

N.M. Stat. Ann. § 6-21-1

Statutes current with all legislation of the 54th Legislature's First (2019) Regular Session

Michie's™ Annotated Statutes of New Mexico > Chapter 6 Public Finances (Arts. 1 — 31) > Article 21 Finance Authority (§§ 6-21-1 — 6-21-31)

6-21-1. Short title.

Chapter 6, Article 21 NMSA 1978 may be cited as the “New Mexico Finance Authority Act”.

History

Laws 1992, ch. 61, § [1](#); 2003, ch. 325, § [1](#).

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N.M. Stat. Ann. § 6-21-2

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6-21-2. Legislative findings; declaration of purpose.

A. The legislature finds that:

- (1) there are necessary state and local capital improvement and infrastructure needs that cannot be met with existing capital financing methods and funding sources;
- (2) there is no coordinating entity or process for accomplishing long-term state and local capital planning, needs assessment or inventory of needs; setting priorities; and making more effective use of existing capital financing methods and funding sources;
- (3) the uncertain nature of revenues available from the proceeds of severance tax bonds and other state and local revenues have frustrated state and local government efforts to finance needed state and local capital projects; and
- (4) in order to meet public capital and infrastructure needs, a central state mechanism to coordinate the planning and financing of public projects is necessary.

B. It is the purpose of the New Mexico Finance Authority Act [[6-21-1 NMSA](#) 1978] to create a governmental instrumentality to coordinate the planning and financing of state and local public projects, to provide for long-term planning and assessment of state and local capital needs and to improve cooperation among the executive and legislative branches of state government and local governments in financing public projects.

C. It is the further purpose of the New Mexico Finance Authority Act [[6-21-1 NMSA](#) 1978] to provide financing for public projects in a manner that will not impair the capacity of the public project revolving fund to provide future financing to qualified entities for public projects. Funding shall not be provided from the public project revolving fund unless revenues in an amount sufficient to avoid a negative impact on the financing capacity of the public project revolving fund are contemporaneously pledged or dedicated for deposit to the public project revolving fund. Pursuant to [Section 6-21-6.1 NMSA](#) 1978, the authority may provide funding from the public project revolving fund for the purposes of the Wastewater Facility Construction Loan Act [[74-6A-1 NMSA](#) 1978], the Rural Infrastructure Act [[75-1-1 NMSA](#) 1978], the Solid Waste Act [[74-9-1 NMSA](#) 1978] or the Drinking Water State Revolving Loan Fund Act [[6-21A-1 NMSA](#) 1978].

History

Laws 1992, ch. 61, § [2](#); 2000, ch. 80, § [1](#).

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6-21-3. Definitions.

As used in the New Mexico Finance Authority Act [[6-21-1 NMSA](#) 1978]:

- A. “authority” means the New Mexico finance authority;
- B. “bond” means any bonds, notes, certificates of participation or other evidence of indebtedness;
- C. “bondholder” or “holder” means a person who is the owner of a bond, whether registered or not;
- D. “emergency public project” means a public project:
 - (1) made necessary by an unforeseen occurrence or circumstance threatening the public health, safety or welfare; and
 - (2) requiring the immediate expenditure of money that is not within the available financial resources of the qualified entity as determined by the authority;
- E. “public project” means the acquisition, construction, improvement, alteration or reconstruction of assets of a long-term capital nature by a qualified entity, including land; buildings; water rights; water, sewerage and waste disposal systems; streets; airports; municipal utilities; public recreational facilities; public transportation systems; parking facilities; and machinery, furniture and equipment. “Public project” includes all proposed expenditures related to the entire undertaking. “Public project” also includes the acquisition, construction or improvement of real property, buildings, facilities and other assets by the authority for the purpose of leasing the property;
- F. “qualified entity” means the state or an agency or institution of the state or a county, municipality, school district, two-year public post-secondary educational institution, charter school, land grant corporation, acequia association, public improvement district, federally chartered college located in New Mexico, intercommunity water or natural gas supply association or corporation, special water, drainage, irrigation or conservancy district or other special district created pursuant to law, nonprofit foundation or other support organization affiliated with a public university, college or other higher educational institution located in New Mexico, including a university research park corporation, an Indian nation, tribe or pueblo located wholly or partially in New Mexico, including a political subdivision or a wholly owned enterprise of an Indian nation, tribe or pueblo or a consortium of those Indian entities or a consortium of any two or more qualified entities created pursuant to law; and
- G. “security” or “securities”, unless the context indicates otherwise, means bonds, notes or other evidence of indebtedness issued by a qualified entity or leases or certificates or other evidence of participation in the lessor’s interest in and rights under a lease with a qualified entity and that are payable from taxes, revenues, rates, charges, assessments or user fees or from the proceeds of funding or refunding bonds, notes or other evidence of indebtedness of a qualified entity or from certificates or evidence of participation in a lease with a qualified entity.

History

Laws 1992, ch. 61, § [3](#); 1995, ch. 141, § [15](#); 1996, ch. 75, § [1](#); 1997, ch. 90, § [1](#); 1999, *ch. 4*, § [1](#); 2001, ch. 294, § [1](#); 2003, ch. 25, § [1](#); 2006, ch. 65, § [1](#); 2009, ch. 223, § [1](#).

Annotations

Notes

Amendment Notes.

The 2006 amendment, effective March 6, 2006, inserted “nonprofit foundation or other support organization affiliated with a public university, college or other high educational institution located in New Mexico” following “special district or community water association” in Subsection F.

The 2009 amendment, effective July 1, 2009, added “public recreational facilities; public transportation systems” in the first sentence of (E); in (F), added “charter school,” substituted “special water, drainage, irrigation or conservancy district or other special district created pursuant to law” for “special district or community water association,” added “including a university research park corporation” and “or a consortium of any two or more qualified entities created pursuant to law”; and made a related change.

Research References & Practice Aids

Research References and Practice Aids

Cross references.

Revenue bonds; authority to issue; pledge of revenues; limitation on time of issuance, [4-62-1 NMSA](#) 1978.

Border authority; bonding authority; power to issue revenue bonds, [58-27-15 NMSA](#) 1978.

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N.M. Stat. Ann. § 6-21-4

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6-21-4. New Mexico finance authority created; membership; qualifications; quorum; meetings; compensation; bond.

A. There is created a public body politic and corporate, separate and apart from the state, constituting a governmental instrumentality to be known as the "New Mexico finance authority" for the performance of essential public functions.

B. The authority shall be composed of eleven members. The secretary of finance and administration, the secretary of economic development, the secretary of energy, minerals and natural resources, the secretary of environment, the executive director of the New Mexico municipal league and the executive director of the New Mexico association of counties or their designees shall be ex-officio members of the authority with voting privileges. The governor, with the advice and consent of the senate, shall appoint to the authority the chief financial officer of a state higher educational institution and four members who are residents of the state. The appointed members shall serve at the pleasure of the governor.

C. The appointed members of the authority shall be appointed to four-year terms. The initial members shall be appointed to staggered terms of four years or less, so that the term of at least one member expires on January 1 of each year. Vacancies shall be filled by appointment by the governor for the remainder of the unexpired term. Any member of the authority shall be eligible for reappointment.

D. Each appointed member before entering upon the member's duty shall take an oath of office to administer the duties of the member's office faithfully and impartially. A record of the oath shall be filed in the office of the secretary of state.

E. The governor shall designate an appointed member of the authority to serve as chair. The authority shall elect annually one of its members to serve as vice chair. The authority shall appoint and prescribe the duties of such other officers, who need not be members, as the authority deems necessary or advisable, including chief executive officer and a secretary, who may be the same person. The authority may delegate to one or more of its members, officers, employees or agents such powers and duties as it may deem proper and consistent with the New Mexico Finance Authority Act [[6-21-1 NMSA](#) 1978].

F. The chief executive officer of the authority shall direct the affairs and business of the authority, subject to the policies, control and direction of the authority. The secretary of the authority shall keep a record of the proceedings of the authority and shall be custodian of all books, documents and papers filed with the authority, the minute book or journal of the authority and its official seal. The secretary shall make copies of all minutes and other records and documents of the authority and give certificates under the official seal of the authority to the effect that the copies are true copies, and all persons dealing with the authority may rely upon the certificates.

G. Meetings of the authority shall be held at the call of the chair or whenever three members shall so request in writing. A majority of members then serving constitutes a quorum for the transaction of any business. The affirmative vote of at least a majority of a quorum present shall be necessary for any action to be taken by the authority. An ex-officio member may designate in writing another person to attend meetings of the authority and to the same extent and with the same effect act in the ex-officio member's stead. No vacancy in the

membership of the authority shall impair the right of a quorum to exercise all rights and perform all duties of the authority.

H. Each member of the authority shall give bond as provided in the Surety Bond Act [[10-2-13 NMSA](#) 1978]. All costs of the surety bonds shall be borne by the authority.

I. The authority is not created or organized, and its operations shall not be conducted, for the purpose of making a profit. No part of the revenues or assets of the authority shall benefit or be distributable to its members, officers or other private persons. The members of the authority shall receive no compensation for their services, but shall be reimbursed for actual and necessary expenses at the same rate and on the same basis as provided for public officers in the Per Diem and Mileage Act [[10-8-1 NMSA](#) 1978].

J. The authority shall not be subject to the supervision or control of any other board, bureau, department or agency of the state except as specifically provided in the New Mexico Finance Authority Act [[6-21-1 NMSA](#) 1978]. No use of the terms “state agency” or “instrumentality” in any other law of the state shall be deemed to refer to the authority unless the authority is specifically referred to in the law.

K. The authority is a governmental instrumentality for purposes of the Tort Claims Act [[41-4-1 NMSA](#) 1978].

History

Laws 1992, ch. 61, § [4](#); 2001, ch. 294, § [2](#); 2006, ch. 65, § [2](#); 2011, ch. 51, § [1](#).

Annotations

Notes

Amendment Notes.

The 2006 amendment, effective March 6, 2006, substituted “chief executive officer” for “an executive director” in Subsections E and F.

The 2011 amendment, effective July 1, 2011, in (B), substituted “eleven members” for “twelve members” at the end of the first sentence and deleted “state investment officer, the” preceding “secretary of finance and administration” in the second sentence; substituted “the member’s duty” for “his duty” in the first sentence of (D); and made stylistic changes.

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6-21-5. Powers of the authority.

The authority is granted all powers necessary and appropriate to carry out and effectuate its public and corporate purposes, including the following powers:

- A.**to sue or be sued;
- B.**to adopt and alter an official seal;
- C.**to make and alter bylaws for its organization and internal management and to adopt, subject to the review and approval of the New Mexico finance authority oversight committee, such rules as are necessary and appropriate to implement the provisions of the New Mexico Finance Authority Act [[6-21-1 NMSA](#) 1978];
- D.**to appoint officers, agents and employees, prescribe their duties and qualifications and fix their compensation;
- E.**to make, enter into and enforce all contracts, agreements and other instruments necessary, convenient or desirable in the exercise of the authority's powers and functions and for the purposes of the New Mexico Finance Authority Act [[6-21-1 NMSA](#) 1978];
- F.**to acquire, construct, hold, improve, grant mortgages of, accept mortgages of, sell, lease, convey or dispose of real and personal property for its public purposes;
- G.**to acquire, construct or improve real property, buildings and facilities for lease and to pledge rentals and other income received from such leases to the payment of bonds;
- H.**to make loans, leases and purchase securities and contract to make loans, leases and purchase securities;
- I.**to make grants to qualified entities to finance public projects; provided that such grants are not made from the public project revolving fund;
- J.**to procure insurance to secure payment on any loan, lease or purchase payments owed to the authority by a qualified entity in such amounts and from such insurers, including the federal government, as it may deem necessary or desirable and to pay any premiums for such insurance;
- K.**to fix, revise from time to time, charge and collect fees and other charges in connection with the making of loans, leases and any other services rendered by the authority;
- L.**to accept, administer, hold and use all funds made available to the authority from any sources;
- M.**to borrow money and to issue bonds and provide for the rights of the holders of the bonds;
- N.**to establish and maintain reserve and sinking fund accounts to insure against and have funds available for maintenance of other debt service accounts;
- O.**to invest and reinvest its funds and to take and hold property as security for the investment of such funds as provided in the New Mexico Finance Authority Act [[6-21-1 NMSA](#) 1978];

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P.to employ attorneys, accountants, underwriters, financial advisers, trustees, paying agents, architects, engineers, contractors and such other advisers, consultants and agents as may be necessary and to fix and pay their compensation;

Q.to apply for and accept gifts or grants of property, funds, services or aid in any form from the United States, any unit of government or any person and to comply, subject to the provisions of the New Mexico Finance Authority Act [[6-21-1 NMSA](#) 1978], with the terms and conditions of the gifts or grants;

R.to maintain an office at any place in the state it may determine;

S.subject to any agreement with bondholders, to:

(1)renegotiate any loan, lease or agreement;

(2)consent to any modification of the terms of any loan, lease or agreement; and

(3)purchase bonds, which may upon purchase be canceled; and

T.to do any and all things necessary or convenient to carry out its purposes and exercise the powers given and granted in the New Mexico Finance Authority Act [[6-21-1 NMSA](#) 1978].

History

Laws 1992, ch. 61, § [5](#); 2000, ch. 80, § [2](#); 2001, ch. 294, § [3](#).

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6-21-5.1. Bonds for county correctional facility loans.

The authority may issue bonds for a county to design, construct, equip, furnish and otherwise improve a county correctional facility pursuant to the County Correctional Facility Gross Receipts Tax Act [[7-20F-1 NMSA](#) 1978] only after a majority of the qualified electors of the county has voted to allow the county to impose a county correctional facility gross receipts tax in the amount needed to repay bonds issued by the authority for the purpose of designing, constructing, equipping, furnishing and otherwise improving a county correctional facility.

History

Laws 1998, ch. 65, § [1](#); [2019, ch. 212, § 208](#), effective April 3, 2019.

Annotations

Notes

Effect of amendments.

The 2019 amendment deleted “registered” preceding “qualified.”

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6-21-5.2. Report to legislature; authorizing instrument; delegation of authority for public securities issuances.

By September 30 of each year, the authority shall report to the New Mexico finance authority oversight committee about the authority's public securities issuances, completed in the prior twelve months, that involved a delegation of authority through an authorizing instrument pursuant to Section 2 [\[6-14-10.2 NMSA 1978\]](#) of this 2017 act.

History

[Laws 2017, ch. 120, § 3.](#)

Annotations

Notes

Effective dates.

[Laws 2017, ch. 120, § 4](#) makes the act effective July 1, 2017.

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6-21-6. Public project revolving fund; purpose; administration.

A.The “public project revolving fund” is created within the authority. The fund shall be administered by the authority as a separate account, but may consist of such subaccounts as the authority deems necessary to carry out the purposes of the fund. The authority may establish procedures and adopt rules as required to administer the fund in accordance with the New Mexico Finance Authority Act [[6-21-1 NMSA](#) 1978].

B.Except as otherwise provided in the New Mexico Finance Authority Act [[6-21-1 NMSA](#) 1978], money from payments of principal of and interest on loans and payments of principal of and interest on securities held by the authority for public projects authorized specifically by law shall be deposited in the public project revolving fund. The fund shall also consist of any other money appropriated, distributed or otherwise allocated to the fund for the purpose of financing public projects authorized specifically by law.

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

D.Except as otherwise provided in the New Mexico Finance Authority Act [[6-21-1 NMSA](#) 1978], money in the public project revolving fund is appropriated to the authority to pay the reasonably necessary costs of originating and servicing loans, grants or securities funded by the fund and to make loans or grants and to purchase or sell securities to assist qualified entities in financing public projects in accordance with the New Mexico Finance Authority Act and pursuant to specific authorization by law for each project.

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

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

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

H.Money on deposit in the public project revolving fund may be used to acquire securities or to make loans to qualified entities in connection with the small loan program. As used in this subsection, “small loan program” means the program of the authority designed to provide financing for public projects in amounts not to exceed

one million dollars (\$1,000,000) per project. A public project financed pursuant to the small loan program shall not require specific authorization by law.

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

J. Money on deposit in the public project revolving fund may be used to purchase bonds issued by the authority, which are payable from any designated source of revenues or collateral. Purchasing and holding the bonds in the public project revolving fund shall not, as a matter of law, result in cancellation or merger of the bonds notwithstanding the fact that the authority as the issuer of the bonds is obligated to make the required debt service payments and the public project revolving fund held by the authority is entitled to receive the required debt service payments.

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

History

Laws 1992, ch. 61, § [6](#); 1994, ch. 145, § [3](#); 1995, ch. 141, § [16](#); 1996, ch. 28, § [1](#); 2000, ch. 80, § [3](#); 2000, ch. 93, § [1](#); 2002, ch. 53, § [1](#); 2003, ch. 25, § [2](#); 2006, ch. 65, § [3](#).

Annotations

Notes

Amendment Notes.

The 2006 amendment, effective March 6, 2006, in Subsection H, substituted “small loan program” for “equipment program” in two different places, substituted “designed to provide financing for public projects in amounts not to exceed one million dollars (\$1,000,000) per project. A public project financed pursuant to the small loan program shall not require specific authorization by law” for “designed to finance” and deleted former Paragraphs H(1) and (2) pertaining to financing of equipment; deleted former Subsection I pertaining to funding of the equipment program; and redesignated former Subsections J and K as Subsections I and J and added Subsection K.

Research References & Practice Aids

Research References and Practice Aids

Cross references.

Authorization of project, [3-65-8 NMSA](#) 1978.

Public project revolving fund; appropriations to other funds, [6-21-6.1 NMSA](#) 1978.

Local transportation project revenue bonds; issuance, [6-21-6.9 NMSA](#) 1978.

Bonds of the authority; use; security, [6-21-11 NMSA](#) 1978.

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6-21-6.1. Public project revolving fund; appropriations to other funds.

A.The authority and the department of environment may enter into a joint powers agreement pursuant to the Joint Powers Agreements Act [[11-1-1 NMSA](#) 1978] for the purpose of describing and allocating duties and responsibilities with respect to creation of an integrated loan and grant program to be financed through issuance of bonds payable from the public project revolving fund. The bonds may be issued in installments or at one time by the authority in amounts authorized by law. The aggregate amount of bonds authorized and outstanding pursuant to this subsection shall not be greater than the amount of bonds that may be annually repaid from an amount not to exceed thirty-five percent of the governmental gross receipts tax proceeds distributed to the public project revolving fund in the preceding fiscal year. The net proceeds may be used for purposes of the water and wastewater planning fund and the water and wastewater project grant fund as specified in the New Mexico Finance Authority Act [[6-21-1 NMSA](#) 1978] or for purposes of the Wastewater Facility Construction Loan Act [[74-6A-1 NMSA](#) 1978], the Rural Infrastructure Act [[75-1-1 NMSA](#) 1978], the Solid Waste Act [[74-9-1 NMSA](#) 1978] or the Drinking Water State Revolving Loan Fund Act [[6-21A-1 NMSA](#) 1978].

B.Public projects funded pursuant to the Wastewater Facility Construction Loan Act [[74-6A-1 NMSA](#) 1978], the Rural Infrastructure Act [[75-1-1 NMSA](#) 1978], the Solid Waste Act [[74-9-1 NMSA](#) 1978] or the Drinking Water State Revolving Loan Fund Act [[6-21A-1 NMSA](#) 1978] shall not require specific authorization by law as required in [Sections 6-21-6](#) and [6-21-8 NMSA](#) 1978.

C.At the end of each fiscal year, after all debt service charges, replenishment of reserves and administrative costs on all outstanding bonds, notes or other obligations payable from the public project revolving fund are satisfied, an aggregate amount not to exceed thirty-five percent of the governmental gross receipts tax proceeds distributed to the public project revolving fund in the preceding fiscal year less all debt service charges and administrative costs of the authority paid in the preceding fiscal year on bonds issued pursuant to this section may be appropriated by the legislature from the public project revolving fund to the following funds for local infrastructure financing:

- (1)the wastewater facility construction loan fund for purposes of the Wastewater Facility Construction Loan Act [[74-6A-1 NMSA](#) 1978];
- (2)the rural infrastructure revolving loan fund for purposes of the Rural Infrastructure Act [[75-1-1 NMSA](#) 1978];
- (3)the solid waste facility grant fund for purposes of the Solid Waste Act [[74-9-1 NMSA](#) 1978];
- (4)the drinking water state revolving loan fund for purposes of the Drinking Water State Revolving Loan Fund Act [[6-21A-1 NMSA](#) 1978];
- (5)the water and wastewater project grant fund for purposes specified in the New Mexico Finance Authority Act [[6-21-1 NMSA](#) 1978]; or
- (6)the water and wastewater planning fund for purposes specified in the New Mexico Finance Authority Act [[6-21-1 NMSA](#) 1978].

D. The authority and the department of environment in coordination with the New Mexico finance authority oversight committee may recommend annually to each regular session of the legislature amounts to be appropriated to the funds listed in Subsection C of this section for local infrastructure financing.

History

Laws 1994, ch. 145, § [2](#); 1995, ch. 141, § [17](#); 1996, ch. 52, § [2](#); 1997, ch. 144, § [11](#); 1999, ch. 186, § [1](#); 2002, ch. 26, § [1](#).

Annotations

Research References & Practice Aids

Research References and Practice Aids

Cross references.

Legislative findings; declaration of purpose, [6-21-2 NMSA](#) 1978.

Water and wastewater project grant fund; creation; administration; purposes, [6-21-6.3 NMSA](#) 1978.

Local government planning fund; creation; administration; purposes, [6-21-6.4 NMSA](#) 1978.

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6-21-6.2. Public project revolving fund; emergency public projects. [Repealed]

Repealed by Laws 2002, ch. 52, § [1](#), effective June 30, 2005.

History

Laws 1999, ch. 4, § 2; 2002, ch. 52, § [1](#).

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6-21-6.3. Water and wastewater project grant fund; creation; administration; purposes.

A. There is created in the authority the “water and wastewater project grant fund”, which shall be administered by the authority. The authority shall adopt, in accordance with the New Mexico Finance Authority Act [[6-21-1 NMSA](#) 1978], rules necessary to administer the fund.

B. The following shall be deposited directly into the water and wastewater project grant fund:

- (1)** the net proceeds from the sale of bonds issued pursuant to the provisions of [Section 6-21-6.1 NMSA](#) 1978 for the purposes of the water and wastewater project grant fund and payable from the public project revolving fund;
- (2)** money appropriated by the legislature to implement the provisions of this section; and
- (3)** any other public or private money dedicated to the fund.

C. Money in the water and wastewater project grant fund is appropriated to the authority to make grants to qualified entities for water or wastewater public projects pursuant to specific authorization by law for each project and to pay administrative costs of the water and wastewater project grant program.

D. The authority shall adopt rules governing the terms and conditions of grants made from the water and wastewater project grant fund. Except in the circumstances set forth in Subsection F of this section, grants may be made from the fund only with participation from the qualified entity in the form of a local match, which shall be determined by a sliding scale based on the qualified entity's financial capacity to pay a portion of the project from local resources. Grants from the water and wastewater project grant fund may be made only as all or part of financing for a complete project after the authority has determined that the financing for the complete project is cost effective.

E. The authority may make grants from the water and wastewater project grant fund to qualified entities for emergency public projects without specific authorization by law. Each emergency public project shall be designated as such by the authority prior to making the grant. The aggregate amount of grants for emergency public projects in fiscal years 2003, 2004 and 2005 shall not exceed six million dollars (\$6,000,000) for each fiscal year. The aggregate amount of grants for emergency public projects in fiscal year 2006 and subsequent fiscal years shall not exceed three million dollars (\$3,000,000) for each fiscal year.

F. To encourage consolidation of water or wastewater systems and to discourage proliferation of multiple water or wastewater systems, the authority may determine the local match requirement based on the financial capacity of:

- (1)** the residents of the geographic area benefiting from the improvements to be financed with the proceeds of the grant received on their behalf by the qualified entity; or
- (2)** the qualified entity benefiting from the improvements to be financed with the proceeds of the grant when the benefiting qualified entity agrees to consolidate with the qualified entity receiving the grant.

History

Laws 1999, ch. 186, § [2](#); 2000, ch. 24, § [1](#); 2002, ch. 23, § [1](#); 2003, ch. 61, § [1](#).

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N.M. Stat. Ann. § 6-21-6.4

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Michie's™ Annotated Statutes of New Mexico > Chapter 6 Public Finances (Arts. 1 — 31) > Article 21 Finance Authority (§§ 6-21-1 — 6-21-31)

6-21-6.4. Local government planning fund; creation; administration; purposes.

A.The “local government planning fund” is created within the authority and shall be administered by the authority. The authority shall adopt rules necessary to administer the fund.

B.The following shall be deposited directly into the local government planning fund:

- (1)**the net proceeds from the sale of bonds issued pursuant to the provisions of [Section 6-21-6.1 NMSA](#) 1978 for the purposes of the local government planning fund and payable from the public project revolving fund;
- (2)**money appropriated by the legislature to implement the provisions of this section; and
- (3)**any other public or private money dedicated to the fund.

C.Money in the local government planning fund is appropriated to the authority to make grants to qualified entities; to evaluate and to estimate the costs of implementing the most feasible alternatives for infrastructure, water and wastewater public project needs or to develop water conservation plans, long-term master plans, economic development plans or energy audits; and to pay the administrative costs of the local government planning program.

D.The authority shall adopt rules governing the terms and conditions of grants made from the local government planning fund.

E.The authority may make grants from the local government planning fund to qualified entities without specific authorization by law for each grant.

History

Laws 2002, ch. 26, § [2](#); 2005, ch. 180, § [1](#); 2012, ch. 49, § [1](#).

Annotations

Notes

Amendment Notes.

The 2005 amendment, effective July 1, 2005, in the section heading and throughout the section, substituted “local government” for “water and wastewater”; in Subsection C, inserted “or to develop water conservation plans, long-term master plans or economic development plans”; and in Subsection D, inserted “other than the authority”.

The 2012 amendment, effective March 6, 2012, in (C), substituted “infrastructure” for “meeting” and added “or energy audits”; deleted the former second sentence of (D), which read: “Grants may be made from the fund only with the agreement of the qualified entity to reimburse the fund for the amount of the grant when financing from any source other than the authority is subsequently received by the qualified entity for the public project”; and made related and stylistic changes.

Appropriations.

Laws 2012, ch. 49, § [2](#) provides: “Two million dollars (\$2,000,000) is appropriated from the public project revolving fund to the local government planning fund administered by the New Mexico finance authority for expenditure in fiscal year 2012 and subsequent fiscal years to fund local government planning for water or wastewater system development, economic development or long-term water management and water conservation strategies. Any unexpended or unencumbered balance remaining at the end of a fiscal year shall not revert to the public project revolving fund.”

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[N.M. Stat. Ann. § 6-21-6.5](#)

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6-21-6.5. New Mexico finance authority revenue bonds; purposes.

The New Mexico finance authority may issue and sell revenue bonds payable from the public project revolving fund in compliance with the New Mexico Finance Authority Act [[6-21-1 NMSA](#) 1978] in installments or at any one time in an amount not to exceed one million dollars (\$1,000,000), the net proceeds of which shall be deposited in the water and wastewater planning fund and used for the purposes of the fund.

History

Laws 2002, ch. 26, § [3](#).

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N.M. Stat. Ann. § 6-21-6.6

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6-21-6.6. Authorization for urgent economic development public projects. [Repealed]

Repealed by Laws 2003, ch. 325, § [4](#) as amended by Laws 2006, ch. 65, § [3](#), effective June 30, 2009.

History

Laws 2003, ch. 325, § [3](#).

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N.M. Stat. Ann. § 6-21-6.7

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6-21-6.7. Credit enhancement account created; use of account; release of money to the general fund.

A.The “credit enhancement account” is created as a separate account within the authority for use only as provided in this section.

B.All cigarette tax proceeds distributed each month to the authority pursuant to Subsection E of [Section 7-1-6.11 NMSA 1978](#) shall be deposited in the credit enhancement account.

C.Amounts deposited in the credit enhancement account may be pledged irrevocably as additional security for the payment of the principal, interest, premiums and expenses on bonds issued by the authority for:

(1) designing, constructing, equipping and furnishing additions and improvements to the university of New Mexico hospital and the comprehensive cancer center at the university of New Mexico health sciences center; and

(2) land acquisition and the planning, designing, construction and equipping of department of health facilities or improvements to such facilities.

D.The authority shall determine monthly upon receipt of cigarette tax proceeds if the individual amounts of cigarette tax proceeds distributed pursuant to Subsection C or Subsection D, respectively, of [Section 7-1-6.11 NMSA 1978](#) are sufficient to meet the monthly amount required for immediate payment or designation for payment of principal, interest, premiums and expenses on bonds additionally secured by the credit enhancement account. Any insufficient amount shall be paid immediately from the credit enhancement account. A payment from the credit enhancement account shall be reimbursed in succeeding months from the individual amount of cigarette tax proceeds distributed pursuant to Subsection C or Subsection D, as applicable, of [Section 7-1-6.11 NMSA 1978](#) in excess of the amount required for immediate payment or designation for payment of principal, interest, premiums and expenses on bonds. All money in the credit enhancement account in excess of the monthly amount required for immediate payment or designation for payment of principal, interest, premiums and expenses on bonds shall be transferred monthly by the authority to the general fund.

E.Upon payment of all principal, interest, premiums and expenses on bonds additionally secured by a pledge of amounts deposited in the credit enhancement account, the authority shall certify to the secretary of taxation and revenue that all obligations for bonds have been fully discharged and shall direct the secretary of taxation and revenue and the state treasurer to cease distributing cigarette tax proceeds to the authority pursuant to Subsection E of [Section 7-1-6.11 NMSA 1978](#) and to distribute those cigarette tax proceeds to the general fund.

F.Any law authorizing the imposition, collection or distribution of the cigarette tax or that affects the cigarette tax shall not be amended, repealed or otherwise directly or indirectly modified so as to impair or reduce debt service coverage for any outstanding revenue bonds that may be secured by a pledge of those cigarette tax proceeds distributed to the credit enhancement account, unless the revenue bonds have been discharged in full or provisions have been made for a full discharge.

History

Laws 2003, ch. 341, § [5](#); 2005, ch. 320, § [5](#); [2017, ch. 63, § 1](#).

Annotations

Notes

Amendment Notes.

The 2005 amendment, effective June 17, 2005, rewrote Paragraph C(2), which formerly read: “improvements to department of health facilities”; and inserted “or reduce debt service coverage” in Subsection F.

The 2017 amendment, effective June 16, 2017, substituted “comprehensive cancer center” for “cancer research and treatment center” in C(1); substituted “Subsection C or Subsection D” for “Subsection E or Subsection F” twice in D; and substituted “Subsection E” for “Subsection G” in E.

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N.M. Stat. Ann. § 6-21-6.8

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6-21-6.8. Local transportation infrastructure fund; creation; purpose; administration.

A.The “local transportation infrastructure fund” is created within the authority. For the purposes of this section, “fund” means the local transportation infrastructure fund. The fund shall be administered by the authority as a separate account, but may consist of subaccounts if the authority deems them necessary to carry out the purposes of the fund. The authority shall adopt rules in accordance with the New Mexico Finance Authority Act [[6-21-1 NMSA](#) 1978] necessary to administer the fund.

B.The following shall be deposited directly into the fund:

- (1)beginning July 1, 2005, one-half of the annual administrative fee received by the authority for issuing state transportation bonds pursuant to [Sections 67-3-59.3](#) and [67-3-59.4 NMSA](#) 1978;
- (2)money from the payment of principal and interest on loans and payments of principal and interest on securities held by the authority for local transportation projects;
- (3)money appropriated by the legislature to implement the provisions of this section; and
- (4)other public or private money appropriated, dedicated or allocated to the fund for the purpose of financing local transportation projects.

C.For the purposes of this section, “local transportation projects” means local transportation projects of qualified entities submitted to the authority by the secretary of transportation as provided in Subsection F of this section. The authority may provide grants or other funding support to qualified entities’ local transportation projects pursuant to this section without the specific authorization by law for each project otherwise required by the New Mexico Finance Authority Act [[6-21-1 NMSA](#) 1978].

D.Money in the fund is appropriated to the authority to pay the reasonable and necessary costs of originating and servicing loans, grants or securities funded by the fund and to make loans or grants and to purchase or sell securities to assist qualified entities in financing local transportation projects in accordance with the New Mexico Finance Authority Act [[6-21-1 NMSA](#) 1978].

E.The authority may make grants from the fund to qualified entities for local transportation projects when:

- (1)a grant is not more than twenty-five percent of the total project cost; and
- (2)a qualified entity demonstrates that it has available or a binding commitment from another person to make available for a project the portion of the total project cost not provided by the grant. The qualified entity may enter into a loan agreement or an agreement to sell the qualified entity’s securities with the authority, or the qualified entity may use another source of money available for the project, to provide the costs not covered by the grant.

F.Each May, the secretary of transportation, using the department of transportation’s metropolitan planning organization and regional planning organization planning process, shall submit a prioritized list of local transportation projects to the authority that the metropolitan planning organizations and regional planning organizations have determined are appropriate for grants or other funding support pursuant to this section. The authority shall act on local transportation projects in the priority presented by the secretary of transportation;

provided that the authority, based on the availability of money in the fund, may determine that a qualified entity shall receive a grant or other funding support for a project out of the order of priority it would otherwise have had or that no grant or other funding support be provided for the project. The rules of the authority for administration of the fund may set a maximum amount of grant or other funding support for a local transportation project.

G. Money in the local transportation infrastructure fund not needed for immediate disbursement, including money held in reserve, may be deposited with the state treasurer for short-term investment pursuant to [Section 6-10-10.1 NMSA](#) 1978 or may be invested in direct and general obligations of or obligations fully and unconditionally guaranteed by the United States, obligations issued by agencies of the United States, obligations of this state or any political subdivision of the state, interest-bearing time deposits, commercial paper issued by corporations organized and operating in the United States and rated “prime” quality by a national rating service, other investments permitted by [Section 6-10-10 NMSA](#) 1978 or as otherwise provided by the trust indenture or bond resolution, if money is pledged for or secures payment of bonds issued by the authority.

H. The authority shall establish fiscal controls and accounting procedures that are sufficient to assure proper accounting for local transportation infrastructure fund payments, disbursements and balances.

History

1978 Comp., § 6-21-6.8, enacted by Laws 2005, ch. 262, § [1](#).

Annotations

Research References & Practice Aids

Research References and Practice Aids

Cross references.

Local transportation project revenue bonds; issuance, [6-21-6.9 NMSA](#) 1978.

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6-21-6.9. Local transportation project revenue bonds; issuance.

A.The authority may issue and sell local transportation project revenue bonds in compliance with the New Mexico Finance Authority Act [[6-21-1 NMSA](#) 1978] in an amount outstanding at any one time of not more than twenty million dollars (\$20,000,000) payable from the local transportation infrastructure fund. The bonds may be issued at times and on terms established by the authority.

B.The net proceeds from the sale of local transportation project revenue bonds are appropriated to the local transportation infrastructure fund for local transportation projects described in [Section 6-21-6.8 NMSA](#) 1978.

C.As security for the payment of the principal, interest or premium, if any, on local transportation project revenue bonds issued by the authority, the authority is authorized to pledge, transfer and assign:

- (1) any obligation that is payable to the authority for deposit into the local transportation infrastructure fund;
- (2) money in the local transportation infrastructure fund or a subaccount of that fund; and
- (3) one-half of the annual administrative fee received by the authority for issuing state transportation bonds pursuant to [Sections 67-3-59.3](#) and [67-3-59.4 NMSA](#) 1978.

D.All local transportation project revenue bonds issued by the authority shall be obligations of the authority payable solely from the revenues, income and money of the authority deposited into the local transportation infrastructure fund. The bonds shall not create an obligation, debt or liability of the state and no breach of any pledge, obligation or agreement of the authority shall impose a pecuniary liability or charge upon the general credit or taxing power of the state or any political subdivision of the state.

E.Any law authorizing or affecting the imposition or distribution of the annual administrative fee received by the authority for issuing state transportation revenue bonds pursuant to [Sections 67-3-59.3](#) and [67-3-59.4 NMSA](#) 1978 or that affects the annual administrative fee shall not be amended, repealed or otherwise directly or indirectly modified so as to impair or reduce debt service coverage for any outstanding local transportation project revenue bonds that may be secured by a pledge of those annual administrative fee revenues, unless the local transportation project revenue bonds have been discharged in full or provisions have been made for a full discharge.

F.The authority may purchase local transportation project revenue bonds with money in the public project revolving fund pursuant to the provisions of [Section 6-21-6 NMSA](#) 1978.

History

1978 Comp., § 6-21-6.9, enacted by Laws 2005, ch. 262, § [2](#).

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[N.M. Stat. Ann. § 6-21-6.10](#)

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6-21-6.10. New Mexico finance authority revenue bonds; purpose; appropriation.

A.The authority may issue and sell revenue bonds in compliance with the New Mexico Finance Authority Act in an amount not exceeding two million five hundred thousand dollars (\$2,500,000) for the behavioral health capital fund to make loans to eligible entities for capital projects pursuant to the Behavioral Health Capital Funding Act [[6-26-1 through 6-26-8 NMSA 1978](#)].

B.The net proceeds from the sale of the bonds are appropriated to the behavioral health capital fund for the purposes described in Subsection A of this section.

C.The authority may issue and sell revenue bonds in compliance with the New Mexico Finance Authority Act in an amount not to exceed five million dollars (\$5,000,000) for acquiring land for and planning, designing, constructing and equipping department of health facilities or improvements to those facilities, upon certification from the secretary of health that such projects are needed. The costs associated with issuing the bonds shall be paid from the net proceeds from the sale of the bonds, and the remainder is appropriated to the facilities management division of the general services department for the projects certified pursuant to this subsection.

D.The cigarette tax proceeds distributed to the authority pursuant to Subsection D [C] of [Section 7-1-6.11 NMSA 1978](#):

(1)are appropriated to the authority to be pledged irrevocably for the payment of the principal, interest, premiums and related expenses of the bonds and for payment of the expenses incurred by the authority related to the issuance, sale and administration of the bonds; and

(2)shall be deposited in a separate fund or account of the authority.

E.Any law authorizing the imposition, collection or distribution of the cigarette tax or that affects the cigarette tax shall not be amended, repealed or otherwise directly or indirectly modified so as to impair or reduce debt service coverage for any outstanding revenue bonds that may be secured by a pledge of those cigarette tax revenues, unless the revenue bonds have been discharged in full or provisions have been made for a full discharge.

F.The authority may secure the revenue bonds issued pursuant to this section by a pledge of money in the public project revolving fund with a lien priority on the money in the public project revolving fund as determined by the authority.

History

Laws 2005, ch. 58, § [1](#); [2016, ch. 75, § 1](#); [2017, ch. 34, § 1](#); [2017, ch. 63, § 2](#).

Annotations

Notes

Amendment Notes.

The 2016 amendment, effective May 18, 2016, substituted “The authority” for “The New Mexico finance authority” at the beginning of A; substituted “the authority” for “the New Mexico finance authority” in the introductory paragraph of C; added the C(1) designation; redesignated former D as C(2); in C(2), deleted “the cigarette tax proceeds appropriated and distributed to the authority pursuant to Subsection D of Section 7-1-6.11 NMSA 1978” at the beginning and added “provided that”; added D, E and G; redesignated former E as F; and made related changes.

The 2017 amendments. Laws 2017, ch. 34, § 1 and Laws 2017, ch. 63, § 2 both amended this section. Pursuant to 12-1-8 NMSA 1978, the section is set out as amended by Laws 2017, ch. 63, § 2 with the amendments by Laws 2017 ch. 34, § 1 reconciled and incorporated within.

The 2017 amendment by Laws 2017, ch. 34, § 1, contingently effective, deleted former C; and redesignated former D through G as C through F.

The 2017 amendment by Laws 2017, ch. 63, § 2, effective June 16, 2017, substituted “Subsection B” for “Subsection D” in the introductory language of C; and substituted “Subsection D” for “Subsection F” in the introductory language of E.

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6-21-6.11. Rural county cancer treatment fund created; purpose; appropriation.

The “rural county cancer treatment fund” is created in the New Mexico finance authority. The fund is composed of appropriations, donations, distributions pursuant to [Section 7-1-6.11 NMSA](#) 1978 and money earned from investment of the fund and otherwise accruing to the fund. Money in the fund is appropriated to the New Mexico finance authority to provide a revenue stream to finance the design, construction, equipping and furnishing of additions and improvements to cancer treatment facilities in class B counties. Balances remaining in the fund at the end of a fiscal year shall not revert. The New Mexico finance authority shall administer the fund, and money from the fund may be drawn only on warrants signed by the executive director of the New Mexico finance authority pursuant to vouchers signed by the chief financial officer or the officer’s authorized representative.

History

Laws 2006, ch. 89, § [4](#); 2013, ch. 14, § [2](#).

Annotations

Notes

Editor's notes.

Laws 2006, ch. 89, § [1](#), effective May 17, 2006, authorizes the New Mexico finance authority to issue and sell revenue bonds for the purpose of designing, constructing, equipping and furnishing additions and improvements to a regional cancer treatment center at the Gila regional medical center in Grant county and subsequently to rural cancer treatment facilities in class B counties.

Laws 2006, ch. 89, § [1](#), as amended by Laws 2007, ch. 215, § [1](#), effective June 15, 2007, increases the authorization of selling revenue bonds from \$2,500,000 to \$3,000,000 for the regional cancer treatment center at the Gila regional medical center in Grant county and subsequently to rural cancer treatment facilities in class B counties.

Laws 2006, ch. 89, § [1](#), as amended by Laws 2008, ch. 60, § [1](#), effective May 14, 2008, authorizes the New Mexico finance authority to issue and sell revenue bonds for the purpose of designing, constructing, equipping and furnishing additions and improvements to a regional cancer treatment center at the Gila regional medical center in Grant county. The authority may issue and sell revenue bonds authorized when the chair of the board of commissioners of Grant county certifies the need for issuance of the bonds. The authority may issue and sell

revenue bonds authorized when the chair of the board of trustees of the Nor-Lea special hospital district certifies the need for issuance of bonds.

Effective dates.

[Laws 2006, ch. 89](#), contains no effective date provision, but, pursuant to N.M. Const., art. IV, § [23](#), is effective on May 17, 2006, 90 days after adjournment of the legislature.

Amendment Notes.

The 2013 amendment, effective June 14, 2013, substituted “composed” for “comprised” in the second sentence; substituted “design, construction, equipping and furnishing of additions and improvements to cancer” for “construction of cancer” in the third sentence; and substituted “chief financial officer or the officer’s authorized representative” for “executive director” in the last sentence.

Temporary Provisions

[Laws 2019, ch. 204, § 1](#) provides:

“A. The New Mexico finance authority may issue and sell revenue bonds in compliance with the New Mexico Finance Authority Act for a term not exceeding twenty years in an amount not exceeding three million dollars (\$3,000,000) for the purpose of designing, constructing, equipping and furnishing additions and improvements to a regional cancer treatment center at the Gila regional medical center in Grant county. The authority may issue and sell revenue bonds authorized by this subsection when the chair of the board of county commissioners of Grant county certifies the need for issuance of the bonds. The net proceeds from the sale of the bonds are appropriated to the local government division of the department of finance and administration for the purposes described in this subsection.

“B. After the bonds have been issued pursuant to Subsection A of this section, the New Mexico finance authority may issue and sell revenue bonds in compliance with the New Mexico Finance Authority Act for a term not exceeding twenty years in an amount not exceeding one million five hundred thousand dollars (\$1,500,000) for the purpose of designing, constructing, equipping and furnishing additions and improvements to a regional cancer treatment center at the Nor-Lea general hospital in Lea county. The authority may issue and sell revenue bonds authorized by this subsection when the chair of the board of trustees of the Nor-Lea special hospital district certifies the need for issuance of the bonds. Provided that, if the authority determines that excess balances exist in the rural county cancer treatment fund above the amount needed to service outstanding bonds, then, in lieu of issuing all or a portion of the bonds, the excess balances may be used for the cancer treatment center funded pursuant to this subsection, but the total of excess balances and bond proceeds shall not exceed one million five hundred thousand dollars (\$1,500,000). The net proceeds from the sale of the bonds and any excess balances are appropriated to the local government division of the department of finance and administration for the purposes described in this subsection.

“C. After the bonds have been issued pursuant to Subsections A and B of this section, the New Mexico finance authority may issue and sell revenue bonds in compliance with the New Mexico Finance Authority Act for a term not exceeding twenty years in an amount not exceeding three million dollars (\$3,000,000) as follows:

“(1) not to exceed two million two hundred fifty thousand dollars (\$2,250,000) to design, construct, equip and furnish additions and improvements to a regional cancer treatment center at the Gila regional medical center in Grant county; and

“(2) not to exceed seven hundred fifty thousand dollars (\$750,000) to design, construct, equip and furnish additions and improvements to Nor-Lea general hospital in Lea county.

“D. After the bonds have been issued pursuant to Subsections A, B and C of this section, the New Mexico finance authority may issue and sell revenue bonds in compliance with the New Mexico Finance Authority Act for a term not

exceeding twenty years in an amount not exceeding one million two hundred fifty thousand dollars (\$1,250,000) for the following purposes at the regional cancer treatment center at the Gila regional medical center in Grant county: for the purchase of computer hardware, servers, cabling, software licenses and related services necessary for implementation and maintenance of an electronic health records system, cancer patient treatment, regulatory compliance and reporting; to design, construct, renovate, equip and furnish additions and improvements of the chemotherapy intravenous preparation clean room; for the purchase of a positron emission tomography scanner; or to prepay any loan made by the authority from the public project revolving fund to or for the benefit of the Gila regional medical center for the purposes authorized by this subsection.

“E. The authority may issue and sell revenue bonds authorized by Subsection C of this section when the boards of trustees of the Gila regional medical center and the Nor-Lea special hospital district certify the need for the issuance of the bonds. If the authority determines that there are balances in the rural county cancer treatment fund in excess of the amount needed to service outstanding bonds, the authority may use those balances in lieu of issuing all or a portion of the bonds authorized in Subsection C of this section, but the total of funding from bonds and balances shall not exceed three million dollars (\$3,000,000). The net proceeds from the sale of bonds and any excess balances are appropriated to the local government division of the department of finance and administration for the purposes described in Subsection B of this section.

“F. The authority may issue and sell revenue bonds authorized by Subsection D of this section when the chair of the board of trustees of the Gila regional medical center certifies the need for issuance of the bonds. If the authority determines there are balances in the rural county cancer treatment fund in excess of the amount needed to service outstanding bonds, the authority may use those balances in lieu of issuing all or a portion of the bonds authorized in Subsection D of this section, but the total of excess balances and bond proceeds shall not exceed one million two hundred fifty thousand dollars (\$1,250,000). The net proceeds from the sale of the bonds and any excess balances are appropriated to the authority for the purposes described in this subsection.

“G. The cigarette tax proceeds distributed to the authority pursuant to Subsection E of [Section 7-1-6.11 NMSA 1978](#) shall be pledged irrevocably for the payment of the principal, interest, premiums and related expenses on the bonds and for payment of the expenses incurred by the authority related to the issuance, sale and administration of the bonds.

“H. The cigarette tax proceeds distributed to the authority pursuant to Subsection E of [Section 7-1-6.11 NMSA 1978](#) shall be deposited each month in a separate fund or account of the authority.

“I. Upon payment of all principal, interest and other expenses or obligations related to the bonds, the authority shall certify to the secretary of taxation and revenue that all obligations for the bonds issued pursuant to this section have been fully discharged and shall direct the secretary of taxation and revenue to cease distributing cigarette tax proceeds to the authority pursuant to Subsection E of [Section 7-1-6.11 NMSA 1978](#) and to distribute those cigarette tax proceeds to the general fund.

“J. Any law authorizing the imposition, collection or distribution of the cigarette tax or that affects the cigarette tax shall not be amended, repealed or otherwise directly or indirectly modified so as to impair or reduce debt service coverage for any outstanding revenue bonds that may be secured by a pledge of those cigarette tax revenues, unless the revenue bonds have been discharged in full or provisions have been made for a full discharge.

“K. The authority may additionally secure the revenue bonds issued pursuant to this section by a pledge of money in the public project revolving fund with a lien priority on the money in the public project revolving fund as determined by the authority.

“L. The authority may purchase revenue bonds issued pursuant to this section with money in the public project revolving fund pursuant to the provisions of [Section 6-21-6 NMSA 1978](#).”

Applicability.

[Laws 2014, ch. 52, § 1](#), effective July 1, 2014, appropriates \$2,000,000 from the public project revolving fund to the local government planning fund administered by the New Mexico finance authority for expenditure in fiscal year 2015 and subsequent fiscal years to make grants to qualified entities to evaluate and estimate the costs of implementing the most feasible alternatives for infrastructure, water or wastewater public projects or to develop water conservation plans, long-term master plans, economic development plans or energy audits and to pay the administrative costs of the local government planning program. Any unexpended or unencumbered balance remaining at the end of a fiscal year shall not revert to the public project revolving fund.

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Michie's™ Annotated Statutes of New Mexico > Chapter 6 Public Finances (Arts. 1 — 31) > Article 21 Finance Authority (§§ 6-21-1 — 6-21-31)

6-21-6.12. Local government transportation fund; created; distributions.

A.The “local government transportation fund” is created within the authority. The fund shall be administered by the authority as a separate account, but may consist of subaccounts if the authority deems them necessary to carry out the purpose of the fund. The fund shall consist of general fund appropriations and severance tax bond proceeds appropriated to the fund and, except as provided in Subsection E of this section, all earnings of the fund.

B.Except as provided in Subsection D of this section, upon certification by the department of transportation that a project has been approved for payment and upon compliance with the requirements of this section, money in the fund shall be distributed to local governments for projects specifically authorized by the legislature. The authority shall issue payment to the local government named in the project application and certification or to the federal department of transportation, acting as the fiscal agent for the local government.

C.Except as provided in Subsection D of this section, distributions from the fund shall be made pursuant to the following criteria:

- (1)**projects shall be funded in the order that a completed application from a local government is received if the application shows, to the satisfaction of the department, that the project is ready to proceed and that the local government has, or will timely have, the required match for the distribution;
- (2)**distributions from the fund shall be used to pay no more than the state's portion of the total cost necessary to develop and construct the project as presented in the approved application;
- (3)**to qualify for funding, a local government shall apply for funding through the department of transportation's regional or metropolitan planning organizations;
- (4)**a local government shall show, to the satisfaction of the department of transportation, that it will match the distribution from the local government transportation fund in the following amounts:
 - (a)**for a project with a total cost of less than five hundred thousand dollars (\$500,000), the local government shall contribute ten percent of the total project cost;
 - (b)**for a project with a total cost of five hundred thousand dollars (\$500,000) or greater, but less than or equal to one million dollars (\$1,000,000), the local government shall contribute twenty percent of the total project cost;
 - (c)**for a project with a total cost greater than one million dollars (\$1,000,000), but less than or equal to six million dollars (\$6,000,000), the local government shall contribute thirty-five percent of the total project cost; and
 - (d)**for a project with a total project cost greater than six million dollars (\$6,000,000), the local government shall contribute forty-five percent of the total project cost; and
- (5)**in determining the sufficiency of a local government's matching contribution, the department shall consider actual funds, in-kind contributions, preconstruction design and development costs and other related expenditures made in the furtherance of the project. Matching fund sources may be any money available to the local government for the project, including:

- (a) grants or loans by the authority from the local transportation infrastructure fund;
- (b) appropriations from local government road funds;
- (c) community development block grants; and
- (d) available federal funds.

D. Notwithstanding the requirements of Subsections B and C of this section, up to five hundred thousand dollars (\$500,000) of the fund may be expended by the department of transportation for engineering and design services to develop the projects funded with distributions from the fund without a requirement for a local match.

E. Earnings from investing the fund are subject to appropriation by the legislature to the department of transportation to be used for payment of administrative costs associated with the fund, including payment for engineering costs.

F. As used in this section:

- (1) “fund” means the local government transportation fund; and
- (2) “local government” means a municipality acting within its planning and platting jurisdiction, a county or an Indian nation, tribe or pueblo.

History

1978 Comp., § 6-21-6.12, enacted by *Laws 2007 (1st S.S.), ch. 3, § 2*; 2008, ch. 35, § [1](#).

Annotations

Notes

Effective dates.

Laws 2007 (1st S.S.), ch. 3 contains no effective date provision, but, pursuant to N.M. Const., art. IV, § [23](#), is effective June 28, 2007, 90 days after adjournment of the legislature.

Amendment Notes.

The 2008 amendment, effective February 28, 2008, added “or to the federal department of transportation, acting as the fiscal agent for the local government” in Subsection B.

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[N.M. Stat. Ann. § 6-21-6.13](#)

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6-21-6.13. Metropolitan court bond guarantee fund.

A.The “metropolitan court bond guarantee fund” is created in the authority. The fund is comprised of appropriations, donations, transfers pursuant to [Section 3-18-17 NMSA](#) 1978 and money earned from investment of the fund and otherwise accruing to the fund. Money in the fund is appropriated to the authority as a credit enhancement to the distributions from the court facilities fund in order to guarantee and secure the payment of principal, interest, premiums and expenses on bonds issued pursuant to [Section 34-9-16 NMSA](#) 1978 and Laws 2000, Chapter 5, Section 2. Balances remaining in the fund at the end of a fiscal year shall not revert. The authority shall administer the fund, and money from the fund may be drawn only on warrants signed by the chief executive officer of the authority pursuant to vouchers signed by the chief executive officer.

B.Before each due date for payments of principal, interest, premiums or expenses on bonds issued pursuant to [Section 34-9-16 NMSA](#) 1978 and Laws 2000, Chapter 5, Section 2, the authority shall determine if the distributions from the court facilities fund will be sufficient to meet the amount due. If the authority determines that distributions from the court facilities fund are not sufficient to meet the total amount due, any insufficient amount shall be paid immediately from the metropolitan court bond guarantee fund. After each due date for a payment on the bonds, the authority shall determine the amount necessary to reserve in the metropolitan court bond guarantee fund as security for future payments and transfer any balance, above the amount reserved, to the traffic safety bureau of the department of transportation. The amounts transferred are appropriated to the bureau for expenditure on statewide efforts to prevent or reduce incidents of driving while intoxicated.

C.Upon payment of all principal, interest, premiums and expenses on bonds guaranteed and secured by amounts in the metropolitan court bond guarantee fund, the authority shall certify to the administrative office of the courts that all obligations for bonds have been fully discharged. Upon the certification, the director of the administrative office of the courts shall cease transferring amounts to the metropolitan court bond guarantee fund and transfer those amounts to the traffic safety bureau of the department of transportation. Such amounts are appropriated to the bureau for the purposes specified in Subsection B of this section.

History

Laws 2008, ch. 91, § [2](#).

Annotations

Notes

Effective dates.

Laws 2008, ch. 91, § [4](#) makes the act effective July 1, 2008.

Applicability.

Laws 2008, ch. 91, § [3](#) makes the provisions of this act apply prospectively to all municipal ordinances enacted before or after the effective date of the provisions of this act.

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6-21-6.14. Lease purchase revenue bonds; lease purchase agreements.

A.If specifically authorized by law, the authority may issue and sell lease purchase revenue bonds in compliance with the New Mexico Finance Authority Act [[6-21-1 NMSA](#) 1978] and enter into a lease purchase agreement pursuant to the provisions of this section.

B.Lease purchase revenue bonds may be issued at times and on terms established by the authority and shall be paid exclusively from a debt service fund created pursuant to this section. The net proceeds from the sale of lease purchase revenue bonds are appropriated to the authority for the purpose of acquiring by construction or purchase the buildings, land or infrastructure specified in the authorizing law; provided that, if authorized by law, the net proceeds may also be used for debt service payments due before sufficient lease payments have been deposited into the applicable debt service fund.

C.All lease purchase revenue bonds issued by the authority shall be obligations of the authority payable solely from the separate debt service fund created for those bonds. The bonds shall not create an obligation, debt or liability of the state, and no breach of any pledge, obligation or agreement of the authority shall impose a pecuniary liability or charge upon the general credit or taxing power of the state or any political subdivision of the state.

D.The authority may purchase lease purchase revenue bonds with money in the public project revolving fund pursuant to the provisions of [Section 6-21-6 NMSA](#) 1978.

E.A debt service fund shall be created in the authority for each authorized issuance of lease purchase revenue bonds. Each fund shall consist of transfers to the fund, legislative appropriations, lease payments made by the facilities management division of the general services department or other lessee pursuant to the authorized lease purchase agreement and money earned from investment of the fund. Balances remaining in a fund at the end of a fiscal year shall not revert. Money in each fund is appropriated to the authority for:

- (1)the payment of principal, interest, premiums and expenses on the specific lease purchase revenue bonds that are issued pursuant to the bond authorization; and
- (2)if authorized by law, required maintenance and repairs of the building, land or infrastructure if the authority determines that money in the fund is sufficient to meet the requirements of Paragraph (1) of this subsection plus any required reserve.

F.Upon the certification of the authority that all debt service on a specific issuance of lease purchase revenue bonds has been paid in full, any remaining balance of the debt service fund created for those bonds shall be transferred to the general fund.

G.The authority may enter into an agreement with the facilities management division of the general services department or other agency specified by law for the lease purchase of the building acquired with the lease purchase revenue bond proceeds. The agreement shall provide the lessee with an option to purchase for a price that is reduced according to the lease payments made and shall also provide that:

- (1)there is no legal obligation for the state to continue the lease from year to year or to purchase the building;

- (2) the lease shall be terminated if sufficient appropriations are not available to meet the current lease payments;
- (3) if authorized by the legislature, the lease payments include a maintenance component that may escalate annually and, over the length of the agreement, approximate the amount that will be needed for the maintenance and repair of the building; and
- (4) if the lessee is the facilities management division of the general services department or an agency under the jurisdiction of the facilities management division, the title to the building shall be issued in the name of the facilities management division if the building is purchased.

H. The provisions of this section apply to state buildings specifically authorized by law to be acquired pursuant to this section through lease purchase agreements with the authority. Nothing in this section limits or otherwise affects the power that the authority has under other laws to incur debt, acquire and dispose of property or enter into agreements.

History

1978 Comp., § 6-21-6.14, enacted by Laws 2009, ch. 145, § [2](#); 2013, ch. 115, § [1](#).

Annotations

Notes

Effective dates.

[Laws 2009, ch. 145](#) contains no effective date provision, but, pursuant to N.M. Const., art. IV, § [23](#), is effective on June 19, 2009, 90 days after adjournment of the legislature.

Amendment Notes.

The 2013 amendment, effective June 14, 2013, substituted “facilities management” for “property control” wherever it appears in the second sentence of the introductory language of (E), in the first sentence of the introductory language of (G), and in (G)(4) and made a stylistic change.

Temporary provisions.

Laws 2009, ch. 145, § [3](#), effective June 19, 2009, provides that in lieu of the ratification and approval otherwise required by [Section 15-3-35 NMSA](#) 1978, the legislature ratifies and approves a lease purchase agreement entered into in compliance with Section 1 of this act for the lease and option to purchase of a building by the property control division of the general services department.

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6-21-7. Public project finance program; duties of authority.

The authority has the following duties:

- A.**to develop and administer a program to assist qualified entities individually or jointly in financing public projects;
- B.**to establish a process and procedures for review and assessment of public project needs in the state and report to the New Mexico finance authority oversight committee, the legislature and the governor the authority's public project financing and repayment agreement recommendations; and
- C.**to cooperate with and exchange services and information with any federal, state or local governmental agency.

History

Laws 1992, ch. 61, § [7](#).

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6-21-8. Public project finance program; loans; purchase or sale of securities.

To implement a program to assist qualified entities in financing public projects, the authority has the powers specified in this section; provided that the authority shall take no action concerning a project financed with money in the public project revolving fund unless the project is specifically authorized by law or authorized pursuant to other provisions of the New Mexico Finance Authority Act [[6-21-1 NMSA](#) 1978]. The authority may:

- A.** make loans to qualified entities that establish one or more dedicated sources of revenue to repay the loan from the authority;
- B.** make, enter into and enforce all contracts necessary, convenient or desirable for the purposes of the authority or pertaining to:
 - (1)** a loan to a qualified entity;
 - (2)** a grant to a qualified entity from money available to the authority except money in the public project revolving fund;
 - (3)** a purchase or sale of securities individually or on a pooled basis; or
 - (4)** the performance of its duties and execution of its powers under the New Mexico Finance Authority Act [[6-21-1 NMSA](#) 1978];
- C.** purchase or hold securities at prices and in a manner the authority considers advisable, giving due consideration to the financial capability of the qualified entity, and sell securities acquired or held by it at prices without relation to cost and in a manner the authority considers advisable;
- D.** prescribe the form of application or procedure required of a qualified entity for a loan or purchase of its securities, fix the terms and conditions of the loan or purchase and enter into agreements with qualified entities with respect to loans or purchases;
- E.** charge for its costs and services in review or consideration of a proposed loan to a qualified entity or purchase by the authority of securities, whether or not the loan is made or the securities purchased;
- F.** fix and establish terms and provisions with respect to:
 - (1)** a purchase of securities by the authority, including date and maturities of the securities;
 - (2)** redemption or payment before maturity; and
 - (3)** any other matters that in connection with the purchase are necessary, desirable or advisable in the judgment of the authority;
- G.** to the extent permitted under its contracts with the holders of bonds of the authority, consent to modification of the rate of interest, time and payment of installment of principal or interest, security or any other term of a bond, contract or agreement of any kind to which the authority is a party;
- H.** in connection with the purchase of any securities, consider the ability of the qualified entity to secure financing from other sources and the costs of that financing and the particular public project or purpose to be financed or refinanced with the proceeds of the securities to be purchased by the authority;

N.M. Stat. Ann. § 6-21-8

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

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

History

Laws 1992, ch. 61, § [8](#); 2000, ch. 80, § [4](#); 2001, ch. 294, § [4](#); 2003, ch. 325, § [2](#).

Annotations

Research References & Practice Aids

Research References and Practice Aids

Cross references.

Public project revolving fund; appropriations to other funds, [6-21-6.1 NMSA](#) 1978.

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N.M. Stat. Ann. § 6-21-9

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6-21-9. Public project financing; powers of qualified entities.

A qualified entity may:

- A.** obligate itself to pay to the authority at periodic intervals a sum sufficient to pay all or part of debt service or other obligation, including fees and other charges imposed by the authority with respect to bonds issued by the authority to fund a public project, and to make such payments to the authority for deposit in the fund or account designated by the authority;
- B.** fulfill any obligation to pay the authority by the issuance of bonds in accordance with the laws authorizing such issuance by the qualified entity; provided that notwithstanding the provisions of any law to the contrary, such bonds may be sold at private sale to the authority at the price and upon the terms and conditions the qualified entity shall determine;
- C.** levy, collect and pay to the authority and obligate itself to continue to levy, collect and pay to the authority the proceeds from one or more sources of funds or revenues, including but not limited to charges, licenses, permits, taxes, user or other fees, special assessments or other funds or revenue available to the qualified entity, in accordance with the laws authorizing imposition or levy thereof by the qualified entity;
- D.** undertake and obligate itself to pay its contractual obligation to the authority solely from the proceeds from any of the sources specified in Subsection C of this section or, in accordance with the laws authorizing issuance of bonds by a qualified entity, impose upon itself a general obligation to impose a property tax to pay bonds held by the authority which may be additionally secured by a pledge of any of the sources specified in Subsection C of this section; provided, however, that any general obligation involving property tax revenues is subject to applicable constitutional debt requirements;
- E.** lease buildings, facilities and other real and personal property from the authority; and
- F.** enter into agreements, perform acts and delegate functions and duties that the qualified entity determines are necessary or desirable to enable the authority to assist the qualified entity in financing a public project.

History

Laws 1992, ch. 61, § [9](#); 2001, ch. 294, § [5](#).

Annotations

Research References & Practice Aids

Research References and Practice Aids

Cross references.

Sale of bonds, [6-15-5 NMSA](#) 1978.

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N.M. Stat. Ann. § 6-21-10

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6-21-10. Purchases in name of authority; documentation.

A.All tangible and intangible property, real and personal property and securities purchased, held or owned at any time by the authority shall at all times be purchased and held in the name of the authority or may be mortgaged, assigned or otherwise encumbered as security for the repayment of bonds issued by the authority.

B.All securities purchased at any time by the authority, upon delivery to the authority, shall be accompanied by all documentation required by the authority and shall include an approving opinion of recognized bond counsel and certification and guarantee of signatures and disclosure of any pending litigation.

History

Laws 1992, ch. 61, § [10](#); 2001, ch. 294, § [6](#); 2010, ch. 16, § [1](#).

Annotations

Notes

Amendment Notes.

The 2010 amendment, effective May 19, 2010, in (B), added “and” preceding “certification” and substituted “and disclosure of any pending litigation” for “and certification as to no litigation pending as of the date of delivery of the securities challenging the validity or issuance of such securities.”

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[N.M. Stat. Ann. § 6-21-11](#)

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6-21-11. Bonds of the authority; use; security.

A. The authority may issue and sell bonds in principal amounts it considers necessary to provide sufficient money for any purpose of the New Mexico Finance Authority Act [[6-21-1 NMSA](#) 1978], including:

- (1) purchase of securities;
- (2) making loans through the purchase of securities;
- (3) making grants for public projects from money available to the authority except money in the public project revolving fund;
- (4) the acquisition, construction or improvement of public projects, including real and personal property;
- (5) the payment, funding or refunding of the principal of or interest or redemption premiums on bonds issued by the authority, whether the bonds or interest to be paid, funded or refunded have or have not become due;
- (6) the establishment or increase of reserves or sinking funds to secure or to pay principal, premium, if any, or interest on bonds; and
- (7) all other costs or expenses of the authority incident to and necessary or convenient to carry out its corporate purposes and powers.

B. Except as otherwise provided in the New Mexico Finance Authority Act [[6-21-1 NMSA](#) 1978], all bonds or other obligations issued by the authority shall be obligations of the authority payable solely from the revenues, income, fees, charges or funds of the authority that may, pursuant to the provisions of the New Mexico Finance Authority Act, be pledged to the payment of such obligations, and the bonds or other obligations shall not create an obligation, debt or liability of the state. No breach of any pledge, obligation or agreement of the authority shall impose a pecuniary liability or a charge upon the general credit or taxing power of the state or any political subdivision of the state.

C. As security for the payment of the principal, interest or premium, if any, on bonds issued by the authority, the authority is authorized to pledge, transfer and assign:

- (1) any obligation that is payable to the authority, including rents and lease payments owing to the authority in connection with the leasing of real or personal property;
- (2) the security for the qualified entity's obligations;
- (3) money in the public project revolving fund or a subaccount of that fund subject to the provisions of Subsection C of [Section 6-21-6 NMSA](#) 1978;
- (4) any grant, subsidy or contribution from the United States or any of its agencies or instrumentalities; or
- (5) any income, revenues, funds or other money of the authority from any other source authorized for such pledge, transfer or assignment other than from the public project revolving fund under the New Mexico Finance Authority Act [[6-21-1 NMSA](#) 1978].

History

Laws 1992, ch. 61, § [11](#); 2000, ch. 80, § [5](#); 2001, ch. 294, § [7](#).

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6-21-12. Bonds; authorization for issuance; terms and conditions.

A.Bonds of the authority shall be authorized by resolution of the authority and may be issued in one or more series. The bonds shall bear the dates, be in the form, be issued in the denominations, have terms and maturities, bear interest at rates and be payable and evidenced in the manner and times as the resolution of the authority or the trust agreement securing the bonds provides. The bonds may be redeemed with or without premiums prior to maturity, may be ranked or assigned priority status and may contain provisions not inconsistent with this subsection.

B.The bonds issued by the authority may be sold at any time at private or public sale at prices agreed upon by the authority.

C.Bonds may be issued pursuant to the New Mexico Finance Authority Act [[6-21-1 NMSA](#) 1978] without obtaining the consent of any agency of the state and without any other proceeding or condition other than the proceedings or conditions specified in that act.

D.The bonds issued by the authority are negotiable instruments for all purposes of the Uniform Commercial Code [[55-1-101 NMSA](#) 1978], subject only to the provisions of the bonds for registrations.

E.Any resolution for the issuance of bonds shall provide that each bond authorized shall recite that it is issued by the authority. The recital shall clearly state that the bonds are in full compliance with all of the provisions of the New Mexico Finance Authority Act [[6-21-1 NMSA](#) 1978].

History

Laws 1992, ch. 61, § [12](#).

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6-21-13. Bonds secured by trust indenture.

The bonds may be secured by a trust indenture between the authority and a corporate trustee which may be either a bank having trust powers or a trust company. The trust indenture may contain reasonable provisions for protecting and enforcing the rights and remedies of bondholders, including covenants setting forth the duties of the authority in relation to the exercise of its powers and the custody, use and investment of the money. The authority may provide by the trust indenture for the payment of the proceeds of the bonds and the revenue to the trustee under the trust indenture or other depository for disbursement with such safeguards as the authority determines are necessary.

History

Laws 1992, ch. 61, § [13](#).

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6-21-14. Publication of notice; validation; limitation of action.

A.After adoption of a resolution authorizing issuance of bonds, the authority shall publish notice of the adoption of the resolution once in a newspaper of general statewide circulation.

B.After the passage of thirty days from the publication required by Subsection A of this section, any action attacking the validity of the proceedings had or taken by the authority preliminary to and in the authorization and issuance of the bonds described in the notice is perpetually barred.

History

Laws 1992, ch. 61, § [14](#).

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6-21-15. Refunding bonds.

The authority is authorized to issue its bonds for the purpose of refunding any bonds then outstanding, including the payment of any redemption premiums thereon and any interest accrued or to accrue to the date of redemption of the outstanding bonds. Until the proceeds of the bonds issued for the purpose of refunding outstanding bonds are applied to the purchase or retirement of the outstanding bonds or the redemption of the outstanding bonds, the proceeds may be placed in escrow and be invested and reinvested. The interest, income and profits, if any, earned or realized on any such investment may, in the discretion of the authority, also be applied to the payment of the outstanding bonds to be refunded by purchase, retirement or redemption, as the case may be. After the terms of the escrow have been fully satisfied and carried out, any balance of such proceeds and interest, if any, earned or realized on the investments thereof may be returned to the authority for use by it in any lawful manner. All such bonds shall be issued and secured and shall be subject to the provisions of the New Mexico Finance Authority Act [[6-21-1 NMSA](#) 1978] in the same manner and to the same extent as any other bonds issued pursuant to the New Mexico Finance Authority Act.

History

Laws 1992, ch. 61, § [15](#).

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[N.M. Stat. Ann. § 6-21-16](#)

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6-21-16. Bond anticipation notes.

The authority is authorized to issue negotiable bond anticipation notes and may renew the same from time to time, but the maximum maturity of such notes, including renewals of such notes, shall not exceed ten years from the date of issue of the original notes. The notes shall be payable from any money of the authority available for them and not otherwise pledged from loans to or securities issued by a qualified entity or from the proceeds of sale of the bonds of the authority, the state or a qualified entity in anticipation of which such notes were issued. The notes may be issued for any purpose of the authority. All such notes shall be issued and secured and shall be subject to the provisions of the New Mexico Finance Authority Act [[6-21-1 NMSA](#) 1978] in the same manner and to the same extent as bonds issued pursuant to the New Mexico Finance Authority Act.

History

Laws 1992, ch. 61, § [16](#); 1995, ch. 141, § [18](#).

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6-21-17. Remedies of bondholders.

Any holder of bonds issued pursuant to the New Mexico Finance Authority Act [[6-21-1 NMSA](#) 1978] or a trustee under a trust indenture entered into pursuant to that act, except to the extent that his rights are restricted by any bond resolution or trust indenture authorized pursuant to the bond resolution, may protect and enforce, by any suitable form of legal proceedings, any rights under the laws of this state or granted by the bond resolution or trust indenture authorized pursuant to the bond resolution. Such rights include the right to compel the performance of all duties of the authority required by the New Mexico Finance Authority Act or the bond resolution and to enjoin unlawful activities.

History

Laws 1992, ch. 61, § [17](#).

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N.M. Stat. Ann. § 6-21-18

Statutes current with all legislation of the 54th Legislature's First (2019) Regular Session

Michie's™ Annotated Statutes of New Mexico > Chapter 6 Public Finances (Arts. 1 — 31) > Article 21 Finance Authority (§§ 6-21-1 — 6-21-31)

6-21-18. Agreement of the state.

The state does hereby pledge to and agree with the holders of any bonds or notes issued under the New Mexico Finance Authority Act [[6-21-1 NMSA](#) 1978] that the state will not limit or alter the rights hereby vested in the authority to fulfill the terms of any agreements made with the holders thereof or in any way impair the rights and remedies of those holders until the bonds or notes together with the interest thereon, with interest on any unpaid installments of interest, and all costs and expenses in connection with any action or proceedings by or on behalf of those holders, are fully met and discharged. The authority is authorized to include this pledge and agreement of the state in any agreement with the holders of the bonds or notes.

History

Laws 1992, ch. 61, § [18](#).

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N.M. Stat. Ann. § 6-21-19

Statutes current with all legislation of the 54th Legislature's First (2019) Regular Session

Michie's™ Annotated Statutes of New Mexico > Chapter 6 Public Finances (Arts. 1 — 31) > Article 21 Finance Authority (§§ 6-21-1 — 6-21-31)

6-21-19. Bonds; legal investments for public officers and fiduciaries.

The bonds issued under the authority of the New Mexico Finance Authority Act [[6-21-1 NMSA](#) 1978] shall be legal investments in which all insurance companies, banks and savings and loan associations organized under the laws of the state, public officers and public bodies and all administrators, guardians, executors, trustees and other fiduciaries may properly and legally invest funds.

History

Laws 1992, ch. 61, § [19](#).

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N.M. Stat. Ann. § 6-21-20

Statutes current with all legislation of the 54th Legislature's First (2019) Regular Session

Michie's™ Annotated Statutes of New Mexico > Chapter 6 Public Finances (Arts. 1 — 31) > Article 21 Finance Authority (§§ 6-21-1 — 6-21-31)

6-21-20. Tax exemption.

A.It is hereby determined that the creation of the authority is in all respects for the benefit of the people of the state, for the improvement of their health and welfare and for the promotion of proposed projects or facilities pursuant to the New Mexico Finance Authority Act [[6-21-1 NMSA](#) 1978], and that these purposes are public purposes and the authority will be performing an essential governmental function in the exercise of the powers conferred upon it by the New Mexico Finance Authority Act. The state covenants with the purchasers and all subsequent holders and transferees of bonds issued by the authority, in consideration of the acceptance of and payment for the bonds, that the bonds issued pursuant to that act and the income from the bonds shall at all times be free from taxation by the state, except for estate or gift taxes and taxes on transfers.

B.The property, income and operations of the authority shall be exempt from taxation of every kind and nature.

History

Laws 1992, ch. 61, § [20](#).

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N.M. Stat. Ann. § 6-21-21

Statutes current with all legislation of the 54th Legislature's First (2019) Regular Session

Michie's™ Annotated Statutes of New Mexico > Chapter 6 Public Finances (Arts. 1 — 31) > Article 21 Finance Authority (§§ 6-21-1 — 6-21-31)

6-21-21. Money of the authority; expenses; audit; annual report.

A.All money of the authority, except as otherwise authorized or provided in the New Mexico Finance Authority Act [[6-21-1 NMSA](#) 1978] or in a bond resolution, trust indenture or other instrument under which bonds are issued, shall be deposited as soon as practical in a separate account or accounts in banks or trust companies organized under the laws of this state. All deposits of money shall be secured, if required by the authority, in such a manner as the authority determines to be prudent. Banks or trust companies are authorized to give security for deposits of the authority.

B.Subject to the provisions of any contract with bondholders, the authority shall prescribe a system of accounts.

C.Money held by the authority that is not needed for immediate disbursement, including any funds held in reserve, may be deposited with the state treasurer for short-term investment pursuant to [Section 6-10-10.1 NMSA](#) 1978 or may be invested in direct and general obligations of or obligations fully and unconditionally guaranteed by the United States, obligations issued by agencies of the United States, obligations of this state or any political subdivision of the state, interest-bearing time deposits, commercial paper issued by corporations organized and operating within the United States and rated "prime" quality by a national rating service, other investments permitted by [Section 6-10-10 NMSA](#) 1978 or as otherwise provided by the trust indenture or bond resolution, if the funds are pledged for or secure payment of bonds issued by the authority.

D.The authority shall have an audit of its books and accounts made at least once each year by the state auditor or by a certified public accounting firm whose proposal has been reviewed and approved by the state auditor. The cost of the audit shall be an expense of the authority. Copies of the audit shall be submitted to the governor and the New Mexico finance authority oversight committee and made available to the public.

E.The authority shall submit a report of its activities to the governor and to the legislature not later than December 1 of each year. Each report shall set forth a complete operating and financial statement covering its operations for that year.

History

Laws 1992, ch. 61, § [21](#); 1995, ch. 141, § [19](#); 1996, ch. 28, § [2](#).

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N.M. Stat. Ann. § 6-21-22

Statutes current with all legislation of the 54th Legislature's First (2019) Regular Session

Michie's™ Annotated Statutes of New Mexico > Chapter 6 Public Finances (Arts. 1 — 31) > Article 21 Finance Authority (§§ 6-21-1 — 6-21-31)

6-21-22. Corporate existence.

The authority and its corporate existence shall continue until terminated by law, provided that no such law shall take effect so long as the authority has bonds or other obligations outstanding, unless adequate provision has been made for the payment of such obligations. Upon termination of the existence of the authority, all its rights and properties in excess of its obligations shall pass to and be vested in the state.

History

Laws 1992, ch. 61, § [22](#).

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[N.M. Stat. Ann. § 6-21-23](#)

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Michie's™ Annotated Statutes of New Mexico > Chapter 6 Public Finances (Arts. 1 — 31) > Article 21 Finance Authority (§§ 6-21-1 — 6-21-31)

6-21-23. Prohibited actions.

The authority shall not:

- A.**lend money or make a grant other than to a qualified entity;
- B.**purchase securities other than from a qualified entity or other than for investment as provided in the New Mexico Finance Authority Act [\[6-21-1 NMSA 1978\]](#);
- C.**lease a public project to any entity other than a qualified entity; except that the authority may lease a public project to any entity following termination of a lease of the public project to a qualified entity if leasing the public project to an entity other than a qualified entity is necessary to avoid forfeiture or impairment of the public project or a default on bonds whose payment is secured, in whole or in part, by the public project or by lease rentals from the public project;
- D.**deal in securities within the meaning of or subject to any securities law, securities exchange law or securities dealers law of the United States or of the state or of any other state or jurisdiction, domestic or foreign, except as authorized in the New Mexico Finance Authority Act [\[6-21-1 NMSA 1978\]](#);
- E.**issue bills of credit or accept deposits of money for time on demand deposit or administer trusts or engage in any form or manner, or in the conduct of, any private or commercial banking business, or act as a savings bank or savings and loan association or any other kind of financial institution except as authorized in the New Mexico Finance Authority Act [\[6-21-1 NMSA 1978\]](#);
- F.**engage in any form of private or commercial banking business except as authorized in the New Mexico Finance Authority Act [\[6-21-1 NMSA 1978\]](#);
- G.**lend money, issue bonds, including public-private partnership project bonds, or make a grant for the promotion of gaming or a gaming enterprise or for development of infrastructure for a gaming facility; or
- H.**after December 31, 2005, except in case of an emergency, accept an application for financial assistance from a municipality, county or other covered entity for a water or wastewater project unless it is submitted with a water conservation plan or a water conservation plan is on file with the state engineer in accordance with the provisions of Section 3 [\[72-14-3.2 NMSA 1978\]](#) of this 2003 act.

History

Laws 1992, ch. 61, § [23](#); 1995, ch. 141, § [20](#); 1996, ch. 75, § [2](#); 2001, ch. 294, § [8](#); 2003, ch. 138, § [4](#).

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N.M. Stat. Ann. § 6-21-24

Statutes current with all legislation of the 54th Legislature's First (2019) Regular Session

Michie's™ Annotated Statutes of New Mexico > Chapter 6 Public Finances (Arts. 1 — 31) > Article 21 Finance Authority (§§ 6-21-1 — 6-21-31)

6-21-24. Conflicts of interest; penalty.

A. If any member, officer or employee of the authority has an interest, either direct or indirect, in any contract to which the authority is or is to be a party, such interest shall be disclosed to the authority in writing and shall be set forth in the minutes of the authority. The member, officer or employee having such interest shall not participate in any action by the authority with respect to such contract.

B. Any person who has a conflict of interest as defined in this section and participates in any transaction involving such conflict of interest or fails to notify the authority of such conflict is guilty of a misdemeanor and upon conviction shall be sentenced to imprisonment in the county jail for a definite term of less than one year or to the payment of a fine of not more than one thousand dollars (\$1,000), or to both.

History

Laws 1992, ch. 61, § [24](#).

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N.M. Stat. Ann. § 6-21-25

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6-21-25. Limitation of liability.

Neither any member of the authority nor any person acting in its behalf, while acting within the scope of his authority, shall be subject to any personal liability for any action taken or omitted within that scope of authority.

History

Laws 1992, ch. 61, § [25](#).

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[N.M. Stat. Ann. § 6-21-26](#)

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6-21-26. Court proceedings; preference; venue.

Any action or proceeding to which the authority or the people of the state may be a party in which any question arises as to the validity of the New Mexico Finance Authority Act [[6-21-1 NMSA](#) 1978] or project or transaction undertaken by the authority pursuant to that act shall be preferred over all other civil cases in all courts of the state and shall be heard and determined in preference to all other civil business pending therein irrespective of position on the calendar. The same preference shall be granted upon application of counsel to the authority in any action or proceeding seeking a judicial declaration of the validity of the New Mexico Finance Authority Act or any project or transaction undertaken by the authority pursuant to that act. The venue of any such action or proceeding or any other action or proceeding against the authority shall be in the county in which the principal office of the authority is located.

History

Laws 1992, ch. 61, § [26](#); 2001, ch. 294, § [9](#).

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[N.M. Stat. Ann. § 6-21-27](#)

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6-21-27. Cumulative authority.

The New Mexico Finance Authority Act [[6-21-1 NMSA](#) 1978] shall be deemed to provide an additional and alternative method for the doing of things authorized thereby and shall be regarded as supplemental and additional to powers conferred by other laws and shall not be regarded as in derogation of any powers now existing; provided that the issuance of bonds under the provisions of the New Mexico Finance Authority Act need not comply with the requirements of any other law applicable to the issuance of bonds.

History

Laws 1992, ch. 61, § [27](#).

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N.M. Stat. Ann. § 6-21-28

Statutes current with all legislation of the 54th Legislature's First (2019) Regular Session

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6-21-28. Liberal interpretation.

The New Mexico Finance Authority Act [[6-21-1 NMSA](#) 1978], being necessary for the welfare of the state and its inhabitants, shall be liberally construed to effect the purposes of that act.

History

Laws 1992, ch. 61, § [28](#).

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N.M. Stat. Ann. § 6-21-29

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6-21-29. Severability.

If any part or application of the New Mexico Finance Authority Act [[6-21-1 NMSA](#) 1978] is held invalid, the remainder or its application to other situations shall not be affected.

History

Laws 1992, ch. 61, § [29](#).

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N.M. Stat. Ann. § 6-21-30

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6-21-30. New Mexico finance authority oversight committee.

There is created a joint interim legislative committee that shall be known as the "New Mexico finance authority oversight committee". The legislative council shall determine the membership of the committee and shall appoint the members and designate the chairman and the vice chairman in accordance with legislative council policies. The staff for the committee shall be provided by the legislative council service.

History

Laws 1992, ch. 61, § [30](#).

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N.M. Stat. Ann. § 6-21-31

Statutes current with all legislation of the 54th Legislature's First (2019) Regular Session

Michie's™ Annotated Statutes of New Mexico > Chapter 6 Public Finances (Arts. 1 — 31) > Article 21 Finance Authority (§§ 6-21-1 — 6-21-31)

6-21-31. Powers and duties.

The New Mexico finance authority oversight committee shall:

- A.** monitor and oversee the operation of the New Mexico finance authority;
- B.** meet on a regular basis to receive and review reports from the authority on implementation of the provisions of the New Mexico Finance Authority Act [[6-21-1 NMSA](#) 1978] and to review and approve regulations proposed for adoption pursuant to that act;
- C.** monitor and provide assistance and advice on the public project financing program of the New Mexico finance authority;
- D.** oversee and monitor state and local government capital planning and financing and take testimony from state and local officials on state and local capital needs;
- E.** provide advice and assistance to the New Mexico finance authority and cooperate with the executive branch of state government and local governments on planning, setting priorities for and financing of state and local capital projects;
- F.** undertake an ongoing examination of the statutes, constitutional provisions, regulations and court decisions governing state and local government capital financing in New Mexico; and
- G.** report its findings and recommendations, including recommended legislation or necessary changes, to the governor and to each session of the legislature. The report and proposed legislation shall be made available on or before December 15 each year.

History

Laws 1992, ch. 61, § [31](#).

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