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SENATE BILL 172

**52ND LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2015**

INTRODUCED BY

Carlos R. Cisneros and Roberto "Bobby" J. Gonzales

FOR THE LAND GRANT COMMITTEE

AN ACT

RELATING TO LAND GRANTS; INCORPORATING LAND GRANTS-MERCEDES INTO THE COLONIAS INFRASTRUCTURE ACT; CHANGING THE NAME OF THE COLONIAS INFRASTRUCTURE ACT TO THE "COLONIAS AND LAND GRANTS-MERCEDES INFRASTRUCTURE ACT"; ALLOCATING SEVERANCE TAX BONDING CAPACITY AND AUTHORIZING ISSUANCE OF SEVERANCE TAX BONDS FOR LAND GRANTS-MERCEDES INFRASTRUCTURE PROJECTS; MAKING AN APPROPRIATION.

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

**SECTION 1.** Section 6-30-1 NMSA 1978 (being Laws 2010, Chapter 10, Section 1) is amended to read:

"6-30-1. SHORT TITLE.--~~[Sections 1 through 8 of this act]~~ Chapter 6, Article 30 NMSA 1978 may be cited as the "Colonias and Land Grants-Mercedes Infrastructure Act"."

**SECTION 2.** Section 6-30-2 NMSA 1978 (being Laws 2010,

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1 Chapter 10, Section 2) is amended to read:

2 "6-30-2. FINDINGS AND PURPOSE.--

3 A. The legislature finds that:

4 (1) colonias and land grants-mercedes lack  
5 basic infrastructure resulting in poor social, health and  
6 economic conditions;

7 (2) adequate infrastructure such as water and  
8 wastewater systems, solid waste disposal facilities, flood and  
9 drainage control, roads and housing infrastructure are  
10 essential to improved health, safety and welfare of all New  
11 Mexicans, including residents of the colonia and land grant-  
12 merced communities;

13 (3) local efforts and resources have been  
14 insufficient to develop and maintain a consistent and adequate  
15 level of infrastructure;

16 (4) addressing the urgent need of replacing,  
17 improving and developing infrastructure through the use of an  
18 alternative financing mechanism is a long-term cost savings  
19 benefit to both the state and the communities; and

20 (5) adequate infrastructure development allows  
21 colonia and land grant-merced residents to achieve the basic  
22 conditions necessary to improve the quality of their lives.

23 B. The purposes of the Colonias and Land Grants-  
24 Mercedes Infrastructure Act are to:

25 (1) ensure adequate financial resources for

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1 infrastructure development for colonia and land grant-merced  
2 recognized communities;

3 (2) provide for the planning and development  
4 of infrastructure in an efficient and cost-effective manner;  
5 and

6 (3) develop infrastructure projects to improve  
7 quality of life and encourage economic development."

8 SECTION 3. Section 6-30-3 NMSA 1978 (being Laws 2010,  
9 Chapter 10, Section 3) is amended to read:

10 "6-30-3. DEFINITIONS.--As used in the Colonias and Land  
11 Grants-Mercedes Infrastructure Act:

12 A. "authority" means the New Mexico finance  
13 authority;

14 B. "board" means the colonias and land grants-  
15 mercedes infrastructure board;

16 C. "colonia" means a rural community with a  
17 population of twenty-five thousand or less located within one  
18 hundred fifty miles of the United States-Mexico border that:

19 (1) has been designated as a colonia by the  
20 municipality or county in which it is located because of a:

21 (a) lack of potable water supply;  
22 (b) lack of adequate sewage systems; or  
23 (c) lack of decent, safe and sanitary  
24 housing;

25 (2) has been in existence as a colonia prior

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1 to November 1990; and

2 (3) has submitted appropriate documentation to  
3 the board to substantiate the conditions of this subsection,  
4 including documentation that supports the designation of the  
5 municipality or county;

6 D. "financial assistance" means providing grants or  
7 loans on terms and conditions approved by the authority;

8 E. "land grant-merced" means a community land grant  
9 organized and governed pursuant to Chapter 49, Article 1 or 4  
10 NMSA 1978 and operating as a political subdivision of the  
11 state;

12 [~~E.~~] F. "project fund" means the colonias and land  
13 grants-mercedes infrastructure project fund;

14 [~~F.~~] G. "qualified entity" means a county,  
15 municipality or other entity recognized as a political  
16 subdivision of the state;

17 [~~G.~~] H. "qualified project" means a capital outlay  
18 project selected by the board for financial assistance that is  
19 primarily intended to develop colonias or land grants-mercedes  
20 infrastructure. A qualified project may include a water  
21 system, a wastewater system, solid waste disposal facilities,  
22 flood and drainage control, roads or housing infrastructure;  
23 but "qualified project" does not include general operation and  
24 maintenance, equipment, housing allowance payments or mortgage  
25 subsidies; and

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1           [~~H.~~] I. "trust fund" means the colonias and land  
2 grants-mercedes infrastructure trust fund."

3           SECTION 4. Section 6-30-4 NMSA 1978 (being Laws 2010,  
4 Chapter 10, Section 4) is amended to read:

5           "6-30-4. COLONIAS AND LAND GRANTS-MERCEDES INFRASTRUCTURE  
6 BOARD CREATED.--

7           A. The "colonias and land grants-mercedes  
8 infrastructure board" is created.

9           B. The board shall consist of seven voting members  
10 as follows:

11                   (1) the secretary of finance and  
12 administration or the secretary's designee from the department  
13 of finance and administration;

14                   (2) the secretary of environment or the  
15 secretary's designee from the department of environment;

16                   (3) the chief executive officer of the  
17 authority or the chief executive officer's designee from the  
18 authority;

19                   (4) one member appointed by the president pro  
20 tempore of the senate;

21                   (5) one member appointed by the minority  
22 leader of the senate;

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

25                   (7) one member appointed by the minority

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1 leader of the house of representatives.

2 C. The members appointed pursuant to Paragraphs (4)  
3 through (7) of Subsection B of this section shall be appointed  
4 with the advice and consent of the senate, serve at the  
5 pleasure of the appointing authority, be residents of the  
6 colonias area or a member of a land grant-merced and have  
7 experience in capital project development or administration,  
8 and they may receive per diem and mileage as provided for  
9 nonsalaried public officers in the Per Diem and Mileage Act but  
10 shall receive no other compensation, perquisite or allowance.

11 D. There shall be [~~five~~] seven advisory, nonvoting  
12 members of the board as follows:

13 (1) the executive director of the south  
14 central council of governments or the director's designee;

15 (2) the executive director of the southwest  
16 New Mexico council of governments or the director's designee;

17 (3) the executive director of the southeastern  
18 New Mexico economic development district or the director's  
19 designee;

20 (4) the executive director of the north  
21 central New Mexico economic development district or the  
22 director's designee;

23 (5) the chair of the land grant council or the  
24 chair's designee;

25 [~~(4)~~] (6) the executive director of the New

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1 Mexico association of counties or the director's designee; and  
2 [~~(5)~~] (7) the executive director of the New  
3 Mexico mortgage finance authority or the director's designee.

4 E. The board shall choose a chair and vice chair  
5 from among its members and such other officers as it deems  
6 necessary. A majority of members constitutes a quorum for the  
7 transaction of business. The affirmative vote of at least a  
8 majority of a quorum shall be necessary for an action to be  
9 taken by the board. The board shall meet whenever a voting  
10 member submits a request in writing to the chair, but not less  
11 than quarterly.

12 F. All meetings of the board shall be open to the  
13 public and subject to the Open Meetings Act and, at each  
14 meeting, the board shall provide an opportunity for public  
15 comment."

16 SECTION 5. Section 6-30-7 NMSA 1978 (being Laws 2010,  
17 Chapter 10, Section 7) is amended to read:

18 "6-30-7. COLONIAS AND LAND GRANTS-MERCEDES INFRASTRUCTURE  
19 TRUST FUND--CREATED--INVESTMENT--DISTRIBUTION.--

20 A. The "colonias and land grants-mercedes  
21 infrastructure trust fund" is created in the state treasury.  
22 The trust fund shall consist of money that is appropriated,  
23 donated or otherwise allocated to it. Money in the trust fund  
24 shall be invested by the state investment officer in the manner  
25 that land grant permanent funds are invested pursuant to

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1 Chapter 6, Article 8 NMSA 1978. Income from investment of the  
2 trust fund shall be credited to the fund. Money in the trust  
3 fund shall not be expended for any purpose, but an annual  
4 distribution from the trust fund shall be made to the project  
5 fund pursuant to this section.

6 B. On July 1 of each year in which adequate money  
7 is available in the trust fund, an annual distribution shall be  
8 made from the trust fund to the project fund in the amount of  
9 ten million dollars (\$10,000,000) until the distribution is  
10 less than an amount equal to four and seven-tenths percent of  
11 the average of the year-end market values of the trust fund for  
12 the immediately preceding five calendar years. Thereafter, the  
13 amount of the annual distribution shall be four and seven-  
14 tenths percent of the average of the year-end market values of  
15 the trust fund for the immediately preceding five calendar  
16 years."

17 SECTION 6. Section 6-30-8 NMSA 1978 (being Laws 2010,  
18 Chapter 10, Section 8) is amended to read:

19 "6-30-8. COLONIAS AND LAND GRANTS-MERCEDES INFRASTRUCTURE  
20 PROJECT FUND--CREATED--PURPOSE--APPROPRIATIONS.--

21 A. The "colonias and land grants-mercedes  
22 infrastructure project fund" is created in the authority and  
23 shall be administered by the authority.

24 B. The project fund shall consist of:

25 (1) distributions from the trust fund;

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1                   (2) payments of principal and interest on  
2 loans for qualified projects;

3                   (3) other money appropriated by the  
4 legislature or distributed or otherwise allocated to the  
5 project fund for the purpose of supporting qualified projects;

6                   (4) the proceeds of severance tax bonds  
7 appropriated to the fund for qualified projects; and

8                   (5) income from investment of the project fund  
9 that shall be credited to the project fund.

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

14                  D. The project fund may consist of subaccounts as  
15 determined to be necessary by the authority.

16                  E. The authority may establish procedures and adopt  
17 rules as required to:

18                         (1) administer the project fund;

19                         (2) originate grants or loans for qualified  
20 projects recommended by the board;

21                         (3) recover from the project fund the costs of  
22 administering the fund and originating the grants and loans;  
23 and

24                         (4) govern the process through which qualified  
25 entities may apply for financial assistance from the project

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1 fund."

2 SECTION 7. Section 7-27-12.5 NMSA 1978 (being Laws 2010,  
3 Chapter 10, Section 9) is amended to read:

4 "7-27-12.5. AUTHORIZATION FOR SEVERANCE TAX BONDS--  
5 PRIORITY FOR INFRASTRUCTURE PROJECTS FOR COLONIAS AND LAND  
6 GRANTS-MERCEDES.--

7 A. After the annual estimate of severance tax  
8 bonding capacity pursuant to Subsection A of Section 7-27-10.1  
9 NMSA 1978, the board of finance division of the department of  
10 finance and administration shall allocate five percent of the  
11 estimated bonding capacity each year for colonias and land  
12 grants-mercedes infrastructure projects, and the legislature  
13 authorizes the state board of finance to issue severance tax  
14 bonds in the annually allocated amount for use by the colonias  
15 and land grants-mercedes infrastructure board to fund the  
16 projects. The colonias and land grants-mercedes infrastructure  
17 board shall certify to the state board of finance the need for  
18 issuance of bonds for colonias and land grants-mercedes  
19 infrastructure projects. The state board of finance may issue  
20 and sell the bonds in the same manner as other severance tax  
21 bonds in an amount not to exceed the authorized amount provided  
22 for in this subsection. If necessary, the state board of  
23 finance shall take the appropriate steps to comply with the  
24 federal Internal Revenue Code of 1986, as amended. Proceeds  
25 from the sale of the bonds are appropriated to the colonias and

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1 land grants-mercedes infrastructure project fund for the  
2 purposes certified by the colonias and land grants-mercedes  
3 infrastructure board to the state board of finance.

4 B. Money from the severance tax bonds provided for  
5 in this section shall not be used to pay indirect project  
6 costs. Any unexpended balance from proceeds of severance tax  
7 bonds issued for a colonias or land grants-mercedes  
8 infrastructure project shall revert to the severance tax  
9 bonding fund within six months of completion of the project.  
10 The colonias and land grants-mercedes infrastructure board  
11 shall monitor and ensure proper reversions of the bond proceeds  
12 appropriated for the projects.

13 C. As used in this section, "colonias or land  
14 grants-mercedes infrastructure project" means a qualified  
15 project under the Colonias and Land Grants-Mercedes  
16 Infrastructure Act."

17 SECTION 8. EFFECTIVE DATE.--The effective date of the  
18 provisions of this act is July 1, 2015.