

SENATE PUBLIC AFFAIRS COMMITTEE SUBSTITUTE FOR  
SENATE BILL 48

**50TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2011**

AN ACT

RELATING TO THE NEW MEXICO FINANCE AUTHORITY; TEMPORARILY  
REQUIRING REPORTING OF PUBLIC PROJECT REVOLVING FUND PROJECT  
AND FUND STATUS; TEMPORARILY REMOVING THE REQUIREMENT FOR  
SPECIFIC PRIOR AUTHORIZATION OF PROJECTS FOR PUBLIC PROJECT  
REVOLVING FUND FUNDING.

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

**SECTION 1.** 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

1 purposes of the fund. The authority may establish procedures  
2 and adopt rules as required to administer the fund in  
3 accordance with the New Mexico Finance Authority Act.

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

13 C. The authority shall report no less than  
14 quarterly to the legislature and the New Mexico finance  
15 authority oversight committee on public projects approved by  
16 the authority and on the status of the public project revolving  
17 fund, pursuant to rules of the authority approved by the New  
18 Mexico finance authority oversight committee.

19 [~~G-~~] D. Money appropriated to pay administrative  
20 costs, money available for administrative costs from other  
21 sources and money from payments of interest on loans or  
22 securities held by the authority, including payments of  
23 interest on loans and securities held by the authority for  
24 public projects authorized specifically by law, that represents  
25 payments for administrative costs shall not be deposited in the

1 public project revolving fund and shall be deposited in a  
2 separate account of the authority and may be used by the  
3 authority to meet administrative costs of the authority.

4 ~~[D.]~~ E. Except as otherwise provided in the New  
5 Mexico Finance Authority Act, money in the public project  
6 revolving fund is appropriated to the authority to pay the  
7 reasonably necessary costs of originating and servicing loans,  
8 grants or securities funded by the fund and to make loans or  
9 grants and to purchase or sell securities to assist qualified  
10 entities in financing public projects in accordance with the  
11 New Mexico Finance Authority Act. ~~[and pursuant to specific~~  
12 ~~authorization by law for each project.]~~

13 ~~E.]~~ F. Money in the public project revolving fund  
14 not needed for immediate disbursement, including money held in  
15 reserve, may be deposited with the state treasurer for  
16 short-term investment pursuant to Section 6-10-10.1 NMSA 1978  
17 or may be invested in direct and general obligations of or  
18 obligations fully and unconditionally guaranteed by the United  
19 States, obligations issued by agencies of the United States,  
20 obligations of this state or any political subdivision of the  
21 state, interest-bearing time deposits, commercial paper issued  
22 by corporations organized and operating in the United States  
23 and rated "prime" quality by a national rating service, other  
24 investments permitted by Section 6-10-10 NMSA 1978 or as  
25 otherwise provided by the trust indenture or bond resolution,

1 if money is pledged for or secures payment of bonds issued by  
2 the authority.

3 ~~[F-]~~ G. The authority shall establish fiscal  
4 controls and accounting procedures that are sufficient to  
5 assure proper accounting for public project revolving fund  
6 payments, disbursements and balances.

7 ~~[G-]~~ H. Money on deposit in the public project  
8 revolving fund may be used to make interim loans for a term not  
9 exceeding two years to qualified entities for the purpose of  
10 providing interim financing for any project approved or funded  
11 by the legislature.

12 ~~[H-]~~ I. Money on deposit in the public project  
13 revolving fund may be used to acquire securities or to make  
14 loans to qualified entities in connection with the small loan  
15 program. As used in this subsection, "small loan program"  
16 means the program of the authority designed to provide  
17 financing for public projects in amounts not to exceed one  
18 million dollars (\$1,000,000) per project. A public project  
19 financed pursuant to the small loan program shall not require  
20 specific authorization by law.

21 ~~[I-]~~ J. Money on deposit in the public project  
22 revolving fund may be designated as a reserve for any bonds  
23 issued by the authority, including bonds payable from sources  
24 other than the public project revolving fund, and the authority  
25 may covenant in any bond resolution or trust indenture to

1 maintain and replenish the reserve from money deposited in the  
 2 public project revolving fund after issuance of bonds by the  
 3 authority.

4 ~~[J-]~~ K. Money on deposit in the public project  
 5 revolving fund may be used to purchase bonds issued by the  
 6 authority, which are payable from any designated source of  
 7 revenues or collateral. Purchasing and holding the bonds in  
 8 the public project revolving fund shall not, as a matter of  
 9 law, result in cancellation or merger of the bonds  
 10 notwithstanding the fact that the authority as the issuer of  
 11 the bonds is obligated to make the required debt service  
 12 payments and the public project revolving fund held by the  
 13 authority is entitled to receive the required debt service  
 14 payments.

15 ~~[K-]~~ L. Money on deposit in the public project  
 16 revolving fund may be used to capitalize other financing  
 17 programs of the authority authorized by law, either directly or  
 18 from proceeds of bonds issued by the authority and secured by  
 19 money in the public project revolving fund."

20 **SECTION 2.** Section 6-21-8 NMSA 1978 (being Laws 1992,  
 21 Chapter 61, Section 8, as amended) is amended to read:

22 "6-21-8. PUBLIC PROJECT FINANCE PROGRAM--LOANS--PURCHASE  
 23 OR SALE OF SECURITIES.--To implement a program to assist  
 24 qualified entities in financing public projects, the authority  
 25 has the powers specified in this section [~~provided that the~~

1 ~~authority shall take no action concerning a project financed~~  
2 ~~with money in the public project revolving fund unless the~~  
3 ~~project is specifically authorized by law or authorized] or as~~  
4 otherwise provided pursuant to other provisions of the New  
5 Mexico Finance Authority Act. The authority may:

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

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

12 (1) a loan to a qualified entity;

13 (2) a grant to a qualified entity from money  
14 available to the authority except money in the public project  
15 revolving fund;

16 (3) a purchase or sale of securities  
17 individually or on a pooled basis; or

18 (4) the performance of its duties and  
19 execution of its powers under the New Mexico Finance Authority  
20 Act;

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

1 considers advisable;

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

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

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

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

15 (2) redemption or payment before maturity; and

16 (3) any other matters that in connection with  
17 the purchase are necessary, desirable or advisable in the  
18 judgment of the authority;

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

25 H. in connection with the purchase of any

1 securities, consider the ability of the qualified entity to  
2 secure financing from other sources and the costs of that  
3 financing and the particular public project or purpose to be  
4 financed or refinanced with the proceeds of the securities to  
5 be purchased by the authority;

6 I. acquire fee simple, leasehold, mortgagor's or  
7 mortgagee's interests in real and personal property and to  
8 sell, mortgage, convey or lease that property for authority  
9 purposes; and

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

13 SECTION 3. Section 6-21-6 NMSA 1978 (being Laws 1992,  
14 Chapter 61, Section 6, as amended by Section 1 of this act) is  
15 repealed and a new Section 6-21-6 NMSA 1978 is enacted to read:

16 "6-21-6. [NEW MATERIAL] PUBLIC PROJECT REVOLVING FUND--  
17 PURPOSE--ADMINISTRATION.--

18 A. The "public project revolving fund" is created  
19 within the authority. The fund shall be administered by the  
20 authority as a separate account, but may consist of such  
21 subaccounts as the authority deems necessary to carry out the  
22 purposes of the fund. The authority may establish procedures  
23 and adopt rules as required to administer the fund in  
24 accordance with the New Mexico Finance Authority Act.

25 B. Except as otherwise provided in the New Mexico

1 Finance Authority Act, money from payments of principal of and  
2 interest on loans and payments of principal of and interest on  
3 securities held by the authority for public projects authorized  
4 specifically by law shall be deposited in the public project  
5 revolving fund. The fund shall also consist of any other money  
6 appropriated, distributed or otherwise allocated to the fund  
7 for the purpose of financing public projects authorized  
8 specifically by law.

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

19 D. Except as otherwise provided in the New Mexico  
20 Finance Authority Act, money in the public project revolving  
21 fund is appropriated to the authority to pay the reasonably  
22 necessary costs of originating and servicing loans, grants or  
23 securities funded by the fund and to make loans or grants and  
24 to purchase or sell securities to assist qualified entities in  
25 financing public projects in accordance with the New Mexico

1 Finance Authority Act and pursuant to specific authorization by  
2 law for each project.

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

18 F. The authority shall establish fiscal controls  
19 and accounting procedures that are sufficient to assure proper  
20 accounting for public project revolving fund payments,  
21 disbursements and balances.

22 G. Money on deposit in the public project revolving  
23 fund may be used to make interim loans for a term not exceeding  
24 two years to qualified entities for the purpose of providing  
25 interim financing for any project approved or funded by the

1 legislature.

2 H. Money on deposit in the public project revolving  
3 fund may be used to acquire securities or to make loans to  
4 qualified entities in connection with the small loan program.  
5 As used in this subsection, "small loan program" means the  
6 program of the authority designed to provide financing for  
7 public projects in amounts not to exceed one million dollars  
8 (\$1,000,000) per project. A public project financed pursuant  
9 to the small loan program shall not require specific  
10 authorization by law.

11 I. Money on deposit in the public project  
12 revolving fund may be designated as a reserve for any bonds  
13 issued by the authority, including bonds payable from sources  
14 other than the public project revolving fund, and the authority  
15 may covenant in any bond resolution or trust indenture to  
16 maintain and replenish the reserve from money deposited in the  
17 public project revolving fund after issuance of bonds by the  
18 authority.

19 J. Money on deposit in the public project revolving  
20 fund may be used to purchase bonds issued by the authority,  
21 which are payable from any designated source of revenues or  
22 collateral. Purchasing and holding the bonds in the public  
23 project revolving fund shall not, as a matter of law, result in  
24 cancellation or merger of the bonds notwithstanding the fact  
25 that the authority as the issuer of the bonds is obligated to

1 make the required debt service payments and the public project  
2 revolving fund held by the authority is entitled to receive the  
3 required debt service payments.

4 K. Money on deposit in the public project revolving  
5 fund may be used to capitalize other financing programs of the  
6 authority authorized by law, either directly or from proceeds  
7 of bonds issued by the authority and secured by money in the  
8 public project revolving fund."

9 SECTION 4. Section 6-21-8 NMSA 1978 (being Laws 1992,  
10 Chapter 61, Section 8, as amended by Section 2 of this act) is  
11 repealed and a new Section 6-21-8 NMSA 1978 is enacted to read:

12 "6-21-8. [NEW MATERIAL] PUBLIC PROJECT FINANCE PROGRAM--  
13 LOANS--PURCHASE OR SALE OF SECURITIES.--To implement a program  
14 to assist qualified entities in financing public projects, the  
15 authority has the powers specified in this section; provided  
16 that the authority shall take no action concerning a project  
17 financed with money in the public project revolving fund unless  
18 the project is specifically authorized by law or authorized  
19 pursuant to other provisions of the New Mexico Finance  
20 Authority Act. The authority may:

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

24 B. make, enter into and enforce all contracts  
25 necessary, convenient or desirable for the purposes of the

1 authority or pertaining to:

2 (1) a loan to a qualified entity;

3 (2) a grant to a qualified entity from money  
4 available to the authority except money in the public project  
5 revolving fund;

6 (3) a purchase or sale of securities  
7 individually or on a pooled basis; or

8 (4) the performance of its duties and  
9 execution of its powers under the New Mexico Finance Authority  
10 Act;

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

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

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

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

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

5 (2) redemption or payment before maturity; and

6 (3) any other matters that in connection with  
7 the purchase are necessary, desirable or advisable in the  
8 judgment of the authority;

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

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

21 I. acquire fee simple, leasehold, mortgagor's or  
22 mortgagee's interests in real and personal property and to  
23 sell, mortgage, convey or lease that property for authority  
24 purposes; and

25 J. in the event of default by a qualified entity,

1 enforce its rights by suit or mandamus or may use all other  
2 available remedies under state law."

3 SECTION 5. EFFECTIVE DATE.--

4 A. The effective date of the provisions of Sections  
5 1 and 2 of this act is July 1, 2011.

6 B. The effective date of the provisions of Sections  
7 3 and 4 of this act is July 1, 2013.

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underscoring material = new  
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