

1 HOUSE BILL 534

2 **54TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2019**

3 INTRODUCED BY

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10 AN ACT

11 RELATING TO PUBLIC PROJECTS; ENACTING THE PUBLIC-PRIVATE  
12 PARTNERSHIP ACT; ALLOWING PUBLIC PARTNERS TO ENTER INTO  
13 PUBLIC-PRIVATE PARTNERSHIP AGREEMENTS TO FACILITATE PUBLIC  
14 PROJECTS; CREATING THE PUBLIC-PRIVATE PARTNERSHIP BOARD;  
15 CREATING THE PUBLIC-PRIVATE PARTNERSHIP PROJECT FUND;  
16 AUTHORIZING GRANTS, LOANS AND BONDS; PROVIDING POWERS AND  
17 DUTIES; REQUIRING REPORTS.  
18

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

20 SECTION 1. [NEW MATERIAL] SHORT TITLE.--Sections 1  
21 through 15 of this act may be cited as the "Public-Private  
22 Partnership Act".

23 SECTION 2. [NEW MATERIAL] PURPOSE OF ACT.--The purpose of  
24 the Public-Private Partnership Act is to encourage the  
25 formation of public-private partnerships to:

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1           A. promote the development and operation of quality  
2 infrastructure projects that provide economic and social value;

3           B. provide a well-defined mechanism to facilitate  
4 collaboration between public and private entities in  
5 infrastructure development and enable increased investment of  
6 private capital;

7           C. bring innovative thinking to public projects;

8           D. provide flexibility in contracting and  
9 delivering infrastructure projects;

10          E. reduce total life cycle costs of public  
11 infrastructure; and

12          F. allow for cost and risk sharing between public  
13 and private partners.

14           **SECTION 3. [NEW MATERIAL] DEFINITIONS.--**As used in the  
15 Public-Private Partnership Act:

16           A. "authority" means the New Mexico finance  
17 authority;

18           B. "board" means the public-private partnership  
19 board;

20           C. "broadband telecommunications network  
21 facilities" means the electronics, equipment, transmission  
22 facilities, fiber-optic cables and any other item directly  
23 related to a system capable of transmission of internet  
24 protocol or other formatted data at current federal  
25 communications commission minimum speed standard, all of which

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1 will be owned and used by a provider of internet access  
2 services;

3 D. "private partner" means an individual, a foreign  
4 or domestic corporation, a general partnership, a limited  
5 liability company, a limited partnership, a joint venture, a  
6 business trust, a public benefit corporation, a nonprofit  
7 entity or other private business entity or combination thereof;

8 E. "public partner" means the state and its  
9 branches, agencies, departments, boards, instrumentalities or  
10 institutions and all political subdivisions of the state and  
11 their agencies, instrumentalities and institutions, including a  
12 department, an agency, an institution of higher education, a  
13 board or a commission;

14 F. "public-private partnership" means an  
15 arrangement between one or more public partners and one or more  
16 private partners for the development of a public project  
17 pursuant to the Public-Private Partnership Act;

18 G. "public-private partnership agreement" means a  
19 contract between one or more public partners and one or more  
20 private partners in connection with the development of a public  
21 project;

22 H. "public project" means any public facility or  
23 infrastructure or improvement to any public facility or  
24 infrastructure that is related only to transportation or  
25 broadband telecommunications network facilities;

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1 I. "revenue" means all revenue, income, earnings,  
2 user fees, lease payments or other service payments that  
3 support the development of a public project, including money  
4 received as a grant or otherwise from the federal government, a  
5 public partner or any agency or instrumentality of the federal  
6 government; and

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

10 SECTION 4. [NEW MATERIAL] PUBLIC-PRIVATE PARTNERSHIP  
11 AGREEMENTS--APPROVAL REQUIREMENTS--RESTRICTIONS.--

12 A. In order to provide economic and administrative  
13 efficiencies in connection with the development of public  
14 projects, a public partner is authorized to enter into public-  
15 private partnership agreements.

16 B. Prior to entering into a public-private  
17 partnership agreement, a public partner shall:

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

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

25 (3) conduct a public hearing relating to the

1 proposed public-private partnership held in accordance with the  
2 Open Meetings Act;

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

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

8 C. A public-private partnership agreement shall:

9 (1) define the roles and responsibilities of  
10 the public partners and the private partners;

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

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

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

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

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1 determination by the board;

2 (6) specify how revenue will be collected,  
3 accounted for and audited;

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

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

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

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

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

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

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

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1 development, construction, operation and maintenance of another  
2 public project of the public partner;

3 (12) provide for the protection of proprietary  
4 information of the private partner;

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 D. 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) and the term of the agreement is more  
16 than five years shall not become effective until it is approved  
17 by the authority pursuant to Subsection D of Section 7 of the  
18 Public-Private Partnership Act.

19 E. Within thirty days of execution by a public  
20 partner and a private partner, a copy of the fully executed  
21 public-private partnership agreement for a public project for  
22 which the cost is less than or equal to ten million dollars  
23 (\$10,000,000) or for which the term of the agreement is five  
24 years or less shall be delivered to the board for reporting  
25 pursuant to Subsection C of Section 6 of the Public-Private

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1 Partnership Act.

2 SECTION 5. [NEW MATERIAL] PUBLIC-PRIVATE PARTNERSHIP  
3 BOARD--CREATED--MEMBERSHIP.--

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

7 B. The nine members of the board shall be:

8 (1) the secretary of economic development or  
9 the secretary's designee;

10 (2) the secretary of finance and  
11 administration or the secretary's designee;

12 (3) the secretary of general services or the  
13 secretary's designee;

14 (4) the secretary of transportation or the  
15 secretary's designee;

16 (5) the chief executive officer of the  
17 authority or the chief executive officer's designee; and

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

22 C. The public members appointed initially shall  
23 draw lots for staggered terms in such a way that two members  
24 shall serve for six years, one member shall serve for four  
25 years and one member shall serve for two years. Thereafter,

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1 the public members shall serve for six-year terms.

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

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

8 SECTION 6. [NEW MATERIAL] BOARD--POWERS.--The board shall  
9 have the following powers:

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

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

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

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) and the term of the agreement is more than five  
23 years;

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

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1 F. determine the use of a public-private  
2 partnership agreement and ensure that the proposed funding  
3 mechanism is a prudent expenditure of public funds;

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

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

11 I. take all other action necessary to implement the  
12 Public-Private Partnership Act, including entering into joint  
13 powers agreements and retaining legal counsel and experts when  
14 appropriate.

15 SECTION 7. [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 6 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 8. [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 C of Section 4 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) and the term of the  
6 agreement is more than five years.

7 E. Money in the public-private partnership project  
8 fund may be used for administrative and reimbursable costs  
9 incurred by the board and by the authority.

10 SECTION 9. [NEW MATERIAL] APPLICABILITY OF CERTAIN OTHER  
11 LAWS.--

12 A. The construction of a public project pursuant to  
13 a public-private partnership agreement is a public work for the  
14 purposes of the Public Works Minimum Wage Act, the  
15 Subcontractors Fair Practices Act and the Public Works  
16 Apprenticeship and Training Act.

17 B. Notwithstanding the provisions of the  
18 Procurement Code or any other procurement regulation applicable  
19 to the public partner, the public partner may enter into  
20 contracts relating to the development of the public project on  
21 such terms and with such persons as the public partner  
22 determines appropriate.

23 SECTION 10. [NEW MATERIAL] REVENUE BONDING AUTHORITY.--

24 A. Upon certification of the board, the authority  
25 may issue revenue bonds, the pledged revenues for which shall

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1 be fees, charges, lease payments, installment sale payments or  
2 other revenue sources of a public project for any one or more  
3 of the purposes authorized by the Public-Private Partnership  
4 Act.

5 B. The authority may pledge irrevocably any or all  
6 of the revenue received by the authority to the payment of the  
7 interest on and principal of revenue bonds for any of the  
8 purposes authorized in the Public-Private Partnership Act.

9 C. In addition to the pledge of revenues to the  
10 payment of revenue bonds, the authority may grant a mortgage on  
11 a public project that has been solely financed by revenue bonds  
12 to the bondholders or a trustee for the benefit of the holders  
13 of revenue bonds.

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

20 E. Except as otherwise provided in the Public-  
21 Private Partnership Act, revenue bonds:

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

25 (2) may be subject to prior redemption at the

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1 authority's option at a time and upon terms and conditions,  
2 with or without the payment of a premium, as determined by the  
3 authority;

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

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

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

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

15 F. At a regular or special meeting, the authority  
16 may, upon receipt of a certification from the board, adopt a  
17 resolution that:

18 (1) declares the necessity for issuing revenue  
19 bonds;

20 (2) authorizes the issuance of revenue bonds  
21 by an affirmative vote of a majority of all of the members of  
22 the authority; and

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

25 SECTION 11. [NEW MATERIAL] REFUNDING BOND AUTHORITY.--

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1           A. Upon certification of the board, the authority  
2 may issue refunding bonds for the purpose of refinancing,  
3 paying and discharging all or any part of outstanding bonds for  
4 the:

5                   (1) acceleration, deceleration or other  
6 modification of the payment of the outstanding bonds, including  
7 any capitalization of any interest thereon in arrears or about  
8 to become due for any period not exceeding two years from the  
9 date of the refunding bonds;

10                   (2) reduction of interest costs or effecting  
11 other economies; or

12                   (3) modification or elimination of restrictive  
13 contractual limitations pertaining to the issuance of  
14 additional bonds or concerning the outstanding bonds or public  
15 project relating to the outstanding bonds.

16           B. The authority may pledge irrevocably for the  
17 payment of interest, principal and premium, if any, on  
18 refunding bonds the appropriate pledged revenues, which may be  
19 pledged to an original issue of bonds.

20           C. In addition to the pledge of revenue to the  
21 payment of refunding bonds, the authority may grant a mortgage  
22 on a public project that has been solely financed by revenue  
23 bonds to the bondholders or a trustee for the benefit of the  
24 holders of the bonds.

25           D. Refunding bonds may be issued separately or in

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1 combination in one series or more.

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

11 F. The principal amount of the refunding bonds may  
12 exceed the principal amount of the refunded bonds and may also  
13 be less than or the same as the principal amount of the bonds  
14 being refunded if provision is duly and sufficiently made for  
15 the payment of the refunded bonds.

16 G. The proceeds of refunding bonds, including  
17 accrued interest and premiums appertaining to the sale of  
18 refunding bonds, shall be immediately applied to the retirement  
19 of the bonds being refunded or placed in escrow in a commercial  
20 bank or trust company that possesses and exercises trust powers  
21 and that is a member of the federal deposit insurance  
22 corporation.

23 H. Refunding bonds may bear additional terms and  
24 provisions as determined by the authority subject to the  
25 limitations in this section relating to original bond issues.

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1 Refunding bonds are not subject to the provisions of any other  
2 statute.

3 I. Refunding bonds:

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

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

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

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

19 J. At a regular or special meeting, the authority  
20 may adopt a resolution by majority vote to authorize the  
21 issuance of the refunding bonds.

22 SECTION 12. [NEW MATERIAL] BONDS NOT OBLIGATION OF  
23 STATE.--All bonds or other obligations issued pursuant to the  
24 Public-Private Partnership Act are payable solely from the  
25 revenue of the authority that may be pledged to the payment of

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1 such obligations, and the bonds or other obligations shall not  
2 create an obligation, debt or liability of the state or any  
3 other of its political subdivisions. No breach of any pledge,  
4 obligation or agreement of the authority shall impose a  
5 pecuniary liability or a charge upon the general credit or  
6 taxing power of the state or any other of its political  
7 subdivisions.

8 SECTION 13. [NEW MATERIAL] REPORT.--By December 1, 2019,  
9 and by December 1 of each year thereafter, the board shall  
10 provide a report to the governor and the New Mexico finance  
11 authority oversight committee regarding:

12 A. the grant and loan applications approved by the  
13 board;

14 B. the public-private partnership agreements  
15 approved by or reported to the board;

16 C. the status of the public-private partnership  
17 project fund;

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

20 E. any recommended changes to the Public-Private  
21 Partnership Act.

22 SECTION 14. [NEW MATERIAL] CUMULATIVE AUTHORITY.--The  
23 Public-Private Partnership Act shall be deemed to provide an  
24 additional and alternative method for the doing of things  
25 authorized by that act and shall be regarded as supplemental

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1 and additional to powers conferred by other laws and shall not  
2 be regarded as in derogation of any powers now existing;  
3 provided that the issuance of bonds pursuant to the provisions  
4 of the Public-Private Partnership Act need not comply with the  
5 requirements of any other law applicable to the issuance of  
6 bonds, except the Public Securities Act, the Public Securities  
7 Short-Term Interest Rate Act and the Public Securities  
8 Limitation of Action Act, which acts shall apply.

9 SECTION 15. ~~[NEW MATERIAL]~~ LIBERAL INTERPRETATION.--The  
10 Public-Private Partnership Act, being necessary for the welfare  
11 of the state and its inhabitants, shall be liberally construed  
12 to effect the purposes of that act.

13 SECTION 16. Section 13-1-98 NMSA 1978 (being Laws 1984,  
14 Chapter 65, Section 71, as amended) is amended to read:

15 "13-1-98. EXEMPTIONS FROM THE PROCUREMENT CODE.--The  
16 provisions of the Procurement Code shall not apply to:

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

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

24 C. printing and duplicating contracts involving  
25 materials that are required to be filed in connection with

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1 proceedings before administrative agencies or state or federal  
2 courts;

3 D. purchases of publicly provided or publicly  
4 regulated gas, electricity, water, sewer and refuse collection  
5 services;

6 E. purchases of books, periodicals and training  
7 materials in printed or electronic format from the publishers  
8 or copyright holders thereof;

9 F. travel or shipping by common carrier or by  
10 private conveyance or to meals and lodging;

11 G. purchase of livestock at auction rings or to the  
12 procurement of animals to be used for research and  
13 experimentation or exhibit;

14 H. contracts with businesses for public school  
15 transportation services;

16 I. procurement of tangible personal property or  
17 services, as defined by Sections 13-1-87 and 13-1-93 NMSA 1978,  
18 by the corrections industries division of the corrections  
19 department pursuant to rules adopted by the corrections  
20 industries commission, which shall be reviewed by the  
21 purchasing division of the general services department prior to  
22 adoption;

23 J. purchases not exceeding ten thousand dollars  
24 (\$10,000) consisting of magazine subscriptions, web-based or  
25 electronic subscriptions, conference registration fees and

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1 other similar purchases where prepayments are required;

2 K. municipalities having adopted home rule charters  
3 and having enacted their own purchasing ordinances;

4 L. the issuance, sale and delivery of public  
5 securities pursuant to the applicable authorizing statute, with  
6 the exception of bond attorneys and general financial  
7 consultants;

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

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

18 O. contracts and expenditures for services or items  
19 of tangible personal property to be paid or compensated by  
20 money or other property transferred to New Mexico law  
21 enforcement agencies by the United States department of justice  
22 drug enforcement administration;

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

25 Q. contracts with professional entertainers;

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1           R. contracts and expenditures for legal  
2 subscription and research services and litigation expenses in  
3 connection with proceedings before administrative agencies or  
4 state or federal courts, including experts, mediators, court  
5 reporters, process servers and witness fees, but not including  
6 attorney contracts;

7           S. contracts for service relating to the design,  
8 engineering, financing, construction and acquisition of public  
9 improvements undertaken in improvement districts pursuant to  
10 Subsection L of Section 3-33-14.1 NMSA 1978 and in county  
11 improvement districts pursuant to Subsection L of Section  
12 4-55A-12.1 NMSA 1978;

13           T. works of art for museums or for display in  
14 public buildings or places;

15           U. contracts entered into by a local public body  
16 with a person, firm, organization, corporation or association  
17 or a state educational institution named in Article 12, Section  
18 11 of the constitution of New Mexico for the operation and  
19 maintenance of a hospital pursuant to Chapter 3, Article 44  
20 NMSA 1978, lease or operation of a county hospital pursuant to  
21 the Hospital Funding Act or operation and maintenance of a  
22 hospital pursuant to the Special Hospital District Act;

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

25           W. purchases of promotional goods intended for

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

1 resale by the tourism department;

2 X. procurement of printing services for materials  
3 produced and intended for resale by the cultural affairs  
4 department;

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

15 Z. procurement of services from community  
16 rehabilitation programs or qualified individuals pursuant to  
17 the State Use Act;

18 AA. purchases of products or services for eligible  
19 persons with disabilities pursuant to the federal  
20 Rehabilitation Act of 1973;

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

25 CC. contracts for investment advisory services,

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underscored material = new  
[bracketed material] = delete

1 investment management services or other investment-related  
2 services entered into by the educational retirement board, the  
3 state investment officer or the retirement board created  
4 pursuant to the Public Employees Retirement Act;

5 DD. the purchase for resale by the state fair  
6 commission of feed and other items necessary for the upkeep of  
7 livestock;

8 EE. contracts entered into by the crime victims  
9 reparation commission to distribute federal grants to assist  
10 victims of crime, including grants from the federal Victims of  
11 Crime Act of 1984 and the federal Violence Against Women Act of  
12 1994;

13 FF. procurement by or through the children, youth  
14 and families department of pre-kindergarten services purchased  
15 pursuant to the Pre-Kindergarten Act;

16 GG. procurement of services of commissioned  
17 advertising sales representatives for New Mexico magazine;  
18 [~~and~~]

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

21 [~~HH.~~] II. procurements exempt from the Procurement  
22 Code as otherwise provided by law."

23 SECTION 17. EFFECTIVE DATE.--The effective date of the  
24 provisions of this act is July 1, 2019.