

HOUSE BILL 213

**56TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2023**

INTRODUCED BY

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AN ACT

RELATING TO PUBLIC PROJECTS; ENACTING THE PUBLIC-PRIVATE  
PARTNERSHIP ACT; ALLOWING PUBLIC PARTNERS TO ENTER INTO PUBLIC-  
PRIVATE PARTNERSHIP AGREEMENTS TO FACILITATE PUBLIC PROJECTS;  
CREATING THE PUBLIC-PRIVATE PARTNERSHIP BOARD; CREATING THE  
PUBLIC-PRIVATE PARTNERSHIP PROJECT FUND; PROVIDING FOR AN  
EXEMPTION TO THE PROCUREMENT CODE; AUTHORIZING GRANTS, LOANS  
AND BONDS; PROVIDING POWERS AND DUTIES; PROVIDING A DELAYED  
REPEAL; REQUIRING REPORTS.

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

SECTION 1. [NEW MATERIAL] SHORT TITLE.--Sections 1  
through 13 of this act may be cited as the "Public-Private  
Partnership Act".

SECTION 2. [NEW MATERIAL] DEFINITIONS.--As used in the  
Public-Private Partnership Act:

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1           A. "authority" means the New Mexico finance  
2 authority;

3           B. "board" means the public-private partnership  
4 board;

5           C. "broadband telecommunications network  
6 facilities" means the electronics, equipment, transmission  
7 facilities, fiber-optic cables and any other item directly  
8 related to a system capable of transmission of internet  
9 protocol or other formatted data at current federal  
10 communications commission minimum speed standard, all of which  
11 will be owned and used by a provider of internet access  
12 services;

13           D. "private partner" means an individual, a foreign  
14 or domestic corporation, a general partnership, a limited  
15 liability company, a limited partnership, a joint venture, a  
16 business trust, a public benefit corporation, a nonprofit  
17 entity or other private business entity or combination thereof;

18           E. "public partner" means the state and its  
19 branches, agencies, departments, boards, instrumentalities or  
20 institutions and all political subdivisions of the state and  
21 their agencies, instrumentalities and institutions, including a  
22 department, an agency, an institution of higher education, a  
23 board or a commission;

24           F. "public-private partnership" means an  
25 arrangement between one or more public partners and one or more

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1 private partners for the development of a public project  
2 pursuant to the Public-Private Partnership Act;

3 G. "public-private partnership agreement" means a  
4 contract between one or more public partners and one or more  
5 private partners in connection with the development of a public  
6 project;

7 H. "public project" means:

8 (1) the construction or improvement of a  
9 public transportation facility or public transportation  
10 infrastructure other than a toll road; or

11 (2) public construction or improvement of  
12 broadband telecommunications network facilities;

13 I. "revenue" means all revenue, income, earnings,  
14 user fees, lease payments or other service payments that  
15 support the development of a public project, including money  
16 received as a grant or otherwise from the federal government, a  
17 public partner or any agency or instrumentality of the federal  
18 government; and

19 J. "user fees" means rates, fees or other charges  
20 imposed by the public partner or the private partner for use of  
21 all or part of a public project.

22 SECTION 3. [NEW MATERIAL] PUBLIC-PRIVATE PARTNERSHIP  
23 AGREEMENTS--APPROVAL REQUIREMENTS--RESTRICTIONS.--

24 A. In order to provide economic and administrative  
25 efficiencies in connection with the development of public

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1 projects, a public partner is authorized to enter into public-  
2 private partnership agreements.

3 B. Prior to entering into negotiations regarding  
4 the use of a public-private partnership agreement as a method  
5 of implementing a proposed public project, the public partner  
6 shall publish a notice of its interest in considering such an  
7 agreement. The notice shall be published for three successive  
8 weeks in a newspaper of general circulation published in the  
9 county where the public partner is situated, and in the county  
10 where the proposed public project will occur if different, and  
11 if the public partner has a website, the notice shall be posted  
12 on that website. The notice shall include a description of the  
13 scope of the proposed public project.

14 C. Prior to entering into a public-private  
15 partnership agreement, a public partner shall:

16 (1) undertake a cost-benefit analysis of a  
17 public-private partnership project in comparison with the  
18 traditional public partner-managed project;

19 (2) determine whether the application of the  
20 Procurement Code or other procurement rules applicable to the  
21 public partner would delay or increase the cost of the proposed  
22 public project;

23 (3) conduct a public hearing relating to the  
24 proposed public-private partnership held in accordance with the  
25 Open Meetings Act;

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1 (4) demonstrate that the proposed public  
2 project serves an important public purpose and fulfills an  
3 important public need; and

4 (5) demonstrate that the proposed public  
5 project will comply with applicable state and federal law.

6 D. A public-private partnership agreement shall:

7 (1) define the roles and responsibilities of  
8 the public partners and the private partners;

9 (2) provide clawback or recapture provisions  
10 that protect the public investment in the event of a default on  
11 the agreement;

12 (3) provide a finance plan detailing the  
13 financial contributions and obligations of the public and  
14 private partners;

15 (4) require a private partner to provide, or  
16 cause to be provided, performance and payment bonds as required  
17 pursuant to Section 13-4-18 NMSA 1978;

18 (5) require a private partner to provide  
19 guarantees, letters of credit or other acceptable forms of  
20 security, the amount of which may be less than one hundred  
21 percent of the value of the contract involved based on the  
22 determination of the public partner, or for public-private  
23 partnership agreements requiring board approval, based on the  
24 determination by the board;

25 (6) specify how revenue will be collected,

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1       accounted for and audited;

2                       (7)   specify how debts incurred on behalf of  
3       the public partner or private partner will be repaid;

4                       (8)   address how the public partners and the  
5       private partners will share management and the risks of the  
6       public project;

7                       (9)   provide that, in the event of an uncured  
8       default, the public partner may:

9                       (a)   elect to take over the public  
10       project, including the succession of all right, title and  
11       interest in the public project, subject to any liens on revenue  
12       previously granted by the private partner; and

13                      (b)   terminate the public-private  
14       partnership and exercise any other rights and remedies that may  
15       be available;

16                      (10)  specify the term of the public-private  
17       partnership agreement, which shall not exceed thirty years;

18                      (11)  limit a private partner from seeking  
19       injunctive or other equitable relief to in any way restrict a  
20       public partner from developing, constructing or maintaining a  
21       public project, except that the public-private partnership  
22       agreement may provide for reasonable compensation to the  
23       private partner for the adverse effect resulting from  
24       development, construction, operation and maintenance of another  
25       public project of the public partner;

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1 (12) provide for the protection of proprietary  
2 information of the private partner, except as that information  
3 is needed for operations and maintenance by a public entity or  
4 for public health and safety;

5 (13) provide that operations and maintenance  
6 of a public project, except a public project that is broadband  
7 infrastructure, to be performed by the public partner;

8 (14) provide provisions for termination of the  
9 public-private partnership agreement, including the cessation  
10 of the powers and duties of the private partner; and

11 (15) provide that the public project shall  
12 revert to the public partner and be dedicated for public use.

13 E. A public-private partnership agreement for a  
14 public project for which the cost is in excess of ten million  
15 dollars (\$10,000,000) shall not become effective until it is  
16 approved by the board pursuant to Subsection D of Section 5 of  
17 the Public-Private Partnership Act.

18 F. Within thirty days of execution by a public  
19 partner and a private partner, a copy of the fully executed  
20 public-private partnership agreement for a public project for  
21 which the cost is less than or equal to ten million dollars  
22 (\$10,000,000) shall be delivered to the board for reporting  
23 pursuant to Subsection C of Section 5 of the Public-Private  
24 Partnership Act.

25 SECTION 4. [NEW MATERIAL] PUBLIC-PRIVATE PARTNERSHIP

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1 BOARD--CREATED--MEMBERSHIP.--

2 A. The "public-private partnership board" is  
3 created. The authority shall provide necessary administrative  
4 services to the board.

5 B. The eleven members of the board shall be:

6 (1) the secretary of economic development or  
7 the secretary's designee;

8 (2) the secretary of finance and  
9 administration or the secretary's designee;

10 (3) the secretary of general services or the  
11 secretary's designee;

12 (4) the secretary of transportation or the  
13 secretary's designee;

14 (5) the chief executive officer of the  
15 authority or the chief executive officer's designee;

16 (6) the director of the office of broadband  
17 access and expansion or the director's designee; and

18 (7) five members of the public appointed by  
19 the New Mexico legislative council who shall have experience in  
20 architecture, broadband development, engineering, public  
21 projects, project finance, public finance or bond and finance  
22 law.

23 C. The members of the public appointed initially  
24 shall draw lots for staggered terms in such a way that two  
25 members shall serve for six years, two members shall serve for

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1 four years and one member shall serve for two years.  
2 Thereafter, the public members shall serve for six-year terms.

3 D. The members shall select a chair who shall be a  
4 public member and who shall serve a term of two years.

5 E. Members who are not public employees are  
6 entitled to per diem and mileage as provided in the Per Diem  
7 and Mileage Act but shall receive no other compensation,  
8 perquisite or allowance.

9 SECTION 5. [NEW MATERIAL] BOARD--POWERS.--The board shall  
10 have the following powers:

11 A. meet quarterly and at such other times as deemed  
12 necessary by the chair;

13 B. develop forms of applications for approval of  
14 public-private partnerships;

15 C. receive for reporting purposes executed public-  
16 private partnership agreements for public projects for which  
17 the cost is less than or equal to ten million dollars  
18 (\$10,000,000);

19 D. review and consider for approval proposed  
20 public-private partnership agreements for a public project for  
21 which the cost is in excess of ten million dollars  
22 (\$10,000,000);

23 E. certify the need for the issuance of revenue  
24 bonds and refunding bonds by the authority;

25 F. determine the use of a public-private

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1 partnership agreement and ensure that the proposed funding  
2 mechanism is a prudent expenditure of public funds;

3 G. promulgate rules establishing the application  
4 process and criteria for the approval of public-private  
5 partnership agreements in accordance with the provisions of the  
6 State Rules Act;

7 H. make recommendations for approval to the  
8 authority of public projects seeking grants or loans from the  
9 public-private partnership project fund; and

10 I. take all other action necessary to implement the  
11 Public-Private Partnership Act, including entering into joint  
12 powers agreements with any other public sector partner or  
13 Indian nation, tribe or pueblo and retaining legal counsel and  
14 experts when appropriate.

15 SECTION 6. ~~[NEW MATERIAL]~~ NEW MEXICO FINANCE AUTHORITY--  
16 DUTIES.--The authority shall:

17 A. provide staff support to the board;

18 B. administer the public-private partnership  
19 project fund;

20 C. develop forms of grant and loan applications for  
21 public projects seeking funds from the public-private  
22 partnership project fund;

23 D. make loans and grants from the public-private  
24 partnership project fund for public projects that have been  
25 recommended for approval by the board pursuant to Subsection H

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1 of Section 5 of the Public-Private Partnership Act;

2 E. promulgate rules relating to the issuance of  
3 bonds for public projects;

4 F. upon certification by the board, issue revenue  
5 bonds and refunding bonds in accordance with the provisions of  
6 the Public-Private Partnership Act;

7 G. fix, revise from time to time, charge and  
8 collect fees and other charges in connection with making loans  
9 and grants from the public-private partnership project fund;

10 H. be compensated from the public-private  
11 partnership project fund for administrative and reimbursable  
12 costs in connection with the authority's support of the board  
13 and administration of the public-private partnership project  
14 fund; and

15 I. take all other action necessary to implement the  
16 Public-Private Partnership Act, including entering into joint  
17 powers agreements with other agencies.

18 SECTION 7. [NEW MATERIAL] PUBLIC-PRIVATE PARTNERSHIP  
19 PROJECT FUND CREATED--STUDY GRANTS--INFRASTRUCTURE LOANS.--

20 A. The "public-private partnership project fund" is  
21 created within the authority. The fund consists of  
22 appropriations, payments of principal and interest on loans  
23 made from the fund, income from investment of the fund and any  
24 other money distributed or otherwise allocated to the fund.  
25 Balances in the fund at the end of any fiscal year shall not

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1 revert to the general fund. The fund may consist of such  
2 subaccounts as the authority deems necessary to carry out the  
3 purposes of the fund.

4 B. Money in the public-private partnership project  
5 fund may be used to make grants of up to seventy-five thousand  
6 dollars (\$75,000) to a public partner for the purposes of  
7 studying the costs and benefits of entering into a public-  
8 private partnership for a proposed public project. A private  
9 partner shall provide funds matching the public partner's  
10 monetary obligation for the cost of the study, as required by  
11 the authority.

12 C. Money in the public-private partnership project  
13 fund may be used to provide loans for financing a public  
14 project through a public-private partnership agreement;  
15 provided that:

16 (1) the private partner shall provide funds  
17 matching the public partner's monetary obligation for the  
18 public-private partnership agreement, as provided by rule; and

19 (2) the public partner certifies to the board  
20 that the public partner has taken all action necessary to  
21 approve the public-private partnership agreement and that the  
22 public-private partnership agreement contains all terms and  
23 conditions required by Subsection D of Section 3 of the Public-  
24 Private Partnership Act.

25 D. Money in the public-private partnership project

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1 fund may be used pursuant to Subsections B and C of this  
2 section only for:

- 3 (1) grants or loans to a public partner; and  
4 (2) a public project for which the cost is in  
5 excess of ten million dollars (\$10,000,000).

6 E. Money in the public-private partnership project  
7 fund may be used for grants or loans to an Indian nation, tribe  
8 or pueblo that has entered into a public-private partnership  
9 with a private partner for the development of a public project  
10 only if:

- 11 (1) the cost of the public project is in  
12 excess of ten million dollars (\$10,000,000);  
13 (2) the agreement between the Indian nation,  
14 tribe or pueblo and the private partner is approved by the  
15 board; and  
16 (3) the grant or loan application is  
17 recommended for approval by the board and approved by the  
18 authority.

19 F. Money in the public-private partnership project  
20 fund may be used for administrative and reimbursable costs  
21 incurred by the board and by the authority.

22 SECTION 8. [NEW MATERIAL] APPLICABILITY OF CERTAIN OTHER  
23 LAWS.--The construction of a public project pursuant to a  
24 public-private partnership agreement is a public work for the  
25 purposes of the Public Works Minimum Wage Act, the

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1 Subcontractors Fair Practices Act and the Public Works  
2 Apprenticeship and Training Act.

3 SECTION 9. [NEW MATERIAL] REVENUE BONDING AUTHORITY.--

4 A. Upon certification of the board, the authority  
5 may issue revenue bonds, the pledged revenues for which shall  
6 be fees, charges, lease payments, installment sale payments or  
7 other revenue sources of a public project for any one or more  
8 of the purposes authorized by the Public-Private Partnership  
9 Act.

10 B. The authority may pledge irrevocably any or all  
11 of the revenue received by the authority to the payment of the  
12 interest on and principal of revenue bonds for any of the  
13 purposes authorized in the Public-Private Partnership Act.

14 C. In addition to the pledge of revenues to the  
15 payment of revenue bonds, the authority may grant a mortgage on  
16 a public project that has been solely financed by revenue bonds  
17 to the bondholders or a trustee for the benefit of the holders  
18 of revenue bonds.

19 D. Revenue in excess of the annual principal and  
20 interest due on revenue bonds secured by a pledged revenue may  
21 be accumulated in a debt service reserve account. The  
22 authority may appoint a commercial bank trust department to act  
23 as paying agent or trustee of the revenue and to administer the  
24 payment of principal of and interest on the revenue bonds.

25 E. Except as otherwise provided in the Public-

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1 Private Partnership Act, revenue bonds:

2 (1) may have interest, principal value or any  
3 part thereof payable at intervals or at maturity as may be  
4 determined by the authority;

5 (2) may be subject to prior redemption at the  
6 authority's option at a time and upon terms and conditions,  
7 with or without the payment of a premium, as determined by the  
8 authority;

9 (3) may mature at any time not exceeding  
10 thirty years after the date of issuance;

11 (4) may be serial in form and maturity, may  
12 consist of one bond payable at one time or in installments or  
13 may be in another form determined by the authority;

14 (5) shall be sold for cash at, above or below  
15 par and at a price that results in a net effective interest  
16 rate that does not exceed the maximum permitted by the Public  
17 Securities Act and the Public Securities Short-Term Interest  
18 Rate Act; and

19 (6) may be sold at public or negotiated sale.

20 F. At a regular or special meeting, the authority  
21 may, upon receipt of a certification from the board, adopt a  
22 resolution that:

23 (1) declares the necessity for issuing revenue  
24 bonds;

25 (2) authorizes the issuance of revenue bonds

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1 by an affirmative vote of a majority of all of the members of  
2 the authority; and

3 (3) designates the sources of revenues to be  
4 pledged to the repayment of the revenue bonds.

5 SECTION 10. [NEW MATERIAL] REFUNDING BOND AUTHORITY.--

6 A. Upon certification of the board, the authority  
7 may issue refunding bonds for the purpose of refinancing,  
8 paying and discharging all or any part of outstanding bonds for  
9 the:

10 (1) acceleration, deceleration or other  
11 modification of the payment of the outstanding bonds, including  
12 any capitalization of any interest thereon in arrears or about  
13 to become due for any period not exceeding two years from the  
14 date of the refunding bonds;

15 (2) reduction of interest costs or effecting  
16 other economies; or

17 (3) modification or elimination of restrictive  
18 contractual limitations pertaining to the issuance of  
19 additional bonds or concerning the outstanding bonds or public  
20 project relating to the outstanding bonds.

21 B. The authority may pledge irrevocably for the  
22 payment of interest, principal and premium, if any, on  
23 refunding bonds the appropriate pledged revenues, which may be  
24 pledged to an original issue of bonds.

25 C. In addition to the pledge of revenue to the

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1 payment of refunding bonds, the authority may grant a mortgage  
2 on a public project that has been solely financed by revenue  
3 bonds to the bondholders or a trustee for the benefit of the  
4 holders of the bonds.

5 D. Refunding bonds may be issued separately or in  
6 combination in one series or more.

7 E. Refunding bonds shall be authorized by  
8 resolution. Bonds that are refunded shall be paid at maturity  
9 or on any permitted prior redemption date in the amounts, at  
10 the time and places and, if called prior to maturity, in  
11 accordance with any applicable notice provisions, all as  
12 provided in the proceedings authorizing the issuance of the  
13 refunded bonds or otherwise appertaining thereto, except for  
14 any such bond that is voluntarily surrendered for exchange or  
15 payment by the holder or owner.

16 F. The principal amount of the refunding bonds may  
17 exceed the principal amount of the refunded bonds and may also  
18 be less than or the same as the principal amount of the bonds  
19 being refunded if provision is duly and sufficiently made for  
20 the payment of the refunded bonds.

21 G. The proceeds of refunding bonds, including  
22 accrued interest and premiums appertaining to the sale of  
23 refunding bonds, shall be immediately applied to the retirement  
24 of the bonds being refunded or placed in escrow in a commercial  
25 bank or trust company that possesses and exercises trust powers

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1 and that is a member of the federal deposit insurance  
2 corporation.

3 H. Refunding bonds may bear additional terms and  
4 provisions as determined by the authority subject to the  
5 limitations in this section relating to original bond issues.  
6 Refunding bonds are not subject to the provisions of any other  
7 statute.

8 I. Refunding bonds:

9 (1) may have interest, principal value or any  
10 part thereof payable at intervals or at maturity, as determined  
11 by the authority;

12 (2) may be subject to prior redemption at the  
13 authority's option at a time or times and upon terms and  
14 conditions with or without payment of premium or premiums, as  
15 determined by the authority;

16 (3) may be serial in form and maturity or may  
17 consist of a single bond payable in one or more installments or  
18 may be in another form, as determined by the authority; and

19 (4) shall be exchanged for the bonds and any  
20 matured unpaid interest being refunded at not less than par or  
21 sold at public or negotiated sale at, above or below par and at  
22 a price that results in a net effective interest rate that does  
23 not exceed the maximum permitted by the Public Securities Act.

24 J. At a regular or special meeting, the authority  
25 may adopt a resolution by majority vote to authorize the

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1 issuance of the refunding bonds.

2 SECTION 11. [NEW MATERIAL] BONDS NOT OBLIGATION OF  
3 STATE.--All bonds or other obligations issued pursuant to the  
4 Public-Private Partnership Act are payable solely from the  
5 revenue of the authority that may be pledged to the payment of  
6 such obligations, and the bonds or other obligations shall not  
7 create an obligation, debt or liability of the state or any  
8 other of its political subdivisions. No breach of any pledge,  
9 obligation or agreement of the authority shall impose a  
10 pecuniary liability or a charge upon the general credit or  
11 taxing power of the state or any other of its political  
12 subdivisions.

13 SECTION 12. [NEW MATERIAL] REPORT.--By December 1, 2023,  
14 and by December 1 of each year thereafter, the board shall  
15 provide a report to the governor and the New Mexico finance  
16 authority oversight committee regarding:

17 A. the grant and loan applications approved by the  
18 board;

19 B. the public-private partnership agreements  
20 approved by or reported to the board;

21 C. the status of the public-private partnership  
22 project fund;

23 D. any certifications for the issuance of revenue  
24 or refunding bonds made by the board to the authority; and

25 E. any recommended changes to the Public-Private

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1 Partnership Act.

2 SECTION 13. [NEW MATERIAL] CUMULATIVE AUTHORITY.--The  
3 Public-Private Partnership Act shall be deemed to provide an  
4 additional and alternative method for the doing of things  
5 authorized by that act and shall be regarded as supplemental  
6 and additional to powers conferred by other laws and shall not  
7 be regarded as in derogation of any powers now existing;  
8 provided that the issuance of bonds pursuant to the provisions  
9 of the Public-Private Partnership Act need not comply with the  
10 requirements of any other law applicable to the issuance of  
11 bonds, except the Public Securities Act, the Public Securities  
12 Short-Term Interest Rate Act and the Public Securities  
13 Limitation of Action Act, which acts shall apply.

14 SECTION 14. Section 13-1-98 NMSA 1978 (being Laws 1984,  
15 Chapter 65, Section 71, as amended by Laws 2019, Chapter 48,  
16 Section 13 and by Laws 2019, Chapter 63, Section 1) is amended  
17 to read:

18 "13-1-98. EXEMPTIONS FROM THE PROCUREMENT CODE.--The  
19 provisions of the Procurement Code shall not apply to:

20 A. procurement of items of tangible personal  
21 property or services by a state agency or a local public body  
22 from a state agency, a local public body or external  
23 procurement unit except as otherwise provided in Sections  
24 13-1-135 through 13-1-137 NMSA 1978;

25 B. procurement of tangible personal property or  
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1 services for the governor's mansion and grounds;

2 C. printing and duplicating contracts involving  
3 materials that are required to be filed in connection with  
4 proceedings before administrative agencies or state or federal  
5 courts;

6 D. purchases of publicly provided or publicly  
7 regulated gas, electricity, water, sewer and refuse collection  
8 services;

9 E. purchases of books, periodicals and training  
10 materials in printed or electronic format from the publishers  
11 or copyright holders thereof and purchases of print, digital or  
12 electronic format library materials by public, school and state  
13 libraries for access by the public;

14 F. travel or shipping by common carrier or by  
15 private conveyance or to meals and lodging;

16 G. purchase of livestock at auction rings or to the  
17 procurement of animals to be used for research and  
18 experimentation or exhibit;

19 H. contracts with businesses for public school  
20 transportation services;

21 I. procurement of tangible personal property or  
22 services, as defined by Sections 13-1-87 and 13-1-93 NMSA 1978,  
23 by the corrections industries division of the corrections  
24 department pursuant to rules adopted by the corrections  
25 industries commission, which shall be reviewed by the

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1 purchasing division of the general services department prior to  
2 adoption;

3 J. purchases not exceeding ten thousand dollars  
4 (\$10,000) consisting of magazine subscriptions, web-based or  
5 electronic subscriptions, conference registration fees and  
6 other similar purchases where prepayments are required;

7 K. municipalities having adopted home rule charters  
8 and having enacted their own purchasing ordinances;

9 L. the issuance, sale and delivery of public  
10 securities pursuant to the applicable authorizing statute, with  
11 the exception of bond attorneys and general financial  
12 consultants;

13 M. contracts entered into by a local public body  
14 with a private independent contractor for the operation, or  
15 provision and operation, of a jail pursuant to Sections 33-3-26  
16 and 33-3-27 NMSA 1978;

17 N. contracts for maintenance of grounds and  
18 facilities at highway rest stops and other employment  
19 opportunities, excluding those intended for the direct care and  
20 support of persons with handicaps, entered into by state  
21 agencies with private, nonprofit, independent contractors who  
22 provide services to persons with handicaps;

23 O. contracts and expenditures for services or items  
24 of tangible personal property to be paid or compensated by  
25 money or other property transferred to New Mexico law

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1 enforcement agencies by the United States department of justice  
2 drug enforcement administration;

3 P. contracts for retirement and other benefits  
4 pursuant to Sections 22-11-47 through 22-11-52 NMSA 1978;

5 Q. contracts with professional entertainers;

6 R. contracts and expenditures for legal  
7 subscription and research services and litigation expenses in  
8 connection with proceedings before administrative agencies or  
9 state or federal courts, including experts, mediators, court  
10 reporters, process servers and witness fees, but not including  
11 attorney contracts;

12 S. contracts for service relating to the design,  
13 engineering, financing, construction and acquisition of public  
14 improvements undertaken in improvement districts pursuant to  
15 Subsection L of Section 3-33-14.1 NMSA 1978 and in county  
16 improvement districts pursuant to Subsection L of Section  
17 4-55A-12.1 NMSA 1978;

18 T. works of art for museums or for display in  
19 public buildings or places;

20 U. contracts entered into by a local public body  
21 with a person, firm, organization, corporation or association  
22 or a state educational institution named in Article 12, Section  
23 11 of the constitution of New Mexico for the operation and  
24 maintenance of a hospital pursuant to Chapter 3, Article 44  
25 NMSA 1978, lease or operation of a county hospital pursuant to

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underscoring material = new  
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1 the Hospital Funding Act or operation and maintenance of a  
2 hospital pursuant to the Special Hospital District Act;

3 V. purchases of advertising in all media, including  
4 radio, television, print and electronic;

5 W. purchases of promotional goods intended for  
6 resale by the tourism department;

7 X. procurement of printing, publishing and  
8 distribution services for materials produced and intended for  
9 resale by the cultural affairs department;

10 Y. procurement by or through the public education  
11 department from the federal department of education relating to  
12 parent training and information centers designed to increase  
13 parent participation, projects and initiatives designed to  
14 improve outcomes for students with disabilities and other  
15 projects and initiatives relating to the administration of  
16 improvement strategy programs pursuant to the federal  
17 Individuals with Disabilities Education Act; provided that the  
18 exemption applies only to procurement of services not to exceed  
19 two hundred thousand dollars (\$200,000);

20 Z. procurement of services from community  
21 rehabilitation programs or qualified individuals pursuant to  
22 the State Use Act;

23 AA. purchases of products or services for eligible  
24 persons with disabilities pursuant to the federal  
25 Rehabilitation Act of 1973;

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1 BB. procurement, by either the department of health  
2 or Grant county or both, of tangible personal property,  
3 services or construction that are exempt from the Procurement  
4 Code pursuant to Section 9-7-6.5 NMSA 1978;

5 CC. contracts for investment advisory services,  
6 investment management services or other investment-related  
7 services entered into by the educational retirement board, the  
8 state investment officer or the retirement board created  
9 pursuant to the Public Employees Retirement Act;

10 DD. the purchase for resale by the state fair  
11 commission of feed and other items necessary for the upkeep of  
12 livestock;

13 EE. contracts entered into by the crime victims  
14 reparation commission to distribute federal grants to assist  
15 victims of crime, including grants from the federal Victims of  
16 Crime Act of 1984 and the federal Violence Against Women Act of  
17 1994;

18 FF. procurement by or through the early childhood  
19 education and care department of early pre-kindergarten and  
20 pre-kindergarten services purchased pursuant to the Pre-  
21 Kindergarten Act;

22 GG. procurement of services of commissioned  
23 advertising sales representatives for New Mexico magazine;

24 HH. agreements and contracts entered into pursuant  
25 to the Public-Private Partnership Act; and

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underscoring material = new  
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1                   [~~HH-~~] II. procurements exempt from the Procurement  
2 Code as otherwise provided by law."

3                   **SECTION 15.** Section 6-21-6 NMSA 1978 (being Laws 1992,  
4 Chapter 61, Section 6, as amended) is amended to read:

5                   "6-21-6. PUBLIC PROJECT REVOLVING FUND--PURPOSE--  
6 ADMINISTRATION.--

7                   A. The "public project revolving fund" is created  
8 within the authority. The fund shall be administered by the  
9 authority as a separate account, but may consist of such  
10 subaccounts as the authority deems necessary to carry out the  
11 purposes of the fund. The authority may establish procedures  
12 and adopt rules as required to administer the fund in  
13 accordance with the New Mexico Finance Authority Act.

14                   B. Except as otherwise provided in the New Mexico  
15 Finance Authority Act, money from payments of principal of and  
16 interest on loans and payments of principal of and interest on  
17 securities held by the authority for public projects authorized  
18 specifically by law shall be deposited in the public project  
19 revolving fund. The fund shall also consist of any other money  
20 appropriated, distributed or otherwise allocated to the fund  
21 for the purpose of financing public projects authorized  
22 specifically by law.

23                   C. Money appropriated to pay administrative costs,  
24 money available for administrative costs from other sources and  
25 money from payments of interest on loans or securities held by

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1 the authority, including payments of interest on loans and  
2 securities held by the authority for public projects authorized  
3 specifically by law, that represents payments for  
4 administrative costs shall not be deposited in the public  
5 project revolving fund and shall be deposited in a separate  
6 account of the authority and may be used by the authority to  
7 meet administrative costs of the authority.

8 D. Except as otherwise provided in the New Mexico  
9 Finance Authority Act, money in the public project revolving  
10 fund is appropriated to the authority to pay the reasonably  
11 necessary costs of originating and servicing loans, grants or  
12 securities funded by the fund and to make loans or grants and  
13 to purchase or sell securities to assist qualified entities in  
14 financing public projects in accordance with the New Mexico  
15 Finance Authority Act and pursuant to specific authorization by  
16 law for each project.

17 E. Money in the public project revolving fund not  
18 needed for immediate disbursement, including money held in  
19 reserve, may be deposited with the state treasurer for  
20 short-term investment pursuant to Section 6-10-10.1 NMSA 1978  
21 or may be invested in direct and general obligations of or  
22 obligations fully and unconditionally guaranteed by the United  
23 States, obligations issued by agencies of the United States,  
24 obligations of this state or any political subdivision of the  
25 state, interest-bearing time deposits, commercial paper issued

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1 by corporations organized and operating in the United States  
2 and rated "prime" quality by a national rating service, other  
3 investments permitted by Section 6-10-10 NMSA 1978 or as  
4 otherwise provided by the trust indenture or bond resolution,  
5 if money is pledged for or secures payment of bonds issued by  
6 the authority.

7 F. The authority shall establish fiscal controls  
8 and accounting procedures that are sufficient to assure proper  
9 accounting for public project revolving fund payments,  
10 disbursements and balances.

11 G. Money on deposit in the public project revolving  
12 fund may be used to make interim loans for a term not exceeding  
13 two years to qualified entities for the purpose of providing  
14 interim financing for any project approved or funded by the  
15 legislature.

16 H. Money on deposit in the public project revolving  
17 fund may be used to acquire securities or to make loans to  
18 qualified entities in connection with the small loan program.  
19 As used in this subsection, "small loan program" means the  
20 program of the authority designed to provide financing for  
21 public projects in amounts not to exceed one million dollars  
22 (\$1,000,000) per project. A public project financed pursuant  
23 to the small loan program shall not require specific  
24 authorization by law.

25 I. Money on deposit in the public project

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1 revolving fund may be designated as a reserve for any bonds  
2 issued by the authority, including bonds payable from sources  
3 other than the public project revolving fund, and the authority  
4 may covenant in any bond resolution or trust indenture to  
5 maintain and replenish the reserve from money deposited in the  
6 public project revolving fund after issuance of bonds by the  
7 authority.

8 J. Money on deposit in the public project revolving  
9 fund may be used to purchase bonds issued by the authority or  
10 bonds issued by the authority pursuant to the Public-Private  
11 Partnership Act, which are payable from any designated source  
12 of revenues or collateral. Purchasing and holding the bonds in  
13 the public project revolving fund shall not, as a matter of  
14 law, result in cancellation or merger of the bonds  
15 notwithstanding the fact that the authority as the issuer of  
16 the bonds is obligated to make the required debt service  
17 payments and the public project revolving fund held by the  
18 authority is entitled to receive the required debt service  
19 payments.

20 K. Money on deposit in the public project revolving  
21 fund may be used to capitalize other financing programs of the  
22 authority authorized by law, either directly or from proceeds  
23 of bonds issued by the authority and secured by money in the  
24 public project revolving fund."

25 SECTION 16. DELAYED REPEAL.--Sections 1 through 13 of

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1 this act are repealed effective July 1, 2033.

2 SECTION 17. EFFECTIVE DATE.--The effective date of the  
3 provisions of this act is July 1, 2023.

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