

SENATE FINANCE COMMITTEE SUBSTITUTE FOR
SENATE BILL 35

49TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2009

AN ACT

RELATING TO THE NEW MEXICO RENEWABLE ENERGY TRANSMISSION
AUTHORITY; ADDING THE NEW MEXICO RENEWABLE ENERGY TRANSMISSION
AUTHORITY TO THE LIST OF QUALIFIED ENTITIES FOR THE PURPOSES OF
THE PUBLIC PROJECT REVOLVING FUND; AUTHORIZING THE NEW MEXICO
FINANCE AUTHORITY TO ISSUE AND SUPPORT BONDS FOR RENEWABLE
ENERGY PROJECTS; TRANSFERRING THE RENEWABLE ENERGY TRANSMISSION
BONDING FUND AND THE RENEWABLE ENERGY TRANSMISSION AUTHORITY
OPERATIONAL FUND FROM THE STATE TREASURY TO THE NEW MEXICO
RENEWABLE ENERGY TRANSMISSION AUTHORITY; AMENDING THE NEW
MEXICO RENEWABLE ENERGY TRANSMISSION AUTHORITY ACT WITH REGARD
TO THE DEPOSIT OF FUNDS AND THE ISSUANCE OF BONDS; INCREASING
THE MEMBERSHIP OF THE NEW MEXICO RENEWABLE ENERGY TRANSMISSION
AUTHORITY.

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

.178631.2

underscored material = new
[bracketed material] = delete

1 Section 1. A new section of the New Mexico Finance
2 Authority Act is enacted to read:

3 "[NEW MATERIAL] BONDS FOR RENEWABLE ENERGY TRANSMISSION
4 PROJECTS.--The authority may issue bonds on behalf of renewable
5 energy electrical transmission and storage projects to be
6 entered into pursuant to the New Mexico Renewable Energy
7 Transmission Authority Act."

8 Section 2. Section 6-21-3 NMSA 1978 (being Laws 1992,
9 Chapter 61, Section 3, as amended) is amended to read:

10 "6-21-3. DEFINITIONS.--As used in the New Mexico Finance
11 Authority Act:

12 A. "authority" means the New Mexico finance
13 authority;

14 B. "bond" means any bonds, notes, certificates of
15 participation or other evidence of indebtedness;

16 C. "bondholder" or "holder" means a person who is
17 the owner of a bond, whether registered or not;

18 D. "emergency public project" means a public
19 project:

20 (1) made necessary by an unforeseen occurrence
21 or circumstance threatening the public health, safety or
22 welfare; and

23 (2) requiring the immediate expenditure of
24 money that is not within the available financial resources of
25 the qualified entity as determined by the authority;

.178631.2

1 E. "public project" means the acquisition,
2 construction, improvement, alteration or reconstruction of
3 assets of a long-term capital nature by a qualified entity,
4 including land; buildings; water rights; water, sewerage and
5 waste disposal systems; streets; airports; municipal utilities;
6 facilities eligible to be financed or acquired by the New
7 Mexico renewable energy transmission authority; parking
8 facilities; and machinery, furniture and equipment. "Public
9 project" includes all proposed expenditures related to the
10 entire undertaking. "Public project" also includes the
11 acquisition, construction or improvement of real property,
12 buildings, facilities and other assets by the authority for the
13 purpose of leasing the property;

14 F. "qualified entity" means the state or an agency
15 or institution of the state or a county; municipality; school
16 district; two-year public post-secondary educational
17 institution; land grant corporation; acequia association;
18 public improvement district; federally chartered college
19 located in New Mexico; intercommunity water or natural gas
20 supply association or corporation; special district or
21 community water association; nonprofit foundation or other
22 support organization affiliated with a public university,
23 college or other higher educational institution located in New
24 Mexico; ~~[or]~~ an Indian nation, tribe or pueblo located wholly
25 or partially in New Mexico, including a political subdivision

.178631.2

1 or a wholly owned enterprise of an Indian nation, tribe or
2 pueblo or a consortium of those Indian entities; or the New
3 Mexico renewable energy transmission authority; and

4 G. "security" or "securities", unless the context
5 indicates otherwise, means bonds, notes or other evidence of
6 indebtedness issued by a qualified entity or leases or
7 certificates or other evidence of participation in the lessor's
8 interest in and rights under a lease with a qualified entity
9 and that are payable from taxes, revenues, rates, charges,
10 assessments or user fees or from the proceeds of funding or
11 refunding bonds, notes or other evidence of indebtedness of a
12 qualified entity or from certificates or evidence of
13 participation in a lease with a qualified entity."

14 Section 3. Section 62-16A-2 NMSA 1978 (being Laws 2007,
15 Chapter 3, Section 2) is amended to read:

16 "62-16A-2. DEFINITIONS.--As used in the New Mexico
17 Renewable Energy Transmission Authority Act:

18 A. "acquire" means to obtain eligible facilities by
19 lease, construction, reconstruction or purchase;

20 B. "authority" means the New Mexico renewable
21 energy transmission authority;

22 C. "bonds" means renewable energy transmission
23 bonds and includes notes, warrants, bonds, temporary bonds and
24 anticipation notes issued by the authority;

25 D. "eligible facilities" means facilities to be

1 financed or acquired by the authority, in which, within one
2 year after beginning the transmission or storage of any
3 electricity, and thereafter, at least thirty percent of the
4 electric energy, as estimated by the authority, after due
5 consideration to any existing power purchase, transmission or
6 energy storage contracts, originates from renewable energy
7 sources;

8 E. "facilities" means electric transmission and
9 interconnected storage facilities and all related structures,
10 properties and supporting infrastructure, including any
11 interests therein;

12 F. "finance" or "financing" means the lending of
13 bond proceeds by the authority to a public utility or other
14 private person for the purpose of planning, acquiring,
15 operating and maintaining eligible facilities in whole or in
16 part by that public utility or other private person;

17 G. "project" means an undertaking by the authority
18 to finance or plan, acquire, maintain and operate eligible
19 facilities located in part or in whole within the state of New
20 Mexico;

21 H. "public utility" means a public electric utility
22 regulated by the public regulation commission pursuant to the
23 Public Utility Act and municipal utilities exempt from public
24 regulation commission regulation pursuant to Section 62-6-4
25 NMSA 1978 that own or operate facilities;

.178631.2

1 I. "renewable energy" means electric energy:

2 (1) generated by use of low- or zero-emissions
3 generation technology with substantial long-term production
4 potential; and

5 (2) generated by use of renewable energy
6 resources that may include:

7 (a) solar, wind, hydropower and
8 geothermal resources;

9 (b) fuel cells that are not fossil
10 fueled; or

11 (c) biomass resources, such as
12 agriculture or animal waste, small diameter timber, salt cedar
13 and other phreatophyte or woody vegetation removed from river
14 basins or watersheds in New Mexico, landfill gas and
15 anaerobically digested waste biomass; but

16 (3) does not include electric energy generated
17 by use of fossil fuel or nuclear energy; and

18 J. "storage" means energy storage technologies that
19 convert, store and return electricity to help alleviate
20 disparities between electricity supply and demand, to
21 facilitate the dispatching of electricity or to increase
22 economic return on the sale of electricity."

23 Section 4. Section 62-16A-3 NMSA 1978 (being Laws 2007,
24 Chapter 3, Section 3) is amended to read:

25 "62-16A-3. NEW MEXICO RENEWABLE ENERGY TRANSMISSION

.178631.2

1 AUTHORITY CREATED--ORGANIZATION.--

2 A. The "New Mexico renewable energy transmission
3 authority" is created as a public body, politic and corporate,
4 separate and apart from the state, constituting a governmental
5 instrumentality for the performance of essential public
6 functions.

7 B. The authority shall be composed of [~~seven~~] nine
8 members as follows:

9 (1) three members appointed by the governor
10 with the advice and consent of the senate. The initial
11 appointees shall be appointed for staggered terms of one, two
12 and three years; thereafter the members shall be appointed for
13 three-year terms;

14 (2) the state investment officer or the state
15 investment officer's designee;

16 (3) the state treasurer or the state
17 treasurer's designee;

18 (4) the commissioner of public lands or the
19 commissioner's designee;

20 (5) the secretary of energy, minerals and
21 natural resources or the secretary's designee;

22 [~~(4)~~] (6) one member appointed by the speaker
23 of the house of representatives who shall serve at the pleasure
24 of the speaker of the house; and

25 [~~(5)~~] (7) one member appointed by the

.178631.2

1 president pro tempore of the senate who shall serve at the
2 pleasure of the president pro tempore.

3 C. The qualifications of the members shall be as
4 follows:

5 (1) one member appointed by the governor shall
6 have expertise in financial matters involving the financing of
7 major electrical transmission projects;

8 (2) the other four appointed members shall
9 have:

10 (a) special knowledge of the public
11 utility industry, as evidenced by college degrees or by
12 experience, at least five years of which must be with the
13 public utility industry; and

14 (b) knowledge of renewable energy
15 development; and

16 (3) no member shall represent a person that
17 owns or operates facilities.

18 D. The members initially appointed by the speaker
19 of the house and the president pro tempore of the senate shall,
20 by lot, determine one to have an initial term of two years and
21 one to have an initial term of four years; thereafter, the
22 appointments will be for staggered terms of four years.

23 ~~[E. In addition to the seven voting members, the~~
24 ~~secretary of energy, minerals and natural resources shall serve~~
25 ~~as an ex-officio nonvoting member of the authority.~~

1 ~~F.~~ E. The governor shall designate an appointed
2 member of the authority to serve as chair, and the authority
3 may elect annually such other officers as it deems necessary.

4 ~~G.~~ F. The authority shall meet at the call of the
5 chair or whenever ~~four~~ five members shall so request in
6 writing. A majority of members then serving constitutes a
7 quorum for the transaction of business, but the affirmative
8 vote of at least ~~four~~ five members is necessary for any
9 action to be taken by the authority.

10 ~~H.~~ G. The authority is not created or organized,
11 and its operations are not conducted, for the purpose of making
12 a profit, but it is expected to recover the costs of operating
13 the authority. No part of the revenues or assets of the
14 authority shall benefit or be distributable to its members,
15 officers or other private persons. The members of the
16 authority shall receive no compensation for their services, but
17 the public members shall be reimbursed for actual and necessary
18 expenses at the same rate and on the same basis as provided for
19 public officers in the Per Diem and Mileage Act.

20 ~~I.~~ H. The authority is not subject to the
21 supervision or control of any other board, bureau, department
22 or agency of the state except as specifically provided in the
23 New Mexico Renewable Energy Transmission Authority Act. No use
24 of the terms "state agency" or "instrumentality" in any other
25 law of the state shall be deemed to refer to the authority

.178631.2

1 unless the authority is specifically referred to in the law.

2 [J-] I. The authority is a governmental
3 instrumentality for purposes of the Tort Claims Act."

4 Section 5. Section 62-16A-4 NMSA 1978 (being Laws 2007,
5 Chapter 3, Section 4) is amended to read:

6 "62-16A-4. AUTHORITY--DUTIES AND POWERS.--

7 A. The authority shall:

8 (1) do any and all things necessary or proper
9 to accomplish the purposes of the New Mexico Renewable Energy
10 Transmission Authority Act;

11 (2) hire an executive director and such other
12 employees or other agents as it deems necessary for the
13 performance of its powers and duties, including consultants,
14 financial advisors and legal advisors, and prescribe the powers
15 and duties and fix the compensation of the employees and
16 agents. The executive director of the authority shall direct
17 the affairs and business of the authority, subject to the
18 policies, control and direction of the authority; and

19 (3) maintain such records and accounts of
20 revenues and expenditures as required by the state auditor.
21 The state auditor or the state auditor's designee shall conduct
22 an annual financial and legal compliance audit of the accounts
23 of the authority and file copies with the governor and the
24 legislature.

25 B. The authority may:

.178631.2

1 (1) make and execute agreements, contracts and
2 other instruments necessary or convenient in the exercise of
3 its powers and functions with any person or governmental
4 agency;

5 (2) enter into contractual agreements with
6 respect to one or more projects upon the terms and conditions
7 the authority considers advisable;

8 (3) utilize the services of executive
9 departments of the state upon mutually agreeable terms and
10 conditions;

11 (4) enter into partnerships with public or
12 private entities;

13 (5) identify and establish corridors for the
14 transmission of electricity within the state;

15 (6) through participation in appropriate
16 regional transmission forums, coordinate, investigate, plan,
17 prioritize and negotiate with entities within and outside the
18 state for the establishment of interstate transmission
19 corridors;

20 (7) pursuant to Subsection C of this section,
21 finance or plan, acquire, maintain and operate eligible
22 facilities necessary or useful for the accomplishment of the
23 purposes of the New Mexico Renewable Energy Transmission
24 Authority Act;

25 (8) pursuant to the provisions of the Eminent

.178631.2

underscored material = new
[bracketed material] = delete

1 Domain Code, exercise the power of eminent domain for acquiring
2 property or rights of way for public use if needed for projects
3 if such action does not involve taking utility property or does
4 not materially diminish electric service reliability of the
5 transmission system in New Mexico, as determined by the public
6 regulation commission;

7 (9) receive by gift, grant, donation or
8 otherwise, any sum of money, aid or assistance from the United
9 States, the state of New Mexico, any other state, any political
10 subdivision or any other public or private entity;

11 (10) for any project, provide information and
12 training to employees of the project regarding any unique
13 hazards that may be posed by the project, as well as training
14 in safety work practices and emergency procedures;

15 (11) issue bonds pursuant to the New Mexico
16 Renewable Energy Transmission Authority Act as necessary to
17 undertake a project;

18 (12) enter into contracts for the lease and
19 operation by the authority of eligible facilities owned by a
20 public utility or other private person;

21 (13) enter into contracts for leasing eligible
22 facilities owned by the authority, provided that any revenue
23 derived pursuant to the lease shall be deposited in the
24 renewable energy transmission bonding fund;

25 (14) collect payments of reasonable rates,

.178631.2

1 fees, interest or other charges from persons using eligible
2 facilities to finance eligible facilities and for other
3 services rendered by the authority, provided that any revenue
4 derived from payments made to the authority shall be deposited
5 in the renewable energy transmission bonding fund;

6 (15) borrow money necessary to carry out the
7 purposes of the New Mexico Renewable Energy Transmission
8 Authority Act and mortgage and pledge any leases, loans or
9 contracts executed and delivered by the authority;

10 (16) sue and be sued; [~~and~~]

11 (17) adopt such reasonable administrative and
12 procedural rules as may be necessary or appropriate to carry
13 out its powers and duties; and

14 (18) appear before state and federal
15 regulatory commissions to advise against proposed action that
16 could reduce renewable energy contracted by an eligible
17 facility.

18 C. Except as provided in this subsection, the
19 authority shall not enter into any project if public utilities
20 or other private persons are performing the acts, are
21 constructing or have constructed the facilities, or are
22 providing the services contemplated by the authority, and are
23 willing to provide funds for and own new infrastructure to meet
24 an identified need and market. Before entering into a project,
25 the following procedures shall be implemented:

.178631.2

1 (1) the authority shall provide to each public
2 utility and the public regulation commission and publish one
3 time in a newspaper of general circulation in New Mexico and
4 one time in a newspaper in the area where the eligible
5 facilities are contemplated and on a publicly accessible web
6 page maintained by the authority, an initial notice describing
7 the project that the authority is contemplating, including a
8 detailed description of the existing or anticipated renewable
9 energy sources that justify the determination by the authority
10 that the project facilities are eligible facilities. The
11 description shall contain, at a minimum, the names of all
12 persons that already are or will develop the renewable energy
13 sources, all persons that will own the renewable energy sources
14 and the peak output capacity, source type, location and
15 anticipated connection date of the renewable energy sources;

16 (2) any person with an interest that may be
17 affected by the proposed project shall have thirty days from
18 the date of the last publication of the initial notice to
19 challenge, in writing, the determination by the authority that
20 the facilities are eligible facilities. If a challenge is
21 received by the authority within the thirty days, the authority
22 shall hold a public hearing no sooner than thirty days after
23 receiving the challenge and after a minimum of two weeks notice
24 in the same newspapers and web page in which the initial notice
25 was given. Following the public hearing, the authority shall

.178631.2

1 make a final determination of eligibility and give notice of
2 the determination pursuant to Section 39-3-1.1 NMSA 1978. Any
3 person or governmental entity participating in the hearing may
4 appeal the final determination by filing a notice of appeal
5 with the district court pursuant to Section 39-3-1.1 NMSA 1978;

6 (3) public utilities and other persons willing
7 and able to provide money for, acquire, maintain and operate
8 the eligible facilities described in the notice shall have the
9 following time period to notify the authority of intention and
10 ability to provide money for, acquire, maintain and operate the
11 eligible facilities described in the notice:

12 (a) within ninety days of the date of
13 the last publication of the initial notice if no challenge is
14 received pursuant to Paragraph (2) of this subsection; or

15 (b) within ninety days of the date of
16 the notice of determination if a challenge is received pursuant
17 to Paragraph (2) of this subsection; and

18 (4) in the absence of notification by a public
19 utility or other person pursuant to Paragraph (3) of this
20 subsection, or if a person, having given notice of intention to
21 provide money for, acquire, maintain and operate the eligible
22 facilities contemplated by the authority, fails to make a good
23 faith effort to commence the same within twelve months from the
24 date of notification by the authority of its intention, the
25 authority may proceed to finance or plan, acquire, maintain and

.178631.2

1 operate the eligible facilities originally contemplated,
2 provided that a person that, within the time required, has made
3 necessary applications to acquire federal, state, local or
4 private permits, certificates or other approvals necessary to
5 acquire the eligible facilities shall be deemed to have
6 commenced the same as long as the person diligently pursues the
7 permits, certificates or other approvals.

8 D. In soliciting and entering into contracts for
9 the transmission or storage of electricity, the authority and
10 any person leasing or operating eligible facilities financed or
11 acquired by the authority shall, if practical, give priority to
12 those contracts that will transmit or store electricity to be
13 sold and consumed in New Mexico. The authority shall deem the
14 development of renewable energy resources in New Mexico to be a
15 priority.

16 E. The authority and any eligible facilities
17 acquired by the authority are not subject to the supervision,
18 regulation, control or jurisdiction of the public regulation
19 commission; provided that nothing in this subsection shall be
20 interpreted to allow a public utility to include the cost of
21 using eligible facilities in its rate base without the approval
22 of the public regulation commission.

23 F. In exercising its powers and duties, the
24 authority shall not own or control facilities unless:

- 25 (1) the facilities are leased to or held for

1 lease or sale to a public utility or such other person approved
2 by the public regulation commission;

3 (2) the operation, maintenance and use of the
4 facilities are vested by lease or other contract in a public
5 utility or such other person approved by the public regulation
6 commission;

7 (3) the facilities are owned or controlled for
8 a period of not more than one hundred eighty days after
9 termination of a lease or contract described in Paragraph (1)
10 or (2) of this subsection or after the authority gains
11 possession of the facilities following a breach of such a lease
12 or contract or as a result of bankruptcy proceedings; or

13 (4) the facilities do not affect in-state
14 retail rates or electric service reliability.

15 G. A public utility subject to regulation of the
16 public regulation commission pursuant to the Public Utility Act
17 may recover the capital cost of a project undertaken pursuant
18 to the New Mexico Renewable Energy Transmission Authority Act
19 from its retail customers only if the project has received a
20 certificate of public convenience and necessity from the public
21 regulation commission. A municipal utility exempt from
22 regulation of the public regulation commission may recover such
23 costs only if the project has been approved by the governing
24 body of the municipality. Costs associated with a project
25 undertaken pursuant to the New Mexico Renewable Energy

.178631.2

1 Transmission Authority Act are not recoverable from retail
2 utility customers except to the extent the costs are prudently
3 incurred and the project is used and useful in serving those
4 customers as determined by the public regulation commission."

5 Section 6. Section 62-16A-5 NMSA 1978 (being Laws 2007,
6 Chapter 3, Section 5) is amended to read:

7 "62-16A-5. RENEWABLE ENERGY TRANSMISSION BONDS--
8 APPROPRIATION OF PROCEEDS.--

9 A. The authority is authorized to issue and sell
10 revenue bonds, known as "renewable energy transmission bonds",
11 payable [~~solely~~] from the renewable energy transmission bonding
12 fund and other sources as the authority may designate, in
13 compliance with the New Mexico Renewable Energy Transmission
14 Authority Act, for the purpose of entering into a project when
15 the authority determines that the project is needed.

16 B. The net proceeds from the bonds are appropriated
17 to the authority for the purpose of financing or acquiring
18 eligible facilities."

19 Section 7. Section 62-16A-6 NMSA 1978 (being Laws 2007,
20 Chapter 3, Section 6) is amended to read:

21 "62-16A-6. RENEWABLE ENERGY TRANSMISSION BONDING FUND
22 CREATED--MONEY IN THE FUND PLEDGED.--

23 A. The "renewable energy transmission bonding fund"
24 is created in the [~~state treasury~~] authority. The fund shall
25 consist of revenues received by the authority from operating or

1 leasing eligible facilities, fees and service charges collected
2 and, if the authority has provided financing for eligible
3 facilities, money from payments of principal and interest on
4 loans. Earnings of the fund shall be credited to the fund.
5 Balances in the fund at the end of any fiscal year shall remain
6 in the fund, except as provided in this section.

7 B. Money in the fund shall be deposited in a bank
8 designated by the authority in an account or accounts as the
9 authority may establish. Money in accounts shall be withdrawn
10 on the order of persons whom the authority may authorize. All
11 deposits of money shall be secured in such manner as the
12 authority may determine. The state auditor and the state
13 auditor's legally authorized representatives may periodically
14 examine the accounts and books of the authority, including its
15 receipts, disbursements, contracts, leases, sinking funds,
16 investments and any other records and papers relating to its
17 financial standing. The authority shall pay a reasonable fee
18 for the examination as determined by the state auditor.

19 ~~[B.]~~ C. Money in the renewable energy transmission
20 bonding fund is first pledged for the payment of principal and
21 interest on all bonds issued pursuant to the New Mexico
22 Renewable Energy Transmission Authority Act. Money in the fund
23 is appropriated to the authority for the purpose of paying debt
24 service, including redemption premiums, on the bonds and the
25 expenses incurred in the issuance, payment and administration

.178631.2

1 of the bonds.

2 ~~[G.]~~ D. On the last day of January and the last day
3 of July of each year, the authority shall estimate the amount
4 needed to make debt service and other payments during the next
5 twelve months from the renewable energy transmission bonding
6 fund on the bonds plus the amount that may be needed for any
7 required reserves. The authority shall transfer to the
8 renewable energy transmission authority operational fund any
9 balance in the renewable energy transmission bonding fund above
10 the estimated amounts.

11 ~~[D.]~~ E. Bonds issued pursuant to the New Mexico
12 Renewable Energy Transmission Authority Act shall be payable
13 ~~[solely]~~ from the renewable energy transmission bonding fund
14 or, with the approval of the bondholders, such other special
15 funds as may be provided by law and do not create an obligation
16 or indebtedness of the state within the meaning of any
17 constitutional provision. No breach of any contractual
18 obligation incurred pursuant to that act shall impose a
19 pecuniary liability or a charge upon the general credit or
20 taxing power of the state, and the bonds are not general
21 obligations for which the state's full faith and credit is
22 pledged.

23 ~~[E.]~~ F. The state does hereby pledge that the
24 renewable energy transmission bonding fund shall be used only
25 for the purposes specified in this section and pledged first to

.178631.2

underscored material = new
[bracketed material] = delete

1 pay the debt service on the bonds issued pursuant to the New
2 Mexico Renewable Energy Transmission Authority Act. The state
3 further pledges that any law requiring the deposit of revenues
4 in the renewable energy transmission bonding fund or
5 authorizing expenditures from the fund shall not be amended or
6 repealed or otherwise modified so as to impair the bonds to
7 which the renewable energy transmission bonding fund is
8 dedicated as provided in this section."

9 Section 8. Section 62-16A-9 NMSA 1978 (being Laws 2007,
10 Chapter 3, Section 9) is amended to read:

11 "62-16A-9. PROCEDURE FOR SALE OF RENEWABLE ENERGY
12 TRANSMISSION BONDS.--

13 A. Bonds shall be sold by the authority at such
14 times and in such manner as the authority may elect, either at
15 private sale for a negotiated price or to the highest bidder at
16 public sale for cash at ~~[not less than]~~ par, above par or below
17 par and accrued interest.

18 B. In connection with any public sale of the bonds,
19 the authority shall publish a notice of the time and place of
20 sale in a newspaper of general circulation in the state and
21 also in a recognized financial journal outside the state. The
22 publication shall be made once each week for two consecutive
23 weeks prior to the date fixed for such sale, the last
24 publication to be two business days prior to the date of sale.
25 The notice shall specify the amount, denomination, maturity and

.178631.2

1 description of the bonds to be offered for sale and the place,
2 day and hour at which sealed bids therefore shall be received.
3 All bids, except those of the state, shall be accompanied by a
4 deposit of two percent of the principal amount of the bonds.
5 Deposits of unsuccessful bidders shall be returned upon
6 rejection of the bid. At the time and place specified in such
7 notice, the authority shall open the bids in public and shall
8 award the bonds, or any part thereof, to the bidder or bidders
9 offering the best price. The authority may reject any or all
10 bids and readvertise.

11 C. The authority may sell a bond issue, or any part
12 thereof, to the state or to one or more investment bankers or
13 institutional investors at private sale."

14 Section 9. Section 62-16A-10 NMSA 1978 (being Laws 2007,
15 Chapter 3, Section 10) is amended to read:

16 "62-16A-10. NEW MEXICO RENEWABLE ENERGY TRANSMISSION
17 AUTHORITY ACT IS FULL AUTHORITY FOR ISSUANCE OF BONDS--BONDS
18 ARE LEGAL INVESTMENTS.--

19 A. The New Mexico Renewable Energy Transmission
20 Authority Act is, without reference to any other act of the
21 legislature, full authority for the issuance and sale of
22 renewable energy transmission bonds, which bonds shall have all
23 the qualities of investment securities under the Uniform
24 Commercial Code and shall not be invalid for any irregularity
25 or defect or be contestable in the hands of bona fide

.178631.2

1 purchasers or holders thereof for value.

2 B. The bonds are legal investments for any person
 3 or board charged with the investment of any public funds,
 4 including, without limitation, the state investment council
 5 when making investments on behalf of the state permanent fund
 6 or the severance tax permanent fund or other funds in its
 7 control and the state treasurer when making investments of the
 8 general fund or other funds in the state treasurer's control
 9 and are acceptable as security for any deposit of public
 10 money."

11 Section 10. Section 62-16A-13 NMSA 1978 (being Laws 2007,
 12 Chapter 3, Section 13) is amended to read:

13 "62-16A-13. RENEWABLE ENERGY TRANSMISSION AUTHORITY
 14 OPERATIONAL FUND.--The "renewable energy transmission authority
 15 operational fund" is created in the [~~state treasury~~] authority.
 16 The fund shall consist of money appropriated and transferred to
 17 the fund. Money in the fund shall be deposited in a bank
 18 designated by the authority in an account or accounts as the
 19 authority may establish. Money in accounts shall be withdrawn
 20 on the order of persons whom the authority may authorize. All
 21 deposits of money shall be secured in such manner as the
 22 authority may determine. The state auditor and the state
 23 auditor's legally authorized representatives may periodically
 24 examine the accounts and books of the authority, including its
 25 receipts, disbursements, contracts, leases, sinking funds,

.178631.2

1 investments and any other records and papers relating to its
2 financial standing. The authority shall pay a reasonable fee
3 for the examination as determined by the state auditor.

4 Earnings from investment of the fund shall be credited to the
5 fund. Money in the fund is appropriated to the authority for
6 the purpose of carrying out the provisions of the New Mexico
7 Renewable Energy Transmission Authority Act. Any unexpended or
8 unencumbered balance remaining at the end of a fiscal year
9 shall not revert. [~~Disbursements from the fund shall be made~~
10 ~~upon warrants drawn by the secretary of finance and~~
11 ~~administration pursuant to vouchers signed by the executive~~
12 ~~director of the authority.]"~~

13 Section 11. TEMPORARY PROVISION--TRANSFER OF MONEY AND
14 RECORDS.--On the effective date of this act:

15 A. all money in the renewable energy transmission
16 bonding fund and records relating to the renewable energy
17 transmission bonding fund in the state treasury shall be
18 transferred to the renewable energy transmission bonding fund
19 in the New Mexico renewable energy transmission authority; and

20 B. all money in the renewable energy transmission
21 authority operational fund and records relating to the
22 renewable energy transmission authority operational fund in the
23 state treasury shall be transferred to the renewable energy
24 transmission authority operational fund in the New Mexico
25 renewable energy transmission authority.

.178631.2

1 Section 12. EFFECTIVE DATE.--The effective date of the
2 provisions of this act is July 1, 2009.

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

underscored material = new
[bracketed material] = delete