

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

SENATE BILL 143

**55TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2021**

INTRODUCED BY

Pete Campos

FOR THE LEGISLATIVE FINANCE COMMITTEE

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; 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

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

1 authority;

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

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

9 D. "public partner" means the state or any of its  
10 branches, agencies, departments, boards, instrumentalities or  
11 institutions and all political subdivisions of the state or any  
12 of its agencies, instrumentalities and institutions, including  
13 a department, an agency, an institution of higher education, a  
14 board or a commission;

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

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

23 G. "public project" means a public transportation  
24 facility or infrastructure or improvement to a public  
25 transportation facility, other than a toll road;

.218730.1

underscored material = new  
[bracketed material] = delete

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

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

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

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

16           B. Prior to entering into negotiations regarding  
17 the use of a public-private partnership agreement as a method  
18 of implementing a proposed public project, the public partner  
19 shall publish its interest in considering such an agreement,  
20 and such publication shall include a description of the scope  
21 of the proposed public project.

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

24                   (1) undertake a cost-benefit analysis of a  
25 public-private partnership project in comparison with the

.218730.1

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

1 traditional public-partner-managed project;

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

5 (3) conduct a public hearing relating to the  
6 proposed public-private partnership held in accordance with the  
7 Open Meetings Act;

8 (4) demonstrate that the proposed public  
9 project serves an important public purpose and fulfills an  
10 important public need; and

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

13 D. A public-private partnership agreement shall:

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

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

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

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

25 (5) specify how revenue will be collected,

.218730.1

1       accounted for and audited;

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

4                       (7)   address how the public partners and the  
5       private partners will share management and the risks of the  
6       public project;

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

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

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

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

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

.218730.1

underscoring material = new  
[bracketed material] = delete

1 (11) provide for the protection of proprietary  
2 information of the private partner;

3 (12) provide that operations and maintenance  
4 of a public project be performed by the public partner;

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

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

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

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

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

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

.218730.1

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

1           B. The nine members of the board are:

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

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

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

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

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

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

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

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

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

.218730.1

underscored material = new  
[bracketed material] = delete

1       perquisite or allowance.

2               SECTION 5.   [NEW MATERIAL] BOARD--POWERS.--The board may:

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

5                   B.   develop forms of applications for approval of  
6       public-private partnership agreements;

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

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

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

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

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

24                  H.   make recommendations for approval to the  
25       authority of public projects seeking grants or loans from the

.218730.1



underscored material = new  
[bracketed material] = delete

1 public-private partnership project fund; and

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

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

8 A. provide staff support to the board;

9 B. administer the public-private partnership  
10 project fund;

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

14 D. make loans and grants from the public-private  
15 partnership project fund for public projects that have been  
16 recommended for approval by the board pursuant to the Public-  
17 Private Partnership Act;

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

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

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

.218730.1

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

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

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

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

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

20           B. Money in the public-private partnership project  
21 fund may be used to make grants of up to seventy-five thousand  
22 dollars (\$75,000) to a public partner for the purposes of  
23 studying the costs and benefits of entering into a public-  
24 private partnership agreement for a proposed public project. A  
25 private partner shall provide funds matching the public

.218730.1

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

1 partner's monetary obligation for the cost of the study, as  
2 required by the authority.

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

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

10 (2) the public partner shall certify to the  
11 board that the public partner has taken all action necessary to  
12 approve the public-private partnership agreement and that the  
13 public-private partnership agreement contains all terms and  
14 conditions required by the Public-Private Partnership Act.

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

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

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

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

25 (1) the cost of the public project is in

.218730.1

underscored material = new  
[bracketed material] = delete

1 excess of ten million dollars (\$10,000,000);

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

5 (3) the grant or loan application is  
6 recommended for approval by the board and approved by the  
7 authority.

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

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

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

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

24 B. The authority may pledge irrevocably any or all  
25 of the revenue received by the authority to the payment of the

.218730.1

1 interest on and principal of revenue bonds for any of the  
2 purposes authorized in the Public-Private Partnership Act.

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

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

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

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

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

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

25 (4) may be serial in form and maturity, may

underscoring material = new  
[bracketed material] = delete

1 consist of one bond payable at one time or may be in  
2 installments or in another form determined by the authority;

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

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

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

12 (1) declares the necessity for issuing revenue  
13 bonds;

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

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

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

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

24 (1) acceleration, deceleration or other  
25 modification of the payment of the outstanding bonds, including

.218730.1

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

1 any capitalization of any interest thereon in arrears or about  
2 to become due for any period not exceeding two years from the  
3 date of the refunding bonds;

4 (2) reduction of interest costs or affecting  
5 other economies; or

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

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

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

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

21 E. Refunding bonds shall be authorized by  
22 resolution. Bonds that are refunded shall be paid at maturity  
23 or on any permitted prior redemption date in the amounts, at  
24 the time and places and, if called prior to maturity, in  
25 accordance with any applicable notice provisions, all as

.218730.1

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

1 provided in the proceedings authorizing the issuance of the  
2 refunded bonds or otherwise appertaining thereto, except for  
3 any such bond that is voluntarily surrendered for exchange or  
4 payment by the holder or owner.

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

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

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

22 I. Refunding bonds:

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

.218730.1



underscoring material = new  
[bracketed material] = delete

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

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

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

13 J. At a regular or special meeting, the authority  
14 may adopt a resolution by majority vote to authorize the  
15 issuance of the refunding bonds.

16 SECTION 11. [NEW MATERIAL] BONDS NOT OBLIGATION OF  
17 STATE.--All bonds or other obligations issued pursuant to the  
18 Public-Private Partnership Act are payable solely from the  
19 revenue of the authority that may be pledged to the payment of  
20 such obligations, and the bonds or other obligations shall not  
21 create an obligation, debt or liability of the state or any  
22 other of its political subdivisions. No breach of any pledge,  
23 obligation or agreement of the authority shall impose a  
24 pecuniary liability or a charge upon the general credit or  
25 taxing power of the state or any other of its political

.218730.1

underscoring material = new  
[bracketed material] = delete

1 subdivisions.

2 SECTION 12. [NEW MATERIAL] REPORT.--By December 1, 2021,  
3 and by December 1 of each year thereafter, the board shall  
4 provide a report to the governor and the New Mexico finance  
5 authority oversight committee regarding:

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

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

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

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

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

16 SECTION 13. [NEW MATERIAL] CUMULATIVE AUTHORITY.--The  
17 Public-Private Partnership Act shall be deemed to provide an  
18 additional and alternative method for the doing of things  
19 authorized by that act and shall be regarded as supplemental  
20 and additional to powers conferred by other laws and shall not  
21 be regarded as in derogation of any powers now existing;  
22 provided that the issuance of bonds pursuant to the provisions  
23 of the Public-Private Partnership Act need not comply with the  
24 requirements of any other law applicable to the issuance of  
25 bonds, except the Public Securities Act, the Public Securities

.218730.1

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

1 Short-Term Interest Rate Act and the Public Securities  
2 Limitation of Action Act, which acts shall apply.

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

7 "13-1-98. EXEMPTIONS FROM THE PROCUREMENT CODE.--The  
8 provisions of the Procurement Code shall not apply to:

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

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

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

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

23 E. purchases of books, periodicals and training  
24 materials in printed or electronic format from the publishers  
25 or copyright holders thereof and purchases of print, digital or

.218730.1

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

1 electronic format library materials by public, school and state  
2 libraries for access by the public;

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

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

8 H. contracts with businesses for public school  
9 transportation services;

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

17 J. purchases not exceeding ten thousand dollars  
18 (\$10,000) consisting of magazine subscriptions, web-based or  
19 electronic subscriptions, conference registration fees and  
20 other similar purchases where prepayments are required;

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

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

.218730.1

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

1 consultants;

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

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

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

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

19 Q. contracts with professional entertainers;

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

.218730.1

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

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

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

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

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

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

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

24           Y. procurement by or through the public education  
25 department from the federal department of education relating to

.218730.1

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

1 parent training and information centers designed to increase  
2 parent participation, projects and initiatives designed to  
3 improve outcomes for students with disabilities and other  
4 projects and initiatives relating to the administration of  
5 improvement strategy programs pursuant to the federal  
6 Individuals with Disabilities Education Act; provided that the  
7 exemption applies only to procurement of services not to exceed  
8 two hundred thousand dollars (\$200,000);

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

12 AA. purchases of products or services for eligible  
13 persons with disabilities pursuant to the federal  
14 Rehabilitation Act of 1973;

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

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

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

.218730.1

underscoring material = new  
[bracketed material] = delete

1 livestock;

2 EE. contracts entered into by the crime victims  
3 reparation commission to distribute federal grants to assist  
4 victims of crime, including grants from the federal Victims of  
5 Crime Act of 1984 and the federal Violence Against Women Act of  
6 1994;

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

11 GG. procurement of services of commissioned  
12 advertising sales representatives for New Mexico magazine;  
13 [~~and~~]

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

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

18 SECTION 15. EFFECTIVE DATE.--The effective date of the  
19 provisions of this act is July 1, 2021.

20 - 24 -

21

22

23

24

25