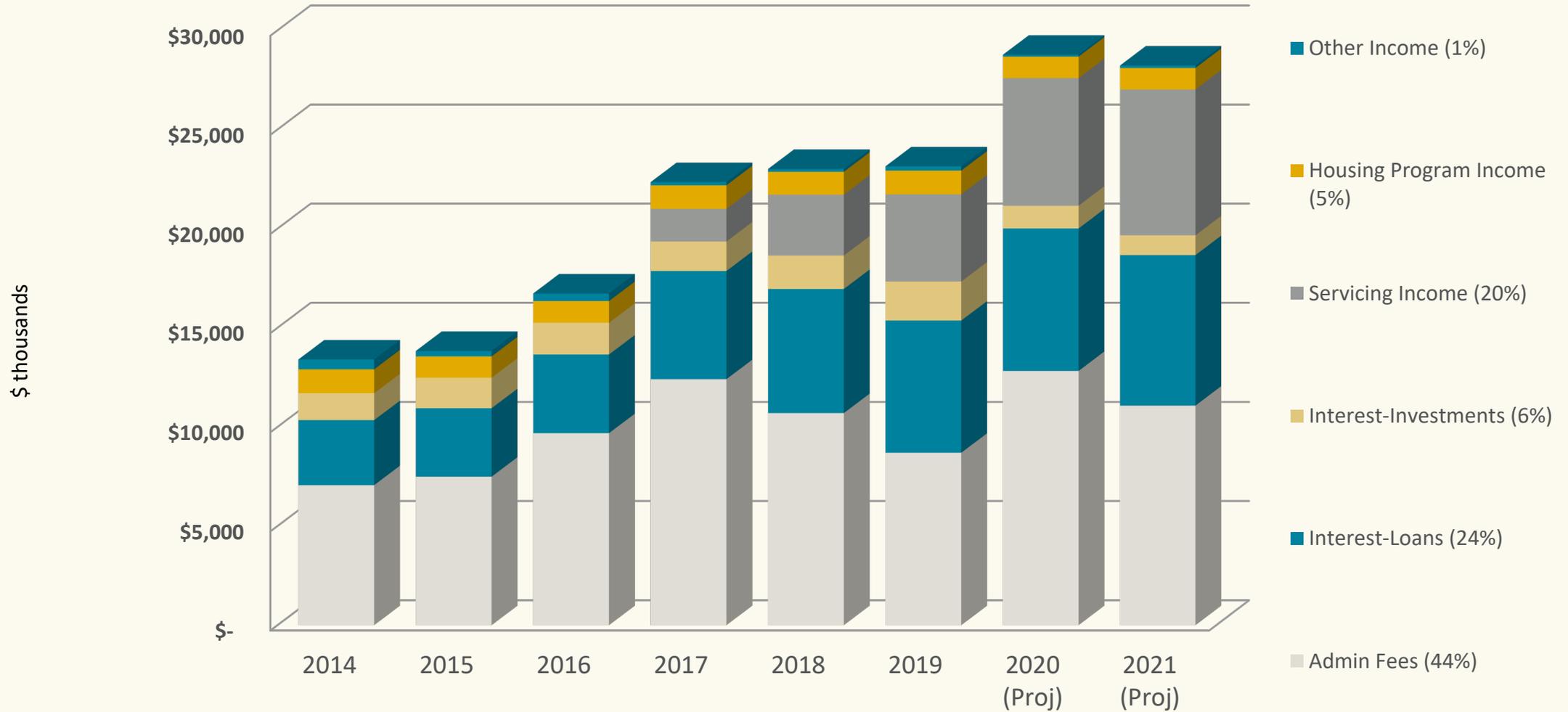
Assets Managed

FY 2011-2021



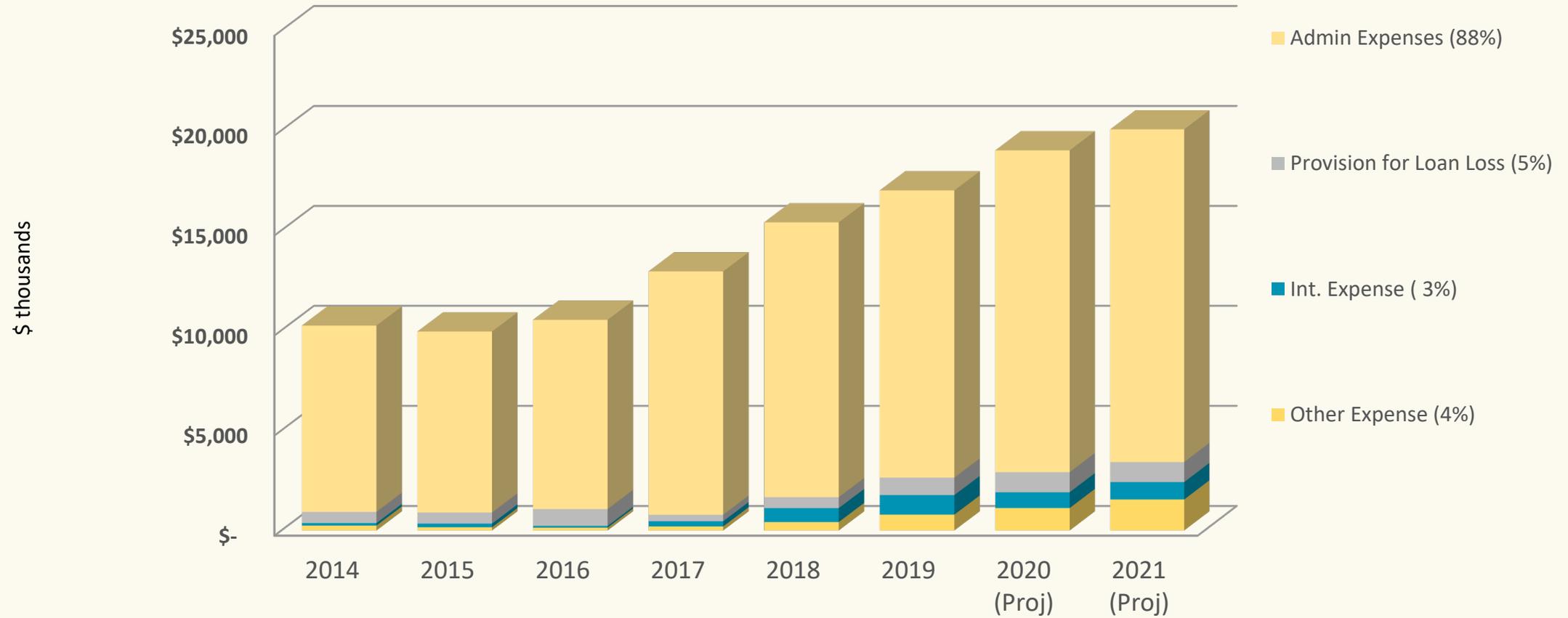
Operating Revenue Summary

2014-2021 (Projected)



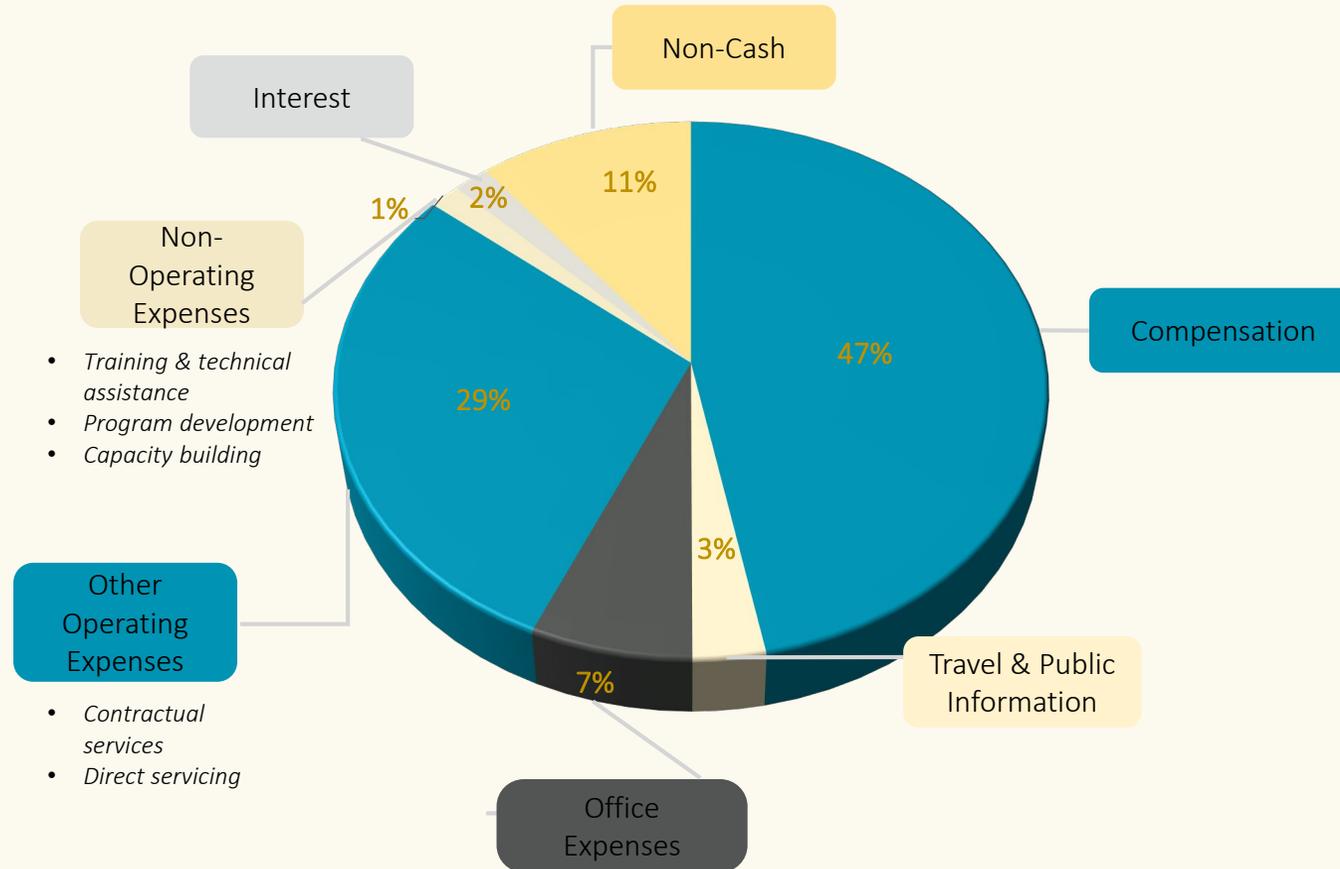
Operating Expenditure Summary

2014-2021 (Projected)



MFA Administrative Expense Breakdown

MFA General Fund: FY 2021 Budget



MFA FY 2021 Operating Budget Summary

MFA's FY21 General Fund budget was approved by the MFA Board of Directors on September 16, 2020

Budgeted Revenues:
\$28.4 million

Budgeted Expenses:
\$19.8 million

**Excess Revenue
Over Expenses
before Capital
\$8.6 million**

The reserves created from excess revenue over expenses are used to meet rating agency reserve requirements and to fund MFA's internal revolving loan fund to **support affordable housing activities.**

FY21 Operating Budget Summary (cont.)

Revenues

MFA's operating budget for FY21 estimates revenue at \$28.4 million, an increase of \$2.6 million or 10 percent over projected FY20 actuals and an increase of \$4.2 million or 17 percent over prior year budget



Expenses

The expense budget is projected at \$19.8 million, an increase of \$1.7 million or 10 percent over FY20 projected actuals and an increase of \$17 thousand or 0 percent over prior year budget

Capital Budget

The capital budget is \$4.7 million, a decrease of \$.6 million or 10 percent under FY20 projected actuals and a decrease of \$1.4 million or 23 percent under prior year budget

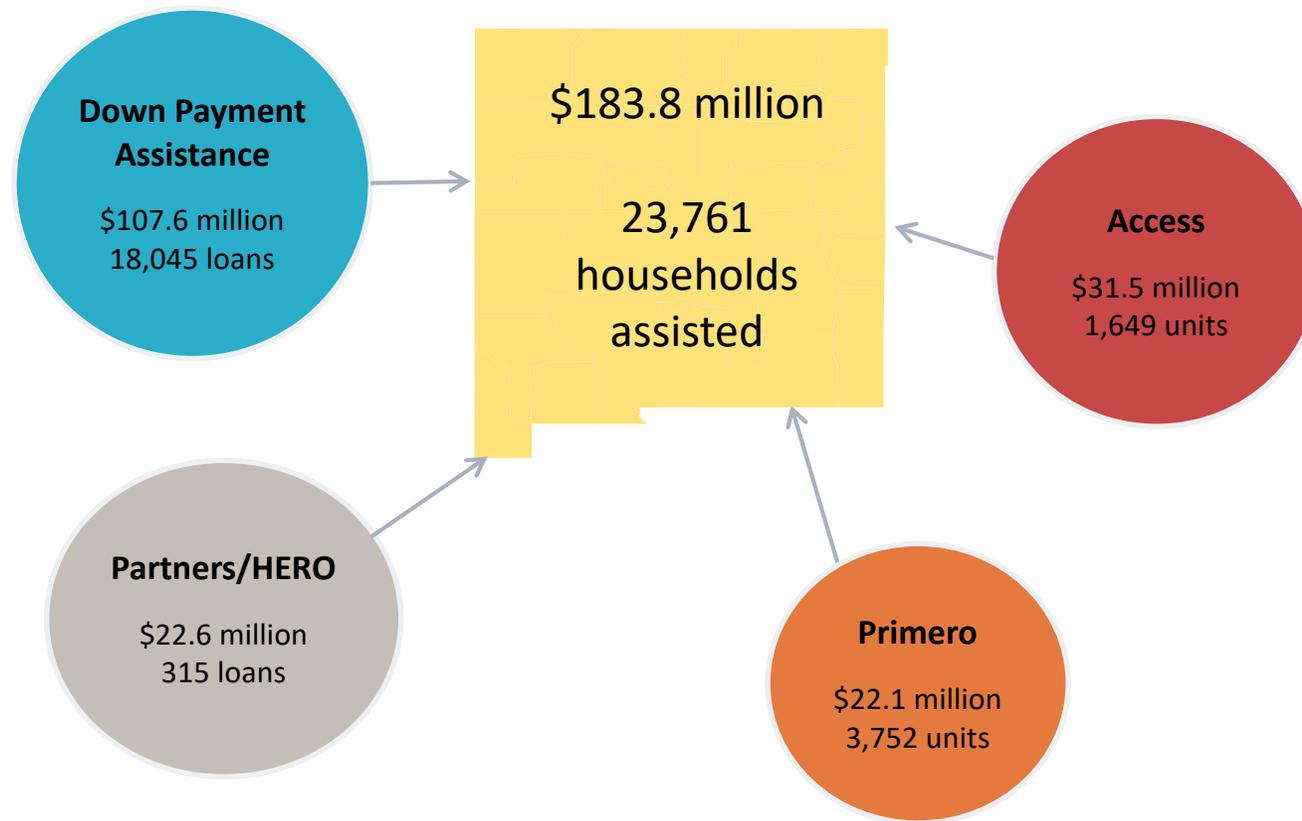
Summary of Significant Budget Variances

FY 2020 to FY 2021

PROJECTED DECREASE IN SINGLE FAMILY MORTGAGE PRODUCTION TRENDS	CHANGE IN SINGLE FAMILY FUNDING BEST EXECUTION	COMPENSATION INCREASES
<ul style="list-style-type: none">▪ Low housing inventory▪ Decreased housing affordability due to increasing home sales prices <p><i>Decreases revenue <u>and</u> related production expenses</i></p>	<ul style="list-style-type: none">▪ The health crisis has impacted how MFA funds it's first-time homebuyer program. Bond execution less favorable than secondary market loan sales. <p><i>Impacts budget as an increase in upfront transaction fees and a decrease in long-term annuity revenue</i></p>	<ul style="list-style-type: none">▪ 3.25% salary increase; merit-based process; organization wide average▪ Due to organization growth, added 9.75 FTE▪ Benefit increases of 6% due to increased medical premiums
CAPITAL BUDGET	LOAN PORTFOLIO RELATED IMPACTS	MISCELLANEOUS VARIANCES
<ul style="list-style-type: none">▪ Decreased purchased servicing rights due to projected decreased single family mortgage production▪ Building renovation	<ul style="list-style-type: none">▪ Increased loan servicing income and increased loan servicing expenses due to growing balance of loan portfolio▪ Increased interest income due to the increase in down payment assistance loans	<ul style="list-style-type: none">▪ Decreased interest expense due to federal fiscal policy re: interest rates (Lower interest rate environment)▪ Decreased non-operating expenses due to state appropriations received in prior year

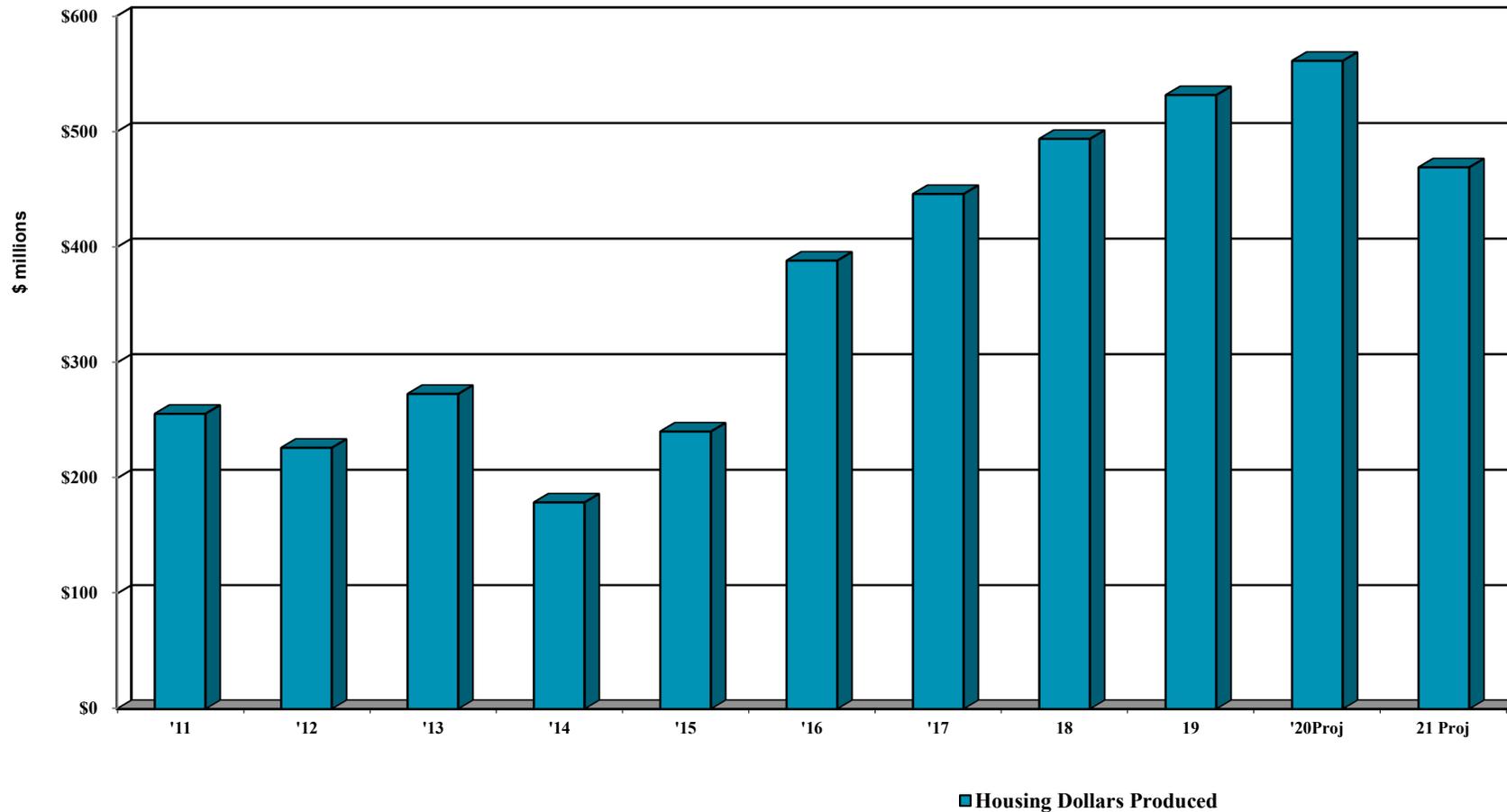
MFA's Housing Opportunity Fund

Investing in New Mexico



MFA Total Housing Dollars Produced

FY 2011-2021



Includes: GF Non-Operating funds disbursed; Single family loans purchased; Multifamily loans/subsidies; federal & state programs disbursed; and Housing Opportunity Fund disbursed

New Mexico Mortgage Finance Authority

Comments



Tab 3

New Mexico Housing Trust Fund

The New Mexico Housing Trust Fund was created in 2005. Since that time, New Mexico taxpayers have realized a tremendous return on their investment in affordable housing. Importantly, investment in housing is investment in our economy, education, and health.

The New Mexico Housing Trust Fund has grown from approximately \$22 million in appropriations to over \$32 million as a result of interest earned over the years. Through a competitive application process, MFA has awarded more than \$50 million, including the state's \$22 million investment, interest income and loan repayments, to 59 housing projects for over 3,800 housing units. These impressive developments have leveraged approximately \$565 million in other funding sources: that's over a 25-to-1 return on the state's initial investment!

To date, the New Mexico Housing Trust Fund has awarded more than \$50 million to build or rehabilitate over 3,800 housing units. In the process, MFA has leveraged \$565 million in other funding sources, a 25-to-1 return on the state's \$22 million investment.

Legislative Appropriations Received to Date	\$22,050,000
Loan Interest	\$ 3,242,147
<u>Net Investment Interest Received</u>	<u>\$ 7,497,502</u>
Total	\$32,789,649
Minus Funds Outstanding	-\$21,959,529
<u>Minus Rental Assistance Set-Aside</u>	<u>-\$ 3,000,000</u>
Available for Development Awards as of 7/31/20	\$ 7,830,120

*Loan principal payments total \$29,644,165 as of 7/31/20

	Total Units	Low Income Units	Moderate Income Units	Market Rate Units	Dollars	% of Total	Leverage
Single Family New Construction	314	153	22	139	\$7,900,561	15%	\$52,076,516
Single Family Rehabilitation	30	30	-	-	\$160,679	1%	\$160,679
Multifamily New Construction	1,910	1,742	11	157	\$23,380,899	45%	\$308,991,261
Multifamily Rehabilitation	1,584	1,530	-	54	\$18,776,680	36%	\$204,091,432
MFA Administration	-	-	-	-	\$1,346,428	3%	-
Totals	3,838	3,455	33	350	\$51,565,246	100%	\$565,319,888



New Mexico Housing Trust Fund (NMHTF) Rental Assistance Program

- Created by MFA in response to the COVID-19 pandemic to provide short-term rental assistance to residents of income-restricted properties monitored by MFA
 - Approximately 200 properties or 10,000 units could be eligible
 - \$3 million set-aside from NMHTF
- Notice of Funding Availability (NOFA) published May 4, 2020
 - Properties apply on behalf of tenants
 - Tenants may not earn more than 80% of area median income
 - Tenants must demonstrate financial hardship due to COVID-19
- Five rounds of funding to date
 - \$83,169 awarded
 - 36 households assisted
 - \$2,916,831 remaining

Tab 4



Housing New Mexico

New Mexico
Mortgage Finance Authority (MFA)

Regional Housing Authorities

Legislative Oversight Committee
October 8, 2020

New Mexico Housing Authorities

- New Mexico currently has a total of 23 Housing Authorities (3 regional and 20 stand alone)
- In total there are 2,345 low rent public housing units and 5,586 section 8 units in New Mexico
- The Regional Housing Authorities currently oversee 671 (29%) of the low rent public housing units and 3,420 (61%) of the section 8 units
- As of this date 10 housing authorities have successfully consolidated into the Regional Housing Authorities

Native American Housing Authorities

- HUD's Office of Native American Programs (ONAP) administers housing and community development programs that benefit American Indian and Alaskan Native tribal governments, tribal members, the Department of Hawaiian Home Lands, Native Hawaiians, and other Native American organizations
- The SW-ONAP works with 19 Pueblos and 3 tribes located in New Mexico
- As of 2019 the Tribes and Tribal Housing Authorities manage approximately 1,077 public housing units

Low-Rent Public Housing

- Housing that is owned by the housing authority with deed restrictions to ensure that it is used to house low-income families
- HUD provides the difference between a HUD-approved expense level and estimated rent collections as operating subsidy
- Low-rent public housing may be sold, demolished, or used for low-income homeownership programs with HUD's permission

Section 8 Housing Choice Vouchers

- Funds for vouchers that are used to directly assist eligible families with payment of rent or in some cases for mortgages
- HUD provides the difference between a HUD-approved expense level and estimated rent collections as operating subsidy

Why Regionalize?

- Economies of Scale
- Minimizes financial burden of HUD's operational oversight
- Ensures the consistency and integrity of the program operations and regulations by allowing for more direct (Regional) oversight
- Maximizes return on training and operational dollars
- Preservation of housing and subsidies
- Reporting requirements are the same whether there is 1 unit or 1,000 units
- One audit for the Consolidated Housing Authorities
- For smaller agencies there may not be enough money to employ key staff

HUD Responsibilities

- Responsible for national policy and programs that address America's housing needs, that improve and develop the Nation's communities and enforce fair housing law
- Responsible for budgets, monitoring and providing the oversight of the overall activities of the housing authorities
- Monitor housing authorities by conducting a Section Eight Management Assessment Program "SEMAP" and Public Housing Assessment System "PHAS"

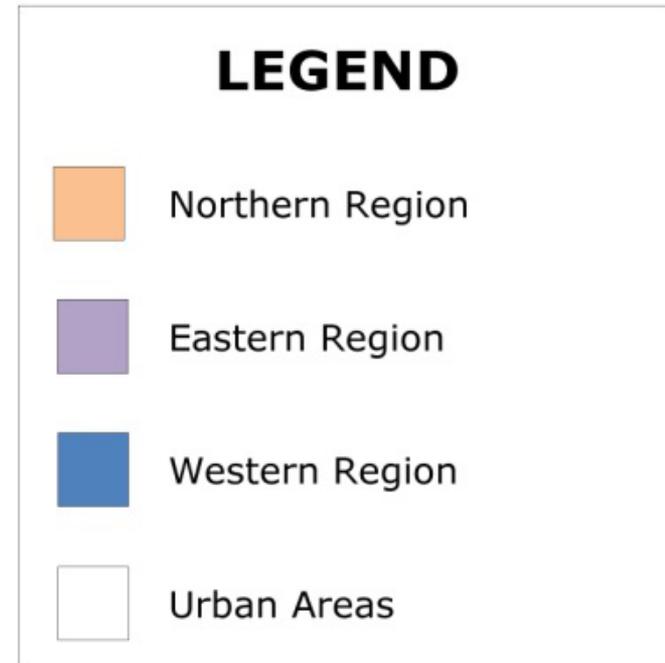
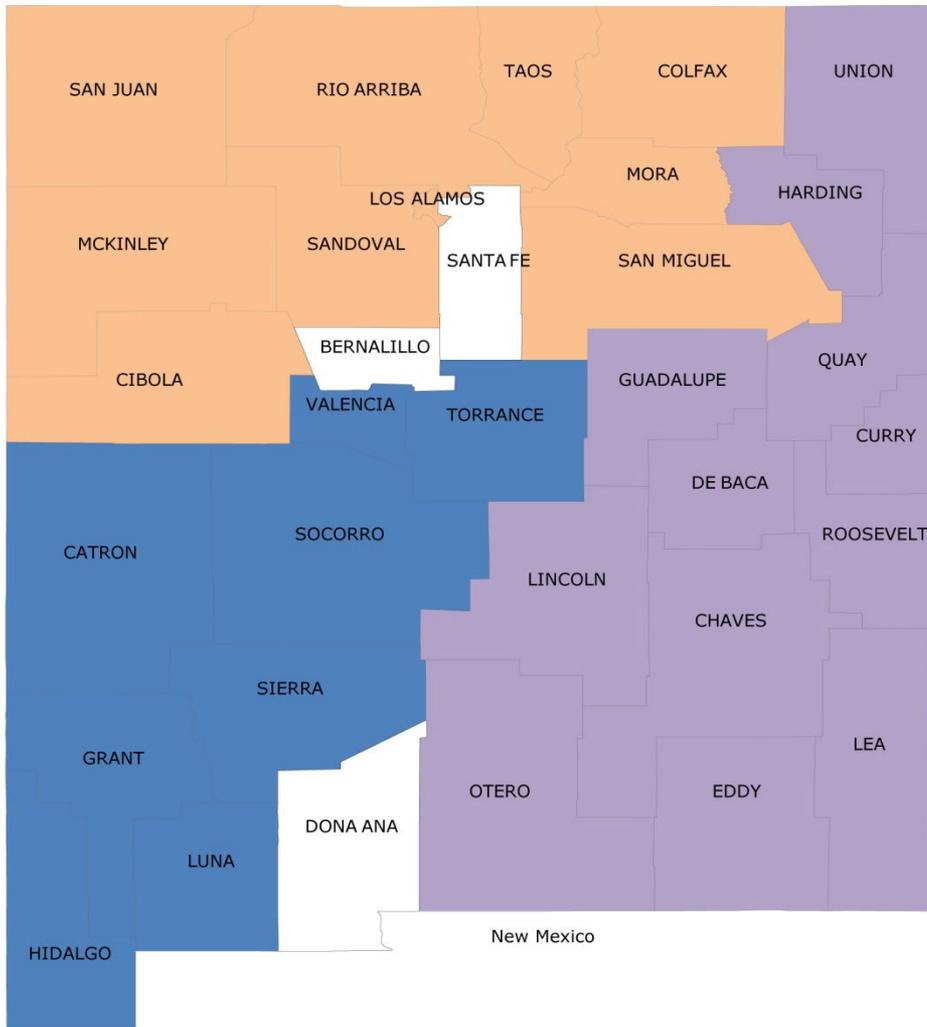
Requirement of 11-3A-1 NMSA 1978

- MFA is mandated by 11-3A-1 NMSA 1978 which requires that oversight of certain activities of the Regional Housing Authorities
- MFA provides a Regional Housing Authority annual report to the DFA, LOC and the LFC

MFA Responsibilities

1. Review the fiscal year operating budget
 - The Housing Authorities Board of Directors and HUD approve their annual budgets if the agency is in troubled status
2. Approval of any new Commissioners to their board
 - The Governor's Office approves new Commissioners through the Boards and Commissions Department
3. Approval of new Executive Directors
 - The Housing Authorities Board of Directors approves new Executive Directors
4. Approval of creations or dissolutions of nonprofit entities
 - The NM Secretary of State approves these types of activities for all non-profits
5. Approval of assets that are valued over \$100K that will be sold, transferred or liquidated
 - HUD approves all contracts over \$100K however HUD does not approve the sale of property if it is non-HUD funded
6. Approval of any signed contracts exceeding \$100K
 - HUD approves contracts over \$100K
7. Review of the external financial audits
 - Both the State Auditor and HUD receive the Housing Authorities external audits

Regional Housing Authorities



Regional Housing Authorities

Regional Housing Authority	Low-Rent Units	Section 8 Vouchers	Consolidations to Date	Troubled/Substandard
ERHA (Located in Roswell)	312	1948	<u>Consolidations to date</u> Alamogordo 11/05 (Consolidation of Section 8 Program only) Region IV 07/09 Vaughn 07/10 Eunice 10/14 Lovington 01/16 Artesia 01/20	High Performer
NRHA (Located in Taos)	205	561	<u>Consolidations to date</u> Taos 08/14 Cimarron 07/16 Grants 01/17	Troubled
WRHA (Located in Silver City)	154	911	<u>Consolidations to date</u> Lordsburg 07/20	High Performer
TOTAL	671	3,420		

Public Housing Authorities Eastern New Mexico

Public Housing Authority	Low-Rent Units	Section 8 Vouchers	Troubled/Sub-standard
Alamogordo	221	0	Standard
Clayton	50	0	Standard
Clovis	132	608	High Performer
Fort Sumner	47	0	High Performer
Tucumcari	90	140	Sub-Standard
TOTAL	540	748	

Public Housing Authorities Western New Mexico

Public Housing Authority	Low-Rent Units	Section 8 Vouchers	Troubled/Sub-standard
Bayard	70	0	Standard
El Camino Real	0	591	Standard
Santa Clara	32	0	High Performer
T or C	100	190	Standard
TOTAL	202	781	

Public Housing Authorities

Northern New Mexico

Public Housing Authority	Low-Rent Units	Section 8 Vouchers	Troubled/ Sub-standard
Chama	38	0	Troubled
Cuba	28	0	Standard
Gallup	263	63	Standard
Las Vegas (currently in the process of consolidating with Northern Regional)	265	0	Sub-Standard
Pecos	32	0	Standard
Raton (Currently in the process of consolidating with Northern Regional)	178	0	High Performer
Rio Arriba	53	25	Sub-Standard
San Juan	0	372	High Performer
San Miguel	0	177	High Performer
Springer	56	0	High Performer
Wagon Mound	19	0	High Performer
TOTAL	932	637	

Tab 5



New Mexico Housing Trust Fund Statute and Rules

Detailed Summary of Proposed Changes

Proposed Statute Changes

- Addition of preservation language to purpose (58-18C-2) and definition of persons of low or moderate income (58-18C-3E)
- Addition of language so the New Mexico housing trust fund advisory committee shall review all project applications or program guidelines (58-18C-5D) and adopt rules regarding this review (58-18C-5E)
- Addition of language so funds can be awarded either on a competitive basis or based on need as determined by MFA (58-18C-6A)
- Addition of language so MFA can develop a scoring mechanism or program guidelines when developing an application (58-18C-6A)
- Replacement of an annual standard for a three-to-one leverage ratio with a standard whereby this leverage is calculated on an overall basis (58-18C-6B)

Proposed Rules Changes (If Proposed Statute Changes Are Not Adopted)

- Addition of individuals as potential applicants in applicant definition (Section 3.5)
- Addition of moderate rehabilitation as potential activity under rehabilitation definition (Section 3.25)
- Addition of minimum requirements that are consistent with the Affordable Housing Act if an individual is an applicant (Section 5.1D)
- Addition of language so eligible activities include costs necessary to support, operate or own affordable housing projects (Section 5.2)
- Addition of language so an award is not necessarily contingent on an affordability period if it is not practical, but MFA still may subject the award to recapture (Section 5.2)
- Addition of public health emergencies as a factor to be considered for award priorities (Section 5.3)
- Replacement of language so the New Mexico housing trust fund advisory committee may consider point-scoring systems or ranking or rating criteria as part of the selection criteria (Section 5.4)

- Replacement of language so the contents of an application must be certified as true and correct (Section 5.5B)
- Addition of language so certain components of MFA's review are as applicable (Section 5.6)
- Addition of language so MFA may notify applicants electronically of application approval or disapproval (Section 5.10)
- Replacement of language so protest period is in alignment with MFA's current policies and procedures (Section 8)

Proposed Rules Changes (If Proposed Statute Changes Are Adopted)

- *All changes described in previous section*
- Addition of preservation language to purpose (Section 2) and definition of persons of low or moderate income (Section 3.24)
- Addition of language so the New Mexico housing trust fund advisory committee shall review all project applications or program guidelines and adopt rules regarding this review (Section 4)
- Addition of language stating selection criteria in a needs-based process are only used to establish that an applicant meets the program guidelines (Section 5.4)
- Addition of language so funding can be awarded based on need or through a competitive process (Section 5.5)
- Addition of language so the New Mexico housing trust fund advisory committee can review all applications or program guidelines (Sections 5.7, 5.8 and 5.9)
- Replacement of an annual standard for a three-to-one leverage ratio with a standard whereby this leverage is calculated on an overall basis (Section 6.2)
- Addition of language mandating MFA to establish an administrative grievance process for needs based programs instead of following a protest process per MFA's policies and procedures (Section 8)

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_____ BILL

55TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2021

INTRODUCED BY

DISCUSSION DRAFT

AN ACT

RELATING TO HOUSING; EXPANDING THE PURPOSE OF THE NEW MEXICO HOUSING TRUST FUND ACT TO INCLUDE THE PRESERVATION OF HOUSING; PERMITTING THE DEVELOPMENT OF PROGRAM GUIDELINES; PERMITTING CERTAIN FUNDS TO BE AWARDED BASED ON NEED.

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

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

"58-18C-2. PURPOSE.--The purpose of the New Mexico Housing Trust Fund Act is to provide flexible funding for housing initiatives in order to produce and preserve significant ~~[additional]~~ housing investment in the state."

SECTION 2. Section 58-18C-3 NMSA 1978 (being Laws 2005, Chapter 105, Section 3) is amended to read:

"58-18C-3. DEFINITIONS.--As used in the New Mexico

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1 Housing Trust Fund Act:

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

4 B. "authority" means the New Mexico mortgage
5 finance authority;

6 C. "committee" means the New Mexico housing trust
7 fund advisory committee;

8 D. "fund" means the New Mexico housing trust fund;

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

19 F. "residential housing" means any building,
20 structure or portion thereof that is primarily occupied, or
21 designed or intended primarily for occupancy, as a residence by
22 one or more households and any real property that is offered
23 for sale or lease for the construction or location thereon of
24 such a building, structure or portion thereof. "Residential
25 housing" includes congregate housing, manufactured homes and

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1 housing intended to provide or providing transitional or
2 temporary housing for homeless persons."

3 SECTION 3. Section 58-18C-5 NMSA 1978 (being Laws 2005,
4 Chapter 105, Section 5) is amended to read:

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

6 A. The "New Mexico housing trust fund advisory
7 committee" is created. The committee shall consist of the
8 following nine members, who shall represent geographically the
9 state, affordable housing advocates and practitioners:

10 (1) three public members appointed by the
11 governor;

12 (2) three public members appointed by the
13 president pro tempore of the senate; and

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

16 B. Members of the committee shall be appointed for
17 two-year terms and shall be eligible for reappointment.
18 Vacancies shall be filled by the appropriate appointing
19 authority.

20 C. The committee shall be advisory to the authority
21 and shall be subject to oversight by the Mortgage Finance
22 Authority Act oversight committee.

23 D. The committee shall review all project
24 applications or program guidelines and make recommendations to
25 the authority for funding them. The committee shall not be

.218278.1SA

1 involved in or advisory to the authority in matters relating to
2 the investment of the fund.

3 E. The committee shall adopt rules regarding:

4 (1) the time, place and procedures of
5 committee meetings; and

6 (2) the procedures for the review of and
7 standards for recommending applications or program guidelines
8 for loans or grant projects."

9 SECTION 4. Section 58-18C-6 NMSA 1978 (being Laws 2005,
10 Chapter 105, Section 6) is amended to read:

11 "58-18C-6. AWARD OF FUNDS--ACCOUNTABILITY.--

12 A. Trust funds shall be awarded either on a
13 competitive basis or based on need as determined by the
14 authority. The authority's staff shall work with the committee
15 to develop an application and applicant scoring mechanism or
16 program guidelines that [~~encourages~~] encourage applicants to
17 develop solutions that are responsive to local needs and are
18 consistent with sound housing policy.

19 B. The authority's governing body shall be
20 responsible for ensuring that on an [~~annual~~] overall basis the
21 total funds awarded for housing activities attract at least
22 three times as much funding from other sources."

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NEW MEXICO MORTGAGE FINANCE AUTHORITY HOUSING TRUST FUND ACT RULES

If Proposed Statute Changes Not Adopted

SECTION 1. AUTHORITY. These Rules are issued under and pursuant to the Mortgage Finance Authority Act, NMSA 1978, §58-18-1 et seq. (the “MFA Act”) and pursuant to the Housing Trust Fund Act, NMSA 1978, §58-18C-1 et seq. (the “Act”). Following review and comment by the Legislative Oversight Committee (“Oversight Committee”), these Rules will become effective upon the approval of the New Mexico Mortgage Finance Authority’s (“MFA”) Board of Directors.

SECTION 2. PURPOSE. These Rules are established to effectuate, and shall be applied so as to accomplish, the general purpose of the Act, which is to provide flexible funding for housing initiatives in order to produce significant additional housing investment in the State.

SECTION 3. GENERAL DEFINITIONS. The following words and terms shall have the following meanings.¹

3.1 “Act” shall mean the Housing Trust Fund Act, NMSA 1978, §58-18C-1 et seq.

3.2 “Affordable” shall mean consistent with minimum rent and/or income limitations established by the Trustee.

3.3 “Affordable Housing” means Residential Housing primarily for Persons or Households of Low or Moderate Income.

3.4 “Affordability Period” shall mean such period of time as may be determined by the Trustee, in its discretion, during which any property which has benefited from an award of Housing Trust Fund Assistance must be maintained as Affordable Housing or be used for Affordable Housing purposes commensurate with the amount of funding awarded, the type of activity pursued with the funding, and the enforceability of the affordability period.

3.5 “Applicant” shall include, but is not limited to [individuals and non-individual applicants such as](#), a Builder, a governmental housing agency, a governmental entity, a governmental instrumentality, a regional housing authority, a tribe, a tribal housing agency, a for-profit organization, a non-profit organization, a corporation, limited liability company, partnership, joint venture, syndicate, association or such other entity as may be approved by the Trustee and which is preparing to submit or has submitted to the Trustee an Application for Housing Trust Fund Assistance and is assuming contractual liability and legal responsibility by executing one or more written agreements entered into with the Trustee.

¹ The following definitions in these Rules are modeled on the MFA’s internal Rules and Regulations which were most recently revised and adopted by the MFA’s Board on July 24, 2003 and which were reviewed by the Oversight Committee on August 12, 2003: 3.2, 3.10, 3.12, 3.13, 3.15, 3.17, 3.21, 3.22, 3.23, 3.25, 3.26 and 3.27. The following definitions in these Rules are taken directly from the definitions in the Act: 3.3, 3.9, 3.12, and 3.21. The remaining definitions in these Rules have been modeled on the Act and are created to support the goals of the Act and these Rules.

3.6 “Application” shall mean an application to receive Housing Trust Fund Assistance under the Act submitted by an Applicant to the Trustee.

3.7 “Builder” shall mean a person or entity licensed as a general contractor to construct Residential Housing, Multi-Family Housing, Congregate Housing, or other Buildings in the state.

3.8 “Building” shall mean a structure capable of being constructed, renovated or converted into Affordable Housing or a structure that is to be demolished.

3.9 “Committee” shall mean the New Mexico Housing Trust Fund Advisory Committee.

3.10 “Congregate Housing Facility” shall mean Residential Housing designed for permanent or temporary occupancy by more than four Persons of Low or Moderate Income living independently of each other. The facility may contain group dining, recreational, health care or other communal living facilities and each unit in a Congregate Housing Facility shall contain at least its own living, sleeping, and bathing facilities. The facility may also provide supportive services (though Housing Trust Fund Assistance may not be used to pay for such services).

3.11 “Eligible Activities” shall mean the activities defined in Section 5.2 of these Rules.

3.12 “Eligible Applicants” shall mean the applicants defined in Section 5.1 of these Rules.

3.13 “Federal Government” shall mean the United States of America and any agency or instrumentality, corporate or otherwise, of the United States of America.

3.14 “Fund” shall mean the New Mexico Housing Trust Fund.

3.15 “Household” shall mean one or more persons occupying a housing unit.

3.16 “Housing Trust Fund Assistance” shall mean any or all funds awarded or to be awarded, loaned or otherwise distributed under the Act.

3.17 “HUD” shall mean the United States Department of Housing and Urban Development.

3.18 “MFA” shall mean the New Mexico Mortgage Finance Authority.

3.19 “MFA Act” shall mean the Mortgage Finance Authority Act, enacted as Chapter 303 of the Laws of 1975 of the State of New Mexico, as amended (being Sections 58-18-1 through 58-18-27, inclusive, N.M.S.A. (1978), as amended).

3.20 “Multi-Family Housing” shall mean Residential Housing that is designed for occupancy by more than four persons or families living independently of each other or living in a Congregate Housing Facility, a percentage of whom are Persons of Low or Moderate Income, including without limitation Persons of Low or Moderate Income who are elderly and handicapped as determined by the Trustee, provided that the percentage of low-income persons and families shall be at least the minimum, if any, required by any applicable federal tax law. The Trustee, in its discretion, may increase or decrease the percentage of units that must be occupied by Persons of Low or Moderate Income in any agreement with an Applicant consistent with the purposes of the Act.

3.21 “New Mexico Housing Trust Fund” shall mean the Fund created by the Act in the MFA and which Fund consists of all distributions and appropriations made to the Fund. Earnings of the Fund shall be credited to the Fund, and unexpended and unencumbered balances in the Fund shall not revert to any other fund. The MFA shall be the Trustee for the Fund and the State investment council shall be the investment agent for the Fund. The Fund shall consist of revenue from the following recurring sources:

- (A) Appropriations and transfers from the State general fund;
- (B) Any other money appropriated or distributed to the Fund; or
- (C) Any private contributions to the Fund.

Money in the Fund is appropriated to the MFA as Trustee for the purposes of carrying out the provisions of the Act.

3.22 “NOFA” shall mean Notice of Funding Availability.

3.23 “Oversight Committee” shall mean the MFA’s Legislative Oversight Committee created by, and appointed in accordance with, the MFA Act.

3.24 “Persons of Low or Moderate Income” shall mean persons and Households within the state who are determined by the Trustee to lack sufficient income to pay enough to cause private enterprise to build an adequate supply of decent, safe and sanitary residential housing in their locality or in an area reasonably accessible to their locality and whose incomes are below the income levels established by the Trustee to be in need of the assistance made available by the Act, taking into consideration, without limitation, such factors as defined under the Act.

3.25 “Rehabilitation” shall mean the substantial renovation or reconstruction of existing Residential Housing or Multi-Family Housing, which complies with requirements established by the Trustee. Rehabilitation shall not include routine or ordinary repairs, improvements or maintenance, such as interior decorating, remodeling

or exterior painting, except in conjunction with other substantial renovation or reconstruction, but shall include moderate rehabilitation including but not limited to weatherization activities, roof repair, and improvements to meet Americans with Disabilities Act requirements.

3.26 “Residential Housing” shall mean any Building, structure or portion thereof that is primarily occupied, or designed or intended primarily for occupancy, as a residence by one or more Households and any real property that is offered for sale or lease for the construction or location thereon of such a building, structure or portion thereof. “Residential Housing” includes Congregate Housing Facilities, Multi-Family Housing, manufactured homes, and housing intended to provide or providing Transitional Housing or temporary housing for homeless persons.

3.27 “Residential Use” shall mean that the structure or the portion of the structure to benefit from Housing Trust Fund Assistance is designed primarily for use as the principal residence of the occupant or occupants and shall exclude vacation or recreational homes.

3.28 “RFP” shall mean Request for Proposals.

3.29 “State” shall mean the State of New Mexico.

3.30 “Transitional Housing Facility” shall mean Residential Housing that is designed for temporary or transitional occupancy by Persons of Low or Moderate Income or special needs.

3.31 “Trustee” shall mean the MFA, as Trustee of the Fund.

SECTION 4. ROLE OF THE COMMITTEE. The Committee shall be advisory to the Trustee and shall be subject to oversight by the MFA Act Oversight Committee. The Committee shall adopt rules regarding the time, place and procedures for Committee meetings; and the procedures for the review of and standards for recommending Applications for loans or grant projects. The Committee shall review all project applications and make recommendations to the Trustee for funding them. The Committee shall not be involved in or advisory to the Trustee in matters relating to the investment of the Fund.

SECTION 5. APPLICATION PROCESS FOR THE AWARD OF HOUSING TRUST FUND ASSISTANCE. The award of Housing Trust Fund Assistance to eligible Applicants shall be subject to the Act, these Rules, the Application and funding guidelines and requirements established by the Trustee and applicable law.

5.1 Eligible Applicants. To be eligible to receive Housing Trust Fund Assistance, an Applicant shall:

- (A) Satisfy any eligibility requirements that may be established by the Trustee and applicable law;
- (B) To the extent applicable, for any Applicant:

- (1) Be organized under state, local, or tribal laws and can provide proof of such organization and that Applicant is in good standing, as applicable;
 - (2) Have a functioning accounting system that is operated in accordance with generally accepted accounting principles or has designated an entity that will maintain such an accounting system consistent with generally accepted accounting principles;
 - (3) Have (a) no significant financial audit findings, and (b) no significant outstanding or unresolved monitoring findings from the MFA, as Trustee or otherwise, or if it has any such findings, it has a certified letter from the MFA, as Trustee or otherwise stating that the findings are in the process of being resolved;
 - (4) Such Applicant has not been suspended, debarred or otherwise restricted by any department or agency of the Federal Government or any State government from doing business with such department or agency because of misconduct or alleged misconduct;
 - (5) Have among its purposes significant activities related to providing housing or services to Persons of Low or Moderate Income; and
 - (6) Such Applicant has not defaulted on any obligation covered by a surety or performance bond.
- (C) If a non-profit organization:
- (1) Provide the Trustee proof of its 501(c)(3) tax status;
 - (2) Have no part of its net earnings inuring to the benefit of any member, founder, contributor or individual; and
 - (3) Provide the Trustee with proof of its compliance with the Charitable Solicitations Act, NMSA 1978, §57-22-1 et seq. and the filing requirements of the New Mexico Attorney General's Office under that Act.

(D) If an individual:

- (1) Be an individual who is qualified to receive assistance pursuant to the Affordable Housing Act, NMSA 1978 § 6-27-1 et seq. and be approved by the Trustee; and

(2) Provide the Trustee with all required schedules, documents, or such other information which may be required by the Trustee.

5.2 Eligible Activities. Subject to the Act, these Rules, and applicable law, the eligible activities for which an Applicant may submit an Application to receive Housing Trust Fund Assistance shall be as established by the Trustee in a NOFA, RFP, or otherwise and may include, but are not limited to, costs of infrastructure and infrastructure purposes, financing in whole or in part through loans or grants, the costs necessary to support, operate or own affordable housing projects, the acquisition, construction, Rehabilitation, renovation, reconstruction, alteration or repair of Residential Housing, Multi-Family Housing, Congregate Housing Facilities, Transitional Housing Facilities, or Buildings for use as or that will provide Affordable Housing. All Housing Trust Fund Assistance awarded to Eligible Applicants for Eligible Activities shall be subject to an Affordability Period as shall be established by the Trustee, provided, however, that where an Affordability Period is not practical, the conveyance shall not be subject to an affordability period, but nevertheless, any such conveyance may be subject to recapture on a pro-rated basis as determined by the Trustee in its discretion.

5.3 Award Priorities. The Committee shall recommend award priorities for the Trustee's review and consideration in its discretion. The Trustee shall establish award priorities for the Fund and in its discretion may modify such priorities and proposed Fund targets to meet the needs and demands of changing circumstances. The factors, which the Trustee may consider in establishing funding priorities, may include, but are not limited to, housing activity, population, geographic area, past allocation of Fund resources, market conditions such as vacancy rates, rent levels, utilization of Section 8 vouchers, and Section 8 waiting lists, access for the disabled and handicapped, energy efficiency, unanticipated events such as natural disasters and public health emergencies, and the availability of other resources to meet the Affordable Housing need, program or project for which the award of Housing Trust Fund Assistance is being sought by an Applicant. The Committee may also consider these factors in making any recommendations of award priorities to the Trustee.

5.4 Selection Criteria. The Committee shall recommend selection criteria for awards of Housing Trust Fund Assistance for the Trustee's review and consideration in its discretion. The Trustee shall establish selection criteria for awards of Housing Trust Fund Assistance and in its discretion may modify such criteria and proposed Fund targets to meet the needs and demands of changing circumstances. The selection criteria that the Trustee may adopt in its discretion may include both threshold and priority or ranking criteria. The Committee shall also recommend threshold and priority or ranking criteria for the Trustee's review and consideration in its discretion. The Trustee may develop point-scoring systems to rank Applications objectively according to the ranking or rating criteria. The Committee may shall also recommend point-scoring systems or ranking or rating criteria for the Trustee's review and consideration in its discretion. Examples of the types of threshold criteria that the Committee may recommend or that the Trustee may utilize include, but are not limited to, leveraging criteria, affordability standards (beneficiary income levels and housing costs), housing standards (such as for Section 8, city zoning and building codes), and basic financial need and feasibility. Examples of the types of ranking criteria that the Committee may recommend or that the Trustee may utilize include, but are not limited to,

criteria related to program targets, priorities, and effectiveness, the amount of available matching funds or leverage, efficiency, project location, the degree to which the Applicant's proposed project exceeds certain standards (such as minimum Affordability Periods), and evidence of community support.

5.5 Application Process. Subject to the Act, these Rules, applicable law, and the Application guidelines and submission requirements established by the Trustee, Housing Trust Fund Assistance shall be awarded to Eligible Applicants for use in Eligible Activities through a formal competitive Application process as determined by the Trustee.

- (A) Receipt of Applications. The Trustee will accept Applications received before such deadlines as are set forth in any NOFA, RFP or other solicitation of Applications as may be released or issued by the Trustee.
- (B) Contents of Applications. Each Application must contain such information as is required by the Trustee in any NOFA, RFP, or otherwise, together with verification ~~signed~~ certified by the Applicant that the information provided, upon penalty of perjury, is true and correct to the best of the Applicant's information, knowledge, and belief.
- (C) Application Fee. The Trustee, in its discretion, may charge Applicants an Application fee.

5.6 Trustee Review of Applications. On receipt of an Application, the Trustee shall:

- (A) Determine whether the Application submitted by the Applicant is timely, complete and responsive;
- (B) Determine whether the Applicant is an Eligible Applicant;
- (C) As applicable, Ddetermine whether the project proposed by the Applicant is an Eligible Activity;
- (D) Determine whether the Application satisfies any Award Priorities or Selection Criteria that may be established by the Trustee;
- (E) As applicable, Ddetermine whether any matching, local, private, or Federal Government funds or in-kind services will be used by the Applicant in connection with the Housing Trust Fund Assistance for which the Applicant is applying and further determine the amount of such other funds or the value of such in-kind services; and
- (F) Determine whether the requirements of the Act, these Rules, and any requirements established by the Trustee have been satisfied.

5.7 Review of Applications by the Committee. The Committee shall review all Applications received by the Trustee from Eligible Applicants for Eligible Activities.

5.8 Recommendation of Applications . The Committee, after completing its review of the Applications shall make recommendations to the Trustee for funding the Applications.

5.9 Final Determination by the Trustee. The Trustee, following its receipt of the funding recommendation from the Committee, shall decide whether to approve or disapprove the Application in its discretion and shall notify the Committee of its decision. Within the parameters of the authorization levels approved by the MFA Board of Directors Trustee may make modifications to the awards including increases and decreases in amount and changes to terms.

5.10 Notification of Acceptance. The Trustee shall notify each Applicant in writing, including by electronic means, of the Trustee's approval or disapproval of the Application. The Trustee's determination on any Application shall be conclusive, but is subject to protest all as set forth in Section 8 of these Rules.

5.11 Conditions of Award of Housing Trust Fund Assistance. The Trustee, in its discretion, may establish conditions that must be satisfied by any Applicant prior to the award of Housing Trust Fund Assistance. These conditions may include, but are not limited to:

- (A) Requirements that Applicants enter into one or more loan agreements with the Trustee, which loan agreement(s) shall be consistent with the Act, these Rules, and any requirements established by the Trustee and which loan agreement(s) may include remedies and default provisions in the event of the unsatisfactory performance by the Applicant and which may also provide adequate security against the loss of public funds or property in the event the Applicant abandons or fails to complete any Affordable Housing project;
- (B) Requirements that the Applicant abide by a reasonable performance schedule and performance criteria, as well as a monitoring and review process;
- (C) Requirements that the project for which the Applicant is seeking Housing Trust Fund Assistance will constitute or provide Affordable Housing for the applicable Affordability Period;
- (D) Requirements that the Applicant maintain its books and records of its use and disposition of any Housing Trust Fund Assistance and that the Applicant allow the Trustee to examine such books and records and that the Applicant provide an audit of such books and records on not less than an annual basis or as otherwise may be required by the Trustee; and

- (E) Requirements that the Applicant comply with applicable Federal, State and local law, ordinances, rules, and regulations.

SECTION 6. ADMINISTRATION. The Trustee shall administer the Fund in accordance with provisions of the Act, these Rules, any criteria or priorities established by the Trustee, and applicable law, all of which may be amended or supplemented from time to time.

6.1 Administration Fee. The Trustee may retain up to five percent (5%) of the funds disbursed from the Fund annually for its actual expenses in administering the Fund.

6.2 Leveraging Threshold. The Trustee shall be responsible for ensuring that on an annual basis the total Housing Trust Fund Assistance awarded for housing activities attracts at least three times as much funding from other sources.

6.3 Fund Investment. The Trustee of the Fund is empowered to hold, invest, loan, grant, distribute or otherwise take action with regard to the Fund all as set forth in the Act and the MFA Act.

6.4 Limitations on Housing Trust Fund Assistance. The Trustee, in its discretion, may set limits on the amount of Housing Trust Fund Assistance to be awarded per Application, per NOFA, per RFP or otherwise. The Trustee, in its discretion, also may set limits on the total amount of Housing Trust Fund Assistance to be awarded per quarter, per year or otherwise. Any award of Housing Trust Fund Assistance is also contingent upon sufficient appropriations and authorization being made by the State of New Mexico and is further subject to applicable law. If sufficient appropriations and authorizations are not made or subject to applicable law, any loan or other agreement between the Trustee and any successful, Eligible Applicant shall terminate upon written notice being given by the Trustee to the Applicant. The Trustee's decision as to whether sufficient appropriations are available or whether Housing Trust Fund Assistance may be awarded subject to applicable law shall be accepted by any Applicant and shall be final.

6.5 Records and Accounting. The Trustee shall maintain such records as are required by applicable law and shall account for the Fund and its actions with regard thereto as Trustee.

6.6 Conflict of Laws. The Trustee, in funding programs and projects under the Act, in administering the Fund, and by making, executing, delivering and performing any award, loan agreement, grant or any other activity or transaction contemplated by the Act, shall not violate any provision of law, rule or regulation or any decree, writ, order, injunction, judgement, determination or award and will not contravene the provisions of or otherwise cause a default under any of its agreements, indentures, or other instruments to which it may be bound. If, however, any part of the Act or these Rules is found to be in conflict with any federal requirements that are a prescribed condition to the allocation of federal funds to the State, the conflicting part of the Act or these Rules shall be inoperative solely to the extent of the conflict and with respect to the agencies directly affected. However, such a conflict shall not affect the remainder of the Act or these Rules in its application.

SECTION 7. DISCRIMINATION PROHIBITED. All awards of Housing Trust Fund Assistance shall be utilized by Applicants in a manner consistent with principles of non-discrimination and equal opportunity, and the Committee and the Trustee shall require compliance by all Applicants with all applicable federal and State laws and regulations relating to affirmative action, non-discrimination, and equal opportunity.

SECTION 8. PROTEST. Any Applicant who is aggrieved in connection with any award of Housing Trust Fund Assistance made or to be made by the Trustee pursuant to an RFP, NOFA, or otherwise may protest to the Trustee. The protest process shall align with MFA's then current policies and procedures. ~~must be written and addressed to the "Trustee of the Housing Trust Fund."~~ The protest must be delivered to the Trustee within fifteen (15) calendar days after the notice of award. Upon the timely filing of a protest, the Trustee shall give notice of the protest to all Applicants who appear to have a substantial and reasonable prospect of being affected by the outcome of the protest. The Applicants receiving notice may file responses to the protest within seven (7) calendar days of notice of protest. The evaluation committee of the MFA's Board of Directors shall review the protest and responses to the protest and shall make a recommendation to the MFA's Board of Directors regarding the disposition of the protest. The MFA's Board of Directors shall make a final determination regarding the disposition of the protest.

SECTION 9. MISCELLANEOUS. Capitalized terms not otherwise defined in these Rules have the same meaning as defined in the Act.

SECTION 10. AMENDMENT TO RULES. These Rules may be amended or supplemented by the Trustee at any time. With regard to any amended or supplemental rules under this section, the Trustee shall seek comment from the Oversight Committee.

Amended Rules adopted by the MFA's Board: _____.

NEW MEXICO MORTGAGE FINANCE AUTHORITY HOUSING TRUST FUND ACT RULES

If Proposed Statute Changes Adopted

SECTION 1. AUTHORITY. These Rules are issued under and pursuant to the Mortgage Finance Authority Act, NMSA 1978, §58-18-1 et seq. (the “MFA Act”) and pursuant to the Housing Trust Fund Act, NMSA 1978, §58-18C-1 et seq. (the “Act”). Following review and comment by the Legislative Oversight Committee (“Oversight Committee”), these Rules will become effective upon the approval of the New Mexico Mortgage Finance Authority’s (“MFA”) Board of Directors.

SECTION 2. PURPOSE. These Rules are established to effectuate, and shall be applied so as to accomplish, the general purpose of the Act, which is to provide flexible funding for housing initiatives in order to produce and preserve significant ~~additional~~ housing investment in the State.

SECTION 3. GENERAL DEFINITIONS. The following words and terms shall have the following meanings.¹

3.1 “Act” shall mean the Housing Trust Fund Act, NMSA 1978, §58-18C-1 et seq.

3.2 “Affordable” shall mean consistent with minimum rent and/or income limitations established by the Trustee.

3.3 “Affordable Housing” means Residential Housing primarily for Persons or Households of Low or Moderate Income.

3.4 “Affordability Period” shall mean such period of time as may be determined by the Trustee, in its discretion, during which any property which has benefited from an award of Housing Trust Fund Assistance must be maintained as Affordable Housing or be used for Affordable Housing purposes commensurate with the amount of funding awarded, the type of activity pursued with the funding, and the enforceability of the affordability period.

3.5 “Applicant” shall include, but is not limited to individuals and non-individual applicants such as, a Builder, a governmental housing agency, a governmental entity, a governmental instrumentality, a regional housing authority, a tribe, a tribal housing agency, a for-profit organization, a non-profit organization, a corporation, limited liability company, partnership, joint venture, syndicate, association or such other entity as may be approved by the Trustee and which is preparing to submit or has submitted to the Trustee an Application for Housing Trust Fund Assistance and is assuming contractual liability and legal responsibility by executing one or more written agreements entered into with the Trustee.

¹ The following definitions in these Rules are modeled on the MFA’s internal Rules and Regulations which were most recently revised and adopted by the MFA’s Board on July 24, 2003 and which were reviewed by the Oversight Committee on August 12, 2003: 3.2, 3.10, 3.12, 3.13, 3.15, 3.17, 3.21, 3.22, 3.23, 3.25, 3.26 and 3.27. The following definitions in these Rules are taken directly from the definitions in the Act: 3.3, 3.9, 3.12, and 3.21. The remaining definitions in these Rules have been modeled on the Act and are created to support the goals of the Act and these Rules.

3.6 “Application” shall mean an application to receive Housing Trust Fund Assistance under the Act submitted by an Applicant to the Trustee.

3.7 “Builder” shall mean a person or entity licensed as a general contractor to construct Residential Housing, Multi-Family Housing, Congregate Housing, or other Buildings in the state.

3.8 “Building” shall mean a structure capable of being constructed, renovated or converted into Affordable Housing or a structure that is to be demolished.

3.9 “Committee” shall mean the New Mexico Housing Trust Fund Advisory Committee.

3.10 “Congregate Housing Facility” shall mean Residential Housing designed for permanent or temporary occupancy by more than four Persons of Low or Moderate Income living independently of each other. The facility may contain group dining, recreational, health care or other communal living facilities and each unit in a Congregate Housing Facility shall contain at least its own living, sleeping, and bathing facilities. The facility may also provide supportive services (though Housing Trust Fund Assistance may not be used to pay for such services).

3.11 “Eligible Activities” shall mean the activities defined in Section 5.2 of these Rules.

3.12 “Eligible Applicants” shall mean the applicants defined in Section 5.1 of these Rules.

3.13 “Federal Government” shall mean the United States of America and any agency or instrumentality, corporate or otherwise, of the United States of America.

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3.19 “MFA Act” shall mean the Mortgage Finance Authority Act, enacted as Chapter 303 of the Laws of 1975 of the State of New Mexico, as amended (being Sections 58-18-1 through 58-18-27, inclusive, N.M.S.A. (1978), as amended).

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3.21 “New Mexico Housing Trust Fund” shall mean the Fund created by the Act in the MFA and which Fund consists of all distributions and appropriations made to the Fund. Earnings of the Fund shall be credited to the Fund, and unexpended and unencumbered balances in the Fund shall not revert to any other fund. The MFA shall be the Trustee for the Fund and the State investment council shall be the investment agent for the Fund. The Fund shall consist of revenue from the following recurring sources:

- (A) Appropriations and transfers from the State general fund;
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Money in the Fund is appropriated to the MFA as Trustee for the purposes of carrying out the provisions of the Act.

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- (A) Satisfy any eligibility requirements that may be established by the Trustee and applicable law;

- (B) To the extent applicable, for any Applicant:
- (1) Be organized under state, local, or tribal laws and can provide proof of such organization and that Applicant is in good standing, as applicable;
 - (2) Have a functioning accounting system that is operated in accordance with generally accepted accounting principles or has designated an entity that will maintain such an accounting system consistent with generally accepted accounting principles;
 - (3) Have (a) no significant financial audit findings, and (b) no significant outstanding or unresolved monitoring findings from the MFA, as Trustee or otherwise, or if it has any such findings, it has a certified letter from the MFA, as Trustee or otherwise stating that the findings are in the process of being resolved;
 - (4) Such Applicant has not been suspended, debarred or otherwise restricted by any department or agency of the Federal Government or any State government from doing business with such department or agency because of misconduct or alleged misconduct;
 - (5) Have among its purposes significant activities related to providing housing or services to Persons of Low or Moderate Income; and
 - (6) Such Applicant has not defaulted on any obligation covered by a surety or performance bond.
- (C) If a non-profit organization:
- (1) Provide the Trustee proof of its 501(c)(3) tax status;
 - (2) Have no part of its net earnings inuring to the benefit of any member, founder, contributor or individual; and
 - (3) Provide the Trustee with proof of its compliance with the Charitable Solicitations Act, NMSA 1978, §57-22-1 et seq. and the filing requirements of the New Mexico Attorney General's Office under that Act.
- (D) If an individual:
- (1) Be an individual who is qualified to receive assistance pursuant to the Affordable Housing Act, NMSA 1978 § 6-27-1 et seq. and be approved by the Trustee; and

(2) Provide the Trustee with all required schedules, documents, or such other information which may be required by the Trustee.

5.2 Eligible Activities. Subject to the Act, these Rules, and applicable law, the eligible activities for which an Applicant may submit an Application to receive Housing Trust Fund Assistance shall be as established by the Trustee in a NOFA, RFP, or otherwise and may include, but are not limited to, costs of infrastructure and infrastructure purposes, financing in whole or in part through loans or grants, the costs necessary to support, operate or own affordable housing projects, the acquisition, construction, Rehabilitation, renovation, reconstruction, alteration or repair of Residential Housing, Multi-Family Housing, Congregate Housing Facilities, Transitional Housing Facilities, or Buildings for use as or that will provide Affordable Housing. All Housing Trust Fund Assistance awarded to Eligible Applicants for Eligible Activities shall be subject to an Affordability Period as shall be established by the Trustee, provided, however, that where an Affordability Period is not practical, the conveyance shall not be subject to an affordability period, but nevertheless, any such conveyance may be subject to recapture on a pro-rated basis as determined by the Trustee in its discretion.

5.3 Award Priorities. The Committee shall recommend award priorities for the Trustee's review and consideration in its discretion. The Trustee shall establish award priorities for the Fund and in its discretion may modify such priorities and proposed Fund targets to meet the needs and demands of changing circumstances. The factors, which the Trustee may consider in establishing funding priorities, may include, but are not limited to, housing activity, population, geographic area, past allocation of Fund resources, market conditions such as vacancy rates, rent levels, utilization of Section 8 vouchers, and Section 8 waiting lists, access for the disabled and handicapped, energy efficiency, unanticipated events such as natural disasters and public health emergencies, and the availability of other resources to meet the Affordable Housing need, program or project for which the award of Housing Trust Fund Assistance is being sought by an Applicant. The Committee may also consider these factors in making any recommendations of award priorities to the Trustee.

5.4 Selection Criteria. The Committee shall recommend selection criteria for awards of Housing Trust Fund Assistance for the Trustee's review and consideration in its discretion. The Trustee shall establish selection criteria for awards of Housing Trust Fund Assistance and in its discretion may modify such criteria and proposed Fund targets to meet the needs and demands of changing circumstances. The selection criteria that the Trustee may adopt in its discretion may include both threshold and priority or ranking criteria. The Committee shall also recommend threshold and priority or ranking criteria for the Trustee's review and consideration in its discretion. The Trustee may develop point-scoring systems to rank Applications objectively according to the ranking or rating criteria. The Committee may also recommend point-scoring systems or ranking or rating criteria for the Trustee's review and consideration in its discretion. Examples of the types of threshold criteria that the Committee may recommend or that the Trustee may utilize include, but are not limited to, leveraging criteria, affordability standards (beneficiary income levels and housing costs), housing standards (such as for Section 8, city zoning and building codes), and basic financial need and feasibility. Examples of the

types of ranking criteria that the Committee may recommend or that the Trustee may utilize include, but are not limited to, criteria related to program targets, priorities, and effectiveness, the amount of available matching funds or leverage, efficiency, project location, the degree to which the Applicant's proposed project exceeds certain standards (such as minimum Affordability Periods), and evidence of community support. Notwithstanding the foregoing, where an award will be made based on need, the Committee need only recommend, and the Trustee need only establish, those selection criteria that are necessary to establish that an applicant meets the program guidelines.

5.5 Application Process. Subject to the Act, these Rules, applicable law, and the Application guidelines and submission requirements established by the Trustee, Housing Trust Fund Assistance shall be awarded to Eligible Applicants for use in Eligible Activities through a formal competitive Application process, or based on need, as determined by the Trustee.

- (A) Receipt of Applications. The Trustee will accept Applications received before such deadlines as are set forth in any NOFA, RFP or other solicitation of Applications as may be released or issued by the Trustee.
- (B) Contents of Applications. Each Application must contain such information as is required by the Trustee in any NOFA, RFP, or otherwise, together with verification signed—certified by the Applicant that the information provided, upon penalty of perjury, is true and correct to the best of the Applicant's information, knowledge, and belief.
- (C) Application Fee. The Trustee, in its discretion, may charge Applicants an Application fee.

5.6 Trustee Review of Applications. On receipt of an Application, the Trustee shall:

- (A) Determine whether the Application submitted by the Applicant is timely, complete and responsive;
- (B) Determine whether the Applicant is an Eligible Applicant;
- (C) As applicable, Dd determine whether the project proposed by the Applicant is an Eligible Activity;
- (D) Determine whether the Application satisfies any Award Priorities or Selection Criteria that may be established by the Trustee;

- (E) As applicable, Ddetermine whether any matching, local, private, or Federal Government funds or in-kind services will be used by the Applicant in connection with the Housing Trust Fund Assistance for which the Applicant is applying and further determine the amount of such other funds or the value of such in-kind services; and
- (F) Determine whether the requirements of the Act, these Rules, and any requirements established by the Trustee have been satisfied.

5.7 Review of Applications or Program Guidelines by the Committee. ~~The As applicable, the~~ Committee shall either review ~~all~~ Applications received by the Trustee from Eligible Applicants for Eligible Activities or shall review program guidelines-

5.8 Recommendation of Applications or Program Guidelines. As applicable, ~~T~~the Committee, after completing its review of the Applications or program guidelines shall make recommendations to the Trustee for funding the Applications.

5.9 Final Determination by the Trustee. The Trustee, following its receipt of the funding recommendation from the Committee, shall decide whether to approve or disapprove the Application or program guidelines in its discretion and shall notify the Committee of its decision. Within the parameters of the authorization levels approved by the MFA Board of Directors Trustee may make modifications to the awards including increases and decreases in amount and changes to terms.

5.10 Notification of Acceptance. The Trustee shall notify each Applicant in writing, including by electronic means, of the Trustee's approval or disapproval of the Application. The Trustee's determination on any Application shall be conclusive, but is subject to protest all as set forth in Section 8 of these Rules.

5.11 Conditions of Award of Housing Trust Fund Assistance. The Trustee, in its discretion, may establish conditions that must be satisfied by any Applicant prior to the award of Housing Trust Fund Assistance. These conditions may include, but are not limited to:

- (A) Requirements that Applicants enter into one or more loan agreements with the Trustee, which loan agreement(s) shall be consistent with the Act, these Rules, and any requirements established by the Trustee and which loan agreement(s) may include remedies and default provisions in the event of the unsatisfactory performance by the Applicant and which may also provide adequate security against the loss of public funds or property in the event the Applicant abandons or fails to complete any Affordable Housing project;

- (B) Requirements that the Applicant abide by a reasonable performance schedule and performance criteria, as well as a monitoring and review process;
- (C) Requirements that the project for which the Applicant is seeking Housing Trust Fund Assistance will constitute or provide Affordable Housing for the applicable Affordability Period;
- (D) Requirements that the Applicant maintain its books and records of its use and disposition of any Housing Trust Fund Assistance and that the Applicant allow the Trustee to examine such books and records and that the Applicant provide an audit of such books and records on not less than an annual basis or as otherwise may be required by the Trustee; and
- (E) Requirements that the Applicant comply with applicable Federal, State and local law, ordinances, rules, and regulations.

SECTION 6. ADMINISTRATION. The Trustee shall administer the Fund in accordance with provisions of the Act, these Rules, any criteria or priorities established by the Trustee, and applicable law, all of which may be amended or supplemented from time to time.

6.1 Administration Fee. The Trustee may retain up to five percent (5%) of the funds disbursed from the Fund annually for its actual expenses in administering the Fund.

6.2 Leveraging Threshold. The Trustee shall be responsible for ensuring that on an ~~annual~~-overall basis the total Housing Trust Fund Assistance awarded for housing activities attracts at least three times as much funding from other sources.

6.3 Fund Investment. The Trustee of the Fund is empowered to hold, invest, loan, grant, distribute or otherwise take action with regard to the Fund all as set forth in the Act and the MFA Act.

6.4 Limitations on Housing Trust Fund Assistance. The Trustee, in its discretion, may set limits on the amount of Housing Trust Fund Assistance to be awarded per Application, per NOFA, per RFP or otherwise. The Trustee, in its discretion, also may set limits on the total amount of Housing Trust Fund Assistance to be awarded per quarter, per year or otherwise. Any award of Housing Trust Fund Assistance is also contingent upon sufficient appropriations and authorization being made by the State of New Mexico and is further subject to applicable law. If sufficient appropriations and authorizations are not made or subject to applicable law, any loan or other agreement between the Trustee and any successful, Eligible Applicant shall terminate upon written notice being given by the Trustee to the Applicant. The Trustee's decision as to whether sufficient appropriations are available or whether Housing Trust Fund Assistance may be awarded subject to applicable law shall be accepted by any Applicant and shall be final.

6.5 Records and Accounting. The Trustee shall maintain such records as are required by applicable law and shall account for the Fund and its actions with regard thereto as Trustee.

6.6 Conflict of Laws. The Trustee, in funding programs and projects under the Act, in administering the Fund, and by making, executing, delivering and performing any award, loan agreement, grant or any other activity or transaction contemplated by the Act, shall not violate any provision of law, rule or regulation or any decree, writ, order, injunction, judgement, determination or award and will not contravene the provisions of or otherwise cause a default under any of its agreements, indentures, or other instruments to which it may be bound. If, however, any part of the Act or these Rules is found to be in conflict with any federal requirements that are a prescribed condition to the allocation of federal funds to the State, the conflicting part of the Act or these Rules shall be inoperative solely to the extent of the conflict and with respect to the agencies directly affected. However, such a conflict shall not affect the remainder of the Act or these Rules in its application.

SECTION 7. DISCRIMINATION PROHIBITED. All awards of Housing Trust Fund Assistance shall be utilized by Applicants in a manner consistent with principles of non-discrimination and equal opportunity, and the Committee and the Trustee shall require compliance by all Applicants with all applicable federal and State laws and regulations relating to affirmative action, non-discrimination, and equal opportunity.

SECTION 8. PROTEST. Any Applicant who is aggrieved in connection with any award of Housing Trust Fund Assistance made or to be made by the Trustee pursuant to ~~ana competitive~~ RFP, NOFA, or otherwise may protest to the Trustee. The protest ~~must be written and addressed to the "Trustee of the Housing Trust Fund."~~ ~~The protest must be delivered to the Trustee within fifteen (15) calendar days after the notice of award. Upon the timely filing of a protest, the Trustee shall give notice of the protest to all Applicants who appear to have a substantial and reasonable prospect of being affected by the outcome of the protest. The Applicants receiving notice may file responses to the protest within seven (7) calendar days of notice of protest. The evaluation committee of the MFA's Board of Directors shall review the protest and responses to the protest and shall make a recommendation to the MFA's Board of Directors regarding the disposition of the protest. The MFA's Board of Directors shall make a final determination regarding the disposition of the protest.~~ process shall align with MFA's then current policies and procedures. The protest process outlined in MFA's policies and procedures shall not apply to any needs based program established by the Trustee pursuant to the Act and these Rules. Provided, however, that program guidelines established by the Trustee for any needs based program shall include an administrative grievance process, which shall be developed by the Trustee.-

SECTION 9. MISCELLANEOUS. Capitalized terms not otherwise defined in these Rules have the same meaning as defined in the Act.

SECTION 10. AMENDMENT TO RULES. These Rules may be amended or supplemented by the Trustee at any time. With regard to any amended or supplemental rules under this section, the Trustee shall seek comment from the Oversight Committee.

Amended Rules adopted by the MFA's Board: _____.

Tab 6

MFA 2021 Legislative Agenda

New Mexico Housing Trust Fund

\$12 million

This appropriation could help build, rehabilitate or preserve approximately 1,000 quality affordable homes for low-income New Mexicans and could weatherize and provide energy efficiency upgrades for an additional 300 low-income households statewide. This item consolidates two items that were requested separately in previous years (New Mexico Housing Trust Fund along with the Low-Income Energy Conservation Program) as MFA should be able to fund both programs with a single bill. A \$12 million request for each year has been included in MFA's FY 2022-2026 Infrastructure Capital Improvements Plan (ICIP).

Background: The New Mexico Housing Trust Fund was created by the New Mexico Legislature in 2005 with an initial appropriation of \$10 million and subsequent appropriations of \$12.05 million. MFA has also previously sought and received funding for its Low-Income Energy Conservation Program, or NM Energy \$mart, which weatherizes the homes of approximately 750 low-income families each year using two federal sources, the Weatherization Assistance Program (WAP) and the Low Income Home Energy Assistance Program (LIHEAP), in addition to utility company sources. MFA is proposing to combine requests for both programs into a single bill. **Results:** MFA has grown the New Mexico Housing Trust Fund to \$32.8 million through loan and investment interest and has awarded more than \$50.2 million by recycling interest and principal payments. The fund has helped to construct or rehabilitate over 3,800 homes in 59 housing developments and has leveraged over \$565 million in other funding—a 25-to-1 return on the state's investment. MFA has also started to use the fund for rental assistance at affordable housing communities in response to COVID-19.

New Mexico Housing Trust Fund Statutory Changes

This proposed bill would amend the New Mexico Housing Trust Fund Act (58-18C-1) to allow MFA to utilize New Mexico Housing Trust Funds for more types of housing activities, including, but not limited to, rental and mortgage assistance, down payment assistance, weatherization activities and housing program services.

Background: The New Mexico Housing Trust Fund Act created a state-funded affordable housing source in 2005. The bill focused on utilizing funds for constructing or rehabilitating affordable housing units. Due to recent events, it has become clear that state funding is desperately needed for other types of housing activities to ensure New Mexicans continually have decent, safe and affordable housing.

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_____ BILL

55TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2021

INTRODUCED BY

DISCUSSION DRAFT

AN ACT

MAKING AN APPROPRIATION TO THE NEW MEXICO HOUSING TRUST FUND.

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

SECTION 1. APPROPRIATION.--Twelve million dollars (\$12,000,000) is appropriated from the general fund to the New Mexico housing trust fund for expenditure in fiscal year 2022 and subsequent fiscal years by the New Mexico mortgage finance authority for the purposes of carrying out the provisions of the New Mexico Housing Trust Fund Act. Any unexpended or unencumbered balance remaining at the end of a fiscal year shall not revert to the general fund.

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_____ BILL

55TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2021

INTRODUCED BY

DISCUSSION DRAFT

AN ACT

RELATING TO HOUSING; EXPANDING THE PURPOSE OF THE NEW MEXICO HOUSING TRUST FUND ACT TO INCLUDE THE PRESERVATION OF HOUSING; PERMITTING THE DEVELOPMENT OF PROGRAM GUIDELINES; PERMITTING CERTAIN FUNDS TO BE AWARDED BASED ON NEED.

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

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

"58-18C-2. PURPOSE.--The purpose of the New Mexico Housing Trust Fund Act is to provide flexible funding for housing initiatives in order to produce and preserve significant ~~[additional]~~ housing investment in the state."

SECTION 2. Section 58-18C-3 NMSA 1978 (being Laws 2005, Chapter 105, Section 3) is amended to read:

"58-18C-3. DEFINITIONS.--As used in the New Mexico

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1 Housing Trust Fund Act:

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

4 B. "authority" means the New Mexico mortgage
5 finance authority;

6 C. "committee" means the New Mexico housing trust
7 fund advisory committee;

8 D. "fund" means the New Mexico housing trust fund;

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

19 F. "residential housing" means any building,
20 structure or portion thereof that is primarily occupied, or
21 designed or intended primarily for occupancy, as a residence by
22 one or more households and any real property that is offered
23 for sale or lease for the construction or location thereon of
24 such a building, structure or portion thereof. "Residential
25 housing" includes congregate housing, manufactured homes and

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1 housing intended to provide or providing transitional or
2 temporary housing for homeless persons."

3 SECTION 3. Section 58-18C-5 NMSA 1978 (being Laws 2005,
4 Chapter 105, Section 5) is amended to read:

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

6 A. The "New Mexico housing trust fund advisory
7 committee" is created. The committee shall consist of the
8 following nine members, who shall represent geographically the
9 state, affordable housing advocates and practitioners:

10 (1) three public members appointed by the
11 governor;

12 (2) three public members appointed by the
13 president pro tempore of the senate; and

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

16 B. Members of the committee shall be appointed for
17 two-year terms and shall be eligible for reappointment.
18 Vacancies shall be filled by the appropriate appointing
19 authority.

20 C. The committee shall be advisory to the authority
21 and shall be subject to oversight by the Mortgage Finance
22 Authority Act oversight committee.

23 D. The committee shall review all project
24 applications or program guidelines and make recommendations to
25 the authority for funding them. The committee shall not be

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1 involved in or advisory to the authority in matters relating to
2 the investment of the fund.

3 E. The committee shall adopt rules regarding:

4 (1) the time, place and procedures of
5 committee meetings; and

6 (2) the procedures for the review of and
7 standards for recommending applications or program guidelines
8 for loans or grant projects."

9 SECTION 4. Section 58-18C-6 NMSA 1978 (being Laws 2005,
10 Chapter 105, Section 6) is amended to read:

11 "58-18C-6. AWARD OF FUNDS--ACCOUNTABILITY.--

12 A. Trust funds shall be awarded either on a
13 competitive basis or based on need as determined by the
14 authority. The authority's staff shall work with the committee
15 to develop an application and applicant scoring mechanism or
16 program guidelines that [~~encourages~~] encourage applicants to
17 develop solutions that are responsive to local needs and are
18 consistent with sound housing policy.

19 B. The authority's governing body shall be
20 responsible for ensuring that on an [~~annual~~] overall basis the
21 total funds awarded for housing activities attract at least
22 three times as much funding from other sources."

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