

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

HOUSE BILL 295

53RD LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2018

INTRODUCED BY

Nathan P. Small

AN ACT

RELATING TO BORDER DEVELOPMENT; AMENDING THE BORDER DEVELOPMENT ACT; ALLOWING THE BORDER AUTHORITY TO ESTABLISH SPECIAL ECONOMIC ZONES TO PLAN, DIRECT AND FUND DEVELOPMENT IN THE UNITED STATES-MEXICO BORDER REGION; CHANGING THE COMPOSITION OF THE BORDER AUTHORITY; ADDING PROFESSIONAL QUALIFICATION REQUIREMENTS TO THE POSITION OF EXECUTIVE DIRECTOR OF THE BORDER AUTHORITY; MAKING TECHNICAL AND CLARIFYING CHANGES TO LAW; REPEALING A SECTION OF THE NMSA 1978.

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

SECTION 1. A new section of the Border Development Act is enacted to read:

"[NEW MATERIAL] SPECIAL ECONOMIC ZONE--CREATION--POWERS EXERCISABLE WITHIN A ZONE.--

A. The authority may by resolution create a special

underscored material = new
~~[bracketed material] = delete~~

underscoring material = new
~~[bracketed material] = delete~~

1 economic zone whose boundaries, at the time of creation, lie:

2 (1) in New Mexico;

3 (2) within an area fifteen or fewer miles in
4 radius from a port of entry;

5 (3) outside the boundaries of a municipality;

6 and

7 (4) outside the boundaries of residential
8 property.

9 B. The authority shall specify in its resolution
10 creating a special economic zone the date of the resolution and
11 the boundaries of the zone. The authority shall transmit a
12 copy of the resolution to the clerk of:

13 (1) the county in which the zone is located;

14 and

15 (2) each municipality whose boundary lies
16 within five miles of the zone.

17 C. Within a special economic zone, the authority
18 exclusively may exercise the powers, otherwise provided by law
19 to a county or municipality whose jurisdiction extends to all
20 or part of the zone, of:

21 (1) subdivision;

22 (2) zoning;

23 (3) planning; and

24 (4) platting.

25 D. A municipality shall not annex any part of a

.208564.1

underscoring material = new
[bracketed material] = delete

1 special economic zone."

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

4 "58-27-2. LEGISLATIVE PURPOSE.--~~[By enacting]~~ The purpose
5 of the Border Development Act ~~[it]~~ is ~~[the purpose of the~~
6 ~~legislature]~~ to:

7 A. encourage and foster development of the state
8 and its cities and counties by developing port facilities at
9 international ports of entry;

10 B. actively promote and assist public and private
11 sectors' infrastructure development to attract new industries
12 and businesses, thereby creating new job opportunities in the
13 state while resolving transportation and logistical problems
14 that may arise as ports of entry develop; and

15 C. create the statutory framework that will enable
16 the state to design, finance, construct, equip and operate port
17 facilities necessary to ensure the timely, planned and
18 efficient development of the border area between New Mexico and
19 ~~[the Mexican state of Chihuahua]~~ Mexico."

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

22 "58-27-3. DEFINITIONS.--As used in the Border Development
23 Act:

24 A. "authority" means the border authority;

25 B. "bond" includes notes and obligations;

underscored material = new
[bracketed material] = delete

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

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

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

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

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

20 (1) a port of entry, ~~[a]~~ foreign trade zone,
21 ~~[an]~~ inspection station, ~~[an]~~ emergency response station or
22 ~~[any]~~ other ~~[facilities]~~ facility to be used by ~~[any]~~ an agency
23 or entity of the United States government, ~~[by another]~~ other
24 qualified entity or ~~[by any other]~~ a foreign international
25 state;

.208564.1

underscored material = new
[bracketed material] = delete

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

4 (3) a railroad switching yard, railroad
5 station, bus terminal, airport, [~~or~~] other passenger, commuter
6 or mass transportation system or other freight transportation
7 system;

8 (4) a commercial business or other enterprise
9 engaged in the storing, warehousing, [~~distributing~~]
10 distribution or selling of products of a manufacturing,
11 agriculture, mining or related [~~industries~~] industry, but not
12 including [~~facilities~~] a facility designed for the distribution
13 to the public of electricity or gas;

14 (5) an enterprise [~~in which all or part of the~~
15 ~~activities of the enterprise involve~~] involving, in whole or in
16 part, the supplying of services to the general public, [~~or to~~]
17 governmental agencies or [~~to~~] a specific industry or customer;

18 (6) [~~any~~] an industrial, commercial,
19 agricultural, professional or other business enterprise seeking
20 to occupy office space;

21 (7) infrastructure development involving
22 [~~acquiring, repairing, improving or maintaining~~] the
23 acquisition, repair, improvement or maintenance of storm sewers
24 [~~and~~] or other drainage [~~improvements~~] systems, sanitary
25 sewers, sewage treatment systems, water utilities or solid

.208564.1

underscored material = new
[bracketed material] = delete

1 waste disposal facilities, including [~~acquiring~~] the
2 acquisition of rights of way or water rights;

3 (8) infrastructure development involving
4 [~~reconstructing~~] the reconstruction, resurfacing, [~~maintaining,~~
5 ~~repairing or improving~~] maintenance, repair or improvement of
6 existing alleys, streets, roads or bridges or the laying off or
7 opening, [~~constructing~~] construction or [~~acquiring~~] acquisition
8 of new alleys, streets, roads or bridges, including [~~acquiring~~]
9 the acquisition of rights of way;

10 (9) [~~any~~] an industry that involves [~~any~~] a
11 water distribution or irrigation system, including pumps,
12 distribution lines, transmission lines, fences, dams and
13 similar facilities and equipment, including [~~acquiring~~] the
14 acquisition of rights of way; or

15 (10) fire [~~protection services or equipment~~]
16 or police protection services or equipment;

17 [~~F-~~] H. "property" means, as necessary to a
18 project, land, land improvements, [~~to the land~~] buildings,
19 [~~and~~] building improvements, [~~to the buildings~~] machinery,
20 [~~and~~] equipment, [~~of any kind necessary to the project~~]
21 operating capital [~~and any~~] or other personal [~~properties~~
22 ~~deemed necessary in connection with the project~~] property; and

23 [~~G-~~] I. "qualified entity" means the state, [~~or~~]
24 one of its agencies, instrumentalities, institutions or
25 political subdivisions, [~~or~~] the United States or [~~any~~]

.208564.1

underscored material = new
[bracketed material] = delete

1 ~~corporation, department, instrumentality or agency of the~~
2 ~~federal government;~~

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

5 I. ~~"bondholder" means a person who is the owner of~~
6 ~~a bond, regardless of whether the bond is registered] one of~~
7 ~~its corporations, departments, instrumentalities or agencies."~~

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

10 "58-27-4. BORDER AUTHORITY CREATED--MEMBERSHIP.--

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

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

23 C. ~~The six voting members of the authority~~
24 ~~appointed by the governor shall be citizens of the state and~~
25 ~~shall serve for terms of four years except for the initial~~

.208564.1

underscored material = new
[bracketed material] = delete

1 ~~appointees who shall be appointed so that the terms are~~
2 ~~staggered after initial appointment. Initial appointees shall~~
3 ~~serve terms as follows: two members for two years, two members~~
4 ~~for three years and two members for four years]:~~

5 (1) one of whom is the secretary of economic
6 development or the secretary's designee;

7 (2) one of whom is the secretary of
8 transportation or the secretary's designee;

9 (3) three of whom the governor shall appoint,
10 subject to the advice and consent of the senate, and who:

11 (a) are New Mexico residents;

12 (b) represent the private sector; and

13 (c) have professional experience in: 1)
14 land development; 2) economic development; 3) maritime or
15 overland shipping by truck or rail; 4) international commerce;
16 5) finance; 6) economics; 7) accounting; 8) engineering; 9)
17 law; 10) agriculture; or 11) business management that consists
18 of serving as the chief executive officer, president or
19 managing director of a business or serving in another upper-
20 level management position of a business; and

21 (4) two of whom the governor shall appoint,
22 subject to the advice and consent of the senate, and who serve
23 in the role of:

24 (a) city councilor or mayor of a
25 municipality of New Mexico whose jurisdiction extends, in whole

.208564.1

underscored material = new
[bracketed material] = delete

1 or in part, to within twenty miles of a port of entry; or

2 (b) county commissioner of a county
3 whose jurisdiction includes a port of entry.

4 C. The members appointed by the governor shall
5 serve terms as follows:

6 (1) one initial appointee, a one-year term;

7 (2) one initial appointee, a two-year term;

8 (3) one initial appointee, a three-year term;

9 (4) one initial appointee, a four-year term;

10 and

11 (5) every other appointee, a five-year term.

12 D. The authority shall invite the following to
13 serve as advisory members of the authority:

14 (1) the two United States senators
15 representing New Mexico or those senators' designees;

16 (2) the United States representative
17 representing New Mexico's second congressional district or the
18 representative's designee;

19 (3) the lieutenant governor or the lieutenant
20 governor's designee;

21 (4) a representative of the governor of the
22 state of Chihuahua or the representative's designee;

23 (5) a representative of the governor of the
24 state of Sonora or the representative's designee;

25 (6) a representative of the development

underscored material = new
[bracketed material] = delete

1 community in Mexico or the representative's designee; and
2 (7) additional members as deemed necessary,
3 and approved, by the authority."

4 SECTION 5. Section 58-27-6 NMSA 1978 (being Laws 1991,
5 Chapter 131, Section 6, as amended) is amended to read:

6 "58-27-6. OFFICERS OF THE AUTHORITY.--The [~~secretary of~~
7 ~~economic development~~] authority shall select one of its voting
8 members to serve as the [chairman] chair of the authority and
9 one of its voting members to serve as vice chair of the
10 authority, each for a one-year term. Authority members shall
11 elect any other officers from the membership that the authority
12 [~~determines~~] deems appropriate."

13 SECTION 6. Section 58-27-10 NMSA 1978 (being Laws 1991,
14 Chapter 131, Section 10, as amended) is amended to read:

15 "58-27-10. POWERS AND DUTIES OF AUTHORITY.--

16 A. The authority shall:

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

25 (2) subject to [~~the provisions of~~] the Border

underscored material = new
[bracketed material] = delete

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

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

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

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

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

17 (7) actively recruit industries and establish
18 programs that [~~will~~] result in the location and relocation of
19 new industries in the state;

20 (8) coordinate and expedite the involvement of
21 the executive department's border area development efforts;

22 (9) perform or cause to be performed
23 environmental, transportation, communication, land use and
24 other technical studies necessary or advisable for projects or
25 programs or to secure port-of-entry approval by the United

.208564.1

underscored material = new
[bracketed material] = delete

1 States and the Mexican governments and, as appropriate, other
2 [~~appropriate~~] governmental agencies; and

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

6 B. The authority may:

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

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

15 (3) act as an applicant for and the operator
16 of port-of-entry facilities and, as the applicant, carry out
17 all related tasks and functions, including [~~acquisition by~~]:

18 (a) acquiring by purchase or gift [~~of~~
19 ~~any~~] real property necessary for port-of-entry facilities;
20 [~~acquisition by~~]

21 (b) acquiring by purchase, gift or
22 construction [~~of any~~] facilities or other real or personal
23 property necessary for a port of entry; and

24 (c) filing [~~all~~] necessary documents and
25 [~~follow-up of such~~] following up on those filings with the

.208564.1

underscored material = new
[bracketed material] = delete

1 appropriate agencies;

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

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

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

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

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

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

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

25 (11) refinance a project; and

.208564.1

underscored material = new
[bracketed material] = delete

1 (12) establish special economic zones as
2 provided in Section 1 of this 2018 act.

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

6 SECTION 7. Section 58-27-12 NMSA 1978 (being Laws 1991,
7 Chapter 131, Section 12, as amended) is amended to read:

8 "58-27-12. AUTHORITY STAFF--CONTRACTS.--

9 A. The authority shall hire an executive director
10 who has professional experience in land development, economic
11 development, maritime or overland shipping by truck or rail,
12 international commerce, finance, economics, accounting,
13 engineering, law, agriculture or business management that
14 consists of serving as the chief executive officer, president
15 or managing director of a business or serving in another upper-
16 level management position of a business.

17 B. The executive director shall:

18 (1) employ the ~~[necessary]~~ professional,
19 technical and clerical staff necessary to enable the authority
20 to function efficiently;

21 ~~[B. The executive director of the authority shall]~~

22 and

23 (2) direct the affairs and business of the
24 authority ~~[subject]~~ according to the policies, control and
25 direction of the authority.

.208564.1

underscored material = new
[bracketed material] = delete

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

4 SECTION 8. Section 58-27-13 NMSA 1978 (being Laws 1991,
5 Chapter 131, Section 13) is amended to read:

6 "58-27-13. LOCATION OF AUTHORITY.--The authority shall be
7 located in the [~~New Mexico-Chihuahua~~] New Mexico-Mexico border
8 area."

9 SECTION 9. Section 58-27-15 NMSA 1978 (being Laws 1991,
10 Chapter 131, Section 15, as amended) is amended to read:

11 "58-27-15. [~~BORDER~~] AUTHORITY--BONDING AUTHORITY--POWER
12 TO ISSUE REVENUE BONDS.--

13 A. The authority may act as an issuing authority
14 for the purposes of the Private Activity Bond Act.

15 B. The authority may issue revenue bonds for
16 authority projects. With the exception of [~~the~~] a port of
17 entry or foreign trade zone, the [~~border~~] authority shall not
18 [~~be authorized to~~] issue bonds for projects for a qualified
19 entity as defined in Section 6-21-3 NMSA 1978. Revenue bonds
20 so issued may be considered appropriate investments for the
21 severance tax permanent fund or collateral for the deposit of
22 public funds if the bonds are rated [~~not less than~~] "A" or
23 higher by a national rating service and both the principal and
24 interest of the bonds are fully and unconditionally guaranteed
25 by a lease agreement executed by an agency of the United States

.208564.1

underscored material = new
[bracketed material] = delete

1 government or by a corporation organized and operating within
2 the United States, that corporation or the long-term debt of
3 that corporation being rated [~~not less than~~] "A" or higher by a
4 national rating service. All bonds issued by the authority are
5 legal and authorized investments for banks, trust companies,
6 savings and loan associations and insurance companies.

7 C. The authority may pay from the bond proceeds all
8 expenses, premiums and commissions that the authority [~~may~~
9 ~~deem~~] deems necessary or advantageous in connection with the
10 authorization, sale and issuance of the bonds."

11 SECTION 10. Section 58-27-21 NMSA 1978 (being Laws 1991,
12 Chapter 131, Section 21) is amended to read:

13 "58-27-21. [~~BORDER~~] AUTHORITY REVENUE BONDS--REFUNDING
14 AUTHORIZATION.--

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

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

.208564.1

underscoring material = new
[bracketed material] = delete

1 the date of the refunding bonds;

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

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

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

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

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

18 SECTION 11. Section 58-27-25 NMSA 1978 (being Laws 1991,
19 Chapter 131, Section 25, as amended) is amended to read:

20 "58-27-25. FUND CREATED.--

21 A. The "border authority fund" is created in the
22 state treasury. Separate accounts within the fund may be
23 created for [~~any project~~] projects. Money in the fund is
24 appropriated to the authority for the purposes of carrying out
25 [~~the provisions of~~] the Border Development Act. Money in the

.208564.1

underscored material = new
[bracketed material] = delete

1 fund shall not revert at the end of a fiscal year.

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

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

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

11 (3) [~~any~~] property or securities acquired
12 through the use of money belonging to the fund;

13 (4) [~~all~~] earnings of [~~such~~] that property or
14 those securities;

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

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

25 (7) tolls, fees, rents or other charges

.208564.1

underscored material = new
[bracketed material] = delete

1 imposed and collected by the authority and distributed to the
2 fund pursuant to Subsection F of this section.

3 C. Disbursements from the border authority fund
4 shall be made only upon warrant drawn by the secretary of
5 finance and administration pursuant to vouchers signed by the
6 executive director of the authority, ~~[or]~~ the executive
7 director's designee ~~[pursuant to the Border Development Act;~~
8 ~~provided that in the event]~~ or, if the position of executive
9 director is vacant, ~~[vouchers may be signed by]~~ the chair of
10 the authority.

11 D. Earnings on the balance in the border authority
12 fund shall be credited to the fund. ~~[In addition, in the event~~
13 ~~that]~~ If the proceeds from the issuance of bonds or from money
14 borrowed by the authority are deposited in the state treasury,
15 interest earned on that money ~~[during the period commencing~~
16 ~~with]~~ from the date of its deposit in the state treasury until
17 ~~[the]~~ its actual transfer ~~[of the money]~~ to the fund shall be
18 credited to the fund.

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

23 F. Ten percent of the tolls, fees, rents, lease
24 payments and other charges that are imposed, collected and
25 received by the authority shall be deposited ~~[into]~~ in the

.208564.1

underscored material = new
[bracketed material] = delete

1 border project fund and the remaining ninety percent shall be
2 deposited [~~into~~] in the border authority fund. [~~provided that~~
3 ~~the~~] Money deposited into the border authority fund shall be
4 expended only as appropriated and in accordance with a budget
5 approved by the state budget division of the department of
6 finance and administration."

7 SECTION 12. Section 58-27-25.1 NMSA 1978 (being Laws
8 2011, Chapter 59, Section 4) is amended to read:

9 "58-27-25.1. BORDER PROJECT FUND--CREATED--PURPOSE--
10 EXPENDITURES.--

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

13 B. The border project fund [~~shall consist~~] consists
14 of:

15 (1) payments of principal and interest on
16 loans for projects;

17 (2) the portion of the tolls, fees, rents,
18 lease payments or other charges imposed, collected and received
19 by the authority and distributed to the fund pursuant to
20 Subsection F of Section 58-27-25 NMSA 1978;

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

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

.208564.1

underscored material = new
[bracketed material] = delete

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

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

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

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

13 E. The border project fund is appropriated to the
14 authority for ~~[the following purposes]:~~

15 (1) providing financial assistance in the form
16 of grants or loans with terms and conditions approved by the
17 authority to qualified entities for projects;

18 (2) paying costs incurred in the operation of
19 a port of entry or related project pursuant to a joint powers
20 agreement entered into with the federal government; ~~[or]~~ and

21 (3) paying costs incurred in the joint funding
22 or operation of a project as part of a joint venture,
23 partnership or other business relationship with a qualified
24 entity or private person.

25 F. The authority may, as required, establish

.208564.1

underscored material = new
[bracketed material] = delete

1 procedures and adopt rules [~~as required~~] to:

- 2 (1) administer the border project fund;
- 3 (2) originate financial assistance in the form
4 of grants or loans with terms and conditions approved by the
5 authority for projects selected by the authority; and
- 6 (3) govern the process through which qualified
7 entities may apply for that financial assistance from the
8 border project fund."

9 SECTION 13. REPEAL.--Section 58-27-7 NMSA 1978 (being
10 Laws 1991, Chapter 131, Section 7) is repealed.

11 SECTION 14. EFFECTIVE DATE.--The effective date of the
12 provisions of this act is July 1, 2018.