

AN ACT

RELATING TO FINANCE; AMENDING THE NEW MEXICO FINANCE AUTHORITY ACT; AUTHORIZING THE NEW MEXICO FINANCE AUTHORITY TO USE THE PUBLIC PROJECT REVOLVING FUND TO MAKE LOANS FOR SMALL PROJECTS WITHOUT SPECIFIC AUTHORIZATION BY LAW, TO CAPITALIZE PROGRAMS AUTHORIZED BY LAW AND TO FINANCE PROJECTS OF SUPPORT ORGANIZATIONS AFFILIATED WITH HIGHER EDUCATIONAL INSTITUTIONS; CHANGING THE TITLE OF EXECUTIVE DIRECTOR TO CHIEF EXECUTIVE OFFICER; AMENDING A SECTION OF LAWS 2003 TO EXTEND THE AUTHORIZATION FOR FINANCING OF URGENT ECONOMIC DEVELOPMENT PUBLIC PROJECTS WITHOUT SPECIFIC LEGISLATIVE AUTHORIZATION; DECLARING AN EMERGENCY.

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

Section 1. Section 6-21-3 NMSA 1978 (being Laws 1992, Chapter 61, Section 3, as amended) is amended to read:

"6-21-3. DEFINITIONS.--As used in the New Mexico Finance Authority Act:

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

B. "bond" means any bonds, notes, certificates of participation or other evidence of indebtedness;

C. "bondholder" or "holder" means a person who is the owner of a bond, whether registered or not;

D. "emergency public project" means a public

project:

(1) made necessary by an unforeseen occurrence or circumstance threatening the public health, safety or welfare; and

(2) requiring the immediate expenditure of money that is not within the available financial resources of the qualified entity as determined by the authority;

E. "public project" means the acquisition, construction, improvement, alteration or reconstruction of assets of a long-term capital nature by a qualified entity, including land; buildings; water rights; water, sewerage and waste disposal systems; streets; airports; municipal utilities; parking facilities; and machinery, furniture and equipment. "Public project" includes all proposed expenditures related to the entire undertaking. "Public project" also includes the acquisition, construction or improvement of real property, buildings, facilities and other assets by the authority for the purpose of leasing the property;

F. "qualified entity" means the state or an agency or institution of the state or a county, municipality, school district, two-year public post-secondary educational institution, land grant corporation, acequia association, public improvement district, federally chartered college located in New Mexico, intercommunity water or natural gas

supply association or corporation, special district or community water association, nonprofit foundation or other support organization affiliated with a public university, college or other higher educational institution located in New Mexico, or an Indian nation, tribe or pueblo located wholly or partially in New Mexico, including a political subdivision or a wholly owned enterprise of an Indian nation, tribe or pueblo or a consortium of those Indian entities; and

G. "security" or "securities", unless the context indicates otherwise, means bonds, notes or other evidence of indebtedness issued by a qualified entity or leases or certificates or other evidence of participation in the lessor's interest in and rights under a lease with a qualified entity and that are payable from taxes, revenues, rates, charges, assessments or user fees or from the proceeds of funding or refunding bonds, notes or other evidence of indebtedness of a qualified entity or from certificates or evidence of participation in a lease with a qualified entity."

Section 2. Section 6-21-4 NMSA 1978 (being Laws 1992, Chapter 61, Section 4, as amended) is amended to read:

"6-21-4. NEW MEXICO FINANCE AUTHORITY CREATED--
MEMBERSHIP--QUALIFICATIONS--QUORUM--MEETINGS--COMPENSATION--
BOND.--

A. There is created a public body politic and corporate, separate and apart from the state, constituting a

governmental instrumentality to be known as the "New Mexico finance authority" for the performance of essential public functions.

B. The authority shall be composed of twelve members. The state investment officer, the secretary of finance and administration, the secretary of economic development, the secretary of energy, minerals and natural resources, the secretary of environment, the executive director of the New Mexico municipal league and the executive director of the New Mexico association of counties or their designees shall be ex-officio members of the authority with voting privileges. The governor, with the advice and consent of the senate, shall appoint to the authority the chief financial officer of a state higher educational institution and four members who are residents of the state. The appointed members shall serve at the pleasure of the governor.

C. The appointed members of the authority shall be appointed to four-year terms. The initial members shall be appointed to staggered terms of four years or less, so that the term of at least one member expires on January 1 of each year. Vacancies shall be filled by appointment by the governor for the remainder of the unexpired term. Any member of the authority shall be eligible for reappointment.

D. Each appointed member before entering upon his duty shall take an oath of office to administer the duties of

his office faithfully and impartially. A record of the oath shall be filed in the office of the secretary of state.

E. The governor shall designate an appointed member of the authority to serve as chairman. The authority shall elect annually one of its members to serve as vice chairman. The authority shall appoint and prescribe the duties of such other officers, who need not be members, as the authority deems necessary or advisable, including chief executive officer and a secretary, who may be the same person. The authority may delegate to one or more of its members, officers, employees or agents such powers and duties as it may deem proper and consistent with the New Mexico Finance Authority Act.

F. The chief executive officer of the authority shall direct the affairs and business of the authority, subject to the policies, control and direction of the authority. The secretary of the authority shall keep a record of the proceedings of the authority and shall be custodian of all books, documents and papers filed with the authority, the minute book or journal of the authority and its official seal. The secretary shall make copies of all minutes and other records and documents of the authority and give certificates under the official seal of the authority to the effect that the copies are true copies, and all persons dealing with the authority may rely upon the certificates.

G. Meetings of the authority shall be held at the call of the chairman or whenever three members shall so request in writing. A majority of members then serving constitutes a quorum for the transaction of any business. The affirmative vote of at least a majority of a quorum present shall be necessary for any action to be taken by the authority. An ex-officio member may designate in writing another person to attend meetings of the authority and to the same extent and with the same effect act in his stead. No vacancy in the membership of the authority shall impair the right of a quorum to exercise all rights and perform all duties of the authority.

H. Each member of the authority shall give bond as provided in the Surety Bond Act. All costs of the surety bonds shall be borne by the authority.

I. The authority is not created or organized, and its operations shall not be conducted, for the purpose of making a profit. No part of the revenues or assets of the authority shall benefit or be distributable to its members, officers or other private persons. The members of the authority shall receive no compensation for their services, but shall be reimbursed for actual and necessary expenses at the same rate and on the same basis as provided for public officers in the Per Diem and Mileage Act.

J. The authority shall not be subject to the

supervision or control of any other board, bureau, department or agency of the state except as specifically provided in the New Mexico Finance Authority Act. No use of the terms "state agency" or "instrumentality" in any other law of the state shall be deemed to refer to the authority unless the authority is specifically referred to in the law.

K. The authority is a governmental instrumentality for purposes of the Tort Claims 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 may establish procedures and adopt rules 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 pay the reasonably necessary costs of originating and servicing loans, grants or securities funded by the fund and to make loans or grants 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 assure 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 two years 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 small loan program. As used in this subsection, "small loan program"

means the program of the authority designed to provide financing for public projects in amounts not to exceed one million dollars (\$1,000,000) per project. A public project financed pursuant to the small loan program shall not require specific authorization by law.

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.

J. Money on deposit in the public project revolving fund may be used to purchase bonds issued by the authority, which are payable from any designated source of revenues or collateral. Purchasing and holding the bonds in the public project revolving fund shall not, as a matter of law, result in cancellation or merger of the bonds notwithstanding the fact that the authority as the issuer of the bonds is obligated to make the required debt service payments and the public project revolving fund held by the authority is entitled to receive the required debt service payments.

K. Money on deposit in the public project

revolving fund may be used to capitalize other financing programs of the authority authorized by law, either directly or from proceeds of bonds issued by the authority and secured by money in the public project revolving fund."

Section 4. Laws 2003, Chapter 325, Section 4 is amended to read:

"Section 4. DELAYED REPEAL.--The provisions of Section 6-21-6.6 NMSA 1978 are repealed effective June 30, 2009."

Section 5. EMERGENCY.--It is necessary for the public peace, health and safety that this act take effect immediately.
