

**FORTY-SEVENTH LEGISLATURE
FIRST SESSION, 2005**

March 16, 2005

Mr. Speaker:

Your **TAXATION AND REVENUE COMMITTEE**, to whom has been referred

SENATE BILL 289, as amended

has had it under consideration and reports same with recommendation that it **DO PASS**, amended as follows:

1. Strike Senate Floor Amendment 1.

2. On page 1, line 14, before the period, insert "AND TO ACQUIRE LAND AND PLAN, DESIGN, CONSTRUCT AND EQUIP A STATE LABORATORY FACILITY IN BERNALILLO COUNTY; EXPANDING THE PURPOSES OF THE STATE BUILDING BONDING ACT; AUTHORIZING REVENUE BONDS PURSUANT TO THAT ACT; AUTHORIZING REVENUE BONDS FROM CIGARETTE TAX DISTRIBUTIONS FOR THE STATE LABORATORY FACILITY AND FOR IMPROVEMENTS AT CERTAIN DEPARTMENT OF HEALTH FACILITIES; MAKING APPROPRIATIONS".

3. On page 2, line 19, after "may", insert a colon, strike the remainder of the line and strike lines 20 through 23 and insert in lieu thereof the following:

"(1) in cooperation with the New Mexico legislative council, pursuant to the capitol buildings master plan developed by the capitol buildings planning commission and after review by the commission plan, design, construct and equip a parking structure in the central capitol campus in Santa Fe. Upon completion of the parking structure, the property control division shall transfer the parking structure and associated real estate to the New Mexico legislative council. After the transfer, the legislative council shall operate and maintain the parking structure; and

(2) expend up to eighteen million one hundred thousand dollars (\$18,100,000) of the net proceeds from state office building tax revenue bonds to acquire land and plan, design, construct and equip a state laboratory facility in Bernalillo county."

4. On page 3, line 10, after the period, insert a closing quotation mark.

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5. On page 3, line 11 through page 4, line 5, strike Subsections D and E in their entirety and insert in lieu thereof the following new sections:

"Section 2. Section 6-21C-2.1 NMSA 1978 (being Laws 2004, Chapter 123, Section 1) is amended to read:

"6-21C-2.1. FINDINGS AND PURPOSE.--

A. The legislature finds that the expense of leasing office space for state occupancy has grown to the point that the state would be better served if more state-owned facilities were acquired. The legislature further finds that the state's overall occupancy costs could be reduced even after taking into account the payments necessary on bonds issued to acquire additional facilities and that, therefore, it is economically advantageous for the state to own additional office space and related facilities. Further, in anticipation of the state's future office space needs, the legislature finds it prudent to establish an office acquisition program.

B. The legislature also finds that, in extreme circumstances, it is advantageous for the state to fund certain critical facilities to avoid the need for leasing or paying emergency rents.

~~[B.]~~ C. The purpose of the State Building Bonding Act is to acquire additional state office buildings and related facilities, or critical facilities located within the master planning jurisdiction of the capitol buildings planning commission, by issuing bonds paid for with distributions of gross receipts tax revenue that reflect a portion of the savings that will result from the conversion to more state-owned facilities."

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

"6-21C-4. NEW MEXICO FINANCE AUTHORITY SHALL ISSUE BUILDING BONDS--APPROPRIATION OF PROCEEDS.--

A. The New Mexico finance authority is authorized to issue and sell revenue bonds, known as "state office building tax revenue bonds", payable solely from the state building bonding fund, in compliance with the State Building Bonding Act for the purpose of acquiring state office buildings and related facilities and other

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critical state facilities within the master planning jurisdiction of the capitol buildings planning commission when the acquisition has been reviewed by the capitol buildings planning commission and has been authorized by legislative act and the director of the property control division of the general services department has certified the need for the issuance of the bonds.

B. The net proceeds from the building bonds are appropriated to the property control division of the general services department for the purpose of acquiring state office buildings and related facilities and other critical state facilities within the master planning jurisdiction of the capitol buildings planning commission, the acquisition of which shall be consistent with the State Building Bonding Act and the authorizing legislation."

Section 4. Laws 2001, Chapter 166, Section 2, as amended by Laws 2004, Chapter 123, Section 7, is amended to read:

"Section 2. STATE OFFICE BUILDING TAX REVENUE BONDS--
AUTHORIZATION--CONTINGENCY.--

A. The New Mexico finance authority may issue and sell state office building tax revenue bonds in compliance with the State ~~[Office] Building [Acquisition] Bonding Act~~ in a total amount not to exceed seventy-five million dollars (\$75,000,000) when the director of the property control division of the general services department certifies to the authority that the proceeds from the state office building tax revenue bonds are needed ~~[to acquire]~~ for one or more of the [properties] purposes specified in Laws 2001, Chapter 166, Section 1, as amended by Section 1 of this 2005 act. The authority shall schedule the issuance and sale of the bonds in the most expeditious and economical manner possible ~~[upon a finding by the authority that the acquisition can proceed within a reasonable time. The authority shall further take the appropriate steps necessary to comply with the Internal Revenue Code of 1986, as amended].~~ Except as provided in Subsection ~~[B]~~ C of this section, net proceeds from the sale of the bonds are appropriated to the property control division of the general services department for expenditure in fiscal year 2001 and subsequent fiscal years for the ~~[purpose of making the acquisitions pursuant to]~~ purposes specified in Laws 2001, Chapter 166, Section 1, as amended by Section 1 of this 2005 act.

B. The New Mexico finance authority may also issue and

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sell additional state office building tax revenue bonds in compliance with the State Building Bonding Act in a total amount not to exceed fifteen million dollars (\$15,000,000) when the director of the property control division of the general services department certifies to the authority that the proceeds from the state office building tax revenue bonds are needed for one or more of the purposes specified in Laws 2001, Chapter 166, Section 1, as amended by Section 1 of this 2005 act. The authority shall schedule the issuance and sale of the bonds in the most expeditious and economical manner possible. Net proceeds from the sale of the bonds are appropriated to the property control division of the general services department for expenditure in fiscal year 2005 and subsequent fiscal years for the purposes specified in Laws 2001, Chapter 166, Section 1, as amended by Section 1 of this 2005 act.

~~[B.]~~ C. Two hundred fifty thousand dollars (\$250,000) of the ~~[bond proceeds]~~ proceeds from the bonds issued pursuant to Subsection A of this section are appropriated to the legislative council service for expenditure in fiscal years 2004 through ~~[2007]~~ 2008 for the purpose of providing funding for the capitol buildings planning commission, master planning process for state facilities and for annual updates to master plans, but excluding any payments for salaries, benefits and costs of state employees. Any unexpended or unencumbered balance remaining at the end of fiscal year ~~[2007]~~ 2008 shall revert to the state building bonding fund.

~~[G. The authorization made in Subsection A of this section is contingent upon the enactment into law of the State Office Building Acquisition Bonding Act by the first session of the forty-fifth legislature.]"~~

Section 5. Section 6-21-6.7 NMSA 1978 (being Laws 2003, Chapter 341, Section 5) is amended to read:

"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 G of Section 7-1-6.11 NMSA 1978 shall be deposited in the credit enhancement account.

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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 cancer research and treatment center at the university of New Mexico health sciences center; and

(2) [improvements to] 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 E or Subsection F, 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 E or Subsection F, 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 G 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

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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."

Section 6. Section 7-1-6.11 NMSA 1978 (being Laws 1983, Chapter 211, Section 16, as amended) is amended to read:

"7-1-6.11. DISTRIBUTIONS OF CIGARETTE TAXES.--

A. A distribution pursuant to Section 7-1-6.1 NMSA 1978 shall be made to the county and municipality recreational fund in an amount equal to one and thirty-six hundredths percent of the net receipts, exclusive of penalties and interest, attributable to the cigarette tax.

B. A distribution pursuant to Section 7-1-6.1 NMSA 1978 shall be made to the county and municipal cigarette tax fund in an amount equal to two and seventy-two hundredths percent of the net receipts, exclusive of penalties and interest, attributable to the cigarette tax.

C. A distribution pursuant to Section 7-1-6.1 NMSA 1978 shall be made to the cancer research and treatment center at the university of New Mexico health sciences center in an amount equal to one and thirty-six hundredths percent of the net receipts, exclusive of penalties and interest, attributable to the cigarette tax.

D. A distribution pursuant to Section 7-1-6.1 NMSA 1978 shall be made to the New Mexico finance authority in an amount equal to two and four-hundredths percent of the net receipts, exclusive of penalties and interest, attributable to the cigarette tax.

E. A distribution pursuant to Section 7-1-6.1 NMSA 1978 in an amount equal to fourteen and fifty-two hundredths percent of the net receipts, exclusive of penalties and interest, attributable to the cigarette tax, shall be made, on behalf of and for the benefit of the university of New Mexico health sciences center, to the New Mexico finance authority.

F. A distribution pursuant to Section 7-1-6.1 NMSA 1978 in an amount equal to six and eleven-hundredths percent of the net

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receipts, exclusive of penalties and interest, attributable to the cigarette tax shall be made to the New Mexico finance authority for ~~[improvements to]~~ land acquisition and the planning, designing, construction and equipping of department of health facilities or improvements to such facilities.

G. A distribution pursuant to Section 7-1-6.1 NMSA 1978 in an amount equal to fifteen and ninety-five hundredths percent of the net receipts, exclusive of penalties and interest, attributable to the cigarette tax shall be made to the New Mexico finance authority for deposit in the credit enhancement account created in the authority."

Section 7. Laws 2003, Chapter 341, Section 4 is amended to read:

"Section 4. NEW MEXICO FINANCE AUTHORITY REVENUE BONDS--
DEPARTMENT OF HEALTH FACILITIES--APPROPRIATION.--

A. The New Mexico finance authority may issue and sell revenue bonds in compliance with the New Mexico Finance Authority Act for projects authorized specifically by law for ~~[improvements to]~~ land acquisition and the planning, designing, construction and equipping of department of health facilities or improvements to such facilities.

B. The New Mexico finance authority may issue and sell revenue bonds authorized by this section when the secretary of finance and administration certifies the need for issuance of the bonds. The net proceeds from the sale of the bonds are appropriated to the capital program fund administered by the property control division of the general services department for the purposes described in Subsection A of this section.

C. The cigarette tax proceeds distributed to the New Mexico finance authority pursuant to Subsection F 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 New Mexico finance authority related to the issuance, sale and administration of the bonds.

D. The cigarette tax proceeds distributed to the New Mexico finance authority pursuant to Subsection F of Section 7-1-6.11 NMSA 1978 shall be deposited each month in a separate fund

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or account of the authority. Money in the separate fund or account in excess of the combined total of the principal, interest and other expenses or obligations related to the bonds coming due in that fiscal year is appropriated to and shall be transferred to the capital program fund for capital improvements to department of health facilities recommended by the secretary of health and approved by the secretary of finance and administration.

E. Upon payment of all principal, interest and other expenses or obligations related to the bonds, the New Mexico finance 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 and the state treasurer to cease distributing cigarette tax proceeds to the authority pursuant to Subsection F 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 revenues, unless the revenue bonds have been discharged in full or provisions have been made for a full discharge.

G. The New Mexico finance 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.

H. The New Mexico finance 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."

Section 8. [NEW MATERIAL] AUTHORIZATION FOR REVENUE BONDS-- DEPARTMENT OF HEALTH FACILITIES.--Pursuant to Laws 2003, Chapter 341, Section 4, as amended by Section 7 of this 2005 act, the New Mexico finance authority may issue and sell revenue bonds in compliance with the provisions of that section and the provisions of the New Mexico Finance Authority Act in an amount not exceeding thirty-nine million dollars (\$39,000,000) plus an amount equal to

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the costs of issuing the revenue bonds for the following purposes in the following amounts:

A. ten million three hundred thousand dollars (\$10,300,000) for improvements at the southern New Mexico rehabilitation center;

B. eleven million dollars (\$11,000,000) for improvements at the Las Vegas medical center;

C. four million dollars (\$4,000,000) for improvements at Fort Bayard medical center; and

D. thirteen million seven hundred thousand dollars (\$13,700,000) for use by the property control division of the general services department for land acquisition and the planning, designing, construction and equipping of a state laboratory facility in Bernalillo county for use by the department of health."".

Respectfully submitted,

Donald L. Whitaker, Chairman

Adopted _____
(Chief Clerk)

Not Adopted _____
(Chief Clerk)

The roll call vote was 12 For 0 Against
Yes: 12
No: 0
Excused: Harrison, Lujan, B., Sandoval
Absent: Payne

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