HOUSE BILL 213

56TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2023

INTRODUCED BY
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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; PROVIDING A DELAYED
REPEAL; 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:

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

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

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

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

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

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

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

H. "public project" means:
   (1) the construction or improvement of a public transportation facility or public transportation infrastructure other than a toll road; or
   (2) public construction or improvement of broadband telecommunications network facilities;

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

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

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

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

B. Prior to entering into negotiations regarding the use of a public-private partnership agreement as a method of implementing a proposed public project, the public partner shall publish a notice of its interest in considering such an agreement. The notice shall be published for three successive weeks in a newspaper of general circulation published in the county where the public partner is situated, and in the county where the proposed public project will occur if different, and if the public partner has a website, the notice shall be posted on that website. The notice shall include a description of the scope of the proposed public project.

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

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

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

(3) conduct a public hearing relating to the proposed public-private partnership held in accordance with the Open Meetings Act.
(4) demonstrate that the proposed public project serves an important public purpose and fulfills an important public need; and

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

D. A public-private partnership agreement shall:

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

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

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

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

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

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

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

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

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

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

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

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

(11) limit a private partner from seeking
injunctive or other equitable relief to in any way restrict a
public partner from developing, constructing or maintaining a
public project, except that the public-private partnership
agreement may provide for reasonable compensation to the
private partner for the adverse effect resulting from
development, construction, operation and maintenance of another
public project of the public partner;
(12) provide for the protection of proprietary
information of the private partner, except as that information
is needed for operations and maintenance by a public entity or
for public health and safety;

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

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

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

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

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

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

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

B. The eleven members of the board shall be:

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

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

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

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

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

(6) the director of the office of broadband access and expansion or the director's designee; and

(7) five members of the public appointed by the New Mexico legislative council who shall have experience in architecture, broadband development, engineering, public projects, project finance, public finance or bond and finance law.

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

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

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

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

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

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

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

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

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

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

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

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

I. take all other action necessary to implement the
Public-Private Partnership Act, including entering into joint
powers agreements with any other public sector partner or
Indian nation, tribe or pueblo and retaining legal counsel and
experts when appropriate.

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

A. provide staff support to the board;

B. administer the public-private partnership
project fund;

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

D. make loans and grants from the public-private
partnership project fund for public projects that have been
recommended for approval by the board pursuant to Subsection H

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of Section 5 of the Public-Private Partnership Act;

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

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

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

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

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

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

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

B. Money in the public-private partnership project
fund may be used to make grants of up to seventy-five thousand
dollars ($75,000) to a public partner for the purposes of
studying the costs and benefits of entering into a public-
private partnership for a proposed public project. A private
partner shall provide funds matching the public partner's
monetary obligation for the cost of the study, as required by
the authority.

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

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

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

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

(1) grants or loans to a public partner; and
(2) a public project for which the cost is in excess of ten million dollars ($10,000,000).

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

(1) the cost of the public project is in excess of ten million dollars ($10,000,000);
(2) the agreement between the Indian nation, tribe or pueblo and the private partner is approved by the board; and
(3) the grant or loan application is recommended for approval by the board and approved by the authority.

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

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

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

A. Upon certification of the board, the authority
may issue revenue bonds, the pledged revenues for which shall
be fees, charges, lease payments, installment sale payments or
other revenue sources of a public project for any one or more
of the purposes authorized by the Public-Private Partnership
Act.

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

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

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

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

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

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

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

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

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

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

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

(1) declares the necessity for issuing revenue bonds;

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

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

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

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

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

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

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

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

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

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

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

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

G. The proceeds of refunding bonds, including
accrued interest and premiums appertaining to the sale of
refunding bonds, shall be immediately applied to the retirement
of the bonds being refunded or placed in escrow in a commercial
bank or trust company that possesses and exercises trust powers

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and that is a member of the federal deposit insurance corporation.

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

I. Refunding bonds:

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

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

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

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

J. At a regular or special meeting, the authority may adopt a resolution by majority vote to authorize the

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issuance of the refunding bonds.

SECTION 11. [NEW MATERIAL] BONDS NOT OBLIGATION OF STATE.--All bonds or other obligations issued pursuant to the Public-Private Partnership Act are payable solely from the revenue of the authority that may 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 or any other of its political subdivisions. 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 other of its political subdivisions.

SECTION 12. [NEW MATERIAL] REPORT.--By December 1, 2023, and by December 1 of each year thereafter, the board shall provide a report to the governor and the New Mexico finance authority oversight committee regarding:

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

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

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

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

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

**SECTION 13.** [NEW MATERIAL] CUMULATIVE AUTHORITY.--The Public-Private Partnership Act shall be deemed to provide an additional and alternative method for the doing of things authorized by that act and shall be regarded as supplemental and additional to powers conferred by other laws and shall not be regarded as in derogation of any powers now existing; provided that the issuance of bonds pursuant to the provisions of the Public-Private Partnership Act need not comply with the requirements of any other law applicable to the issuance of bonds, except the Public Securities Act, the Public Securities Short-Term Interest Rate Act and the Public Securities Limitation of Action Act, which acts shall apply.

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

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

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

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

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

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

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

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

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

    H. contracts with businesses for public school
    transportation services;

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

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

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

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

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

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

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

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

Q. contracts with professional entertainers;

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

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

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

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

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

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

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

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

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

AA. purchases of products or services for eligible
persons with disabilities pursuant to the federal
Rehabilitation Act of 1973;
BB. procurement, by either the department of health or Grant county or both, of tangible personal property, services or construction that are exempt from the Procurement Code pursuant to Section 9-7-6.5 NMSA 1978;

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

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

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

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

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

HH. agreements and contracts entered into pursuant to the Public-Private Partnership Act; and
procurements exempt from the Procurement Code as otherwise provided by law."

SECTION 15. 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

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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 or bonds issued by the authority pursuant to the Public-Private Partnership Act, 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 16. DELAYED REPEAL.--Sections 1 through 13 of
this act are repealed effective July 1, 2033.

SECTION 17. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2023.

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