

1 SENATE BILL 394

2 **53RD LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2017**

3 INTRODUCED BY

4 Steven P. Neville

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10 AN ACT

11 RELATING TO PUBLIC FINANCE; INCLUDING PROVISIONS FOR COUNTY
12 INDUSTRIAL REVENUE BONDS WITHIN THE INDUSTRIAL REVENUE BOND
13 ACT; CHANGING THE LIST OF PROJECTS THAT MAY BE FUNDED WITH
14 INDUSTRIAL REVENUE BONDS; REQUIRING INDUSTRIAL REVENUE BOND
15 FUNDED PROJECTS TO BE LOCATED ENTIRELY INSIDE CERTAIN
16 BOUNDARIES OF ISSUING LOCAL GOVERNMENTS; PROVIDING FOR LOCAL
17 GOVERNMENT CONTRIBUTIONS TOWARD CERTAIN PROJECTS, AS PERMITTED
18 PURSUANT TO THE LOCAL ECONOMIC DEVELOPMENT ACT; AMENDING,
19 REPEALING, ENACTING AND RECOMPILING SECTIONS OF THE NMSA 1978.

20
21 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

22 SECTION 1. Section 3-32-2 NMSA 1978 (being Laws 1967,
23 Chapter 84, Section 1, as amended by Laws 1997, Chapter 216,
24 Section 1 and also by Laws 1997, Chapter 226, Section 1) is
25 recompiled as Section 5-20-1 NMSA 1978 and is amended to read:

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1 "5-20-1. SHORT TITLE.--~~[Chapter 3, Article 32 NMSA 1978]~~
2 Chapter 5, Article 20 NMSA 1978 may be cited as the "Industrial
3 Revenue Bond Act"."

4 SECTION 2. Section 3-32-1 NMSA 1978 (being Laws 1965,
5 Chapter 300, Section 14-31-1, as amended by Laws 2002, Chapter
6 25, Section 1 and by Laws 2002, Chapter 37, Section 1) is
7 recompiled as Section 5-20-2 NMSA 1978 and is amended to read:

8 "5-20-2. INDUSTRIAL REVENUE BOND ACT--DEFINITIONS.--
9 Wherever used in the Industrial Revenue Bond Act unless a
10 different meaning clearly appears in the context, the following
11 terms whether used in the singular or plural shall be given the
12 following respective interpretations:

13 A. "county" means a county organized or
14 incorporated in New Mexico;

15 B. "governing body" means the board or body in
16 which the legislative powers of a local government are vested;

17 ~~[A.]~~ C. "municipality" means [any] a city, town or
18 village in [the state of] New Mexico;

19 ~~[B.]~~ D. "project" means any land and building or
20 other improvements thereon, the acquisition by or for a New
21 Mexico corporation of the assets or stock of an existing
22 business or corporation located outside the state [of New
23 Mexico] to be relocated within [or near the municipality] a
24 local government in the state [of New Mexico] and all real and
25 personal properties deemed necessary in connection therewith,

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1 whether or not now in existence, which shall be suitable for
2 use by the following or by any combination of two or more
3 thereof:

4 (1) [~~any~~] an industry for the manufacturing,
5 processing or assembling of [~~any~~] agricultural or manufactured
6 products;

7 (2) a commercial enterprise that has received
8 a permit from the energy, minerals and natural resources
9 department for a mine that has not been in operation prior to
10 the issuance of bonds for the project for which the enterprise
11 will be involved;

12 (3) a commercial enterprise that has received
13 any necessary state permit from a refinery, treatment plant or
14 processing plant of energy products that was not in operation
15 prior to the issuance of bonds for the project for which the
16 enterprise will be involved;

17 [~~(2) any~~] (4) a commercial enterprise in
18 storing, warehousing, distributing or selling products of
19 agriculture, mining or industry, but does not include
20 [~~facilities~~] a facility designed for:

21 (a) the sale of goods or commodities at
22 retail, except for a telecommunications sales enterprise that
23 makes the majority of its sales to persons outside of New
24 Mexico; or

25 (b) distribution to the public of

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1 electricity, gas, water or telephone or ~~[other services]~~ any
2 other service commonly classified as a public ~~[utilities]~~
3 utility, except a water utility;

4 ~~[(3) any]~~ (5) a business in which all or part
5 of the activities of the business involve the supplying of
6 services to the general public or to governmental agencies or
7 to a specific industry or customer but does not include
8 ~~[establishments]~~ an establishment that is primarily engaged in
9 the sale of goods or commodities at retail, except for a
10 telecommunications sales enterprise that makes the majority of
11 its sales to persons outside of New Mexico;

12 ~~[(4) any]~~ (6) a water distribution or
13 irrigation system, including without limitation, pumps,
14 distribution lines, transmission lines, towers, dams and
15 similar facilities and equipment; ~~[designed to provide water to~~
16 ~~any vineyard or winery;~~

17 ~~(5) any]~~ (7) an electric generation facility
18 other than one for which both location approval and a
19 certificate of convenience and necessity are required prior to
20 commencing construction or operation of the facility, pursuant
21 to the Public Utility Act; ~~[and Electric Utility Industry~~
22 ~~Restructuring Act of 1999; and]~~ or

23 ~~[(6) any]~~ (8) a 501(c)(3) corporation;
24 ~~[G. "governing body" means the board or body in~~
25 ~~which the legislative powers of the municipality are vested;]~~

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1 E. "local government" means a county or a
2 municipality;

3 F. "mortgage" means a mortgage or a mortgage and
4 deed of trust or the pledge and hypothecation of any assets as
5 collateral security;

6 [~~D.~~] G. "property" means any land, improvements
7 thereon, buildings and any improvements thereto, machinery and
8 equipment of any and all kinds necessary to the project,
9 operating capital and any other personal properties deemed
10 necessary in connection with the project;

11 ~~[E. "mortgage" means a mortgage or a mortgage and~~
12 ~~deed of trust or the pledge and hypothecation of any assets as~~
13 ~~collateral security;~~

14 ~~F. "health care services" means the diagnosis or~~
15 ~~treatment of sick or injured persons or medical research and~~
16 ~~includes the ownership, operation, maintenance, leasing and~~
17 ~~disposition of health care facilities such as hospitals,~~
18 ~~clinics, laboratories, x-ray centers and pharmacies and, for~~
19 ~~any small municipality only, office facilities for physicians;~~

20 ~~G.]~~ H. "refinance a [hospital or] 501(c)(3)
21 corporation project" means the issuance of bonds by a
22 [municipality] local government and the use of all or
23 substantially all of the proceeds to liquidate any obligations
24 previously incurred to finance or aid in financing a project of
25 [any nonprofit corporation engaged in health care services,

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1 ~~including nursing homes, or of any~~ a 501(c)(3) corporation,
2 which would constitute a project under the Industrial Revenue
3 Bond Act had it been originally undertaken and financed by a
4 municipality pursuant to the Industrial Revenue Bond Act; and

5 [H.] I. "501(c)(3) corporation" means a corporation
6 that demonstrates to the taxation and revenue department that
7 it has been granted exemption from the federal income tax as an
8 organization described in Section 501(c)(3) of the Internal
9 Revenue Code of 1986, as amended or renumbered."

10 SECTION 3. Section 3-32-4 NMSA 1978 (being Laws 1965,
11 Chapter 300, Section 14-31-2, as amended) is recompiled as
12 Section 5-20-3 NMSA 1978 and is amended to read:

13 "5-20-3. LEGISLATIVE INTENT.--It is the intent of the
14 legislature by the passage of [~~Sections 14-31-1 through~~
15 ~~14-31-13 NMSA 1953~~] the Industrial Revenue Bond Act to
16 authorize [~~municipalities~~] local governments to acquire, own,
17 lease or sell projects for the purpose of promoting industry
18 and trade other than retail trade, with the exception of
19 certain telecommunications sales enterprises, by inducing
20 manufacturing, industrial and commercial enterprises to locate
21 or expand in this state, promoting the use of the agricultural
22 products and natural resources of this state and promoting a
23 sound and proper balance in this state between agriculture,
24 commerce and industry. It is intended that each project be
25 self-liquidating. It is further intended that the Industrial

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1 Revenue Bond Act authorize local governments to refinance
2 501(c)(3) corporation projects. It is not intended [~~hereby~~] to
3 authorize any [~~municipality~~] local government itself to operate
4 any manufacturing, industrial or commercial enterprise or a
5 501(c)(3) corporation project. [~~Sections 14-31-1 through~~
6 ~~14-31-13 NMSA 1953 shall be liberally construed in conformity~~
7 ~~with the said intent.]"~~

8 SECTION 4. Section 3-32-6 NMSA 1978 (being Laws 1965,
9 Chapter 300, Section 14-31-3, as amended) is recompiled as
10 Section 5-20-4 NMSA 1978 and is amended to read:

11 "5-20-4. ADDITIONAL POWERS CONFERRED ON [~~MUNICIPALITIES~~]
12 LOCAL GOVERNMENTS.--In addition to any other powers that it may
13 now have, a [~~municipality~~] local government shall have the
14 following powers:

15 A. to acquire, whether by construction, purchase,
16 gift or lease, one or more projects [~~that shall be located~~
17 ~~within this state and may be located within or without the~~
18 ~~municipality or partially within or partially without the~~
19 ~~municipality, but which shall not be located more than fifteen~~
20 ~~miles outside of the corporate limits of the municipality];~~
21 provided that:

22 [~~(1) urban transit buses qualifying as a~~
23 ~~project pursuant to Subsection B of Section 3-32-3 NMSA 1978~~
24 ~~need not be continuously located within this state, but the~~
25 ~~commercial enterprise using the urban transit buses for leasing~~

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1 ~~shall meet the location requirement of this subsection; and~~
2 ~~(2)]~~ (1) a ~~[municipality]~~ local government
3 shall not acquire ~~[any]~~ an electricity generation facility
4 project unless the acquisition is approved by the ~~[local~~
5 ~~school]~~ board of education of the school district in which ~~[a]~~
6 the project is located and the governing body, the ~~[local~~
7 ~~school]~~ board of education and the person proposing the project
8 negotiate and determine the amount of an annual in-lieu tax
9 payment to be made to the school district by the person
10 proposing the project, for the period that the ~~[municipality]~~
11 local government owns and leases the project; ~~[and]~~ provided
12 such approval shall not be unreasonably withheld;

13 (2) a project acquired by a municipality shall
14 be entirely located within the boundaries of the municipality;
15 and

16 (3) a project acquired by a county shall be
17 entirely located within the county, but outside the boundaries
18 of any incorporated municipality; provided that a class A
19 county with a population of more than three hundred thousand
20 according to the most recent federal decennial census may
21 acquire projects anywhere in the county;

22 B. to sell or lease or otherwise dispose of any or
23 all of its projects upon such terms and conditions as the
24 governing body may deem advisable and as shall not conflict
25 with the provisions of the Industrial Revenue Bond Act;

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1 C. to issue revenue bonds for the purpose of
2 defraying the cost of acquiring by construction and purchase,
3 or either, any project and to secure the payment of such bonds,
4 all as provided in the Industrial Revenue Bond Act. [~~No~~
5 ~~municipality~~] A local government shall not have the power to
6 operate any project as a business or in any manner except as
7 lessor; and

8 D. to refinance one or more [~~hospital or~~] 501(c)(3)
9 corporation projects and to acquire any such [~~hospital or~~]
10 501(c)(3) corporation project whether by construction,
11 purchase, gift or lease [~~which hospital or 501(c)(3)~~
12 ~~corporation project shall be located within this state and may~~
13 ~~be located within or without the municipality or partially~~
14 ~~within or partially without the municipality, but which shall~~
15 ~~not be located more than fifteen miles outside of the corporate~~
16 ~~limits of the municipality~~], and to issue revenue bonds to
17 refinance and acquire a [~~hospital or~~] 501(c)(3) corporation
18 project and to secure the payment of such bonds, all as
19 provided in the Industrial Revenue Bond Act. A [~~municipality~~]
20 local government shall not have the power to operate a
21 [~~hospital or~~] 501(c)(3) corporation project as a business or in
22 any manner except as a lessor [~~and~~

23 ~~E. to refinance one or more projects of any private~~
24 ~~institution of higher education and to acquire any such~~
25 ~~project, whether by construction, purchase, gift or lease;~~

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1 ~~provided that the project shall be located within this state~~
2 ~~and may be located within or without the municipality or~~
3 ~~partially within or partially without the municipality, but the~~
4 ~~project shall not be located more than fifteen miles outside of~~
5 ~~the corporate limits of the municipality, and to issue revenue~~
6 ~~bonds to refinance and acquire any project of any private~~
7 ~~institution of higher education and to secure the payment of~~
8 ~~such bonds. A municipality shall not have the power to operate~~
9 ~~a project of a private institution of higher education as a~~
10 ~~business or in any manner except as lessor]."~~

11 SECTION 5. Section 3-32-6.1 NMSA 1978 (being Laws 1997,
12 Chapter 216, Section 2 and Laws 1997, Chapter 226, Section 2,
13 as amended) is recompiled as Section 5-20-5 NMSA 1978 and is
14 amended to read:

15 "5-20-5. NOTICE ~~[TO COUNTY]~~ OF INTENT TO ISSUE INDUSTRIAL
16 REVENUE BONDS--MUNICIPALITIES.--

17 A. Prior to adopting an ordinance issuing
18 industrial revenue bonds, ~~[the]~~ a municipality shall give
19 notice to the board of county commissioners and the county
20 assessor of each county in which the municipality lies of ~~[its]~~
21 the intent of the municipality to consider the matter. The
22 board and the county assessor shall be notified at least thirty
23 days prior to the meeting at which final action is to be taken
24 so that comments can be transmitted to the municipality.

25 B. The board of county commissioners and the county

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1 assessor shall be able to forward their comments and [~~any~~]
2 concerns to the city council, but [~~there is no~~] approval is not
3 required from the board or the county assessor and they do not
4 have veto over the proposed industrial revenue bond issuance.

5 C. The municipality and county shall jointly
6 develop criteria for issuance of industrial revenue bonds by
7 either government; provided, however, that industrial revenue
8 bonds may be authorized and issued before development of the
9 criteria is completed.

10 D. The municipality shall notify the board of
11 county commissioners and the county assessor when an industrial
12 revenue bond has matured, expired or been replaced by a
13 refunding bond."

14 SECTION 6. Section 4-59-4.1 NMSA 1978 (being Laws 1997,
15 Chapter 216, Section 4 and Laws 1997, Chapter 226, Section 4,
16 as amended by Laws 2011, Chapter 80, Section 1 and by Laws
17 2011, Chapter 82, Section 1) is recompiled as Section 5-20-6
18 NMSA 1978 and is amended to read:

19 "5-20-6. NOTICE OF INTENT TO ISSUE INDUSTRIAL REVENUE
20 BONDS--COUNTIES.--

21 A. Prior to adopting an ordinance issuing county
22 industrial revenue bonds, a county shall give notice to the
23 county assessor and any entity located within the county
24 authorized to levy taxes on property in the county of its
25 intent to consider the matter. The county assessor and

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1 entities authorized to levy taxes shall be notified by
2 certified mail, return receipt requested, at least thirty
3 calendar days prior to the meeting at which final action is to
4 be taken so that comments can be transmitted to the county.
5 The notice shall include the amount, the purpose and the time
6 period of the proposed industrial revenue bonds.

7 B. The county assessor and entities authorized to
8 levy taxes shall be able to forward their comments and any
9 concerns to the board of county commissioners, but there is no
10 approval required from the county assessor or entities
11 authorized to levy taxes and they do not have veto over the
12 proposed county industrial revenue bond issuance.

13 C. The county and entities authorized to levy taxes
14 shall jointly develop criteria for issuance of industrial
15 revenue bonds; provided, however, that county industrial
16 revenue bonds may be authorized and issued before development
17 of the criteria is completed.

18 D. The county shall notify the board of county
19 commissioners, the county assessor and any entity levying taxes
20 on property in the county when an industrial revenue bond has
21 matured, expired or been replaced by a refunding bond."

22 SECTION 7. Section 3-32-7 NMSA 1978 (being Laws 1965,
23 Chapter 300, Section 14-31-4, as amended) is recompiled as
24 Section 5-20-7 NMSA 1978 and is amended to read:

25 "5-20-7. BONDS ISSUED TO FINANCE PROJECTS.--

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1 A. Bonds issued by a [~~municipality~~] local
2 government under authority of the Industrial Revenue Bond Act
3 shall not be the general obligation of the [~~municipality~~] local
4 government within the meaning of Article 9, Sections 12 and 13
5 of the constitution of New Mexico. The bonds shall be payable
6 solely out of the revenue derived from the projects for which
7 the bonds are issued. Bonds and interest coupons, if any,
8 issued under authority of the Industrial Revenue Bond Act shall
9 never constitute an indebtedness of the [~~municipality~~] local
10 government within the meaning of any state constitutional
11 provision or statutory limitation and shall never constitute or
12 give rise to a pecuniary liability of the [~~municipality~~] local
13 government or a charge against its general credit or taxing
14 powers, and such fact shall be plainly stated on the face of
15 each bond.

16 B. The bonds may be executed and delivered at any
17 time, and from time to time, may be in such form and
18 denominations, may be of such tenor, may be in registered or
19 bearer form either as to principal or interest or both, may be
20 payable in such installments and at such time or times not
21 exceeding thirty years from their date, may be payable at such
22 place or places, may bear interest at such rate or rates
23 payable at such place or places and evidenced in such manner
24 and may contain such provisions not inconsistent with the
25 Industrial Revenue Bond Act, all as shall be provided in the

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1 ordinance and proceedings of the governing body under which the
2 bonds are authorized to be issued.

3 C. Bonds issued under the authority of the
4 Industrial Revenue Bond Act may be sold at public or private
5 sale in such manner and from time to time as may be determined
6 by the governing body to be most advantageous, and the
7 ~~[municipality]~~ issuing local government may pay all expenses,
8 attorney, engineering and ~~[architects']~~ architect fees,
9 premiums and commissions that the governing body may deem
10 necessary or advantageous in connection with the authorization,
11 sale and issuance of the bonds.

12 D. Bonds issued under the authority of the
13 Industrial Revenue Bond Act and all interest coupons applicable
14 thereto, if any, shall be construed to be negotiable.

15 E. A bond shall not be issued by a municipality
16 having a population of more than forty thousand according to
17 the most recent decennial census to finance a project that is
18 valued at eight million dollars (\$8,000,000) or more unless an
19 employer of the project:

20 (1) offers to its employees and their
21 dependents health insurance coverage that is in compliance with
22 the New Mexico Insurance Code or a comparable health benefits
23 plan pursuant to the federal Employee Retirement Income
24 Security Act of 1974; and

25 (2) contributes not less than fifty percent of

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1 the premium for the health care coverage for those employees
2 who choose to enroll; provided that the fifty percent employer
3 contribution shall not be a requirement for the dependent
4 coverage that is offered."

5 SECTION 8. Section 3-32-8 NMSA 1978 (being Laws 1965,
6 Chapter 300, Section 14-31-5) is recompiled as Section 5-20-8
7 NMSA 1978 and is amended to read:

8 "5-20-8. SECURITY FOR BONDS.--

9 A. The principal of and interest on any bonds
10 issued under the authority of [~~Sections 14-31-1 through~~
11 ~~14-31-13 New Mexico Statutes Annotated, 1953 Compilation~~] the
12 Industrial Revenue Bond Act:

13 (1) shall be secured by a pledge of the
14 revenues out of which such bonds shall be made payable;

15 (2) may be secured by a mortgage covering all
16 or any part of the project from which the revenues so pledged
17 may be derived; and

18 (3) may be secured by a pledge of the lease of
19 such project.

20 B. The ordinance and proceedings under which [~~such~~]
21 the bonds are authorized to be issued or any such mortgage may
22 contain any [~~agreement~~] agreements and provisions customarily
23 contained in instruments securing bonds, including without
24 limiting the generality of the foregoing provisions respecting
25 the fixing and collection of all revenues from any project

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1 covered by such proceedings or mortgage, the terms to be
2 incorporated in the lease of [~~such~~] the project, the
3 maintenance and insurance of [~~such~~] the project, the creation
4 and maintenance of special funds from the revenues from [~~such~~]
5 the project and the rights and remedies available in event of
6 default to the bondholders or to the trustee under a mortgage,
7 all as the governing body [~~shall deem~~] deems advisable and as
8 [~~shall~~] are not [~~be~~] in conflict with the provisions of
9 [~~Sections 14-31-1 through 14-31-13 New Mexico Statutes~~
10 ~~Annotated, 1953 Compilation; provided, however, that~~] the
11 Industrial Revenue Bond Act.

12 C. In making any such agreements or provisions, a
13 [~~municipality~~] local government shall not have the power to
14 obligate itself except with respect to the project and the
15 application of the revenues therefrom and shall not have the
16 power to incur a pecuniary liability or a charge upon its
17 general credit or against its taxing powers. The proceedings
18 authorizing any bonds [~~hereunder~~] under the Industrial Revenue
19 Bond Act and any mortgage securing [~~such~~] the bonds may provide
20 the procedure and remedies in the event of default in payment
21 of the principal of or the interest on [~~such~~] the bonds or in
22 the performance of any agreement. No breach of any such
23 agreement shall impose any pecuniary liability upon a
24 [~~municipality~~] local government or any charge upon its general
25 credit or against its taxing powers."

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1 SECTION 9. Section 3-32-9 NMSA 1978 (being Laws 1965,
2 Chapter 300, Section 14-31-6) is recompiled as Section 5-20-9
3 NMSA 1978 and is amended to read:

4 "5-20-9. REQUIREMENTS RESPECTING LEASE.--

5 A. Prior to the leasing of any project, the
6 governing body must determine and find the following:

7 ~~[A.]~~ (1) the amount necessary in each year to
8 pay the principal of and the interest on the bonds proposed to
9 be issued to finance ~~[such]~~ the project; and

10 ~~[B.]~~ (2) the amount necessary to be paid each
11 year into any reserve funds which the governing body may deem
12 it advisable to establish in connection with the retirement of
13 the proposed bonds and the maintenance of the project and,
14 unless the terms under which the project is to be leased
15 provide that the lessee shall maintain the project and carry
16 all proper insurance with respect thereto, the estimated cost
17 of maintaining the project in good repair and keeping it
18 properly insured.

19 B. The determinations and findings of the governing
20 body required to be made in ~~[the preceding sentence]~~ Subsection
21 A of this section shall be set forth in the proceedings under
22 which the proposed bonds are to be issued ~~[and]~~. Prior to the
23 issuance of ~~[such]~~ the bonds, the ~~[municipality]~~ local
24 government shall lease or sell the project to a lessee or
25 purchaser under an agreement conditioned upon completion of the

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1 project and providing for payment to the [~~municipality~~] local
2 government of such rentals or payments as, upon the basis of
3 such determinations and findings, will be sufficient:

4 (1) to pay the principal of and interest on
5 the bonds issued to finance the project;

6 (2) to build up and maintain any reserve
7 deemed by the governing body to be advisable in connection
8 [~~therewith~~] with the project; and

9 (3) to pay the costs of maintaining the
10 project in good repair and keeping it properly insured unless
11 the agreement of lease obligates the lessee to pay for the
12 maintenance and insurance of the project."

13 SECTION 10. Section 3-32-10 NMSA 1978 (being Laws 1965,
14 Chapter 300, Section 14-31-7, as amended) is recompiled as
15 Section 5-20-10 NMSA 1978 and is amended to read:

16 "5-20-10. REFUNDING BONDS.--

17 A. Any bonds issued [~~hereunder~~] under the
18 Industrial Revenue Bond Act and at any time outstanding may, at
19 any time and from time to time, be refunded by a [~~municipality~~]
20 local government by the issuance of its refunding bonds, in
21 such amount as the governing body may determine, to refund the
22 principal of the bonds so to be refunded, all unpaid accrued
23 and unaccrued interest thereon to the normal maturity date of
24 such bonds or to selected prior redemption dates thereof, any
25 redemption premiums, any commissions and all estimated costs

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1 incidental to the issuance of such bonds and to such refunding
2 as may be determined by the governing body. The principal
3 amount of any such refunding bonds may be equal to, less than
4 or greater than the principal amount of the bonds to be so
5 refunded. Any such refunding may be effected whether the bonds
6 to be refunded [~~shall~~] have then matured or [~~shall~~] thereafter
7 mature, either by sale of the refunding bonds and the
8 application of the proceeds thereof for the payment of the
9 bonds to be refunded thereby or by exchange of the refunding
10 bonds for the bonds to be refunded thereby; provided that the
11 holders of any bonds so to be refunded shall not be compelled
12 without their consent to surrender their bonds for payment or
13 exchange prior to the date on which they are payable or, if
14 they are called for redemption, prior to the date on which they
15 are by their terms subject to redemption. Any refunding bonds
16 issued under the authority of [~~Sections 14-31-1 through~~
17 ~~14-31-13 NMSA 1953~~] the Industrial Revenue Bond Act shall be
18 payable solely from the revenues out of which other bonds
19 issued under [~~Sections 14-31-1 through 14-31-13 NMSA 1953~~] that
20 act may be payable or solely from those amounts derived from an
21 escrow as [~~herein~~] provided in this section, including amounts
22 derived from the investment of refunding bond proceeds and
23 other legally available amounts also as [~~herein~~] provided in
24 this section or from any combination of the foregoing sources,
25 and shall be subject to the provisions contained in Section

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1 ~~[14-31-4 NMSA 1953]~~ 5-20-7 NMSA 1978 and may be secured in
2 accordance with the provisions of Section ~~[14-31-5 NMSA 1953]~~
3 5-20-8 NMSA 1978.

4 B. Proceeds of refunding bonds shall either be
5 applied immediately to the retirement of the bonds being
6 refunded or be placed in escrow in a commercial bank or trust
7 company ~~[which]~~ that possesses and is exercising trust powers.
8 Notwithstanding any provision to the contrary in Section
9 ~~[14-31-8 NMSA 1953]~~ 5-20-11 NMSA 1978 or in any other statute,
10 such escrowed proceeds may be invested in short-term
11 securities, long-term securities or both. Except to the extent
12 inconsistent with the express terms of ~~[Sections 14-31-1~~
13 ~~through 14-31-13 NMSA 1953]~~ the Industrial Revenue Bond Act,
14 the ordinance and other proceedings under which the bonds to be
15 so refunded were issued, including any mortgage or trust
16 indenture given to secure the same, shall govern the
17 establishment of any escrow in connection therewith and the
18 investment or reinvestment of any escrowed proceeds."

19 SECTION 11. Section 3-32-11 NMSA 1978 (being Laws 1965,
20 Chapter 300, Section 14-31-8) is recompiled as Section 5-20-11
21 NMSA 1978 and is amended to read:

22 "5-20-11. USE OF PROCEEDS FROM SALE OF BONDS.--The
23 proceeds from the sale of any bonds issued under authority of
24 ~~[Sections 14-31-1 through 14-31-13 New Mexico Statutes~~
25 ~~Annotated, 1953 Compilation]~~ the Industrial Revenue Bond Act

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1 shall be applied only for the purpose for which the bonds were
2 issued; provided, however, that any accrued interest and
3 premiums received in any such sale shall be applied to the
4 payment of the principal of or the interest on the bonds sold;
5 and provided, further, that if for any reason any portion of
6 [~~such~~] the proceeds [~~shall~~] are not [~~be~~] needed for the purpose
7 for which the bonds were issued, then such balance of [~~said~~]
8 the proceeds shall be applied to the payment of the principal
9 of or the interest on [~~said~~] the bonds; and provided, further,
10 that any portion of the proceeds from the sale of [~~said~~] the
11 bonds or any accrued interest and premium received in any such
12 sale may, in the event the money will not be needed or cannot
13 be effectively used to the advantage of the [~~municipality~~]
14 local government for the purposes [~~herein~~] provided in this
15 section, be invested in short-term, interest-bearing securities
16 if such investment will not interfere with the use of [~~such~~]
17 the funds for the primary purpose as [~~herein~~] provided in this
18 section. The cost of acquiring any project shall be deemed to
19 include the following:

20 A. the actual cost of the construction of any part
21 of a project [~~which~~] that may be constructed, including
22 [~~architect's, attorney's and engineer's fee~~] architect,
23 attorney and engineer fees;

24 B. the purchase price of any part of a project that
25 may be acquired by purchase;

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1 C. the actual cost of the extension of any utility
2 to the project site and all expenses in connection with the
3 authorization, sale and issuance of the bonds to finance [~~such~~]
4 the acquisition; and

5 D. the interest on [~~such~~] the bonds for a
6 reasonable time prior to construction, during construction and
7 for not exceeding six months after completion of construction."

8 SECTION 12. Section 3-32-12 NMSA 1978 (being Laws 1965,
9 Chapter 300, Section 14-31-9, as amended) is recompiled as
10 Section 5-20-12 NMSA 1978 and is amended to read:

11 "5-20-12. NO CONTRIBUTION BY [~~MUNICIPALITY~~] LOCAL
12 GOVERNMENT.-- [~~No municipality~~] Except as otherwise provided in
13 the Local Economic Development Act, a local government shall
14 not have the power to pay out of its general funds or otherwise
15 contribute any part of the costs of acquiring a project and
16 shall not have the power to use land already owned by the
17 [~~municipality~~] local government or in which [~~the municipality~~]
18 it has an equity, for construction thereon of a project or any
19 part thereof, unless the [~~municipality~~] local government is
20 fully reimbursed for the value of the land as may be determined
21 by a current appraisal, or unless the city leases the land at
22 an annual rental fee of not less than five percent of the
23 appraised value. The entire cost of acquiring [~~any~~] a project
24 must be paid out of the proceeds from the sale of bonds issued
25 under the authority of [~~Sections 14-31-1 through 14-31-13 New~~

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1 ~~Mexico Statutes Annotated, 1953 Compilation]~~ the Industrial
2 Revenue Bond Act; provided, however, that this provision shall
3 not be construed to prevent a [~~municipality~~] local government
4 from accepting donations of property to be used as a part of
5 [~~any~~] a project or money to be used for defraying any part of
6 the cost of [~~any~~] a project."

7 SECTION 13. Section 3-32-13 NMSA 1978 (being Laws 1965,
8 Chapter 300, Section 14-31-10) is recompiled as Section 5-20-13
9 NMSA 1978 and is amended to read:

10 "5-20-13. BONDS MADE LEGAL INVESTMENTS.--Bonds issued
11 under the provisions of [~~Sections 14-31-1 through 14-31-13 New~~
12 ~~Mexico Statutes Annotated, 1953 Compilation]~~ the Industrial
13 Revenue Bond Act shall be legal investments for savings banks
14 and insurance companies organized under the laws of this
15 state."

16 SECTION 14. Section 3-32-14 NMSA 1978 (being Laws 1965,
17 Chapter 300, Section 14-31-11) is recompiled as Section 5-20-14
18 NMSA 1978 and is amended to read:

19 "5-20-14. EXEMPTION FROM TAXATION.--The bonds authorized
20 by [~~Sections 14-31-1 through 14-31-13 New Mexico Statutes~~
21 ~~Annotated, 1953 Compilation]~~ the Industrial Revenue Bond Act
22 and the income from [~~said~~] the bonds, all mortgages or other
23 security instrument executed as security for [~~said~~] the bonds,
24 all lease agreements made pursuant to the provisions [~~hereof~~]
25 of the Industrial Revenue Bond Act and revenue derived from any

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1 lease or sale by the [~~municipality~~] local government thereof
2 shall be exempt from all taxation by the state of New Mexico or
3 any subdivision thereof."

4 SECTION 15. Section 3-32-15 NMSA 1978 (being Laws 1965,
5 Chapter 300, Section 14-31-12) is recompiled as Section 5-20-15
6 NMSA 1978 and is amended to read:

7 "5-20-15. CONSTRUCTION OF ACT.--Neither [~~Sections 14-31-1~~
8 ~~through 14-31-13 New Mexico Statutes Annotated, 1953~~
9 ~~Compilation~~] the Industrial Revenue Bond Act nor anything
10 [~~herein~~] contained in that act shall be construed as a
11 restriction or limitation upon any powers [~~which~~] that a
12 [~~municipality~~] local government might otherwise have under any
13 laws of this state but shall be construed as cumulative; and
14 [~~Sections 14-31-1 through 14-31-13 New Mexico Statutes~~
15 ~~Annotated, 1953 Compilation~~] the Industrial Revenue Bond Act
16 shall not be construed as requiring an election by the voters
17 of a [~~municipality~~] local government prior to the issuance of
18 bonds [~~hereunder~~] under that act by [~~such municipality~~] the
19 local government."

20 SECTION 16. Section 3-32-16 NMSA 1978 (being Laws 1965,
21 Chapter 300, Section 14-31-13) is recompiled as Section 5-20-16
22 NMSA 1978 and is amended to read:

23 "5-20-16. NO NOTICE OR PUBLICATION REQUIRED.--No notice,
24 consent or approval by any governmental body or public officer
25 shall be required as a prerequisite to the sale or issuance of

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1 [any] bonds or the making of a mortgage under the authority of
2 [~~Sections 14-31-1 through 14-31-13 New Mexico Statutes~~
3 ~~Annotated, 1953 Compilation~~] the Industrial Revenue Bond Act,
4 except as provided in [~~these sections~~] that act."

5 SECTION 17. A new Section 5-20-17 NMSA 1978 is enacted to
6 read:

7 "5-20-17. [NEW MATERIAL] LIBERAL INTERPRETATION.--The
8 Industrial Revenue Bond Act shall be liberally construed to
9 carry out its purpose."

10 SECTION 18. TEMPORARY PROVISION.--With respect to county
11 industrial revenue bonds issued prior to July 1, 2017, the
12 repeal of the provisions of Chapter 4, Article 59 NMSA 1978, as
13 provided in Section 19 of this 2017 act, shall not be construed
14 to impair any rights, duties or obligations arising pursuant to
15 those provisions.

16 SECTION 19. REPEAL.--

17 A. Sections 3-32-3, 3-32-5 and 3-32-5.1 NMSA 1978
18 (being Laws 1967, Chapter 84, Sections 2 and 3 and Laws 1981,
19 Chapter 45, Section 4, as amended) are repealed.

20 B. Sections 4-59-1 through 4-59-4 and 4-59-5
21 through 4-59-16 NMSA 1978 (being Laws 1975, Chapter 286,
22 Sections 1 through 9, Laws 1992, Chapter 11, Section 2 and Laws
23 1975, Chapter 286, Sections 10 through 16, as amended) are
24 repealed.

25 SECTION 20. EFFECTIVE DATE.--The effective date of the

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1 provisions of this act is July 1, 2017.

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