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HOUSE BILL 496

46TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2003

INTRODUCED BY

Max Coll

AN ACT

RELATING TO STATE BUILDINGS; AUTHORIZING THE ACQUISITION AND
RENOVATIONS OF STATE MUSEUMS PURSUANT TO THE STATE OFFICE
BUILDING ACQUISITION BONDING ACT; RENAMING THAT ACT AND THE
STATE OFFICE BUILDING BONDING FUND.

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

Section 1. Section 6-21C-1 NMSA 1978 (being Laws 2001,
Chapter 199, Section 1) is amended to read:

"6-21C-1. SHORT TITLE. -- [~~Sections 1 through 11 of this
act~~] Chapter 6, Article 21C NMSA 1978 may be cited as the
"State [~~Office~~] Building [~~Acquisition~~] Bonding Act".

Section 2. Section 6-21C-3 NMSA 1978 (being Laws 2001,
Chapter 199, Section 3) is amended to read:

"6-21C-3. [~~DEFINITION~~] DEFINITIONS. -- As used in the State
[~~Office~~] Building [~~Acquisition~~] Bonding Act:

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1 A. "acquiring" or "acquisition" includes acquiring
2 or acquisition by purchase, construction or renovation; and

3 B. "building bonds" means state office building tax
4 revenue bonds or state museum tax revenue bonds. "

5 Section 3. Section 6-21C-4 NMSA 1978 (being Laws 2001,
6 Chapter 199, Section 4) is amended to read:

7 "6-21C-4. NEW MEXICO FINANCE AUTHORITY SHALL ISSUE [~~STATE~~
8 ~~OFFICE~~] BUILDING [~~TAX REVENUE~~] BONDS-- APPROPRIATION OF
9 PROCEEDS. --

10 A. The New Mexico finance authority is authorized
11 to issue and sell revenue bonds, known as "state office
12 building tax revenue bonds", payable solely from the state
13 [~~office~~] building bonding fund, in compliance with the State
14 [~~Office~~] Building [~~Acquisition~~] Bonding Act for the purpose of
15 acquiring state office buildings when the acquisition is
16 authorized by legislative act and the director of the property
17 control division of the general services department certifies
18 the need for the issuance of the bonds.

19 B. The New Mexico finance authority is authorized
20 to issue and sell revenue bonds, known as "state museum tax
21 revenue bonds", payable solely from the state building bonding
22 fund, in compliance with the State Building Bonding Act for the
23 purpose of acquiring or renovating state museums when the
24 acquisition or renovation is authorized by legislative act and
25 the state cultural affairs officer certifies the need for the

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1 issuance of the bonds.

2 [B-] C. The net proceeds from the state office
3 building tax revenue bonds are appropriated to the property
4 control division of the general services department for the
5 purpose of acquiring state office buildings, the acquisition of
6 which shall be consistent with [the purpose of] the State
7 [Office] Building [Acquisition] Bonding Act and the authorizing
8 legislation.

9 D. The net proceeds from the state museum tax
10 revenue bonds are appropriated to the office of cultural
11 affairs for the purpose of acquiring or renovating state
12 museums, the acquisition or renovation of which shall be
13 consistent with the State Building Bonding Act and the
14 authorizing legislation."

15 Section 4. Section 6-21C-5 NMSA 1978 (being Laws 2001,
16 Chapter 199, Section 5) is amended to read:

17 "6-21C-5. STATE [OFFICE] BUILDING BONDING FUND CREATED--
18 MONEY IN THE FUND PLEDGED. --

19 A. The "state [office] building bonding fund" is
20 created as a special fund within the New Mexico finance
21 authority. The fund shall be administered by the New Mexico
22 finance authority as a special account. The fund shall consist
23 of money appropriated and transferred to the fund and gross
24 receipts tax revenues distributed to the fund by law. Earnings
25 of the fund shall be credited to the fund. Balances in the

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1 fund at the end of any fiscal year shall remain in the fund,
2 except as provided in this section.

3 B. Money in the state ~~[office]~~ building bonding
4 fund is pledged for the payment of principal and interest on
5 all ~~[state-office]~~ building ~~[tax-revenue]~~ bonds issued pursuant
6 to the State ~~[Office]~~ Building ~~[Acquisition]~~ Bonding Act.
7 Money in the fund is appropriated to the New Mexico finance
8 authority for the purpose of paying debt service, including
9 redemption premiums, on the ~~[state-office]~~ building ~~[tax~~
10 ~~revenue]~~ bonds and the expenses incurred in the issuance,
11 payment and administration of the bonds.

12 C. On the last day of January and July of each
13 year, the New Mexico finance authority shall estimate the
14 amount needed to make debt service and other payments during
15 the next twelve months from the state ~~[office]~~ building bonding
16 fund on the ~~[state-office]~~ building ~~[tax-revenue]~~ bonds issued
17 pursuant to the State ~~[Office]~~ Building ~~[Acquisition]~~ Bonding
18 Act plus the amount that may be needed for any required
19 reserves. The New Mexico finance authority shall transfer to
20 the general fund any balance in the state ~~[office]~~ building
21 bonding fund above the estimated amounts.

22 D. Any balance remaining in the state ~~[office]~~
23 building bonding fund shall be transferred to the general fund
24 upon certification by the New Mexico finance authority that:

25 (1) the director of the property control

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1 division of the general services department, in the case of
2 state office building tax revenue bonds, and the state cultural
3 affairs officer, in the case of state museum tax revenue bonds,
4 and the New Mexico finance authority have agreed that the
5 [~~state office~~] building [~~tax revenue~~] bonds issued pursuant to
6 the State [~~Office~~] Building [~~Acquisition~~] Bonding Act have been
7 retired, that no additional obligations of the state [~~office~~]
8 building bonding fund exist and that no additional expenditures
9 from the fund are necessary; or

10 (2) a court of jurisdiction has ruled that the
11 [~~state office~~] building [~~tax revenue~~] bonds have been retired,
12 that no additional obligations of the state [~~office~~] building
13 bonding fund exist and that no additional expenditures from the
14 fund are necessary.

15 E. The [~~state office~~] building [~~tax revenue~~] bonds
16 issued pursuant to the State [~~Office~~] Building [~~Acquisition~~]
17 Bonding Act shall be payable solely from the state [~~office~~]
18 building bonding fund or, with the approval of the [~~bond~~
19 ~~holders~~] bondholders, such other special funds as may be
20 provided by law and do not create an obligation or indebtedness
21 of the state within the meaning of any constitutional
22 provision. No breach of any contractual obligation incurred
23 pursuant to that act shall impose a pecuniary liability or a
24 charge upon the general credit or taxing power of the state,
25 and the bonds are not general obligations for which the state's

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1 full faith and credit is pledged.

2 F. The state does hereby pledge that the state
3 [~~office~~] building bonding fund shall be used only for the
4 purposes specified in this section and pledged first to pay the
5 debt service on the [~~state office~~] building [~~tax revenue~~] bonds
6 issued pursuant to the State [~~Office~~] Building [~~Acquisition~~]
7 Bonding Act. The state further pledges that any law
8 authorizing the distribution of taxes or other revenues to the
9 state [~~office~~] building bonding fund or authorizing
10 expenditures from the fund shall not be amended or repealed or
11 otherwise modified so as to impair the bonds to which the state
12 [~~office~~] building bonding fund is dedicated as provided in this
13 section. "

14 Section 5. Section 6-21C-6 NMSA 1978 (being Laws 2001,
15 Chapter 199, Section 6) is amended to read:

16 "6-21C-6. AUTHORITY TO REFUND BONDS. --The New Mexico
17 finance authority may issue and sell at public or private sale
18 [~~state office~~] building [~~tax revenue~~] bonds to refund
19 outstanding [~~state office~~] building [~~tax revenue~~] bonds by
20 exchange, immediate or prospective redemption, cancellation or
21 escrow, including the escrow of debt service funds accumulated
22 for payment of outstanding bonds, or any combination thereof,
23 when, in its opinion, such action will be beneficial to the
24 state. "

25 Section 6. Section 6-21C-7 NMSA 1978 (being Laws 2001,

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1 Chapter 199, Section 7) is amended to read:

2 "6-21C-7. [~~STATE OFFICE~~] BUILDING [~~TAX REVENUE~~] BONDS--
3 FORM - EXECUTION. --

4 A. The New Mexico finance authority, except as
5 otherwise specifically provided in the State [~~Office~~] Building
6 [~~Acquisition~~] Bonding Act, shall determine at its discretion
7 the terms, covenants and conditions of [~~state office~~] building
8 [~~tax revenue~~] bonds, including, but not limited to, date of
9 issue, denominations, maturities, rate or rates of interest,
10 call features, call premiums, registration, refundability and
11 other covenants covering the general and technical aspects of
12 the issuance of the bonds.

13 B. The [~~state office~~] building [~~tax revenue~~] bonds
14 shall be in such form as the New Mexico finance authority may
15 determine, and successive issues shall be identified by
16 alphabetical, numerical or other proper series designation.

17 C. [~~State office~~] Building [~~tax revenue~~] bonds
18 shall be signed and attested by the secretary of the New Mexico
19 finance authority and shall be executed with the facsimile
20 signature of the chairman of the New Mexico finance authority
21 and the facsimile seal of the New Mexico finance authority,
22 except for bonds issued in book entry or similar form without
23 the delivery of physical securities. Any interest coupons
24 attached to the bonds shall bear the facsimile signature of the
25 secretary of the New Mexico finance authority, which officer,

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1 by the execution of the bonds, shall adopt as his own signature
2 the facsimile thereof appearing on the coupons. Except for
3 bonds issued in book entry or similar form without the delivery
4 of physical securities, the Uniform Facsimile Signature of
5 Public Officials Act shall apply, and the New Mexico finance
6 authority shall determine the manual signature to be affixed on
7 the bonds. "

8 Section 7. Section 6-21C-8 NMSA 1978 (being Laws 2001,
9 Chapter 199, Section 8) is amended to read:

10 "6-21C-8. PROCEDURE FOR SALE OF BUILDING BONDS. --

11 A. [~~State office~~] Building [~~tax revenue~~] bonds
12 shall be sold by the New Mexico finance authority at such times
13 and in such manner as the authority may elect, consistent with
14 the need of the property control division of the general
15 services department or the office of cultural affairs, either
16 at private sale for a negotiated price or to the highest bidder
17 at public sale for cash at not less than par and accrued
18 interest.

19 B. In connection with any public sale of [~~state~~
20 ~~office~~] building [~~tax revenue~~] bonds, the New Mexico finance
21 authority shall publish a notice of the time and place of sale
22 in a newspaper of general circulation in the state and also in
23 a recognized financial journal outside the state. Such
24 publication shall be made once each week for two consecutive
25 weeks prior to the date fixed for such sale, the last

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1 publication to be two business days prior to the date of sale.
2 Such notice shall specify the amount, denomination, maturity
3 and description of the bonds to be offered for sale and the
4 place, day and hour at which sealed bids therefor shall be
5 received. All bids, except that of the state, shall be
6 accompanied by a deposit of two percent of the principal amount
7 of the bonds. Deposits of unsuccessful bidders shall be
8 returned upon rejection of the bid. At the time and place
9 specified in such notice, the New Mexico finance authority
10 shall open the bids in public and shall award the bonds, or any
11 part thereof, to the bidder or bidders offering the best price.
12 The New Mexico finance authority may reject any or all bids and
13 readvertise.

14 C. The New Mexico finance authority may sell a
15 [~~state office~~] building [~~tax revenue~~] bond issue, or any part
16 thereof, to the state or to one or more investment bankers or
17 institutional investors at private sale."

18 Section 8. Section 6-21C-9 NMSA 1978 (being Laws 2001,
19 Chapter 199, Section 9) is amended to read:

20 "6-21C-9. STATE [~~OFFICE~~] BUILDING [~~ACQUISITION~~] BONDING
21 ACT IS FULL AUTHORITY FOR ISSUANCE OF BONDS-- BONDS ARE LEGAL
22 INVESTMENTS. --

23 A. The State [~~office~~] Building [~~Acquisition~~]
24 Bonding Act shall, without reference to any other act of the
25 legislature, be full authority for the issuance and sale of

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1 [state office] building [tax revenue] bonds, which bonds shall
2 have all the qualities of investment securities under the
3 Uniform Commercial Code and shall not be invalid for any
4 irregularity or defect or be contestable in the hands of bona
5 fide purchasers or holders thereof for value.

6 B. [State office] Building [tax revenue] bonds are
7 legal investments for any person or board charged with the
8 investment of any public funds and are acceptable as security
9 for any deposit of public money. "

10 Section 9. Section 6-21C-10 NMSA 1978 (being Laws 2001,
11 Chapter 199, Section 10) is amended to read:

12 "6-21C-10. SUIT MAY BE BROUGHT TO COMPEL PERFORMANCE OF
13 OFFICERS. -- Any holder of [state office] building [tax revenue]
14 bonds or any person or officer being a party in interest may
15 sue to enforce and compel the performance of the provisions of
16 the State [office] Building [Acquisition] Bonding Act. "

17 Section 10. Section 6-21C-11 NMSA 1978 (being Laws 2001,
18 Chapter 199, Section 11) is amended to read:

19 "6-21C-11. BUILDING BONDS TAX EXEMPT. -- All [state office]
20 building [tax revenue] bonds shall be exempt from taxation by
21 the state or any of its political subdivisions. "

22 Section 11. Section 7-1-6.42 NMSA 1978 (being Laws 2001,
23 Chapter 199, Section 12) is amended to read:

24 "7-1-6.42. DISTRIBUTION--STATE [OFFICE] BUILDING BONDING
25 FUND--GROSS RECEIPTS TAX. -- A distribution pursuant to Section

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1 7-1-6.1 NMSA 1978 shall be made to the state [~~office~~] building
2 bonding fund in the amount of five hundred thousand dollars
3 (\$500,000) from the net receipts attributable to the gross
4 receipts tax imposed by the Gross Receipts and Compensating Tax
5 Act. The distribution shall be made:

6 A. after the required distribution pursuant to
7 Section 7-1-6.4 NMSA 1978;

8 B. contemporaneously with other distributions of
9 net receipts attributable to the gross receipts tax for payment
10 of debt service on outstanding bonds or to a fund dedicated for
11 that purpose; and

12 C. prior to any other distribution of net receipts
13 attributable to the gross receipts tax. "

14 Section 12. TEMPORARY PROVISION--OUTSTANDING STATE OFFICE
15 BUILDING TAX REVENUE BONDS--FUND BALANCES.--

16 A. Nothing in this act shall be deemed to impair
17 state office building tax revenue bonds outstanding on the
18 effective date of this act. For the purposes of the
19 obligations incurred with respect to those bonds:

20 (1) the State Office Building Acquisition
21 Bonding Act and the State Building Bonding Act are the same
22 act. The provisions of the State Building Bonding Act apply to
23 the same extent as the provisions of the State Office Building
24 Acquisition Bonding Act applied prior to the effective date of
25 this act; and

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1 (2) the state office building bonding fund and
2 the state building bonding fund are the same fund. Money in
3 the state building bonding fund is pledged for the payment of
4 principal and interest on those bonds to the same extent that
5 the state office building bonding fund was pledged prior to the
6 effective date of this act.

7 B. The state building bonding fund is a new name
8 for the state office building bonding fund and is not a new
9 fund created by this act. The purposes and balances of the
10 state office building bonding fund as they existed before the
11 effective date of this act remain the purposes and balances of
12 the state building bonding fund.

13 Section 13. REPEAL. --Section 6-21C-2 NMSA 1978 (being
14 Laws 2001, Chapter 199, Section 2) is repealed.

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