



Statewide Economic Development Finance Act (SWEDFA) Updates

Proposed Changes to SWEDFA

Conduit Bond Rule Consideration

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- ◆ Overview of the Statewide Economic Development Finance Act (“SWEDFA”)
 - ◆ Overview of the tools provided for in SWEDFA
 - Bonds
 - IRBs
 - LEDA
 - Direct Loans and Loan Participations
 - New Markets Tax Credits
 - Guarantees
 - ◆ Recommended Changes to SWEDFA
 - ◆ Recommended Changes to the Conduit Bond Rules
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- ◆ The Statewide Economic Development Finance Act (“SWEDFA”) was enacted in 2003 and partnered NMFA with the NM Economic Development Department (“EDD”) in offering economic development financing tools similar to those offered by neighboring states.
- ◆ SWEDFA provided NMFA with the ability to:
 - ❑ issue tax exempt bonds for a variety of private entities as allowed under the Internal Revenue Code (“IRC”)
 - ❑ issue industrial revenue bonds (“IRBs”). SWEDFA created the Tax Impact Fund which would be used to reimburse local governments for some or all of the lost taxes arising from the IRB issuance
 - ❑ purchase participations in loans made by local banks to eligible entities recommended by the EDD. SWEDFA created the Statewide Loan Participation Fund
 - ❑ provide loan guarantees
 - ❑ purchase economic development bonds issued by NMFA on behalf of eligible entities
- ◆ The Tax Impact Fund and Statewide Loan Participation Fund were never funded and no activity occurred under the initial legislation.

- ◆ SWEDFA was amended in 2005 to:
 - ❑ provide the methodology and mechanics to implement the purposes of the Economic Development Act in accordance with Article 9, Subsection D of Section 14 of the Constitution of New Mexico, thereby acting as the State's LEDA. Eligible projects were broken into two types:
 - "State" projects which required the Legislature's approval of the amount and type of financing provided consistent with the Economic Development Act
 - "Standard" projects which otherwise met the "anti-donation test"
 - ❑ broaden the financing assistance to include making direct loans
 - ❑ add nonprofits as entities eligible to receive financing assistance
 - ❑ rename the Statewide Loan Participation Fund to the Economic Development Revolving Fund ("EDRF") and require prior legislative authorization for projects funded from the EDRF
 - ❑ provide that confidential information may be excepted from IPRA
- ◆ SWEDFA was further amended in:
 - ❑ 2006 to explicitly authorize NMFA to participate in the federal New Markets Tax Credits
 - ❑ 2019 to add agricultural enterprises as eligible projects
 - ❑ 2011, 2013, 2016, 2019, and 2023 to temporarily suspend legislative authorization for projects funded from the EDRF. This latest amendment sunsets June 30, 2027

- ◆ A bond is a form of debt security issued by both public and private entities
 - issuing a bond = borrowing money
- ◆ The bond is evidence of the debt obligation with stated:
 - amounts (“principal”) borrowed
 - interest rate charged (if fixed rate) or formula for how interest rate is determined (if variable rate)
 - identification of time period(s) when debt must be repaid (“maturity”) and interest payments made (“interest payment dates”)
- ◆ Municipal bonds are bonds issued by states, counties, municipalities, and other political subdivisions of the state (“issuers”). They are also issued by Indian Nations and Pueblos
- ◆ Issuers issue bonds to finance projects
 - almost all bonds are issued to finance capital projects
 - Bonds are rarely issued to finance operations and maintenance (“O&M”)
 - There are many restrictions on issuing bonds to fund O&M

- ◆ Municipal bonds may be sold for use by the issuer who is responsible for repaying the debt. They may also be issued on behalf of another public or private entity (“conduit” financings) where the benefitting entity/borrower – not the issuer – is legally obligated to pay the debt. When the NMFA issues conduit debt neither it nor the PPRF is legally obligated to pay the debt.
- ◆ Municipal Bonds can be divided up and categorized in many ways, but the most important are:
 - General Obligation and System/Project Revenue Bonds
 - General Obligation Bonds (“G.O. Bonds”) are repaid by the credit and taxing power of the issuing jurisdiction (state, county, municipality). Explicit authorization is required by the voters of the jurisdiction prior to the issuance of the bonds.
 - Revenue Bonds are repaid from the revenues of a specific project or entity.
 - Tax-exempt and Taxable Bonds
 - Interest paid on tax-exempt bonds is exempt from gross income for federal income tax purposes.
 - Investors will often buy tax-exempt bonds at a lower interest rate than a taxable bond on which they would have to pay federal income tax on interest earnings.
 - Borrowers will therefore have a lower interest rate to pay on their debt.
- ◆ The IRC applies a rigorous Private Use Test to determine whether a government’s public project qualifies for tax-exempt financing.

- ◆ The IRC determines which projects and entities may benefit from tax-exempt bonds.
- ◆ Tax-Exempt Bonds issued on behalf of a private entity are called “Qualified Private Activity” bonds.
- ◆ The IRC limits the amount of Qualified Private Activity Bonds issued in any calendar year by imposing a Private Activity Bond Volume Cap on each state and/or local jurisdiction. New Mexico’s State Board of Finance governs the state’s allocation of volume cap (\$397.625 million in 2026)
- ◆ Qualified Private Activity Bonds are conduit revenue bonds issued by state and local governments (including NMFA through SWEDFA) for certain authorized purposes:
 - ❑ Qualified 501(c)(3) Bonds issued for nonprofit organizations for hospitals, educational institutions, and other charitable facilities
 - ❑ Qualified Small Issue Bonds (formerly known as industrial development bonds) These bonds may not exceed \$10 million and no less than 95% of the proceeds must be used to finance the acquisition, construction, or improvement of land or depreciable property for a small manufacturer that meets certain capital expenditure limitations set by the IRC (capital expenditures for the project in the same city over a six year period – three years before, three years after, and including the bond issue – may not exceed \$20 million)
 - ❑ Exempt Facility Bonds for facilities that serve a public purpose but are privately operated, such as airports, docks, solid waste disposal facilities

- ◆ Other common Private Activity Bonds include Qualified Residential Rental Bonds, Qualified Mortgage Bonds, Qualified Veterans' Mortgage Bonds, and Qualified Student Loan Bonds
 - ❑ NMFA is not permitted to issue these types of bonds under SWEDFA
- ◆ Housing New Mexico (NM Mortgage Finance Authority) is the most active issuer of Private Activity bonds in New Mexico
- ◆ Since the enactment of SWEDFA in 2003, the NMFA has issued three conduit revenue bonds:
 - ❑ \$56.7 million Environmental Improvement Bond for the Enchantment Water, LLC Project in southeast New Mexico (November 2024)
 - ❑ \$13 million 501(c)(3) Revenue Bond for the UNM Foundation (December 2025)
 - ❑ \$10.6 million 501(c)(3) Revenue Bond for Homewise, Inc. (August 2026)
 - ❑ A \$4 million 501(c)(3) Revenue Bond for Goodwill Industries of New Mexico is pending
- ◆ NMFA also serves as a conduit issuer for the Department of Transportation bonds. NMDOT bonds are **NOT** secured by revenues pledged to the PPRF nor from any assets of the NMFA. NMDOT bonds are repaid by the collection of gasoline taxes, special fuels taxes, vehicle transaction taxes or fees, driver's license fees, other fees and taxes and federal aid revenues



- ◆ New Mexico, through the State Board of Finance, issues tax-backed bonds to fund state and local capital improvement projects.
 - General Obligation Bonds (“G.O. Bonds”):
 - Backed by property tax.
 - G.O. Bond capacity is equal to 1 percent of statewide assessed property value from the prior year less the outstanding bond debt.
 - Long term (typically 10-year terms) issuances at fixed rates.
 - Issuance of G.O. Bonds must be approved by voters.
 - Severance Tax Bonds (“STB”):
 - Backed by a percentage of severance taxes (levied on the value of severances of oil, gas and other natural resources). A portion of the tax is deposited monthly into the bond debt service fund and used only to pay-off STB debt.
 - STB capacity for long-term debt is based on estimates for 10 years of revenue, 10 years of debt at the current interest rates, and other factors.
 - SBOF regularly issues short-term notes (typically 1-3 days) that are paid-off from bond debt service funds not needed to pay-off long term bonds. In New Mexico we call these “**sponge bonds**” because they “sponge” up extra cash in the bond fund – allowing the state to take advantage of unused capacity.

- ◆ What are IRBs? IRBs are a tax subsidy vehicle that allow local jurisdictions to provide tax abatements on certain real and/or personal property for eligible projects
 - ❑ In an IRB transaction, the benefiting company transfers title of the land, building or equipment to the issuer (municipality or county) who simultaneously leases the project back to the company over a term of up to 30 years. The benefiting company is obligated to buy back the project for a nominal fee at the end of the lease
 - ❑ Because the project property is technically owned by the local government issuer, property tax and gross receipts (and/or compensating) taxes are not levied. The local government issuer passes through these benefits to the company typically in exchange for an annual payment in lieu of taxes (“PILT or PILOT”) negotiated between the issuer and benefiting company
 - ❑ IRBs are not typically a financing mechanism. Typically, the bond is purchased by an affiliate of the benefiting company
 - ❑ IRBs are available to certain manufacturing, commercial, agricultural, service, and infrastructure projects that meet statutory definitions and local approval requirements
 - ❑ IRBs are intended to stimulate economic development by exchanging potential tax revenue for job creation and economic growth. If the benefiting company defaults or fails to deliver the intended targets, issuers will typically place the project back on the tax rolls. Often the issuer will also include a claw-back provision that requires the company to pay some or all of the forgone taxes

- ◆ What is LEDA? LEDA is the investment of public dollars into a private company to offset costs associated with land, buildings, and infrastructure
 - State law (NMSA 1978, §§ 5-10-1 to 5-10-13) implemented the provisions of the 1994 constitutional amendment that allows public support of economic development to foster, promote and enhance local economic development efforts while continuing to protect against unauthorized use of public money and other public resources
- ◆ Administered by the NM Economic Development Department (EDD)
 - EDD provides grants to municipalities and counties that have adopted by ordinance a Local Economic Development Act Plan
 - Municipality or county enters into a Project Participation Agreement with eligible company; PPAs require job commitments, collateral and clawbacks in exchange for investment
 - LEDA requires that there is sufficient economic impact (return on investment, or ROI) to offset the public investment. LEDA safeguards include security (collateral) equal to the amount of the grant award for the purpose of securing clawbacks
- ◆ Targets economic-base employers and projects that create jobs, raise wages, and drive new capital investment. Qualifying entities include manufacturers, warehousing/distribution, and JTIP-eligible economic base employers.

- ◆ The Economic Development Revolving Fund (“EDRF”) is the Fund created under SWEDFA from which NMFA makes loans, purchases loan participations and provides loan guarantees
- ◆ The EDRF is predominantly funded by federal sources, receiving more than 10x the \$5.7 million in State General Funds received in 2005
- ◆ To date, NMFA has established two loan participation programs whereby NMFA purchases a portion of a loan made by a New Mexico bank at below market terms
 - ❑ State-funded Smart Money participation program
 - ❑ Federally funded State Small Business Credit Initiative (in 2011 and 2020)
 - ❑ Collateral Support Participation was a Federally funded loan participation program
- ◆ NMFA has established three direct loan programs in the EDRF
 - ❑ NMFA-funded Essential Services Working Capital Program provided direct working capital loans to essential service providers during the early part of the pandemic
 - ❑ NMFA-funded Cannabis Microbusiness Pilot Program (CMP) provides start up capital to six licensed cannabis micro-businesses
 - ❑ Federally funded Energy Efficiency Revolving Loan Program
- ◆ To date, NMFA has not established any guarantee programs

- ♦ The NMTC Program is a federal initiative that attracts private capital into low-income communities by offering investors a 39% federal income tax credit for equity investments in certified Community Development Entities (CDEs), which then finance qualifying projects in federally designated distressed areas
- ♦ NMFA created Finance New Mexico, LLC in 2006 and was subsequently certified as a CDE by the US Treasury's Community Development Financial Institutions Fund (CDFI Fund)
- ♦ Purpose: Mobilize private investment into economically distressed communities to support business, real estate development, health centers, charter schools, and other projects located in low-income census tracts or benefiting low-income persons
- ♦ Highly complex financing mechanism:
 - ❑ Investors make Qualified Equity Investments (QEIs) into a sub-CDE (special-purpose LLC created for each financing and certified by the CDFI Fund) in exchange for a 39% federal tax credit that is earned over seven years
 - ❑ Finance New Mexico uses the proceeds of the investment along with funding from a loan arranged by the borrower to make low-cost, highly flexible loans to the qualified borrower
 - ❑ A portion of the loan is forgiven at the end of the seven-year compliance period

Recommended Amendments to Statewide Economic Development Finance Act

- ◆ Staff recommends that the Legislature amend SWEDFA to:
 - ❑ remove the implementing provisions of the Economic Development Act
 - Eliminate “state” projects” and retitle all “standard projects” to “projects”
 - ❑ remove all IRB provisions
 - Eliminate “Tax Impact Fund”
 - ❑ eliminate the ability of NMFA to purchase conduit bonds with funds in the EDRF
 - ❑ streamline approvals for projects funded from the EDRF
 - make 15-year suspension of legislative authorization permanent
 - provide that NMFA Board of Directors may determine eligibility (currently EDD)
- ◆ The result would be a SWEDFA that allows NMFA to provide the following financing assistance:
 - ❑ purchase loan participations, make loans, provide loan guarantees from the EDRF
 - ❑ issue conduit bonds
 - ❑ participate in federal new Markets Tax Credit Program

Proposed Amendments to the Conduit Bond Rules

Proposed Amendments to SWEDFA Conduit Bond Rules

Narrowing the Conduit Project Revenue Bond Rules under SWEDFA from a broad economic development framework (2009) to a focused conduit bond issuance program (2026 proposal)

2009 Rules:

Broad Program Scope

- ❑ Authority could issue and purchase project revenue bonds via EDRF
- ❑ IRBs framework, Opt-In agreements, Payments in Lieu of Taxes (PILT)
- ❑ LEDA-related provisions and Quantifiable Benefits metrics
- ❑ Recovery Zone Facility Bonds (ARRA tools)
- ❑ Extensive definitions (Standard/ State Project, Underserved and Rural Areas, Mortgage, etc.)
- ❑ Appeals heard by Board; notice via First Class U.S. Mail

Eliminate IRBs, Opt-In, PILT

Eliminate EDRF bond purchases

Remove ARRA/Recovery Zone tools

Prune duplicative/legacy definitions

2026 Proposed Rules:

Narrow, Clear Scope

- ❑ Purpose restricted to issuance of conduit, tax-exempt Project Revenue Bonds
- ❑ Definitions updated & minimized (adds 'Conduit Project Revenue Bonds'; aligns Economic Development Goal with 2025 State Plan)
- ❑ Application & evaluation steps streamlined; focus on feasibility and ability to service debt
- ❑ Mechanics governed by Economic Development Bond Policies; volume cap compliance
- ❑ Appeals modernized: reviewed by CEO; written notice; timeline clarified
- ❑ Sections solely tied to IRBs/EDRF purchasing removed