

underscored material = new
[bracketed material] = delete

SENATE BILL 59

54TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2020

INTRODUCED BY

Michael Padilla

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

.216169.1

1 authority;

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

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

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

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

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

.216169.1

1 pursuant to the Public-Private Partnership Act;

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

6 H. "public project" means construction or
7 improvement that is related to broadband telecommunications
8 network facilities;

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

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

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

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

24 B. Prior to entering into negotiations regarding
25 the use of a public-private partnership agreement as a method

.216169.1

1 of implementing a proposed public project, the public partner
2 shall publish its interest in considering such an agreement,
3 and such publication shall include a description of the scope
4 of the proposed public project.

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

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

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

13 (3) conduct a public hearing relating to the
14 proposed public-private partnership held in accordance with the
15 Open Meetings Act;

16 (4) demonstrate that the proposed public
17 project serves an important public purpose and fulfills an
18 important public need; and

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

21 D. A public-private partnership agreement shall:

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

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

1 the agreement;

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

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

12 (5) specify how revenue will be collected,
13 accounted for and audited;

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

16 (7) address how the public partners and the
17 private partners will share management and the risks of the
18 public project;

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

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

25 (b) terminate the public-private

.216169.1

1 partnership and exercise any other rights and remedies that may
2 be available;

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

5 (10) limit a private partner from seeking
6 injunctive or other equitable relief to in any way restrict a
7 public partner from developing, constructing or maintaining a
8 public project, except that the public-private partnership
9 agreement may provide for reasonable compensation to the
10 private partner for the adverse effect resulting from
11 development, construction, operation and maintenance of another
12 public project of the public partner;

13 (11) provide for the protection of proprietary
14 information of the private partner;

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

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

20 E. A public-private partnership agreement for a
21 public project for which the cost is in excess of five million
22 dollars (\$5,000,000) shall not become effective until it is
23 approved by the board pursuant to the Public-Private
24 Partnership Act.

25 F. Within thirty days of execution by a public

1 partner and a private partner, a copy of the fully executed
2 public-private partnership agreement for a public project for
3 which the cost is less than or equal to five million dollars
4 (\$5,000,000) shall be delivered to the board for reporting
5 pursuant to the Public-Private Partnership Act.

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

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

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

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

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

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

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

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

22 (6) four public members appointed by the New
23 Mexico legislative council who shall have experience in
24 architecture, development, engineering, public projects,
25 project finance, public finance or bond and finance law.

.216169.1

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

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

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

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

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

15 B. develop forms of applications for approval of
16 public-private partnership agreements;

17 C. receive for reporting purposes executed public-
18 private partnership agreements for public projects for which
19 the cost is less than or equal to five million dollars
20 (\$5,000,000);

21 D. review and consider for approval proposed
22 public-private partnership agreements for a public project for
23 which the cost is in excess of five million dollars
24 (\$5,000,000);

25 E. certify the need for the issuance of revenue

1 bonds and refunding bonds by the authority;

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

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

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

12 I. take all other action necessary to implement the
13 Public-Private Partnership Act, including entering into joint
14 powers agreements and retaining legal counsel and experts when
15 appropriate.

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

18 A. provide staff support to the board;

19 B. administer the public-private partnership
20 project fund;

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

24 D. make loans and grants from the public-private
25 partnership project fund for public projects that have been

1 recommended for approval by the board pursuant to the Public-
2 Private Partnership Act;

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

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

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

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

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

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

21 A. The "public-private partnership project fund" is
22 created within the authority. The fund consists of
23 appropriations, payments of principal and interest on loans
24 made from the fund, income from investment of the fund and any
25 other money distributed or otherwise allocated to the fund.

.216169.1

1 Balances in the fund at the end of any fiscal year shall not
2 revert to the general fund. The fund may consist of such
3 subaccounts as the authority deems necessary to carry out the
4 purposes of the fund.

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

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

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

20 (2) the public partner shall certify to the
21 board that the public partner has taken all action necessary to
22 approve the public-private partnership agreement and that the
23 public-private partnership agreement contains all terms and
24 conditions required by the Public-Private Partnership Act.

25 D. Money in the public-private partnership project

1 fund may be used pursuant to Subsections B and C of this
2 section only for:

- 3 (1) grants or loans to a public partner; and
4 (2) a public project for which the cost is in
5 excess of five million dollars (\$5,000,000).

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

- 10 (1) the cost of the public project is in
11 excess of five million dollars (\$5,000,000);
12 (2) the agreement between the Indian nation,
13 tribe or pueblo and the private partner is approved by the
14 board; and

- 15 (3) the grant or loan application is
16 recommended for approval by the board and approved by the
17 authority.

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

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

1 Apprentice and Training Act.

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

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

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

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

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

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

.216169.1

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

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

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

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

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

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

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

22 (1) declares the necessity for issuing revenue
23 bonds;

24 (2) authorizes the issuance of revenue bonds
25 by an affirmative vote of a majority of all of the members of

1 the authority; and

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

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

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

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

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

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

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

24 C. In addition to the pledge of revenue to the
25 payment of refunding bonds, the authority may grant a mortgage

.216169.1

1 on a public project that has been solely financed by revenue
2 bonds to the bondholders or a trustee for the benefit of the
3 holders of the bonds.

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

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

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

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

1 corporation.

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

7 I. Refunding bonds:

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

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

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

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

23 J. At a regular or special meeting, the authority
24 may adopt a resolution by majority vote to authorize the
25 issuance of the refunding bonds.

.216169.1

1 SECTION 11. ~~[NEW MATERIAL]~~ BONDS NOT OBLIGATION OF
2 STATE.--All bonds or other obligations issued pursuant to the
3 Public-Private Partnership Act are payable solely from the
4 revenue of the authority that may be pledged to the payment of
5 such obligations, and the bonds or other obligations shall not
6 create an obligation, debt or liability of the state or any
7 other of its political subdivisions. No breach of any pledge,
8 obligation or agreement of the authority shall impose a
9 pecuniary liability or a charge upon the general credit or
10 taxing power of the state or any other of its political
11 subdivisions.

12 SECTION 12. ~~[NEW MATERIAL]~~ REPORT.--By December 1, 2020,
13 and by December 1 of each year thereafter, the board shall
14 provide a report to the governor and the New Mexico finance
15 authority oversight committee regarding:

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

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

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

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

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

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

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

17 "13-1-98. EXEMPTIONS FROM THE PROCUREMENT CODE.--The
18 provisions of the Procurement Code shall not apply to:

19 A. procurement of items of tangible personal
20 property or services by a state agency or a local public body
21 from a state agency, a local public body or external
22 procurement unit except as otherwise provided in Sections
23 13-1-135 through 13-1-137 NMSA 1978;

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

.216169.1

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

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

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

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

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

18 H. contracts with businesses for public school
19 transportation services;

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

.216169.1

1 adoption;

2 J. purchases not exceeding ten thousand dollars
3 (\$10,000) consisting of magazine subscriptions, web-based or
4 electronic subscriptions, conference registration fees and
5 other similar purchases where prepayments are required;

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

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

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

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

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

.216169.1

1 drug enforcement administration;

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

4 Q. contracts with professional entertainers;

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

11 S. contracts for service relating to the design,
12 engineering, financing, construction and acquisition of public
13 improvements undertaken in improvement districts pursuant to
14 Subsection L of Section 3-33-14.1 NMSA 1978 and in county
15 improvement districts pursuant to Subsection L of Section
16 4-55A-12.1 NMSA 1978;

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

19 U. contracts entered into by a local public body
20 with a person, firm, organization, corporation or association
21 or a state educational institution named in Article 12, Section
22 11 of the constitution of New Mexico for the operation and
23 maintenance of a hospital pursuant to Chapter 3, Article 44
24 NMSA 1978, lease or operation of a county hospital pursuant to
25 the Hospital Funding Act or operation and maintenance of a

.216169.1

1 hospital pursuant to the Special Hospital District Act;

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

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

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

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

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

22 AA. purchases of products or services for eligible
23 persons with disabilities pursuant to the federal
24 Rehabilitation Act of 1973;

25 BB. procurement, by either the department of health

1 or Grant county or both, of tangible personal property,
2 services or construction that are exempt from the Procurement
3 Code pursuant to Section 9-7-6.5 NMSA 1978;

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

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

12 EE. contracts entered into by the crime victims
13 reparation commission to distribute federal grants to assist
14 victims of crime, including grants from the federal Victims of
15 Crime Act of 1984 and the federal Violence Against Women Act of
16 1994;

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

21 GG. procurement of services of commissioned
22 advertising sales representatives for New Mexico magazine;
23 [~~and~~]

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

underscored material = new
[bracketed material] = delete

1 [~~HH.~~] II. procurements exempt from the Procurement
2 Code as otherwise provided by law."

3 SECTION 15. EFFECTIVE DATE.--The effective date of the
4 provisions of this act is July 1, 2020.

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