



The Legislature
of the
State of New Mexico

50th Legislature, 1st Session

LAWS 2011

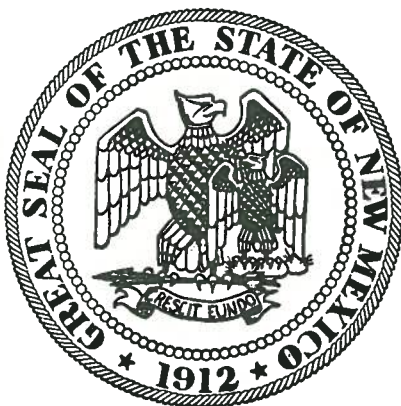
CHAPTER 59

HOUSE BILL 322, as amended

Introduced by

REPRESENTATIVE MARY HELEN GARCÍA

REPRESENTATIVE JONI MARIE GUTIERREZ
REPRESENTATIVE ANDY NUÑEZ
REPRESENTATIVE JOSEPH CERVANTES
REPRESENTATIVE DONA G. IRWIN



Chapter 59

AN ACT

1
2 RELATING TO BORDER DEVELOPMENT; AMENDING THE BORDER
3 DEVELOPMENT ACT TO PROVIDE THE BORDER AUTHORITY WITH
4 ADDITIONAL POWERS AND DUTIES RELATING TO PROJECTS; CREATING A
5 FUND; MAKING AN APPROPRIATION.

6
7 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

8 SECTION 1. Section 58-27-3 NMSA 1978 (being Laws 1991,
9 Chapter 131, Section 3, as amended) is amended to read:

10 "58-27-3. DEFINITIONS.--As used in the Border
11 Development Act:

12 A. "authority" means the border authority;

13 B. "financial assistance" means grants and loans
14 provided for projects to a qualified entity on terms and
15 conditions approved by the authority;

16 C. "mortgage" means a mortgage or a mortgage and
17 deed of trust or the pledge and hypothecation of any assets as
18 collateral security;

19 D. "port of entry" means an international port of
20 entry in New Mexico at which customs services are provided by
21 the United States customs and border protection;

22 E. "project" means any land or building or any
23 other improvements acquired as a part of a port of entry or
24 associated with a port of entry or to aid commerce in
25 connection with a port of entry, including all real and

1 personal property deemed necessary in connection therewith,
2 whether or not now in existence. A project shall be suitable
3 for use by, or for, one or more of the following:

4 (1) a port of entry, a foreign trade zone,
5 an inspection station, an emergency response station or any
6 other facilities to be used by any agency or entity of the
7 United States government, by another qualified entity or by
8 any other foreign international state;

9 (2) an industry for the manufacturing,
10 processing or assembling of any agricultural, mining or
11 manufactured product;

12 (3) a railroad switching yard, railroad
13 station, bus terminal, airport or other passenger, commuter or
14 mass transportation system or freight transportation system;

15 (4) a commercial business or other
16 enterprise engaged in storing, warehousing, distributing or
17 selling products of manufacturing, agriculture, mining or
18 related industries, not including facilities designed for the
19 distribution to the public of electricity or gas;

20 (5) an enterprise in which all or part of
21 the activities of the enterprise involve supplying services to
22 the general public or to governmental agencies or to a
23 specific industry or customer;

24 (6) any industrial, commercial,
25 agricultural, professional or other business enterprise

1 seeking to occupy office space;

2 (7) infrastructure development involving
3 acquiring, repairing, improving or maintaining storm sewers
4 and other drainage improvements, sanitary sewers, sewage
5 treatment, water utilities or solid waste disposal facilities,
6 including acquiring rights of way or water rights;

7 (8) infrastructure development involving
8 reconstructing, resurfacing, maintaining, repairing or
9 improving existing alleys, streets, roads or bridges or laying
10 off, opening, constructing or acquiring new alleys, streets,
11 roads or bridges, including acquiring rights of way;

12 (9) any industry that involves any water
13 distribution or irrigation system, including pumps,
14 distribution lines, transmission lines, fences, dams and
15 similar facilities and equipment, including acquiring rights
16 of way; or

17 (10) fire protection services or equipment
18 or police protection services or equipment;

19 F. "property" means land, improvements to the
20 land, buildings and improvements to the buildings, machinery
21 and equipment of any kind necessary to the project, operating
22 capital and any other personal properties deemed necessary in
23 connection with the project;

24 G. "qualified entity" means the state or one of
25 its agencies, instrumentalities, institutions or political

1 subdivisions or the United States or any corporation,
2 department, instrumentality or agency of the federal
3 government;

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

6 I. "bondholder" means a person who is the owner of
7 a bond, regardless of whether the bond is registered."

8 SECTION 2. Section 58-27-10 NMSA 1978 (being Laws 1991,
9 Chapter 131, Section 10, as amended) is amended to read:

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

11 A. The authority shall:

12 (1) advise the governor and the governor's
13 staff and the New Mexico finance authority oversight committee
14 on methods, proposals, programs and initiatives involving the
15 New Mexico-Chihuahua border area that may further stimulate
16 the border economy and provide additional employment
17 opportunities for New Mexico citizens;

18 (2) subject to the provisions of the Border
19 Development Act, initiate, develop, acquire, own, construct
20 and maintain border development projects;

21 (3) create programs to expand economic
22 opportunities beyond the New Mexico-Chihuahua border area to
23 other areas of the state;

24 (4) create avenues of communication between
25 New Mexico and Chihuahua and the Republic of Mexico concerning

1 economic development, trade and commerce, transportation and
2 industrial affairs;

3 (5) promote legislation that will further
4 the goals of the authority and development of the border
5 region;

6 (6) produce or cause to have produced
7 promotional literature related to explanation and fulfillment
8 of the authority's goals;

9 (7) actively recruit industries and
10 establish programs that will result in the location and
11 relocation of new industries in the state;

12 (8) coordinate and expedite the involvement
13 of the executive department's border area efforts;

14 (9) perform or cause to be performed
15 environmental, transportation, communication, land use and
16 other technical studies necessary or advisable for projects or
17 programs or to secure port-of-entry approval by the United
18 States and the Mexican governments and other appropriate
19 governmental agencies; and

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

23 B. The authority may:

24 (1) solicit and accept federal, state, local
25 and private grants of funds, property or financial or other

1 aid in any form for the purpose of carrying out the provisions
2 of the Border Development Act;

3 (2) adopt rules governing the manner in
4 which its business is transacted and the manner in which the
5 powers of the authority are exercised and its duties
6 performed;

7 (3) act as an applicant for and operator of
8 port-of-entry facilities and, as the applicant, carry out all
9 tasks and functions, including acquisition by purchase or gift
10 of any real property necessary for port-of-entry facilities,
11 acquisition by purchase, gift or construction of any
12 facilities or other real or personal property necessary for a
13 port of entry and filing all necessary documents and follow-up
14 of such filings with appropriate agencies;

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

18 (5) acquire by construction, purchase, gift
19 or lease projects that shall be located within the state;

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

23 (7) enter into agreements with the federal
24 government for the operation, improvement and expansion of
25 federal border facilities;

1 (8) enter into joint ventures, partnerships
2 or other business relationships with qualified entities and
3 private persons for the joint funding and operation of
4 projects;

5 (9) issue revenue bonds and borrow money for
6 the purpose of defraying the cost of acquiring a project by
7 purchase or construction and to secure the payment of the
8 bonds or repayment of a loan;

9 (10) expend funds or incur debt for the
10 improvement, maintenance, repair or addition to property owned
11 by the authority, the state or the United States government;
12 and

13 (11) refinance a project.

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

17 **SECTION 3.** Section 58-27-25 NMSA 1978 (being Laws 1991,
18 Chapter 131, Section 25, as amended) is amended to read:

19 "58-27-25. FUND CREATED.--

20 A. The "border authority fund" is created in the
21 state treasury. Separate accounts within the fund may be
22 created for any project. Money in the fund is appropriated to
23 the authority for the purposes of carrying out the provisions
24 of the Border Development Act. Money in the fund shall not
25 revert at the end of a fiscal year.

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

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

8 (2) interest earned upon money in the fund;

9 (3) any property or securities acquired
10 through the use of money belonging to the fund;

11 (4) all earnings of such property or
12 securities;

13 (5) lease or rental payments received by the
14 authority from any project and distributed to the fund
15 pursuant to Subsection F of this section;

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

22 (7) tolls, fees, rents or other charges
23 imposed and collected by the authority and distributed to the
24 fund pursuant to Subsection F of this section.

25 C. Disbursements from the border authority fund

1 shall be made only upon warrant drawn by the secretary of
2 finance and administration pursuant to vouchers signed by the
3 executive director of the authority or the executive
4 director's designee pursuant to the Border Development Act;
5 provided that in the event the position of executive director
6 is vacant, vouchers may be signed by the chair of the
7 authority.

8 D. Earnings on the balance in the border authority
9 fund shall be credited to the fund. In addition, in the event
10 that the proceeds from the issuance of bonds or from money
11 borrowed by the authority are deposited in the state treasury,
12 interest earned on that money during the period commencing
13 with the deposit in the state treasury until the actual
14 transfer of the money to the fund shall be credited to the
15 fund.

16 E. All proceeds from issuing revenue bonds shall
17 be placed in trust with a chartered bank to be dispersed by
18 the trustee, pursuant to the terms set forth in the bonding
19 resolution adopted by the authority.

20 F. Ten percent of the tolls, fees, rents, lease
21 payments and other charges that are imposed, collected and
22 received by the authority shall be deposited into the border
23 project fund and the remaining ninety percent shall be
24 deposited into the border authority fund; provided that the
25 money deposited into the border authority fund shall be

1 expended only as appropriated and in accordance with a budget
2 approved by the state budget division of the department of
3 finance and administration."

4 SECTION 4. A new section of the Border Development Act,
5 Section 58-27-25.1 NMSA 1978, is enacted to read:

6 "58-27-25.1. BORDER PROJECT FUND--CREATED--PURPOSE--
7 EXPENDITURES.--

8 A. The "border project fund" is created in the
9 state treasury.

10 B. The border project fund shall consist of:

11 (1) payments of principal and interest on
12 loans for projects;

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

17 (3) money from public or private sources and
18 deposited into the fund pursuant to Paragraph (6) of
19 Subsection B of Section 58-27-25 NMSA 1978;

20 (4) money appropriated by the legislature or
21 distributed or otherwise allocated to the fund;

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

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

1 C. Except for severance tax bond proceeds required
2 to revert to the severance tax bonding fund, balances in the
3 border project fund at the end of a fiscal year shall not
4 revert to any other fund.

5 D. The border project fund may consist of
6 subaccounts as determined to be necessary by the authority.

7 E. The border project fund is appropriated to the
8 authority for the following purposes:

9 (1) providing financial assistance to
10 qualified entities for projects;

11 (2) costs incurred in the operation of a
12 port of entry or related project pursuant to a joint powers
13 agreement entered into with the federal government; or

14 (3) costs incurred in the joint funding or
15 operation of a project as part of a joint venture, partnership
16 or other business relationship with a qualified entity or
17 private person.

18 F. The authority may establish procedures and
19 adopt rules as required to:

20 (1) administer the border project fund;

21 (2) originate financial assistance for
22 projects selected by the authority; and

23 (3) govern the process through which
24 qualified entities may apply for financial assistance from the
25 border project fund."

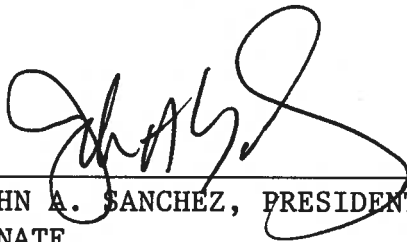
1 **SECTION 5. EFFECTIVE DATE.**--The effective date of the
2 provisions of this act is July 1, 2011. _____
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BEN LUJAN, SPEAKER
HOUSE OF REPRESENTATIVES



STEPHEN R. ARIAS, CHIEF CLERK
HOUSE OF REPRESENTATIVES



JOHN A. SANCHEZ, PRESIDENT
SENATE



LENORE M. NARANJO, CHIEF CLERK
SENATE

Approved by me this 5th day of April, 2011



SUSANA MARTINEZ, GOVERNOR
STATE OF NEW MEXICO

OFFICE of the Governor

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OFFICE OF THE CLERK

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