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HOUSE BILL 55

**55TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2022**

INTRODUCED BY

Joy Garratt and Patricia A. Lundstrom and Cathrynn N. Brown and  
Jane E. Powdrell-Culbert and Roberto "Bobby" J. Gonzales

AN ACT

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

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

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

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

A. "authority" means the New Mexico finance

1 authority;

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

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

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

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

23 F. "public-private partnership" means an  
24 arrangement between one or more public partners and one or more  
25 private partners for the development of a public project

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1 pursuant to the Public-Private Partnership Act;

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

6 H. "public project" means:

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

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

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

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

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

23 A. In order to provide economic and administrative  
24 efficiencies in connection with the development of public  
25 projects, a public partner is authorized to enter into public-

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1 private partnership agreements.

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

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

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

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

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

24 (4) demonstrate that the proposed public  
25 project serves an important public purpose and fulfills an

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1 important public need; and

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

4 D. A public-private partnership agreement shall:

5 (1) define the roles and responsibilities of  
6 the public partners and the private partners;

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

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

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

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

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

25 (7) specify how debts incurred on behalf of

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1 the public partner or private partner will be repaid;

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

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

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

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

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

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

24 (12) provide for the protection of proprietary  
25 information of the private partner, except as that information

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1 is needed for operations and maintenance by a public entity or  
2 for public health and safety;

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

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

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

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

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

23 SECTION 4. [NEW MATERIAL] PUBLIC-PRIVATE PARTNERSHIP  
24 BOARD--CREATED--MEMBERSHIP.--

25 A. The "public-private partnership board" is

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1 created. The authority shall provide necessary administrative  
2 services to the board.

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

4 (1) the secretary of economic development or  
5 the secretary's designee;

6 (2) the secretary of finance and  
7 administration or the secretary's designee;

8 (3) the secretary of general services or the  
9 secretary's designee;

10 (4) the secretary of transportation or the  
11 secretary's designee;

12 (5) the chief executive officer of the  
13 authority or the chief executive officer's designee; and

14 (6) four public members appointed by the New  
15 Mexico legislative council who shall have experience in  
16 architecture, development, engineering, public projects,  
17 project finance, public finance or bond and finance law.

18 C. The public members appointed initially shall  
19 draw lots for staggered terms in such a way that two members  
20 shall serve for six years, one member shall serve for four  
21 years and one member shall serve for two years. Thereafter,  
22 the public members shall serve for six-year terms.

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

25 E. Members who are not public employees are

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1 entitled to per diem and mileage as provided in the Per Diem  
2 and Mileage Act but shall receive no other compensation,  
3 perquisite or allowance.

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

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

8 B. develop forms of applications for approval of  
9 public-private partnerships;

10 C. receive for reporting purposes executed public-  
11 private partnership agreements for public projects for which  
12 the cost is less than or equal to ten million dollars  
13 (\$10,000,000);

14 D. review and consider for approval proposed  
15 public-private partnership agreements for a public project for  
16 which the cost is in excess of ten million dollars  
17 (\$10,000,000);

18 E. certify the need for the issuance of revenue  
19 bonds and refunding bonds by the authority;

20 F. determine the use of a public-private  
21 partnership agreement and ensure that the proposed funding  
22 mechanism is a prudent expenditure of public funds;

23 G. promulgate rules establishing the application  
24 process and criteria for the approval of public-private  
25 partnership agreements in accordance with the provisions of the

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1 State Rules Act;

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

5 I. take all other action necessary to implement the  
6 Public-Private Partnership Act, including entering into joint  
7 powers agreements and retaining legal counsel and experts when  
8 appropriate.

9 SECTION 6. [NEW MATERIAL] NEW MEXICO FINANCE AUTHORITY--  
10 DUTIES.--The authority shall:

11 A. provide staff support to the board;

12 B. administer the public-private partnership  
13 project fund;

14 C. develop forms of grant and loan applications for  
15 public projects seeking funds from the public-private  
16 partnership project fund;

17 D. make loans and grants from the public-private  
18 partnership project fund for public projects that have been  
19 recommended for approval by the board pursuant to Subsection H  
20 of Section 5 of the Public-Private Partnership Act;

21 E. promulgate rules relating to the issuance of  
22 bonds for public projects;

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

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

4 H. be compensated from the public-private  
5 partnership project fund for administrative and reimbursable  
6 costs in connection with the authority's support of the board  
7 and administration of the public-private partnership project  
8 fund; and

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

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

14 A. The "public-private partnership project fund" is  
15 created within the authority. The fund consists of  
16 appropriations, payments of principal and interest on loans  
17 made from the fund, income from investment of the fund and any  
18 other money distributed or otherwise allocated to the fund.  
19 Balances in the fund at the end of any fiscal year shall not  
20 revert to the general fund. The fund may consist of such  
21 subaccounts as the authority deems necessary to carry out the  
22 purposes of the fund.

23 B. Money in the public-private partnership project  
24 fund may be used to make grants of up to seventy-five thousand  
25 dollars (\$75,000) to a public partner for the purposes of

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1 studying the costs and benefits of entering into a public-  
2 private partnership for a proposed public project. A private  
3 partner shall provide funds matching the public partner's  
4 monetary obligation for the cost of the study, as required by  
5 the authority.

6 C. Money in the public-private partnership project  
7 fund may be used to provide loans for financing a public  
8 project through a public-private partnership agreement;  
9 provided that:

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

13 (2) the public partner certifies to the board  
14 that the public partner has taken all action necessary to  
15 approve the public-private partnership agreement and that the  
16 public-private partnership agreement contains all terms and  
17 conditions required by Subsection D of Section 3 of the Public-  
18 Private Partnership Act.

19 D. Money in the public-private partnership project  
20 fund may be used pursuant to Subsections B and C of this  
21 section only for:

22 (1) grants or loans to a public partner; and

23 (2) a public project for which the cost is in  
24 excess of ten million dollars (\$10,000,000).

25 E. Money in the public-private partnership project

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1 fund may be used for grants or loans to an Indian nation, tribe  
2 or pueblo that has entered into a public-private partnership  
3 with a private partner for the development of a public project  
4 only if:

5 (1) the cost of the public project is in  
6 excess of ten million dollars (\$10,000,000);

7 (2) the agreement between the Indian nation,  
8 tribe or pueblo and the private partner is approved by the  
9 board; and

10 (3) the grant or loan application is  
11 recommended for approval by the board and approved by the  
12 authority.

13 F. Money in the public-private partnership project  
14 fund may be used for administrative and reimbursable costs  
15 incurred by the board and by the authority.

16 SECTION 8. [NEW MATERIAL] APPLICABILITY OF CERTAIN OTHER  
17 LAWS.--The construction of a public project pursuant to a  
18 public-private partnership agreement is a public work for the  
19 purposes of the Public Works Minimum Wage Act, the  
20 Subcontractors Fair Practices Act and the Public Works  
21 Apprenticeship and Training Act.

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

23 A. Upon certification of the board, the authority  
24 may issue revenue bonds, the pledged revenues for which shall  
25 be fees, charges, lease payments, installment sale payments or

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1 other revenue sources of a public project for any one or more  
2 of the purposes authorized by the Public-Private Partnership  
3 Act.

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

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

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

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

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

24 (2) may be subject to prior redemption at the  
25 authority's option at a time and upon terms and conditions,

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1 with or without the payment of a premium, as determined by the  
2 authority;

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

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

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

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

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

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

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

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

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

25 A. Upon certification of the board, the authority

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1 may issue refunding bonds for the purpose of refinancing,  
2 paying and discharging all or any part of outstanding bonds for  
3 the:

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

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

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

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

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

24 D. Refunding bonds may be issued separately or in  
25 combination in one series or more.



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

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

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

22           H. Refunding bonds may bear additional terms and  
23 provisions as determined by the authority subject to the  
24 limitations in this section relating to original bond issues.  
25 Refunding bonds are not subject to the provisions of any other

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1 statute.

2 I. Refunding bonds:

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

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

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

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

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

21 SECTION 11. [NEW MATERIAL] BONDS NOT OBLIGATION OF  
22 STATE.--All bonds or other obligations issued pursuant to the  
23 Public-Private Partnership Act are payable solely from the  
24 revenue of the authority that may be pledged to the payment of  
25 such obligations, and the bonds or other obligations shall not

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1 create an obligation, debt or liability of the state or any  
2 other of its political subdivisions. No breach of any pledge,  
3 obligation or agreement of the authority shall impose a  
4 pecuniary liability or a charge upon the general credit or  
5 taxing power of the state or any other of its political  
6 subdivisions.

7 SECTION 12. [NEW MATERIAL] REPORT.--By December 1, 2022,  
8 and by December 1 of each year thereafter, the board shall  
9 provide a report to the governor and the New Mexico finance  
10 authority oversight committee regarding:

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

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

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

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

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

21 SECTION 13. [NEW MATERIAL] CUMULATIVE AUTHORITY.--The  
22 Public-Private Partnership Act shall be deemed to provide an  
23 additional and alternative method for the doing of things  
24 authorized by that act and shall be regarded as supplemental  
25 and additional to powers conferred by other laws and shall not

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

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

12 "13-1-98. EXEMPTIONS FROM THE PROCUREMENT CODE.--The  
13 provisions of the Procurement Code shall not apply to:

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

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

21 C. printing and duplicating contracts involving  
22 materials that are required to be filed in connection with  
23 proceedings before administrative agencies or state or federal  
24 courts;

25 D. purchases of publicly provided or publicly

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1 regulated gas, electricity, water, sewer and refuse collection  
2 services;

3 E. purchases of books, periodicals and training  
4 materials in printed or electronic format from the publishers  
5 or copyright holders thereof and purchases of print, digital or  
6 electronic format library materials by public, school and state  
7 libraries for access by the public;

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

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

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

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

22 J. purchases not exceeding ten thousand dollars  
23 (\$10,000) consisting of magazine subscriptions, web-based or  
24 electronic subscriptions, conference registration fees and  
25 other similar purchases where prepayments are required;

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

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

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

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

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

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

24           Q. contracts with professional entertainers;

25           R. contracts and expenditures for legal

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

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

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

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

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

24 W. purchases of promotional goods intended for  
25 resale by the tourism department;

.221499.3

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

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

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

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

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

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

24 CC. contracts for investment advisory services,  
25 investment management services or other investment-related

.221499.3



underscored material = new  
[bracketed material] = delete

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

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

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

12 FF. procurement by or through the early childhood  
13 education and care department of early pre-kindergarten and  
14 pre-kindergarten services purchased pursuant to the Pre-  
15 Kindergarten Act;

16 GG. procurement of services of commissioned  
17 advertising sales representatives for New Mexico magazine;

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

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

22 SECTION 15. EFFECTIVE DATE.--The effective date of the  
23 provisions of this act is July 1, 2022.