

HOUSE TAXATION AND REVENUE COMMITTEE SUBSTITUTE FOR
HOUSE BILL 19

57TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2025

AN ACT

RELATING TO ECONOMIC DEVELOPMENT; ENACTING THE TRADE PORTS
DEVELOPMENT ACT; PROVIDING FOR THE DESIGNATION OF TRADE PORT
DISTRICTS; ESTABLISHING CRITERIA FOR APPROVAL OF TRADE PORT
PROJECTS; CREATING THE TRADE PORTS ADVISORY COMMITTEE AND
SPECIFYING DUTIES; SPECIFYING DUTIES OF THE SECRETARY OF
ECONOMIC DEVELOPMENT; ALLOWING PUBLIC PARTNERS TO ENTER INTO
PUBLIC-PRIVATE PARTNERSHIP AGREEMENTS TO FACILITATE DEVELOPMENT
OF TRADE PORTS; CREATING THE TRADE PORTS DEVELOPMENT FUND;
AUTHORIZING GRANTS AND LOANS; ADDING AN EXEMPTION TO THE
PROCUREMENT CODE; MAKING AN APPROPRIATION.

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

SECTION 1. [NEW MATERIAL] SHORT TITLE.--Sections 1
through 11 of this act may be cited as the "Trade Ports
Development Act".

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1 SECTION 2. [NEW MATERIAL] DEFINITIONS.--As used in the
2 Trade Ports Development Act:

3 A. "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 B. "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 C. "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 trade port project
17 pursuant to the Trade Ports Development Act;

18 D. "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 trade
21 port project;

22 E. "secretary" means the secretary of economic
23 development;

24 F. "trade port" means a multimodal system of
25 facilities and services in a given location with the logistical

1 capacity to efficiently manage cargo and enhance national
2 supply chain resiliency by facilitating the movement and
3 redistribution of goods and commodities to other locations;

4 G. "trade port district" means a distinct
5 geographic area subject to the approval of the secretary
6 pursuant to Subsection B of Section 7 of the Trade Ports
7 Development Act within which proposed trade port projects may
8 be approved for grants or loans; and

9 H. "trade port project" means a project subject to
10 the approval of the secretary pursuant to Subsection C of
11 Section 7 of the Trade Ports Development Act creating or
12 modifying infrastructure for the construction of buildings or
13 other facilities that support the functions of a trade port
14 within an approved trade port district.

15 SECTION 3. [NEW MATERIAL] TRADE PORT DISTRICTS--
16 DESIGNATION CRITERIA.--

17 A. A private partner or a public partner may
18 propose a specific geographic area for designation as a trade
19 port district pursuant to Subsection B of Section 7 of the
20 Trade Ports Development Act.

21 B. A proposed trade port district shall meet as
22 many of the following criteria as feasible at the time of
23 designation:

24 (1) designation by the United States
25 department of transportation as a trade port regional

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1 infrastructure accelerator;

2 (2) the federal designation as a foreign-trade
3 zone or subzone;

4 (3) the availability of services from the
5 United States customs and border protection;

6 (4) proximity to a designated federal
7 interstate highway or other four-lane vehicular highway;

8 (5) proximity to an established or planned
9 trade port corridor system;

10 (6) proximity to a class 1 railroad line
11 providing access to international border crossings and major
12 markets and ports on the west coast, gulf coast and east coast
13 of the United States;

14 (7) proximity to an airport that can provide
15 national and international passenger and air freight service;

16 (8) existing infrastructure suitable for
17 redevelopment or expansion through a trade port project;

18 (9) the availability of a qualified labor pool
19 and partnership or collaborative that can address the workforce
20 development needs consistent with job availability within the
21 trade port district, including in a county with an unemployment
22 rate higher than the unemployment rate of New Mexico;

23 (10) the beneficial impact of a trade port
24 district designation on an economically disadvantaged or
25 distressed community, including a county with a poverty rate

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1 greater than the poverty rate of New Mexico;

2 (11) the availability of land in a county with
3 a population of one hundred thousand or fewer according to the
4 most recent federal decennial census in parcels large enough to
5 accommodate sufficient trade port projects to constitute an
6 economically viable trade port;

7 (12) the availability of a public partner
8 capable of coordinating development activities within the
9 proposed trade port; and

10 (13) the ability to use state economic
11 development incentive programs for trade port projects pursuant
12 to:

13 (a) improvement districts pursuant to
14 Chapter 3, Article 33 NMSA 1978;

15 (b) the Public Improvement District Act;

16 (c) the Tax Increment for Development
17 Act;

18 (d) the Industrial Revenue Bond Act;

19 (e) the Local Economic Development Act;

20 and

21 (f) the Infrastructure Development Zone
22 Act.

23 SECTION 4. [NEW MATERIAL] TRADE PORT PROJECTS--CRITERIA
24 FOR APPROVAL.--For all proposed trade port projects, in
25 deciding whether to approve a proposed grant, loan and public-

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1 private partnership agreement, the secretary shall consider at
2 least the following criteria:

3 A. the extent to which the proposed trade port
4 project will further the development of a trade port;

5 B. whether the proposed trade port project complies
6 with state and federal infrastructure planning;

7 C. the cost-effectiveness and financial feasibility
8 of the proposed trade port project;

9 D. the net environmental impact of the proposed
10 trade port project;

11 E. the technological feasibility of the proposed
12 trade port project and the ability of the private partners and
13 public partners to successfully implement the proposed trade
14 port project;

15 F. the capacity of the public or private partner to
16 manage the trade port project to completion, including the
17 financial resources to satisfy any funding match requirements;

18 G. the projected time frame for completion of the
19 proposed trade port project;

20 H. the potential qualification of the proposed
21 trade port project for state and federal grants, loans and tax
22 incentives;

23 I. the projected impact of the proposed trade port
24 project on economic development within the state and relevant
25 municipalities and counties; and

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1 J. the possibility of state investment in the
2 proposed trade port project pursuant to Section 7-27-5.15 NMSA
3 1978.

4 SECTION 5. [NEW MATERIAL] TRADE PORTS ADVISORY
5 COMMITTEE--CREATED--MEMBERSHIP.--

6 A. The "trade ports advisory committee" is created.
7 The economic development department shall provide necessary
8 administrative services to the committee.

9 B. The trade ports advisory committee is composed
10 of:

11 (1) the secretary of economic development or
12 the secretary's designee;

13 (2) the secretary of finance and
14 administration or the secretary's designee;

15 (3) the secretary of energy, minerals and
16 natural resources or the secretary's designee;

17 (4) the secretary of environment or the
18 secretary's designee;

19 (5) a representative of the public regulation
20 commission appointed by the commission;

21 (6) the secretary of transportation or the
22 secretary's designee;

23 (7) the chief executive officer of the New
24 Mexico finance authority or the chief executive officer's
25 designee; and

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1 (8) five public members appointed by the New
2 Mexico legislative council who shall have experience in law,
3 architecture, planning, utilities, transportation or economic
4 development.

5 C. The public members appointed initially shall
6 draw lots for staggered terms in such a way that two members
7 shall serve for six years, two members shall serve for four
8 years and one member shall serve for two years. Thereafter,
9 the public members shall serve for six-year terms. A vacancy
10 in a term of a public member of the trade ports advisory
11 committee shall be filled by the New Mexico legislative council
12 for the remainder of the original term.

13 D. The members shall select a chair, who shall be a
14 public member and who shall serve a term of two years.

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

19 F. A member of the trade ports advisory committee
20 shall not participate in or influence a decision by the
21 committee in which that member has a conflict of interest,
22 pecuniary interest or other disqualifying interest respecting a
23 public-private partnership agreement or a trade port project
24 that is considered by the committee. All members of the
25 committee shall certify annually and in writing compliance with

1 this subsection.

2 SECTION 6. [NEW MATERIAL] TRADE PORTS ADVISORY

3 COMMITTEE--DUTIES.--The trade ports advisory committee has the
4 following duties:

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

7 B. review and recommend approval, modification or
8 disapproval of specific geographic areas to be designated as
9 trade port districts;

10 C. review and recommend approval, modification or
11 disapproval of proposed public-private partnership agreements
12 for a trade port project;

13 D. recommend modification or termination of
14 existing approvals or designations for failure to meet the
15 requirements of the Trade Ports Development Act;

16 E. recommend the promulgation of rules establishing
17 the application process and criteria for the approval of
18 public-private partnership agreements in accordance with the
19 provisions of the State Rules Act;

20 F. recommend approval or disapproval of
21 applications for grants or loans from the trade ports
22 development fund for trade port projects;

23 G. consult with state agencies on technical issues
24 relevant to the trade ports advisory committee's consideration
25 of an application; and

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1 H. request updates to any technical information,
2 including any annual certification, provided in connection with
3 an approved application or designation.

4 SECTION 7. [NEW MATERIAL] POWERS AND DUTIES OF THE
5 SECRETARY.--The secretary has the following powers and duties:

6 A. develop forms of application for approval of
7 public-private partnerships;

8 B. review and approve, modify or disapprove
9 specific geographic areas to be designated as trade port
10 districts;

11 C. review and approve or disapprove proposed
12 public-private partnership agreements for a trade port project;

13 D. modify or terminate existing approvals or
14 designations for failure to meet the requirements of the Trade
15 Ports Development Act;

16 E. adopt and promulgate rules establishing the
17 application process and criteria for the approval of public-
18 private partnership agreements, grants and loans in accordance
19 with the provisions of the State Rules Act;

20 F. approve or disapprove applications for grants or
21 loans from the trade ports development fund for trade port
22 projects;

23 G. consult with the department of transportation on
24 technical issues relevant to the secretary's consideration of
25 an application, including compliance with the statewide

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1 transportation improvement program;

2 H. request updates to any technical information,
3 including any annual certification, provided in connection with
4 an approved application or designation; and

5 I. take all other actions necessary to implement
6 the Trade Ports Development Act, including entering into joint
7 powers agreements and retaining legal counsel and experts when
8 appropriate.

9 SECTION 8. [NEW MATERIAL] PUBLIC-PRIVATE PARTNERSHIP
10 AGREEMENTS--APPROVAL REQUIREMENTS--RESTRICTIONS.--

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

15 B. Prior to entering into negotiations regarding
16 the use of a public-private partnership agreement as a method
17 of implementing a proposed trade port project, the public
18 partner shall publish in a newspaper of general circulation its
19 interest in considering such an agreement, and such publication
20 shall include a description of the scope of the proposed trade
21 port project.

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

24 (1) undertake a cost-benefit analysis of a
25 public-private partnership trade port project in comparison

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1 with a traditional public partner-managed project;

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

5 (3) demonstrate that the proposed trade port
6 project serves an important public purpose and fulfills an
7 important public need; and

8 (4) demonstrate that the proposed trade port
9 project will comply with applicable state and federal law.

10 D. A public-private partnership agreement shall:

11 (1) define the roles and responsibilities of
12 the public partners and the private partners;

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

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

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

22 (5) require a private partner to provide
23 guarantees, letters of credit or other acceptable forms of
24 security, the amount of which may be less than one hundred
25 percent of the value of the proposed trade port project based

1 on the determination of the public partner, or for public-
2 private partnership agreements requiring approval pursuant to
3 the Trade Ports Development Act, based on the determination by
4 the secretary;

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

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

9 (8) address how the public partners and
10 private partners will share the management and risks of the
11 trade port project;

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

14 (a) elect to take over the trade port
15 project, including the succession of all right, title and
16 interest in or to the project, subject to any liens on revenue
17 previously granted by the private partner; and

18 (b) terminate the public-private
19 partnership and exercise any other rights and remedies that may
20 be available, where such right to terminate may also be
21 exercised by the secretary if the secretary finds it is in the
22 public interest to do so;

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

25 (11) limit a private partner from seeking

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1 injunctive or other equitable relief to in any way restrict a
2 public partner from developing, constructing or maintaining a
3 trade port project, except that the public-private partnership
4 agreement may provide for reasonable compensation to the
5 private partner for an adverse effect resulting from
6 development, construction, operation and maintenance of another
7 trade port project of a public partner;

8 (12) provide for the protection of proprietary
9 information of the private partner;

10 (13) provide that operations and maintenance
11 of a trade port project shall be performed by the public
12 partner except for broadband, telecommunications and energy
13 infrastructure components of the trade port project; and

14 (14) provide provisions for termination of the
15 public-private partnership agreement, including the cessation
16 of the powers and duties of the private partner.

17 E. A public-private partnership agreement for a
18 trade port project shall not become effective until it is
19 approved by the secretary pursuant to Subsection C of Section 7
20 of the Trade Ports Development Act.

21 SECTION 9. [NEW MATERIAL] TRADE PORTS DEVELOPMENT FUND
22 CREATED.--

23 A. The "trade ports development fund" is created in
24 the state treasury. The fund consists of appropriations,
25 gifts, grants, donations, income from investment of the fund,

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1 payments of principal and interest on loans made from the
2 fund and any other money distributed or otherwise allocated to
3 the fund. Income from the fund shall be credited to the fund.
4 Money in the fund shall not revert or be transferred to any
5 other fund at the end of a fiscal year.

6 B. The economic development department shall
7 administer the fund. Money in the fund is appropriated to the
8 economic development department for the purposes of carrying
9 out the provisions of the Trade Ports Development Act,
10 including the planning, renovation or construction of trade
11 ports and associated facilities and infrastructure.
12 Disbursements from the fund shall be made by warrant of the
13 secretary of finance and administration pursuant to vouchers
14 signed by the secretary of economic development or the
15 secretary's authorized representative.

16 C. Money in the trade ports development fund may be
17 used to make grants of up to two hundred fifty thousand dollars
18 (\$250,000) to a public partner for the purposes of studying the
19 costs and benefits of entering into a public-private
20 partnership for a proposed trade port project.

21 D. Money in the trade ports development fund may be
22 used to provide grants and loans for financing a trade port
23 project through a public-private partnership agreement;
24 provided that:

25 (1) the private partner shall provide funds

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1 that match or exceed the public partner's monetary obligation
2 for the public-private partnership agreement, as provided by
3 rule; and

4 (2) the public partner certifies to the
5 secretary that the public partner has taken all action
6 necessary to approve the public-private partnership agreement
7 and that the agreement contains all terms and conditions
8 required by Subsection D of Section 8 of the Trade Ports
9 Development Act.

10 E. Money in the trade ports development fund may be
11 used pursuant to Subsections B and C of this section only for
12 grants or loans to a public partner for a trade port project.

13 F. Money in the trade ports development fund may be
14 used for grants or loans to an Indian nation, tribe or pueblo
15 that has entered into a partnership with a private partner for
16 the development of a trade port project only if:

17 (1) the agreement between the Indian nation,
18 tribe or pueblo and the private partner is approved by the
19 secretary; and

20 (2) the grant or loan application is approved
21 by the secretary.

22 G. Money in the trade ports development fund may be
23 used for administrative and reimbursable costs incurred by the
24 economic development department and the department of
25 transportation, subject to the legislative appropriation

1 process.

2 SECTION 10. [NEW MATERIAL] APPLICABILITY OF CERTAIN OTHER
3 LAWS.--The construction of a trade port project pursuant to a
4 public-private partnership agreement is a public work for the
5 purposes of the Public Works Minimum Wage Act, the
6 Subcontractors Fair Practices Act and the Public Works
7 Apprenticeship and Training Act.

8 SECTION 11. [NEW MATERIAL] REPORT.--By December 1, 2025,
9 and by December 1 of each year thereafter, the secretary shall
10 provide a report to the governor and the legislative finance
11 committee regarding:

12 A. trade port districts and trade port projects
13 approved by the secretary;

14 B. a description of the businesses and industries
15 participating in each approved trade port district and trade
16 port project;

17 C. grant and loan applications approved by the
18 secretary;

19 D. public-private partnership agreements approved
20 by the secretary;

21 E. the status of the trade ports development fund;
22 and

23 F. any recommended changes to the Trade Ports
24 Development Act.

25 SECTION 12. Section 13-1-98 NMSA 1978 (being Laws 1984,
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1 Chapter 65, Section 71, as amended by Laws 2023, Chapter 149,
2 Section 2 and by Laws 2023, Chapter 174, Section 1) is amended
3 to read:

4 "13-1-98. EXEMPTIONS FROM THE PROCUREMENT CODE.--The
5 provisions of the Procurement Code shall not apply to:

6 A. procurement of items of tangible personal
7 property or services by a state agency or a local public body
8 from a state agency, a local public body or external
9 procurement unit except as otherwise provided in Sections
10 13-1-135 through 13-1-137 NMSA 1978;

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

13 C. printing and duplicating contracts involving
14 materials that are required to be filed in connection with
15 proceedings before administrative agencies or state or federal
16 courts;

17 D. purchases of publicly provided or publicly
18 regulated gas, electricity, water, sewer and refuse collection
19 services;

20 E. purchases of books, periodicals, instructional
21 materials and training materials in printed, digital or
22 electronic format from the publishers, designated public-
23 education-department-approved instructional material
24 depositories or copyright holders thereof and purchases of
25 print, digital or electronic format library materials by

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1 public, school and state libraries for access by the public;

2 F. travel or shipping by common carrier or by
3 private conveyance or to meals and lodging;

4 G. purchase of livestock at auction rings or to the
5 procurement of animals to be used for research and
6 experimentation or exhibit;

7 H. contracts with businesses for public school
8 transportation services;

9 I. procurement of tangible personal property or
10 services, as defined by Sections 13-1-87 and 13-1-93 NMSA 1978,
11 by the corrections industries division of the corrections
12 department pursuant to rules adopted by the corrections
13 industries commission, which shall be reviewed by the
14 purchasing division of the general services department prior to
15 adoption;

16 J. purchases not exceeding ten thousand dollars
17 (\$10,000) consisting of magazine subscriptions, web-based or
18 electronic subscriptions, conference registration fees and
19 other similar purchases where prepayments are required;

20 K. municipalities having adopted home rule charters
21 and having enacted their own purchasing ordinances;

22 L. the issuance, sale and delivery of public
23 securities pursuant to the applicable authorizing statute, with
24 the exception of bond attorneys and general financial
25 consultants;

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

5 N. contracts for maintenance of grounds and
6 facilities at highway rest stops and other employment
7 opportunities, excluding those intended for the direct care and
8 support of persons with handicaps, entered into by state
9 agencies with private, nonprofit, independent contractors who
10 provide services to persons with handicaps;

11 O. contracts and expenditures for services or items
12 of tangible personal property to be paid or compensated by
13 money or other property transferred to New Mexico law
14 enforcement agencies by the United States department of justice
15 drug enforcement administration;

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

18 Q. contracts with professional entertainers;

19 R. contracts and expenditures for legal
20 subscription and research services and litigation expenses in
21 connection with proceedings before administrative agencies or
22 state or federal courts, including experts, mediators, court
23 reporters, process servers and witness fees, but not including
24 attorney contracts;

25 S. contracts for service relating to the design,

1 engineering, financing, construction and acquisition of public
2 improvements undertaken in improvement districts pursuant to
3 Subsection L of Section 3-33-14.1 NMSA 1978 and in county
4 improvement districts pursuant to Subsection L of Section
5 4-55A-12.1 NMSA 1978;

6 T. works of art for museums or for display in
7 public buildings or places;

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

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

18 W. purchases of promotional goods intended for
19 resale by the tourism department;

20 X. procurement of printing, publishing and
21 distribution services for materials produced and intended for
22 resale by the cultural affairs department;

23 Y. procurement by or through the public education
24 department from the federal department of education relating to
25 parent training and information centers designed to increase

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1 parent participation, projects and initiatives designed to
2 improve outcomes for students with disabilities and other
3 projects and initiatives relating to the administration of
4 improvement strategy programs pursuant to the federal
5 Individuals with Disabilities Education Act; provided that the
6 exemption applies only to procurement of services not to exceed
7 two hundred thousand dollars (\$200,000);

8 Z. procurement of services from community
9 rehabilitation programs or qualified individuals pursuant to
10 the State Use Act;

11 AA. purchases of products or services for eligible
12 persons with disabilities pursuant to the federal
13 Rehabilitation Act of 1973;

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

18 CC. contracts for investment advisory services,
19 investment management services or other investment-related
20 services entered into by the educational retirement board, the
21 state investment officer or the retirement board created
22 pursuant to the Public Employees Retirement Act;

23 DD. the purchase for resale by the state fair
24 commission of feed and other items necessary for the upkeep of
25 livestock;

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1 EE. contracts entered into by the crime victims
2 reparation commission to distribute federal grants to assist
3 victims of crime, including grants from the federal Victims of
4 Crime Act of 1984 and the federal Violence Against Women Act of
5 1994;

6 FF. procurement by or through the early childhood
7 education and care department of early pre-kindergarten and
8 pre-kindergarten services purchased pursuant to the Pre-
9 Kindergarten Act;

10 GG. procurement of services of commissioned
11 advertising sales representatives for New Mexico magazine;

12 HH. contracts entered into by the forestry division
13 of the energy, minerals and natural resources department to
14 distribute federal grants to nongovernmental entities and
15 individuals selected through an application process conducted
16 by the United States department of agriculture, the United
17 States department of the interior or any division or bureau
18 thereof for programs for wildfire prevention or protection,
19 urban forestry, forest and watershed restoration and
20 protection, reforestation or economic development projects to
21 advance the use of trees and wood biomass for hazardous fuel
22 reduction; [~~and~~]

23 II. agreements and contracts entered into pursuant
24 to the Trade Ports Development Act; and

25 [~~II.~~] JJ. procurements exempt from the Procurement

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1 Code as otherwise provided by law."

2 SECTION 13. EFFECTIVE DATE.--The effective date of the
3 provisions of this act is July 1, 2025.

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