

AN ACT

RELATING TO FINANCE; AMENDING THE NEW MEXICO FINANCE  
AUTHORITY ACT TO RESTRICT THE POWER OF THE NEW MEXICO FINANCE  
AUTHORITY TO MAKE GRANTS AND TO ALLOW PERMANENT EQUIPMENT  
LOANS FROM THE PUBLIC PROJECT REVOLVING FUND.

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

Section 1. Section 6-21-2 NMSA 1978 (being Laws 1992,  
Chapter 61, Section 2, as amended) is amended to read:

"6-21-2. LEGISLATIVE FINDINGS--DECLARATION OF  
PURPOSE. --

A. The legislature finds that:

(1) there are necessary state and local  
capital improvement and infrastructure needs that cannot be  
met with existing capital financing methods and funding  
sources;

(2) there is no coordinating entity or  
process for accomplishing long-term state and local capital  
planning, needs assessment or inventory of needs; setting  
priorities; and making more effective use of existing capital  
financing methods and funding sources;

(3) the uncertain nature of revenues  
available from the proceeds of severance tax bonds and other  
state and local revenues have frustrated state and local  
government efforts to finance needed state and local capital

projects; and

(4) in order to meet public capital and infrastructure needs, a central state mechanism to coordinate the planning and financing of public projects is necessary.

B. It is the purpose of the New Mexico Finance Authority Act to create a governmental instrumentality to coordinate the planning and financing of state and local public projects, to provide for long-term planning and assessment of state and local capital needs and to improve cooperation among the executive and legislative branches of state government and local governments in financing public projects.

C. It is the further purpose of the New Mexico Finance Authority Act to provide financing for public projects in a manner that will not impair the capacity of the public project revolving fund to provide future financing to qualified entities for public projects. Funding shall not be provided from the public project revolving fund unless revenues in an amount sufficient to avoid any negative impact on the financing capacity of the public project revolving fund are contemporaneously pledged or dedicated for deposit to the public project revolving fund. Pursuant to Section 6-21-6.1 NMSA 1978, the authority may provide funding from the public project revolving fund for the purposes of the Wastewater Facility Construction Loan Act, the Rural

Infrastructure Act, the Solid Waste Act or the Drinking Water State Revolving Loan Fund Act. "

Section 2. Section 6-21-5 NMSA 1978 (being Laws 1992, Chapter 61, Section 5) is amended to read:

"6-21-5. POWERS OF THE AUTHORITY. --The authority is granted all powers necessary and appropriate to carry out and effectuate its public and corporate purposes, including but not limited to the following powers:

- A. to sue or be sued;
- B. to adopt and alter an official seal;
- C. to make and alter bylaws for its organization and internal management and to adopt subject to the review and approval of the New Mexico finance authority oversight committee such regulations as are necessary and appropriate to implement the provisions of the New Mexico Finance Authority Act;
- D. to appoint officers, agents and employees, prescribe their duties and qualifications and fix their compensation;
- E. to make, enter into and enforce all contracts, agreements and other instruments necessary, convenient or desirable in the exercise of the authority's powers and functions and for the purposes of the New Mexico Finance Authority Act;
- F. to acquire, construct, hold, improve,

mortgage, sell, lease, convey or dispose of real and personal property for its public purposes;

G. to make loans and purchase securities and contract to make loans and purchase securities;

H. to procure insurance to secure payment on any loan, lease or purchase payments owed to the authority by a qualified entity in such amounts and from such insurers, including the federal government, as it may deem necessary or desirable and to pay any premiums for such insurance;

I. to fix, revise from time to time, charge and collect fees and other charges in connection with the making of loans and any other services rendered by the authority;

J. to accept, administer, hold and use all funds made available to the authority from any sources;

K. to borrow money and to issue bonds and provide for the rights of the holders of the bonds;

L. to establish and maintain reserve and sinking fund accounts to insure against and have funds available for maintenance of other debt service accounts;

M. to invest and reinvest its funds and to take and hold property as security for the investment of such funds as provided in the New Mexico Finance Authority Act;

N. to employ attorneys, accountants, underwriters, financial advisers, trustees, paying agents, architects, engineers, contractors and such other advisors,

consultants and agents as may be necessary and to fix and pay their compensation;

O. to apply for and accept gifts or grants of property, funds, services or aid in any form from the United States, any unit of government or any person and to comply, subject to the provisions of the New Mexico Finance Authority Act, with the terms and conditions of the gifts or grants;

P. to maintain an office at any place in the state it may determine;

Q. subject to any agreement with bondholders, to:

(1) renegotiate any loan or agreement;

(2) consent to any modification of the terms of any loan or agreement; and

(3) purchase bonds, which may upon purchase be canceled; and

R. to do any and all things necessary or convenient to carry out its purposes and exercise the powers given and granted in the New Mexico Finance Authority Act."

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

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

A. The "public project revolving fund" is created within the authority. The fund shall be administered by the authority as a separate account, but may consist of such

subaccounts as the authority deems necessary to carry out the purposes of the fund. The authority is authorized to establish procedures and adopt regulations as required to administer the fund in accordance with the New Mexico Finance Authority Act.

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

C. Money appropriated to pay administrative costs, money available for administrative costs from other sources and money from payments of interest on loans or securities held by the authority, including payments of interest on loans and securities held by the authority for public projects authorized specifically by law, that represents payments for administrative costs shall not be deposited in the public project revolving fund and shall be deposited in a separate account of the authority and may be used by the authority to meet administrative costs of the authority.

D. Except as otherwise provided in the New Mexico Finance Authority Act, money in the public project revolving fund is appropriated to the authority to make loans and to purchase or sell securities to assist qualified entities in financing public projects in accordance with the New Mexico Finance Authority Act and pursuant to specific authorization by law for each project.

E. Money in the public project revolving fund not needed for immediate disbursement, including money held in reserve, may be deposited with the state treasurer for short-term investment pursuant to Section 6-10-10.1 NMSA 1978 or may be invested in direct and general obligations of or obligations fully and unconditionally guaranteed by the United States, obligations issued by agencies of the United States, obligations of this state or any political subdivision of the state, interest-bearing time deposits, commercial paper issued by corporations organized and operating in the United States and rated "prime" quality by a national rating service, other investments permitted by Section 6-10-10 NMSA 1978 or as otherwise provided by the trust indenture or bond resolution, if money is pledged for or secures payment of bonds issued by the authority.

F. The authority shall establish fiscal controls and accounting procedures that are sufficient to ensure proper accounting for public project revolving fund payments,

disbursements and balances.

G. Money on deposit in the public project revolving fund may be used to make interim loans for a term not exceeding one year to qualified entities for the purpose of providing interim financing for any project approved or funded by the legislature.

H. Money on deposit in the public project revolving fund may be used to acquire securities or to make loans to qualified entities in connection with the equipment program. As used in this subsection, "equipment program" means the program of the authority designed to finance the acquisition of equipment for fire protection; law enforcement and protection; computer and data processing; street and road construction and maintenance; emergency medical services; solid waste collection, transfer and disposal; radio and telecommunications; and utility system purposes; and to finance the acquisition, construction and improvement of fire stations. The amount of securities acquired from or the loan made to a qualified entity at any one time pursuant to this subsection shall not exceed five hundred thousand dollars (\$500,000). The authority may provide financing in connection with the equipment program in the following ways:

(1) the authority may provide financing on an interim basis. Permanent financing for these temporarily funded projects must be obtained within one year. Such



permanent financing may be provided from the public project revolving fund subject to the provisions of Paragraph (2) of this subsection or subject to specific authorization by law. If permanent financing for these projects is not provided from the public project revolving fund, the authority shall issue bonds within one year of the date the securities are acquired or within one year of the date on which the loans are made and use the bond proceeds to reimburse the public project revolving fund for the amounts temporarily used to acquire securities or to make loans. The temporarily funded projects under the equipment program are not required to obtain specific authorization by law required of projects permanently funded from the public project revolving fund, as provided in this section and Section 6-21-8 NMSA 1978; or

(2) the authority may, with the concurrence of the New Mexico finance authority oversight committee and the legislative finance committee and up to an aggregate limit of three million dollars (\$3,000,000) in each fiscal year, provide permanent financing from the public project revolving fund for projects in the equipment program. Such permanently financed projects in the equipment program are not required to obtain specific authorization by law as provided in this section and Section 6-21-8 NMSA 1978.

I. Money on deposit in the public project revolving fund may be designated as a reserve for any bonds

issued by the authority, including bonds payable from sources other than the public project revolving fund, and the authority may covenant in any bond resolution or trust indenture to maintain and replenish the reserve from money deposited in the public project revolving fund after issuance of bonds by the authority."

Section 4. Section 6-21-8 NMSA 1978 (being Laws 1992, Chapter 61, Section 8) is amended to read:

"6-21-8. PUBLIC PROJECT FINANCE

~~PROGRAM - LOANS - PURCHASE OR SALE OF SECURITIES.~~ -- To implement a program to assist qualified entities in financing public projects, the authority, subject to specific authorization by law for projects financed with money in the public projects revolving fund, may:

A. make loans to qualified entities that establish one or more dedicated sources of revenue to repay the loan from the authority;

B. make, enter into and enforce all contracts necessary, convenient or desirable for the purposes of the authority or pertaining to:

(1) a loan to a qualified entity;

(2) a purchase or sale of securities individually or on a pooled basis; or

(3) the performance of its duties and execution of any of its powers under the New Mexico Finance

Authority Act;

C. purchase or hold securities at prices and in a manner the authority considers advisable, giving due consideration to the financial capability of the qualified entity, and sell securities acquired or held by it at prices without relation to cost and in a manner the authority considers advisable;

D. prescribe the form of application or procedure required of a qualified entity for a loan or purchase of its securities, fix the terms and conditions of the loan or purchase and enter into agreements with qualified entities with respect to loans or purchases;

E. charge for its costs and services in review or consideration of a proposed loan to a qualified entity or purchase by the authority of securities, whether or not the loan is made or the securities purchased;

F. fix and establish terms and provisions with respect to:

(1) a purchase of securities by the authority, including date and maturities of the securities;

(2) redemption or payment before maturity;  
and

(3) any other matters that in connection with the purchase are necessary, desirable or advisable in

the judgment of the authority;

G. to the extent permitted under its contracts with the holders of bonds of the authority, consent to modification of the rate of interest, time and payment of installment of principal or interest, security or any other term of a bond, contract or agreement of any kind to which the authority is a party;

H. in connection with the purchase of any securities, consider the ability of the qualified entity to secure financing from other sources and the costs of that financing and the particular public project or purpose to be financed or refinanced with the proceeds of the securities to be purchased by the authority;

I. acquire and hold title to or leasehold interest in real and personal property and to sell, convey or lease that property for the purpose of satisfying a default or enforcing the provisions of a loan agreement; and

J. in the event of default by a qualified entity, enforce its rights by suit or mandamus or may use all other available remedies under state law. "

Section 5. Section 6-21-11 NMSA 1978 (being Laws 1992, Chapter 61, Section 11) is amended to read:

"6-21-11. BONDS OF THE AUTHORITY--USE--SECURITY.--

A. The authority may issue and sell bonds in principal amounts it considers necessary to provide

sufficient funds for any purpose of the New Mexico Finance Authority Act, including:

- (1) purchase of securities;
- (2) making loans through the purchase of securities;
- (3) the construction of public projects;
- (4) the payment, funding or refunding of the principal of or interest or redemption premiums on bonds issued by the authority, whether the bonds or interest to be paid, funded or refunded have or have not become due;
- (5) the establishment or increase of reserves or sinking funds to secure or to pay principal, premium, if any, or interest on bonds; and
- (6) all other costs or expenses of the authority incident to and necessary or convenient to carry out its corporate purposes and powers.

B. Except as otherwise provided in the New Mexico Finance Authority Act, all bonds or other obligations issued by the authority shall be obligations of the authority payable solely from the revenues, income, fees, charges or funds of the authority that may, pursuant to the provisions of the New Mexico Finance Authority Act, be pledged to the payment of such obligations, and the bonds or other obligations shall not create an obligation, debt or liability of the state. No breach of any pledge, obligation or

agreement of the authority shall impose a pecuniary liability or a charge upon the general credit or taxing power of the state or any political subdivision of the state.

C. As security for the payment of the principal, interest or premium, if any, on bonds issued by the authority, the authority is authorized to pledge, transfer and assign:

- (1) any obligation of a qualified entity that is payable to the authority;
- (2) the security for the qualified entity's obligations;
- (3) money in the public project revolving fund or any subaccount of that fund subject to the provisions of Subsection C of Section 6-21-6 NMSA 1978;
- (4) any grant, subsidy or contribution from the United States or any of its agencies or instrumentalities; or
- (5) any income, revenues, funds or other money of the authority from any other source authorized for such pledge, transfer or assignment other than from the public projects revolving fund under the New Mexico Finance Authority Act. "

Section 6. Section 6-21-23 NMSA 1978 (being Laws 1992, Chapter 61, Section 23, as amended) is amended to read:

"6-21-23. PROHIBITED ACTIONS. --The authority shall

not:

A. lend money other than to a qualified entity;  
B. purchase securities other than from a qualified entity or other than for investment as provided in the New Mexico Finance Authority Act;

C. lease a public project to any entity other than a qualified entity;

D. deal in securities within the meaning of or subject to any securities law, securities exchange law or securities dealers law of the United States or of the state or of any other state or jurisdiction, domestic or foreign, except as authorized in the New Mexico Finance Authority Act;

E. issue bills of credit or accept deposits of money for time on demand deposit or administer trusts or engage in any form or manner, or in the conduct of, any private or commercial banking business, or act as a savings bank or savings and loan association or any other kind of financial institution except as authorized in the New Mexico Finance Authority Act;

F. engage in any form of private or commercial banking business except as authorized in the New Mexico Finance Authority Act; or

G. lend money or issue bonds, including public-private partnership project bonds, for the promotion of gaming or a gaming enterprise or for development of

infrastructure for a gaming facility."

Section 7. AUTHORIZATION OF PROJECT.--Pursuant to the provisions of Section 6-21-6 NMSA 1978, the legislature authorizes the New Mexico finance authority to issue bonds, prior to January 1, 1999, payable from the public project revolving fund in an amount not to exceed four million dollars (\$4,000,000) for the purpose of making a grant of the proceeds of such bonds to the board of regents of the university of New Mexico for acquiring, constructing, equipping or improving a building for the university of New Mexico school of law, provided that the board of regents of the university of New Mexico has adopted a resolution committing the university of New Mexico to operate athletic facilities and bookstore enterprises, the receipts of which are now subject to the governmental gross receipts tax, in such a manner that those receipts will continue to be subject to the governmental gross receipts tax so long as the bonds issued to provide the grant remain outstanding.

Section 8. EFFECTIVE DATE.--The effective date of the provisions of Sections 1 through 6 of this act is January 1, 1999.