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\_\_\_\_\_ BILL

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

INTRODUCED BY

DISCUSSION DRAFT

AN ACT

RELATING TO THE DRINKING WATER STATE REVOLVING LOAN FUND ACT;  
ALLOWING THE NEW MEXICO FINANCE AUTHORITY TO PROVIDE GRANTS FOR  
THE CONSTRUCTION OR REHABILITATION OF DRINKING WATER  
FACILITIES; REQUIRING THE NEW MEXICO FINANCE AUTHORITY, IN  
COOPERATION WITH THE DEPARTMENT OF ENVIRONMENT, TO PROVIDE  
ANNUAL REPORTS ON THE DRINKING WATER STATE REVOLVING LOAN FUND;  
REDISTRIBUTING DUTIES HELD BETWEEN THE NEW MEXICO FINANCE  
AUTHORITY AND THE DEPARTMENT OF ENVIRONMENT; EXTENDING  
REPAYMENT PERIOD REQUIREMENTS FOR LOANS MADE PURSUANT TO THE  
DRINKING WATER STATE REVOLVING LOAN FUND ACT; RENEWING THE  
AUTHORITY OF THE NEW MEXICO FINANCE AUTHORITY TO TRANSFER UP TO  
ONE-THIRD OF CERTAIN GRANTS TO THE DRINKING WATER STATE  
REVOLVING LOAN FUND AND TO THE WASTEWATER FACILITY CONSTRUCTION  
LOAN FUND.

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

2 SECTION 1. Section 6-21A-3 NMSA 1978 (being Laws 1997,  
3 Chapter 144, Section 3, as amended) is amended to read:

4 "6-21A-3. DEFINITIONS.--As used in the Drinking Water  
5 State Revolving Loan Fund Act:

6 A. "authority" means the New Mexico finance  
7 authority;

8 B. "department" means the department of  
9 environment;

10 C. "drinking water facility construction project"  
11 means the acquisition, design, construction, improvement,  
12 expansion, repair or rehabilitation of all or part of any  
13 structure, facility or equipment necessary for a drinking water  
14 system or water supply system;

15 D. "drinking water supply facility" means any  
16 structure, facility or equipment necessary for a drinking water  
17 system or water supply system;

18 E. "federal Safe Drinking Water Act" means the  
19 federal Safe Drinking Water Act as amended in 1996 and its  
20 subsequent amendments or successor provisions;

21 [~~E.~~] F. "financial assistance" means loans, the  
22 purchase or refinancing of debt obligation of a local authority  
23 at an interest rate that is less than or equal to the market  
24 interest rate in any case in which a debt obligation is  
25 incurred after July 1, 1993, loan guarantees, grants, bond

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1 insurance or security for revenue bonds issued by the  
2 authority;

3 ~~[F.]~~ G. "fund" means the drinking water state  
4 revolving loan fund;

5 ~~[G.]~~ H. "local authority" means any municipality,  
6 county, incorporated county, sanitation district, water and  
7 sanitation district or any similar district, public or private  
8 water cooperative or association or any similar organization,  
9 public or private community water system or nonprofit  
10 noncommunity water system or any other agency created pursuant  
11 to a joint powers agreement acting on behalf of any entity  
12 listed in this subsection with a publicly owned drinking water  
13 system or water supply system that qualifies as a community  
14 water system or nonprofit noncommunity system as defined by the  
15 federal Safe Drinking Water Act. "Local authority" does not  
16 include systems owned by federal agencies; and

17 ~~[H.]~~ I. "operate and maintain" means to perform all  
18 necessary activities, including the replacement of equipment or  
19 appurtenances, to assure the dependable and economical function  
20 of a drinking water facility in accordance with its intended  
21 purpose [~~and~~

22 ~~I. "Safe Drinking Water Act" means the federal Safe~~  
23 ~~Drinking Water Act as amended in 1996 and its subsequent~~  
24 ~~amendments or successor provisions]."~~

25 SECTION 2. Section 6-21A-4 NMSA 1978 (being Laws 1997,

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1 Chapter 144, Section 4, as amended) is amended to read:

2 "6-21A-4. FUND CREATED--ADMINISTRATION.--

3 A. There is created in the authority a revolving  
4 loan fund to be known as the "drinking water state revolving  
5 loan fund", which shall be administered by the authority. The  
6 authority is authorized to establish procedures required to  
7 administer the fund in accordance with the federal Safe  
8 Drinking Water Act and state laws. The authority and the  
9 department shall, whenever possible, coordinate application  
10 procedures and funding cycles with the New Mexico Community  
11 Assistance Act.

12 B. The following shall be deposited directly in the  
13 fund:

14 (1) grants from the federal government or its  
15 agencies allotted to the state for capitalization of the fund;

16 (2) funds as appropriated by the legislature  
17 to implement the provisions of the Drinking Water State  
18 Revolving Loan Fund Act or to provide state matching funds that  
19 are required by the terms of any federal grant under the  
20 federal Safe Drinking Water Act;

21 (3) loan principal, interest and penalty  
22 payments if required by the terms of any federal grant under  
23 the federal Safe Drinking Water Act;

24 (4) any other public or private money  
25 dedicated to the fund; and

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1 (5) revenue transferred from other state  
2 revolving funds.

3 C. Money in the fund is appropriated for  
4 expenditure by the authority in a manner consistent with the  
5 terms and conditions of the federal capitalization grants and  
6 the federal Safe Drinking Water Act and may be used:

7 (1) to provide loans and grants for the  
8 construction or rehabilitation of drinking water facilities;

9 (2) to buy or refinance the debt obligation of  
10 a local authority at an interest rate that is less than or  
11 equal to the market interest rate in any case in which a debt  
12 obligation is incurred after July 1, 1993;

13 (3) to guarantee or purchase insurance for  
14 obligations of local authorities to improve credit market  
15 access or reduce interest rates;

16 (4) to provide loan guarantees for similar  
17 revolving funds established by local authorities; and

18 (5) to provide a source of revenue or security  
19 for the repayment of principal and interest on bonds issued by  
20 the authority if the proceeds of the bonds are deposited in the  
21 fund or if the proceeds of the bonds are used to make loans to  
22 local authorities to the extent provided in the terms of the  
23 federal grant.

24 D. If needed to cover administrative expenses,  
25 pursuant to procedures established by the authority and to the

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1 extent permitted by federal regulations, the authority may  
2 impose and collect a fee from each local authority that  
3 receives financial assistance from the fund, which fee shall be  
4 used solely for the costs of administering the fund and which  
5 fee shall be kept outside the fund.

6 E. Money not currently needed for the operation of  
7 the fund or otherwise dedicated may be invested pursuant to the  
8 New Mexico Finance Authority Act and all interest earned on  
9 such investments shall be credited to the fund. Money  
10 remaining in the fund at the end of the fiscal year shall not  
11 revert to the general fund but shall accrue to the credit of  
12 the fund.

13 F. The authority shall maintain full authority for  
14 the operation of the fund in accordance with applicable federal  
15 and state law, including, in cooperation with the department,  
16 ensuring the loan recipients are on the state priority list or  
17 otherwise satisfy the federal Safe Drinking Water Act  
18 requirements.

19 G. The authority shall establish fiscal controls  
20 and accounting procedures that are sufficient to assure proper  
21 accounting for fund payments, disbursements and balances and  
22 shall provide, in cooperation with the department, [~~a biannual~~]  
23 an annual report and an annual independent audit on the fund to  
24 the governor and to the United States environmental protection  
25 agency as required by the federal Safe Drinking Water Act."

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1           SECTION 3. Section 6-21A-5 NMSA 1978 (being Laws 1997,  
2 Chapter 144, Section 5) is amended to read:

3           "6-21A-5. LOAN PROGRAM--ADMINISTRATION.--

4           A. The authority shall establish a program to  
5 provide financial assistance from the fund to local  
6 authorities, individually or jointly, for acquisition,  
7 construction or modification of drinking water facilities. The  
8 authority is authorized to enter into memoranda of  
9 understanding, contracts and other agreements to carry out the  
10 provisions of the Drinking Water State Revolving Loan Fund Act,  
11 including [~~but not limited to~~] memoranda of understanding,  
12 contracts and agreements with federal agencies, the department,  
13 local authorities and other parties.

14           B. The department shall adopt, by [~~regulation~~]  
15 rule, a system for the ranking of drinking water facility  
16 construction projects requesting financial assistance and for  
17 the development of a priority list [~~which~~] that will be part of  
18 the annual intended use plan, as required by the federal Safe  
19 Drinking Water Act.

20           C. The department shall adopt [~~regulations~~] rules  
21 or internal procedures addressing the mechanism for the  
22 preparation of the annual intended use plan and the content of  
23 [~~such~~] the plan and shall prepare [~~such~~] the plan, with the  
24 assistance of the authority, as required by the federal Safe  
25 Drinking Water Act and the federal capitalization grant

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1 agreement. The department shall review all proposals for  
2 drinking water facility construction projects, including [~~but~~  
3 ~~not limited to~~] project plans and specifications for compliance  
4 with the requirements of the federal Safe Drinking Water Act  
5 and the requirements of state laws and [~~regulations~~] rules  
6 governing the construction and operation of drinking water  
7 supply facilities. The department also shall determine whether  
8 a local authority has demonstrated adequate technical and  
9 managerial capability to operate the drinking water supply  
10 facility for its useful life in compliance with the  
11 requirements of the federal Safe Drinking Water Act and with  
12 the requirements of state laws and [~~regulations~~] rules  
13 governing the operation of drinking water supply facilities.

14 D. The department and the authority shall enter  
15 into an agreement for the purpose of describing and allocating  
16 duties and responsibilities with respect to monitoring the  
17 construction of drinking water facility construction projects  
18 that have been provided financial assistance pursuant to the  
19 provisions of the Drinking Water State Revolving Loan Fund Act  
20 to ensure compliance with the requirements of the federal Safe  
21 Drinking Water Act and with the requirements of state laws and  
22 [~~regulations~~] rules governing construction and operation of  
23 drinking water supply facilities.

24 E. The department shall adopt [~~regulations~~] rules  
25 or internal procedures establishing the criteria and method for

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1 the distribution of federal annual capitalization grant funds  
2 between the fund and the nonproject activities [~~(set-asides)~~],  
3 also known as set-asides, allowed by the federal Safe Drinking  
4 Water Act and for the description in the intended use plan and  
5 annual report of the financial programmatic status of the  
6 nonproject activities [~~(set-asides)~~], also known as set-asides,  
7 allowed by the federal Safe Drinking Water Act.

8 F. The authority, with the assistance of the  
9 department, shall establish procedures to identify  
10 affordability criteria for a disadvantaged community and to  
11 extend a program to assist such communities.

12 G. The department shall set up separate accounts  
13 outside the fund to use for nonproject [~~(set-asides)~~]  
14 activities, also known as set-asides, authorized under the  
15 federal Safe Drinking Water Act, Sections 1452(g) and 1452(k),  
16 and the authority shall set up a separate account outside the  
17 fund for administration of the fund. The department shall also  
18 provide the additional match for federal Safe Drinking Water  
19 Act, Section 1452(g)(2) activities.

20 H. The [~~department~~] authority shall prepare and  
21 submit applications for federal capitalization grants to the  
22 United States environmental protection agency as required by  
23 the federal Safe Drinking Water Act."

24 SECTION 4. Section 6-21A-6 NMSA 1978 (being Laws 1997,  
25 Chapter 144, Section 6) is amended to read:

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1 "6-21A-6. FINANCIAL ASSISTANCE--CRITERIA.--

2 A. Financial assistance shall be provided only to  
3 local authorities that:

4 (1) meet the requirements for financial  
5 capability set by the authority to assure sufficient revenues  
6 to operate and maintain the drinking water facility for its  
7 useful life and to repay the financial assistance;

8 (2) appear on the priority list for the fund,  
9 developed and maintained by the department, regardless of rank  
10 on such list;

11 (3) are considered by the authority and the  
12 department ready to proceed with the project;

13 (4) demonstrate adequate technical and  
14 managerial capability to operate the drinking water facility  
15 for its useful life; and

16 (5) meet other requirements established by the  
17 authority and state laws, including [~~but not limited to~~]  
18 procurement, recordkeeping and accounting.

19 B. Loans from the fund shall be made by the  
20 authority only to local authorities that establish one or more  
21 dedicated sources of revenue to repay the money received from  
22 the fund and to provide for operation, maintenance and  
23 equipment replacement expenses of the drinking water facility  
24 proposed for funding.

25 C. The authority, with assistance from the

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1 department, shall establish procedures addressing methods to  
2 provide financial assistance to local authorities in accordance  
3 with the criteria set forth in the federal Safe Drinking Water  
4 Act, Section 1452(a)(3).

5 D. Each loan made by the authority shall provide  
6 that repayment of the loan shall begin not later than [~~one~~  
7 year] eighteen months after completion of construction of the  
8 drinking water facility for which the loan was made and shall  
9 be repaid in full no later than [~~twenty~~] thirty years after  
10 completion of the construction, except in the case of a  
11 disadvantaged community [~~in which case~~]. The authority may  
12 extend the term of the loan to a disadvantaged community, as  
13 long as the extended term:

14 (1) terminates not later than the date that is  
15 [~~thirty~~] forty years after the date of project completion; and

16 (2) does not exceed the expected design life  
17 of the project.

18 E. Financial assistance may be made with an annual  
19 interest rate [~~which~~] that is less than a market rate as  
20 determined by procedures established by the authority and  
21 reported annually in the intended use plan prepared by the  
22 department, with the assistance of the authority.

23 F. Financial assistance pursuant to the Drinking  
24 Water State Revolving Loan Fund Act shall not be given to a  
25 local authority if the authority determines that the financial

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1 assistance is for a drinking water facility to be constructed  
2 in fulfillment or partial fulfillment of requirements made of a  
3 subdivider under the provisions of the Land Subdivision Act or  
4 the New Mexico Subdivision Act.

5 G. Financial assistance may be made to local  
6 authorities that employ or contract with a registered  
7 professional engineer to provide and be responsible for  
8 engineering services on the drinking water facility. Such  
9 services, if the authority determines [~~such~~] the services are  
10 needed, may include [~~but are not limited to~~] an engineering  
11 report, facility plans, environmental evaluations, construction  
12 contract documents, supervision of construction and start-up  
13 services.

14 H. Financial assistance shall be made only for  
15 eligible items as described by authority procedures and as  
16 identified pursuant to the federal Safe Drinking Water Act."

17 SECTION 5. Section 6-21A-7 NMSA 1978 (being Laws 1997,  
18 Chapter 144, Section 7) is amended to read:

19 "6-21A-7. DEPARTMENT DUTIES--POWERS.--

20 A. The department with the approval of the governor  
21 and as authorized in the intended use plan may transfer up to  
22 one-third of a federal wastewater facility construction loan  
23 fund capitalization grant to the drinking water state revolving  
24 loan fund; provided the Wastewater Facility Construction Loan  
25 Act is amended to allow for such transfer. [~~This provision is~~

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1 ~~available one year after the receipt of the first full~~  
2 ~~capitalization grant for the Drinking Water State Revolving~~  
3 ~~Loan Fund Act and will expire with the capitalization grant of~~  
4 ~~the year 2002.]~~ Before the department makes the transfer, the  
5 department shall:

6 (1) outline the transfer in the applicable  
7 intended use plans for both the drinking water state revolving  
8 loan fund and the wastewater facility construction loan fund;  
9 and

10 (2) report the intended transfer to the  
11 legislature.

12 B. The department in the annual intended use plan  
13 shall certify to the United States environmental protection  
14 agency the progress made regarding operator certification and  
15 capacity development programs as they relate to the receipt of  
16 capitalization grants available from the environmental  
17 protection agency under the federal Safe Drinking Water Act."

18 SECTION 6. Section 6-21A-8 NMSA 1978 (being Laws 1997,  
19 Chapter 144, Section 8) is amended to read:

20 "6-21A-8. AUTHORITY DUTIES--POWERS.--

21 A. The authority with the approval of the governor  
22 and as authorized in the intended use plan may transfer up to  
23 one-third of a federal drinking water state revolving loan fund  
24 capitalization grant to the wastewater facility construction  
25 loan fund. ~~[This provision is available one year after the~~

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1 ~~receipt of the first full capitalization grant and will expire~~  
2 ~~with the capitalization grant of the year 2002.]~~ Before the  
3 authority makes the transfer, the authority shall:

4 (1) outline the transfer in the applicable  
5 intended use plans for both the drinking water state revolving  
6 loan fund and the wastewater facility construction loan fund;  
7 and

8 (2) report the intended transfer to the  
9 legislature.

10 B. The authority [~~will have~~] has the power:

11 (1) to foreclose upon or attach any drinking  
12 water facility, property or interest in the facility pledged,  
13 mortgaged or otherwise available as security for a project  
14 financed in whole or in part pursuant to the Drinking Water  
15 State Revolving Loan Fund Act in the event of a default by a  
16 local authority;

17 (2) to acquire and hold title to or leasehold  
18 interest in real and personal property and to sell, convey or  
19 lease that property for the purpose of satisfying a default or  
20 enforcing the provisions of a loan agreement; and

21 (3) to enforce its rights by suit or mandamus  
22 or may [~~utilize~~] use all other available remedies under state  
23 law in the event of default by a local authority.

24 C. The authority [~~will have~~] has the power to issue  
25 bonds or refunding bonds pursuant to the New Mexico Finance

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1 Authority Act and the Drinking Water State Revolving Loan Fund  
2 Act when the authority determines that a bond issue is required  
3 or desirable to implement the provisions of the Drinking Water  
4 State Revolving Loan Fund Act.

5 D. As security for the payment of the principal and  
6 interest on bonds issued by the authority, the authority is  
7 authorized to pledge, transfer and assign:

8 (1) any obligations of each local authority,  
9 payable to the authority;

10 (2) the security for the local authority  
11 obligations;

12 (3) any grant, subsidy or contribution from  
13 the United States or any of its agencies or instrumentalities;  
14 or

15 (4) any income, revenues, funds or other money  
16 of the authority from any other source appropriated or  
17 authorized for use for the purpose of implementing the  
18 provisions of the Drinking Water State Revolving Loan Fund Act,  
19 including the fund.

20 E. The bonds and other obligations issued by the  
21 authority shall be issued and delivered in accordance with the  
22 provisions of the New Mexico Finance Authority Act and may be  
23 sold at any time the authority determines appropriate. The  
24 authority may apply the proceeds of the sale of the bonds to:

25 (1) the purposes of the Drinking Water State

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1 Revolving Loan Fund Act or the purposes for which the fund may  
2 be used;

3 (2) the payment of interest on bonds issued by  
4 the authority for a period not to exceed three years from the  
5 date of issuance of the bonds; and

6 (3) the payment of all expenses, including  
7 publication and printing charges, attorney fees, financial  
8 advisory and underwriter fees and premiums or commissions that  
9 the authority determines are necessary or advantageous in  
10 connection with the recommendation, advertisement, sale,  
11 creation and issuance of bonds.

12 F. In the event that [~~funds are~~] money is not  
13 available for a loan for a drinking water facility project when  
14 application is made, in order to accelerate the completion of  
15 any drinking water facility project, the local authority may,  
16 with the approval of the authority, obligate [~~such local~~  
17 ~~authority~~] itself to provide local funds to pay that portion of  
18 the cost of the drinking water facility project that the  
19 authority agrees to make available by loan, and the authority  
20 may reimburse the amount expended on its behalf by the local  
21 authority.

22 G. Authority members or employees and any person  
23 executing bonds issued pursuant to the New Mexico Finance  
24 Authority Act and Drinking Water State Revolving Loan Fund Act  
25 shall not be liable personally on [~~such~~] the bonds or be

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1 subject to [~~any~~] personal liability or accountability by reason  
2 of the issuance [~~thereof~~] of the bonds.

3 H. All bonds, notes and certificates issued by the  
4 authority shall be special obligations of the authority,  
5 payable solely from the revenue, income, fees or charges that  
6 may, pursuant to the provisions of the New Mexico Finance  
7 Authority Act and the Drinking Water State Revolving Loan Fund  
8 Act, be pledged to the payment of such obligations, and the  
9 bonds, notes or certificates shall not create an obligation,  
10 debt or liability of the state. No breach of any pledge,  
11 obligation or agreement of the authority shall impose a  
12 pecuniary liability upon the state or a charge upon its general  
13 credit or taxing power."