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SENATE BILL 906

43RD LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 1997

INTRODUCED BY

FERNANDO R. MACIAS

AN ACT

RELATING TO HEALTH CARE; AMENDING AND ENACTING CERTAIN SECTIONS OF THE NMSA 1978 CHANGING THE HOSPITAL EQUIPMENT LOAN ACT TO THE HEALTH CARE FINANCE ACT AND PROVIDING FINANCING OPPORTUNITIES FOR HEALTH CARE PROVIDERS IN THE STATE; DECLARING AN EMERGENCY.

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

Section 1. Section 4-48A-29 NMSA 1978 (being Laws 1987, Chapter 49, Section 10, as amended) is amended to read:

"4-48A-29. AGREEMENTS WITH THE NEW MEXICO ~~HOSPITAL EQUIPMENT LOAN~~ HEALTH CARE FINANCE COUNCIL - - AUTHORITY - - SECURITY - - RESTRICTIONS AND LIMITATIONS ~~[AND OTHER DETAILS]~~ . - -

A. ~~[A]~~ The board of trustees of a special hospital district may enter into a lease, loan or other financing agreement, with a term not exceeding thirty years from the date of execution, with the New Mexico ~~hospital equipment loan~~

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1 ~~health care finance~~ council created under the [~~Hospital~~
2 ~~Equipment Loan~~] Health Care Finance Act to acquire funds for
3 [~~the construction, purchase, renovation, remodeling, equipping,~~
4 ~~reequipping or refinancing of hospital facilities under its~~
5 ~~control, for the purchase of the land necessary therefor~~] a
6 health-related project as defined in that act and for refunding
7 revenue bonds previously issued for [~~any of the foregoing~~
8 ~~purposes~~] such project or for any combination thereof.

9 B. The board of trustees of a special hospital
10 district entering into agreement with the New Mexico [~~hospital~~
11 ~~equipment loan~~] health care finance council may pledge
12 irrevocably all or a portion of the revenues derived from the
13 operation of a hospital facility and revenues derived from the
14 leasing of or other contractual arrangement for the operation of
15 a hospital facility for the payment of rentals, principal and
16 interest and any other amount or obligation required under the
17 lease, loan or other financing agreement with the [~~New Mexico~~
18 ~~hospital equipment loan~~] council.

19 C. At a regular or special meeting called for the
20 purpose of approving the execution and delivery of a lease, loan
21 or other financing agreement with the New Mexico [~~hospital~~
22 ~~equipment loan~~] health care finance council as authorized in
23 this section, the board of trustees may adopt a resolution
24 declaring the necessity for entering into the lease, loan or
25 other financing agreement with the [~~New Mexico hospital~~

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1 ~~equipment loan~~] council; authorizing the entering into of the
2 lease, loan or other financing agreement with the ~~New Mexico~~
3 ~~hospital equipment loan~~] council; and designating the source of
4 the pledged revenues for the payment or repayment of rentals,
5 principal and interest and any other amounts and obligations
6 required under the lease, loan or other financing agreement with
7 the [~~New Mexico hospital equipment loan~~] council.

8 D. The rentals, principal and interest and any other
9 amounts and obligations owed under a lease, loan or other
10 financing agreement with the New Mexico [~~hospital equipment~~
11 ~~loan~~] health care finance council shall be payable solely out of
12 all or a portion of the revenues derived from the ownership and
13 operation of a hospital facility and revenues derived from the
14 leasing of or other contractual arrangement for the operation of
15 a hospital facility [~~for which the lease, loan or other~~
16 ~~financing agreement with the New Mexico hospital equipment loan~~
17 ~~council is entered into~~]. The amount and obligations under a
18 lease, loan or other financing agreement with the ~~New Mexico~~
19 ~~hospital equipment loan~~] council entered into under the
20 authority of the Special Hospital District Act shall never
21 constitute an indebtedness of the special hospital district or
22 the county or counties in which the special hospital district is
23 located within the meaning of any state constitutional provision
24 or statutory limitation and shall never constitute or give rise
25 to a pecuniary liability or charge against the general credit or

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1 taxing power of the special hospital district or the county or
2 counties in which the special hospital district is located ~~or~~
3 ~~charge against its general credit or taxing power~~].

4 E. The rentals, principal and interest and any other
5 amounts and obligations owed under a lease, loan or other
6 financing agreement with the New Mexico ~~hospital equipment~~
7 ~~loan~~ health care finance council shall be secured by the pledge
8 of the revenues out of which such rentals, principal and
9 interest and any other amounts and obligations shall be payable
10 and may be secured by a mortgage covering all or any part of a
11 hospital facility ~~from which the revenues so pledged may be~~
12 ~~derived~~].

13 F. The resolution or proceedings under which the
14 lease, loan or other financing agreement are authorized to be
15 entered into or any mortgage relating thereto may contain any
16 agreement and provisions customarily contained in instruments
17 securing leases, loans or other financing arrangements,
18 including, without limiting the generality of the foregoing,
19 provisions respecting the designation and collection of the
20 revenues from a hospital facility covered by such proceedings or
21 mortgage, the maintenance and insurance of such hospital
22 facility, the creation and maintenance of special funds derived
23 from the revenues relating to such hospital facility and the
24 rights and remedies available in event of default to the New
25 Mexico ~~hospital equipment loan~~ health care finance council

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1 under a mortgage, all as the board of trustees shall deem
2 advisable and as shall not conflict with the provisions of the
3 Special Hospital District Act.

4 G. No notice, consent or approval by any
5 governmental body, commission or public officer shall be
6 required as a prerequisite to the entering into of a lease, loan
7 or other financing agreement with the New Mexico ~~hospital~~
8 ~~equipment loan~~ health care finance council or the making of a
9 mortgage under the authority of the Special Hospital District
10 Act, except as provided in this section."

11 Section 2. Section 4-48B-28 NMSA 1978 (being Laws 1987,
12 Chapter 49, Section 9, as amended) is amended to read:

13 "4-48B-28. AGREEMENTS WITH THE NEW MEXICO ~~HOSPITAL~~
14 ~~EQUIPMENT LOAN~~ HEALTH CARE FINANCE COUNCIL-- AUTHORITY--
15 SECURITY-- RESTRICTIONS AND LIMITATIONS ~~[AND OTHER DETAILS]~~ . .

16 A. A county or counties agreeing jointly under
17 Section 4-48B-9 NMSA 1978, ~~and~~ a county or counties entering
18 into an agreement with a municipality under Section 4-48B-9 NMSA
19 1978 or a hospital governing board appointed under Section
20 4-48B-10 NMSA 1978 may enter into a lease, loan or other
21 financing agreement, with a term not exceeding thirty years from
22 the date of execution, with the New Mexico ~~hospital equipment~~
23 ~~loan~~ health care finance council created under the ~~Hospital~~
24 ~~Equipment Loan~~ Health Care Finance Act to acquire funds for
25 ~~[the construction, purchase, renovation, remodeling, equipping,~~

Underscored material = new
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1 ~~reequipping or refinancing of a county hospital or a jointly~~
2 ~~owned county-municipal hospital, for purchasing the land~~
3 ~~necessary therefor] a health-related project as defined in that~~
4 ~~act~~ and for refunding revenue bonds previously issued for ~~[any~~
5 ~~of the foregoing purposes] such project~~ or for any combination
6 thereof.

7 B. ~~[The] Any~~ county or ~~[counties]~~ hospital governing
8 board entering into an agreement with the New Mexico ~~[hospital~~
9 ~~equipment loan]~~ health care finance council may pledge
10 irrevocably all or a portion of the revenues derived from the
11 operation of the county hospital or jointly owned
12 county-municipal hospital and revenues derived from the leasing
13 of or other contractual arrangement for the operation of the
14 county hospital or jointly owned county-municipal hospital for
15 the payment of rentals, principal and interest and any other
16 amount or obligation required under the lease, loan or other
17 financing agreement with the New Mexico ~~[hospital equipment~~
18 ~~loan]~~ health care finance council.

19 C. At a regular or special meeting called for the
20 purpose of approving the execution and delivery of a lease, loan
21 or other financing agreement with the New Mexico ~~[hospital~~
22 ~~equipment loan]~~ health care finance council as authorized in
23 this section, ~~[the]~~ any county or hospital governing board may
24 adopt a resolution or other proceedings declaring the necessity
25 for entering into the lease, loan or other financing agreement

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1 with the [~~New Mexico hospital equipment loan~~] council;
2 authorizing the entering into of the lease, loan or other
3 financing agreement with the [~~New Mexico hospital equipment~~
4 ~~loan~~] council; and designating the source of the pledged
5 revenues for the payment or repayment of rentals, principal and
6 interest and any other amounts and obligations required under
7 the lease, loan or other financing agreement with the ~~New~~
8 ~~Mexico hospital equipment loan~~] council.

9 D. The rentals, principal and interest and any other
10 amounts and obligations owed under a lease, loan or other
11 financing agreement with the New Mexico [~~hospital equipment~~
12 ~~loan~~] health care finance council shall be payable solely out of
13 all or a portion of the revenues derived from the ownership and
14 operation of a county hospital or jointly owned county-municipal
15 hospital and revenues derived from the leasing of or other
16 contractual arrangement for the operation of a county hospital
17 or jointly owned county-municipal hospital [~~for which the lease,~~
18 ~~loan or other financing agreement with the New Mexico hospital~~
19 ~~equipment loan council is entered into~~]. The amount and
20 obligations under a lease, loan or other financing agreement
21 with the [~~New Mexico hospital equipment loan~~] council entered
22 into under the authority of the Hospital Funding Act shall never
23 constitute an indebtedness of a county or municipality within
24 the meaning of any state constitutional provision or statutory
25 limitation and shall never constitute or give rise to a

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1 pecuniary liability or a charge against the general credit or
2 taxing power of the county or [~~charge against its general credit~~
3 ~~or taxing power~~] municipality.

4 E. The rentals, principal and interest and any other
5 amounts and obligations owed under a lease, loan or other
6 financing agreement with the New Mexico [~~hospital equipment~~
7 ~~loan~~] health care finance council shall be secured by the pledge
8 of the revenues out of which such rentals, principal and
9 interest and any other amounts and obligations shall be payable
10 and may be secured by a mortgage covering all or any part of the
11 county hospital or jointly owned county-municipal hospital [~~from~~
12 ~~which the revenues so pledged may be derived~~].

13 F. The resolution or proceedings under which the
14 lease, loan or other financing agreement are authorized to be
15 entered into or any mortgage relating thereto may contain any
16 agreement and provisions customarily contained in instruments
17 securing leases, loans or other financing arrangements,
18 including, without limiting the generality of the foregoing,
19 provisions respecting the designation and collection of the
20 revenues from the county hospital or jointly owned
21 county-municipal hospital covered by such proceedings or
22 mortgage, the maintenance and insurance of those hospitals, the
23 creation and maintenance of special funds derived from the
24 revenues relating to such hospital and the rights and remedies
25 available in event of default to the New Mexico [~~hospital~~

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1 ~~equipment loan]~~ health care finance council under a mortgage,
2 all as the hospital governing board may deem advisable. The
3 resolution or proceedings authorizing any lease, loan or other
4 financing agreement and any mortgage securing those obligations
5 may provide the procedure and remedies in the event of default
6 and the payment of the rentals, principal and interest or other
7 amounts and obligations thereunder or in the performance of any
8 agreement. No breach of any agreement shall impose any
9 pecuniary liability upon or a charge against the general credit
10 or taxing power of a county or municipality [~~charge against its~~
11 ~~general credit or taxing power~~].

12 G. No notice, consent or approval by any
13 governmental body, commission or public officer shall be
14 required as a prerequisite to the entering into of a lease, loan
15 or other financing agreement with the New Mexico ~~hospital~~
16 ~~equipment loan]~~ health care finance council or the making of a
17 mortgage under the authority of the Hospital Funding Act, except
18 as provided in this section."

19 Section 3. Section 6-10-10.1 NMSA 1978 (being Laws 1988,
20 Chapter 61, Section 2, as amended) is amended to read:

21 "6-10-10.1. SHORT-TERM INVESTMENT FUND CREATED--
22 DISTRIBUTION OF EARNINGS--REPORT OF INVESTMENTS.--

23 A. There is created in the state treasury the
24 "short-term investment fund". The fund shall consist of all
25 deposits from governmental entities and Indian tribes or pueblos

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1 that are placed in the custody of the state treasurer for
2 short-term investment purposes pursuant to this section. The
3 state treasurer shall maintain a separate account for each
4 governmental entity and Indian tribe or pueblo having deposits
5 in the fund.

6 B. If any local public body is unable to receive
7 payment on public money at the rate of interest as set forth in
8 Section 6-10-36 NMSA 1978 from financial institutions within the
9 geographic boundaries of the governmental unit, then a local
10 public finance official having money of that local public body
11 in his custody required for expenditure within thirty days or
12 less may, with the consent of the appropriate local board of
13 finance, if any, remit some or all of such money to the state
14 treasurer, bank, savings and loan association or credit union
15 for deposit for the purpose of short-term investment as allowed
16 by this section.

17 C. Before any local funds are invested or reinvested
18 for the purpose of short-term investment pursuant to this
19 section, the local public body finance official shall notify and
20 make such funds available to banks, savings and loan
21 associations and credit unions located within the geographical
22 boundaries of their respective governmental unit, subject to the
23 limitation on credit union accounts. To be eligible for such
24 funds, the financial institution shall pay to the local public
25 body the rate established by the state treasurer pursuant to a

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1 policy adopted by the state board of finance for such short-term
2 investments.

3 D. The local public body finance official shall
4 specify the length of time each deposit shall be in the
5 short-term investment fund, but in any event the deposit shall
6 not be made for more than one hundred eighty-one days. The
7 state treasurer through the use of the state fiscal agent shall
8 separately track each such deposit and shall make such
9 information available to the public upon written request.

10 E. The state treasurer shall invest the fund as
11 provided for state funds under Section 6-10-10 NMSA 1978 and may
12 elect to have the short-term investment fund consolidated for
13 investment purposes with the state funds under the control of
14 the state treasurer; provided that accurate and detailed
15 accounting records are maintained for the account of each
16 participating entity and Indian tribe or pueblo and that a
17 proportionate amount of interest earned is credited to each of
18 the separate government accounts. The state treasurer may
19 invest a portion of the funds in banks, savings and loan
20 associations or credit unions subject to the requirements of
21 this section. The fund shall be invested to achieve its
22 objective, which is to realize the maximum return consistent
23 with safe and prudent management.

24 F. At the end of each month, all interest earned
25 from investment of the short-term investment fund shall be

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1 distributed by the state treasurer to the contributing entities
2 and Indian tribes or pueblos in amounts directly proportionate
3 to the respective amounts deposited in the fund and the length
4 of time the amounts in the fund were invested. The state
5 treasurer shall charge participating entities, Indian tribes and
6 pueblos a fee of five basis points for the investment services
7 provided pursuant to this section.

8 G. As used in this section:

9 (1) "local public body" means any political
10 subdivision of the state, including school districts and any
11 post-secondary educational institution; and

12 (2) "short-term" means less than thirty days.

13 H. In addition to the deposit of funds of local
14 public bodies, the state treasurer may also accept for deposit,
15 deposit and account for, in the same manner as funds of local
16 public bodies, funds of the following governmental entities if
17 the governing authority of the entity approves by resolution the
18 deposit of the funds for the short-term investment:

19 (1) the agricultural commodity commission
20 established under the Agricultural Commodity Commission Act;

21 (2) the Albuquerque metropolitan arroyo flood
22 control authority established under the Arroyo Flood Control
23 Act;

24 (3) the business improvement district
25 management committee established under the Business Improvement

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- 1 District Act;
- 2 (4) the New Mexico community assistance council
- 3 established under the New Mexico Community Assistance Act;
- 4 (5) the governing authority of only special
- 5 districts authorized under Chapter 73 NMSA 1978;
- 6 (6) the board of trustees established under the
- 7 Economic Advancement District Act;
- 8 (7) the board of directors of a corporation or
- 9 foundation established under the Educational Assistance Act;
- 10 (8) a board of directors established under the
- 11 Flood Control District Act;
- 12 (9) the New Mexico ~~[hospital equipment loan]~~
- 13 health care finance council established under the ~~[Hospital~~
- 14 ~~Equipment Loan]~~ Health Care Finance Act;
- 15 (10) the authority established under the
- 16 Industrial and Agricultural Finance Authority Act;
- 17 (11) the authority established under the Las
- 18 Cruces Arroyo Flood Control Act;
- 19 (12) the authority established under the
- 20 Mortgage Finance Authority Act;
- 21 (13) the authority established under the
- 22 Municipal Mortgage Finance Act;
- 23 (14) the authority established under the Public
- 24 School Insurance Authority Act;
- 25 (15) the authority established under the

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1 Southern Sandoval County Arroyo Flood Control Act;
2 (16) a board of trustees established under the
3 Special Hospital District Act; and
4 (17) the authority established under the
5 New Mexico Finance Authority Act.

6 I. In addition to the deposit of funds of local
7 public bodies, the state treasurer may also accept for deposit
8 and deposit and account for, in the same manner as funds of
9 local public bodies, funds of any Indian tribe or pueblo in the
10 state if authorized to do so under a joint powers agreement
11 executed by the state treasurer and the governing authority of
12 the Indian tribe or pueblo under the provisions of the Joint
13 Powers Agreements Act. "

14 Section 4. Section 6-14-2 NMSA 1978 (being Laws 1970,
15 Chapter 10, Section 2, as amended) is amended to read:

16 "6-14-2. DEFINITIONS. --As used in the Public Securities
17 Act:

18 A. "net effective interest rate" means the interest
19 rate based on the actual price paid to a public body for its
20 public securities, calculated to maturity according to standard
21 tables of bond values;

22 B. "public body" means this state or any department,
23 board, agency or instrumentality of the state, any county, city,
24 town, village, school district, other district, educational
25 institution or any other governmental agency or political

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[bracketed material] = delete

1 subdivision of the state; and

2 C. "public securities" means any bonds, notes,
3 warrants or other obligations now or hereafter authorized to be
4 issued by any public body pursuant to the provisions of any
5 general or special law enacted by the legislature, but does not
6 include bonds, notes, warrants or other obligations issued
7 pursuant to:

- 8 (1) the Industrial Revenue Bond Act;
- 9 (2) the County Improvement District Act;
- 10 (3) Sections 3-33-1 through 3-33-43 NMSA 1978;
- 11 (4) the Pollution Control Revenue Bond Act;
- 12 (5) the County Pollution Control Revenue Bond
13 Act;
- 14 (6) the County Industrial Revenue Bond Act;
- 15 (7) the Metropolitan Redevelopment Code;
- 16 (8) the Supplemental Municipal Gross Receipts
17 Tax Act;
- 18 (9) the ~~[Hospital Equipment Loan]~~ Health Care
19 Finance Act; or
- 20 (10) the New Mexico Finance Authority Act. "

21 Section 5. Section 6-18-4 NMSA 1978 (being Laws 1983,
22 Chapter 161, Section 4, as amended) is amended to read:

23 "6-18-4. DEFINITIONS. --As used in the Public Securities
24 Short-Term Interest Rate Act, unless the context otherwise
25 requires:

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1 A. "bond" means any bond, debenture, note, refunding
2 or renewal bond or note, warrant or other security evidencing an
3 obligation authorized to be issued by a public body pursuant to
4 any provision of law of this state, including the Public
5 Securities Short-Term Interest Rate Act;

6 B. "governing body" means the city council or other
7 body or officer of a public body in which the legislative powers
8 are vested;

9 C. "indebtedness" means any debt evidenced by a bond
10 issued by a public body pursuant to any law of this state that
11 constitutes a debt for the purposes of Section 12 or 13 of
12 Article 9 of the constitution of New Mexico and the issuance of
13 which must be submitted to a vote of the qualified electors of
14 the public body pursuant to those sections and any bond issued
15 for the purpose of paying or refunding any such bond;

16 D. "bond legislation" means an ordinance or a
17 resolution or other appropriate enactment adopted by a governing
18 body [~~of a public body~~] providing for the authorization or sale
19 of bonds and any trust agreement, credit agreement, letter of
20 credit, reimbursement agreement or other credit facility, dealer
21 agreement, issuing or paying agent agreement, purchase
22 commitment agreement, escrow agreement, remarketing agreement,
23 index agent agreement or other agreement with respect to the
24 bonds to which the public body or trustee for the bonds is a
25 party; and

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1 E. "public body" means any municipality, any county,
2 any school district, any special district, any H class county
3 [~~located in New Mexico~~], the New Mexico [~~hospital equipment~~
4 ~~loan~~] health care finance council, state institutions enumerated
5 in Section 6-13-2 NMSA 1978, the water quality control
6 commission, the state board of finance, the New Mexico finance
7 authority or the state. "

8 Section 6. Section 58-23-1 NMSA 1978 (being Laws 1983,
9 Chapter 290, Section 1, as amended) is amended to read:

10 "58-23-1. SHORT TITLE. -- Chapter 58, Article 23 NMSA 1978
11 may be cited as the "[~~Hospital Equipment Loan~~] Health Care
12 Finance Act". "

13 Section 7. Section 58-23-2 NMSA 1978 (being Laws 1983,
14 Chapter 290, Section 2) is amended to read:

15 "58-23-2. LEGISLATIVE FINDINGS. -- The legislature finds
16 that:

17 A. the delivery of high-quality community-based
18 health care in New Mexico has in recent years become
19 increasingly dependent upon [~~sophisticated equipment~~] creative
20 and innovative solutions to assist in delivery of health care at
21 a time when the [~~acquisition and~~] means for financing [~~of~~
22 ~~equipment by health care providers has~~] and supervising
23 solutions to assist in delivery of health care have become
24 increasingly expensive and complicated;

25 B. the increased costs of [~~financing modern~~

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[bracketed material] = delete

1 ~~equipment]~~ delivery of high-quality community-based health care
2 by New Mexico health-care providers is necessarily passed on to
3 patients receiving ~~medical~~ care from the health-care
4 providers, resulting in higher medical bills, increased health
5 insurance premiums and higher medicare and medicaid payments;

6 C. the problems relating to the delivery of health
7 care cannot be remedied solely through the operation of private
8 enterprise or efforts by individual communities, but can be
9 alleviated through the creation of a program to facilitate and
10 enable the investment of private capital and the allocation of
11 public capital for the purpose of financing ~~health-related~~
12 ~~equipment at interest rates lower than those available in the~~
13 ~~conventional credit markets]~~ health care support facilities and
14 services;

15 D. the creation of a program to coordinate and
16 cooperate with health-care providers and local communities is
17 essential to alleviating the problematic conditions relating to
18 the provision of health care and is in the public interest; and

19 E. alleviating these conditions by the encouragement
20 of private investment is a public purpose and a beneficial use
21 for which money provided by the sale of revenue bonds may be
22 borrowed, expended, advanced, loaned and granted. "

23 Section 8. Section 58-23-3 NMSA 1978 (being Laws 1983,
24 Chapter 290, Section 3, as amended) is amended to read:

25 "58-23-3. DEFINITIONS. --As used in the ~~Hospital-Equipment~~

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1 ~~Loan]~~ Health Care Finance Act:

2 A. "board" means the board of directors of the
3 council;

4 B. "bonds" means bonds, notes, interim certificates,
5 bond anticipation notes or other evidences of indebtedness of
6 the council issued pursuant to the ~~[Hospital Equipment Loan]~~
7 Health Care Finance Act, including refunding bonds;

8 C. "cost" as applied to a health-related ~~[equipment]~~
9 project means any and all costs ~~[of equipment]~~ incurred by a
10 participating health-care provider, including but not limited to
11 the following:

12 (1) all direct or indirect costs of the
13 acquisition, including repair, restoration, reconditioning,
14 financing and refinancing or installation of the health-related
15 ~~[equipment]~~ project;

16 (2) the cost of any property interest in the
17 health-related ~~[equipment]~~ project, including an option to
18 purchase or a lease-hold interest;

19 (3) the cost of architectural, engineering,
20 planning, drafting, legal and any incidental or related services
21 necessary for acquisition or installation of the health-related
22 ~~[equipment]~~ project;

23 (4) the cost of all financing charges and
24 interest accrued prior to the acquisition or refinancing of the
25 health-related ~~[equipment]~~ project for a maximum of two years

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1 after or prior to such acquisition or refinancing;
2 (5) all direct and indirect costs incurred in
3 connection with ~~[the financing of]~~ the health-related
4 ~~[equipment]~~ project, including out-of-pocket expenses; the cost
5 of financing; legal, accounting, financial, advisory and
6 consulting expenses; the cost of any policy of insurance; the
7 cost of printing, engraving and reproduction services; and costs
8 associated with any trust indenture; and

9 (6) any costs incurred by the council for the
10 administration of any program ~~[for the purchase, sale or lease~~
11 ~~of or the making of loans]~~ for health-related ~~[equipment to any~~
12 ~~participating health care provider]~~ projects;

13 D. "council" means the New Mexico ~~[hospital~~
14 ~~equipment loan]~~ health care finance council;

15 E. ~~["health facility"]~~ "health-care provider" means
16 any entity or person providing health-related services ~~[which~~
17 ~~is]~~, including all customary and necessary supporting services,
18 licensed by the department of health ~~[and environment department~~
19 ~~and all customary and necessary supporting services]~~ or the
20 board of medical examiners;

21 F. "health-related ~~[equipment]~~ project" means any
22 real or personal property, ~~[instrument, service]~~ insurance
23 contract, working capital requirement, contract for services,
24 technical assistance, services or operational necessity ~~[which]~~
25 that is found and determined by the council to be needed,

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1 directly or indirectly, for ~~[medical]~~ health care, treatment or
2 research or ~~[other equipment]~~ as otherwise might be needed ~~[to~~
3 ~~operate the health facility]~~ by a participating health-care
4 provider;

5 G. "participating ~~[health facility]~~ health-care
6 provider" means a public or private nonprofit or for-profit
7 corporation, association, foundation, trust, cooperative, agency
8 or other person or organization ~~[which operates or proposes to~~
9 ~~operate a health facility]~~ that is a health-care provider in New
10 Mexico and contracts with the council for the financing or
11 refinancing of ~~[the lease or acquisition of health-related~~
12 ~~equipment]~~ a health-related project. Public, district, county,
13 city, county-municipal or other municipal hospitals and
14 hospitals affiliated with an institution of higher education in
15 New Mexico ~~[are]~~ may be participating health-care ~~[facilities]~~
16 providers; and

17 H. "program" means the New Mexico ~~[hospital~~
18 ~~equipment loan]~~ health care finance program created by the
19 ~~[Hospital Equipment Loan]~~ Health Care Finance Act and
20 administered by the council."

21 Section 9. Section 58-23-4 NMSA 1978 (being Laws 1992,
22 Chapter 41, Section 7) is amended to read:

23 "58-23-4. ADDITIONAL DEFINITIONS. --As used in the
24 ~~[Hospital Equipment Loan]~~ Health Care Finance Act in connection
25 with refinancing, renewing, funding, refunding or paying any

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[bracketed material] = delete

1 bonds, "bonds" also means any bond, note, certificate or other
2 evidence of indebtedness previously issued or incurred by any
3 ~~[health facility]~~ health-care provider, municipality, county,
4 special hospital district or other political subdivision to
5 refinance, finance or aid in financing ~~[property]~~ a project that
6 would have constituted a health-related ~~[equipment]~~ project had
7 it been originally financed by the council."

8 Section 10. Section 58-23-5 NMSA 1978 (being Laws 1983,
9 Chapter 290, Section 5, as amended) is amended to read:

10 "58-23-5. COUNCIL--CREATED--MEMBERS--QUALIFICATIONS--
11 BOARD.--

12 A. There is created a public body politic and
13 corporate, separate and apart from the state, constituting a
14 governmental instrumentality to be known as the "New Mexico
15 ~~[hospital equipment loan]~~ health care finance council" for the
16 performance of essential public functions.

17 B. The council shall be governed by a board of
18 directors consisting of five members. The governor, with the
19 advice and consent of the senate, shall appoint the members of
20 the board. The members shall serve at the pleasure of the
21 governor.

22 C. Each member of the board shall be a resident of
23 the state, and in addition:

24 (1) two members shall be officers or directors
25 of financial institutions located in New Mexico;

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1 (2) two members shall be officers or directors
2 of a [~~health facility~~] health-care provider located in New
3 Mexico or health-care providers practicing in New Mexico for a
4 total of five years. Such members shall have been employed for
5 a total of five years as officers or directors of any [~~health~~
6 ~~facility~~] health-care provider or practicing as a health-care
7 provider for a total of five years

8 (3) one member shall be appointed from and
9 represent the public and shall not be directly or indirectly
10 affiliated with any [~~health facility~~] health-care provider; and

11 (4) no more than three members shall be of the
12 same political party.

13 D. The council shall be separate and apart from the
14 state and shall not be subject to the supervision or control of
15 any board, bureau, department or agency of the state except as
16 specifically provided in the [~~Hospital Equipment Loan~~] Health
17 Care Finance Act. In order to effectuate the separation of the
18 state from the council, no use of the terms "state agency" or
19 "instrumentality" in any other law of the state shall be deemed
20 to refer to the council unless the council is specifically
21 referred to therein. "

22 Section 11. Section 58-23-7 NMSA 1978 (being Laws 1983,
23 Chapter 290, Section 7) is amended to read:

24 "58-23-7. BOARD--EXPENSES.--The members of the board shall
25 receive no compensation for their services but shall receive

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1 reimbursement for actual and necessary expenses at the same rate
2 and basis as provided for nonsalaried public officers in the Per
3 Diem and Mileage Act. "

4 Section 12. Section 58-23-8 NMSA 1978 (being Laws 1983,
5 Chapter 290, Section 8) is amended to read:

6 "58-23-8. BOARD--QUORUM --A majority of the members of the
7 board then serving shall constitute a quorum for the transaction
8 of business. The affirmative vote of at least a majority of a
9 quorum present shall be necessary for any action to be taken by
10 the [authority] council. No vacancy in the membership of the
11 council shall impair the right of a quorum to exercise all
12 rights and perform all duties of the loan program. "

13 Section 13. Section 58-23-10 NMSA 1978 (being Laws 1983,
14 Chapter 290, Section 10) is amended to read:

15 "58-23-10. BOARD--BONDING REQUIREMENTS.--At the time of the
16 issuance of any bonds pursuant to the [~~Hospital Equipment Loan~~]
17 Health Care Finance Act, each member of the board shall execute
18 a surety bond in the sum of twenty-five thousand dollars
19 (\$25,000). To the extent any member of the board is already
20 required by state law to provide a surety bond, that member need
21 not obtain another bond as long as the bond required by state
22 law is in at least the sum specified in this section and covers
23 the member's activities for the council. In lieu of such bonds,
24 the chairman of the board may execute a blanket fidelity bond
25 covering each member and the employees of the council. Each

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1 fidelity bond shall be conditioned upon the faithful performance
2 of the duties of the respective office of the member or the
3 employee and shall be issued by a surety company authorized to
4 transact business in this state as surety. At all times after
5 the issuance of any surety bonds, each member and employee shall
6 maintain such surety bonds in full force and effect. All costs
7 of the surety bonds shall be borne by the council."

8 Section 14. Section 58-23-11 NMSA 1978 (being Laws 1983,
9 Chapter 290, Section 11) is amended to read:

10 "58-23-11. POWERS. --The council is granted all powers
11 necessary and appropriate to carry out and effectuate its public
12 and corporate purposes, including but not limited to the
13 following powers:

14 A. to adopt, amend and repeal bylaws, rules and
15 regulations to effectuate the purposes of the ~~Hospital~~
16 ~~Equipment Loan] Health Care Finance Act;~~

17 B. to sue and be sued in its own name;

18 C. to have an official seal and alter it at will;

19 D. to maintain an office within the state;

20 E. to make and execute contracts and all other
21 instruments necessary or convenient for the performance of its
22 duties and the exercise of its powers under the ~~Hospital~~
23 ~~Equipment Loan] Health Care Finance Act;~~

24 F. to employ architects, engineers, attorneys,
25 inspectors, accountants and health-care and financial experts

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1 and such other advisors, consultants, agents and other employees
2 as may be necessary, and to fix their compensation;

3 G. to procure insurance against any loss in connection
4 with its property and other assets, including surety bonds in
5 such amounts and from such insurers as it may deem advisable;

6 H. to procure insurance or guarantees from any public
7 or private entities, including any department, agency or
8 instrumentality of the United States, to secure payment:

9 (1) on a loan, lease or purchase payment owed by
10 a participating [~~health facility~~] health-care provider to the
11 council; and

12 (2) of any bonds issued by the council, including
13 the power to pay the premium on any such insurance or guarantee;

14 I. to procure letters of credit from any national or
15 state banking association or other entity authorized to issue a
16 letter of credit to secure the payment of any bonds issued by
17 the council or to secure the payment of any loan, lease or
18 purchase payment owed by a participating [~~health facility~~]
19 health-care provider to the council, including the power to pay
20 the cost of obtaining such letter of credit;

21 J. to receive and accept from any source
22 contributions, gifts or grants of money, property, labor or
23 other things of value to be held, used and applied to carry out
24 the purposes of the [~~Hospital Equipment Loan~~] Health Care
25 Finance Act, subject to the conditions upon which the grants,

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1 gifts or contributions are made;

2 K. to provide or cause to be provided by or to a
3 participating ~~[health facility]~~ health-care provider, by
4 acquisition, lease, loan, fabrication, repair, restoration,
5 reconditioning, refinancing or installation, a health-related
6 ~~[equipment]~~ project to be located ~~[within]~~ at or used by a
7 ~~[health facility]~~ health-care provider in this state;

8 L. to lease as lessor a health-related ~~[equipment]~~
9 project to a participating health-care provider upon such terms
10 and conditions as the council may deem advisable and as are not
11 in conflict with the provisions of the ~~[Hospital Equipment Loan]~~
12 Health Care Finance Act;

13 M. to sell for installment payments or otherwise, to
14 option or contract for sale and to convey all or any part of
15 health-related ~~[equipment]~~ project upon such terms and
16 conditions as the council may deem advisable and as are not in
17 conflict with the provisions of the ~~[Hospital Equipment Loan]~~
18 Health Care Finance Act;

19 N. to ~~make~~ contracts and incur liabilities, borrow
20 money at such rates of interest as the council may determine,
21 issue its bonds in accordance with the provisions of the
22 ~~[Hospital Equipment Loan]~~ Health Care Finance Act and secure any
23 of its bonds or obligations by mortgage or pledge of all or any
24 of its property, franchises and income or as otherwise provided
25 in the ~~[Hospital Equipment Loan]~~ Health Care Finance Act;

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1 0. to make secured or unsecured loans for the purpose
2 of providing temporary or permanent financing or refinancing for
3 the cost of health-related ~~[equipment]~~ projects, including the
4 retiring of any outstanding obligations or advances issued and
5 the reimbursement for the cost of any health-related ~~[equipment]~~
6 projects previously purchased ~~[within twelve months immediately~~
7 ~~preceding the date of the bond issue, made or given]~~ or incurred
8 by any participating ~~[health facility]~~ health-care provider for
9 the cost of health-related ~~[equipment]~~ projects and to charge
10 and collect interest on such loans for such loan payments and
11 upon such terms and conditions as the council may deem advisable
12 and as are not in conflict with the provisions of the ~~[Hospital~~
13 ~~Equipment Loan]~~ Health Care Finance Act. Loans may be made to
14 participating ~~[health facilities]~~ health care providers or to
15 any bank, savings and loan association or other entity ~~[which]~~
16 that will, directly or indirectly, provide to participating
17 ~~[health facilities]~~ health care providers such financing,
18 refinancing or reimbursement of the cost of health-related
19 ~~[equipment]~~ projects;

20 P. to invest and reinvest its funds and to take and
21 hold property as security for the investment of such funds as
22 provided in the ~~[Hospital Equipment Loan]~~ Health Care Finance
23 Act;

24 Q. to purchase, lease or otherwise acquire health-
25 related ~~[equipment]~~ projects or any interest therein, as the

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1 purposes of the council require;

2 R. to sell, convey, mortgage, pledge, assign, lease,
3 exchange, transfer and otherwise dispose of or encumber all or
4 any part of its property and assets;

5 S. to the extent permitted under its contract, if any,
6 with the holders of bonds of the council, to consent to any
7 modification with respect to the rate of interest, time and
8 payment of any installment of principal or interest or any other
9 term of any loan, loan note, loan note commitment, lease or
10 agreement of any kind to which the council is a party;

11 T. to sell at public or private sale any loan or other
12 obligation held by the council;

13 U. to refuse to make loans or enter into leases for
14 health-related ~~[equipment]~~ projects when not in the best
15 interest of the program; and

16 V. to do any other act necessary or convenient to the
17 exercise of the powers granted by the ~~[Hospital Equipment Loan]~~
18 Health Care Finance Act or reasonably implied from it. "

19 Section 15. Section 58-23-12 NMSA 1978 (being Laws 1983,
20 Chapter 290, Section 12, as amended) is amended to read:

21 "58-23-12. COUNCIL--DUTIES.--The council shall have the
22 following duties:

23 A. to invest any funds not needed for immediate
24 disbursement, including any funds held in reserve, in direct and
25 general obligations of or obligations fully and unconditionally

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1 guaranteed by the United States, obligations issued by agencies
2 of the United States, obligations of this state or any political
3 subdivisions thereof, ~~[the unsecured promissory notes or other~~
4 ~~obligations of state and national banking associations and other~~
5 ~~entities having an investment grade rating]~~ money market funds
6 that invest in the types of obligations described in the
7 preceding clauses of this subsection and rated in the highest
8 category by a national rating service, interest-bearing time
9 deposits, commercial paper issued by corporations organized and
10 operating within the United States and rated "prime" quality by
11 a national rating service, investments permitted under Sections
12 6-10-10 and 6-10-10.1 NMSA 1978 or as otherwise provided by the
13 trust indenture or bond resolution securing the issuance of the
14 bonds;

15 B. to collect fees and charges as the council
16 determines to be reasonable in connection with its loans,
17 leases, sales, advances, insurance, commitments and servicing;
18 and

19 C. to cooperate with and exchange services, personnel
20 and information with any federal, state or local governmental
21 agency. "

22 Section 16. Section 58-23-13 NMSA 1978 (being Laws 1983,
23 Chapter 290, Section 13) is amended to read:

24 "58-23-13. LEASE AND LOAN AGREEMENTS WITH PARTICIPATING
25 HEALTH-CARE PROVIDERS--INSURANCE--LOAN AND LEASE PAYMENTS. -- In

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1 addition to its other powers and duties, the council is
2 specifically authorized to initiate a program of financing,
3 refinancing or reimbursing the cost of health-related ~~[equipment~~
4 ~~to be operated by participating health facilities]~~ projects. In
5 this regard, the council is authorized to exercise the following
6 powers:

7 A. to establish eligibility standards for
8 participating ~~[health facilities]~~ health-care providers;

9 B. to enter into an agreement with any entity securing
10 the payment of bonds pursuant to Subsections H and I of Section
11 ~~[41 of the Hospital Equipment Loan Act]~~ 58-23-11 NMSA 1978,
12 authorizing that entity to approve the participating health-care
13 providers that can finance or refinance health-related
14 ~~[equipment]~~ projects with proceeds from the bond issue secured
15 by that entity and to approve any banks, savings and loan
16 associations or other entities to which the council may loan its
17 funds to finance, refinance or reimburse, directly or
18 indirectly, the cost of health-related ~~[equipment]~~ projects for
19 participating ~~[health facilities]~~ health-care providers;

20 C. to lease to a participating ~~[health facility]~~
21 health-care provider specific items ~~[of]~~ constituting health-
22 related ~~[equipment]~~ projects upon such terms and conditions as
23 the council may deem proper or to purchase any or all of the
24 health-related ~~[equipment]~~ project to which the lease applies;

25 D. to lend to a participating ~~[health facility]~~

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1 health-care provider or a bank, savings and loan association or
2 other entity to finance, refinance or reimburse, directly or
3 indirectly, the cost of health-related ~~[equipment]~~ projects to a
4 participating ~~[health-facility]~~ health-care provider upon a
5 secured or unsecured promissory note evidencing such loan upon
6 such terms and conditions as the council may deem proper;

7 E. to sell or otherwise dispose of unneeded health-
8 related ~~[equipment]~~ projects under conditions as determined by
9 the council;

10 F. to maintain, repair, replace and otherwise improve
11 any health-related ~~[equipment]~~ projects owned by the council;

12 G. to obtain or aid in obtaining property insurance on
13 all health-related ~~[equipment]~~ projects owned or financed by the
14 council; and

15 H. to enter into any agreement, contract or other
16 instrument with respect to any insurance, guarantee or letter of
17 credit, accepting payment in the event of default by a
18 participating ~~[health-facility]~~ health-care provider, and to
19 assign any such insurance, guarantee or letter of credit as
20 security for bonds issued by the council."

21 Section 17. Section 58-23-14 NMSA 1978 (being Laws 1983,
22 Chapter 290, Section 14) is amended to read:

23 "58-23-14. OPTIONAL POWERS.--Prior to the exercise of any
24 of the powers conferred by Section ~~[13 of the Hospital Equipment~~
25 ~~Loan Act]~~ 58-23-13 NMSA 1978, the council may:

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1 A. require that the lease or installment purchase
2 contract or loan agreement involved be insured by a loan
3 insurer, be guaranteed by a loan guarantor or be secured by a
4 letter of credit; or

5 B. require any other type of security from the
6 participating health facilities or banks, savings and loan
7 associations or other entities that it deems reasonable and
8 necessary. "

9 Section 18. Section 58-23-15 NMSA 1978 (being Laws 1983,
10 Chapter 290, Section 15) is amended to read:

11 "58-23-15. ISSUANCE OF BONDS.--The council is authorized to
12 issue, sell and deliver its bonds, in accordance with the terms
13 of the [~~Hospital Equipment Loan~~] Health Care Finance Act, for
14 the purpose of paying for or making loans to participating
15 health facilities, banks, savings and loan associations and
16 other entities for the financing or refinancing of all or any
17 part of the cost of health-related [~~equipment~~] projects and any
18 other purposes authorized by the [~~Hospital Equipment Loan~~]
19 Health Care Finance Act. In addition, the council has the power
20 to issue from time to time bonds to renew or to pay bonds,
21 including any interest, and, whenever it deems refunding
22 expedient, to refund any bonds by the issuance of new bonds and
23 to issue bonds partly to refund outstanding bonds and partly for
24 another of its purposes. The refunding bonds may be sold and
25 the proceeds applied to the purchase, redemption or payment of

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1 the bonds to be refunded or may be exchanged for the bonds to be
2 refunded. "

3 Section 19. Section 58-23-16 NMSA 1978 (being Laws 1983,
4 Chapter 290, Section 16, as amended) is amended to read:

5 "58-23-16. TERMS OF PAYMENT AND SALE OF BONDS. --

6 A. The bonds shall be dated, shall bear interest at
7 such rate or rates, fixed or variable, shall mature at such time
8 or times not exceeding twenty years, or not to exceed thirty
9 years if the council determines bonds are necessary in
10 connection with the acquisition, lease, fabrication, repair,
11 restoration, reconditioning, refinancing or installation of real
12 property, from their date and may be made redeemable prior to
13 maturity at such price or prices and upon terms and conditions
14 determined by the council. In cases where any officer whose
15 signature or a facsimile of whose signature appears on any bonds
16 or coupons ceases to be such officer before the delivery of and
17 payment for such bonds, that signature or facsimile is valid and
18 sufficient for all purposes the same as if the officer had
19 remained in office until delivery and payment. The bonds may be
20 issued in coupon or in fully registered form or both or may be
21 payable to a specific person, as the council may determine, and
22 provision may be made for the registration of any coupon bonds
23 as to principal or as to both principal and interest, for the
24 conversion of coupon bonds into fully registered bonds without
25 coupons and for the conversion into coupon bonds of any fully

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1 registered bonds without coupons. The duty of conversion may be
2 imposed upon a trustee in a trust agreement.

3 B. The principal of, redemption premium, if any, and
4 interest on such bonds shall be payable solely from and may be
5 secured by a pledge of the proceeds of bonds, revenues derived
6 from the lease or sale of a health-related ~~[equipment]~~ project
7 or realized from a loan made by the council to finance or
8 refinance in whole or in part health-related ~~[equipment]~~
9 projects, revenues derived from operating health-related
10 ~~[equipment]~~ projects, including insurance proceeds, or any other
11 revenues provided by a participating health-care provider or a
12 bank, savings and loan association or other entity to which a
13 loan is made.

14 C. The council shall sell the bonds at such price or
15 prices as it shall determine at public or private sale. "

16 Section 20. Section 58-23-16.1 NMSA 1978 (being Laws 1986,
17 Chapter 60, Section 8, as amended) is amended to read:

18 "58-23-16.1. INTEREST RATES--REFUNDING--APPROVAL BY
19 COUNCIL--FINDINGS.--Bonds issued under the ~~[Hospital-Equipment~~
20 Loan] Health Care Finance Act are not subject to any limitations
21 on interest rates or net effective interest rates or interest
22 rate approval requirements contained in any other laws of the
23 state, provided that:

24 A. the bond resolution or other instruments under
25 which such bonds are issued shall contain findings by the

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1 council that any fixed rate or rates of interest or discount on
2 the bonds or, in the case of a variable rate or rates of
3 interest, that the maximum rate or method of determining the
4 maximum rate and that the maximum net effective interest rate on
5 the bonds are reasonable under existing or anticipated bond
6 market conditions and necessary and advisable for the marketing
7 and sale of the bonds. The bond resolution or other instruments
8 under which such bonds are issued shall declare that the council
9 has considered all relevant information and data in making its
10 findings. The findings and declarations in the bond resolution
11 or other instruments under which such bonds are issued shall
12 constitute conclusive authority for the council to issue the
13 bonds within the interest rate limitations set forth in the bond
14 resolution, and no additional approval of any department, board
15 or other officer of the state or any other official approval is
16 required; and

17 B. any bonds issued pursuant to the ~~Hospital~~
18 ~~Equipment Loan~~ Health Care Finance Act to renew, fund or refund
19 any prior issue of bonds, in whole or in part, may be issued
20 notwithstanding the provisions of any other laws of the state;
21 provided that the bond resolution or other instruments under
22 which such bonds are issued shall contain findings that the
23 issuance of such bonds is necessary or advisable and the amount
24 of such bonds ~~[which]~~ that it is deemed necessary and advisable
25 to issue. The determination of necessity or advisability

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1 contained in the bond resolution or other instruments under
2 which such bonds are issued shall constitute conclusive
3 authority for the council to issue any such renewal, funding or
4 refunding bonds, and no additional approval of any department,
5 board or other officer of the state or any official approval is
6 required. "

7 Section 21. Section 58-23-17 NMSA 1978 (being Laws 1983,
8 Chapter 290, Section 17) is amended to read:

9 "58-23-17. USE OF BOND PROCEEDS. --The proceeds of the bonds
10 of each issue shall not be used other than to pay, renew or
11 refund bonds or to pay all or part of the cost of financing,
12 refinancing or reimbursing health-related ~~[equipment]~~ projects
13 or to make loans to participating ~~[health facilities]~~ health-
14 care providers, banks, savings and loan associations or other
15 entities in order to directly or indirectly finance, refinance
16 or reimburse the cost of the health-related ~~[equipment]~~ projects
17 for which such bonds have been authorized. At the option of the
18 council, the proceeds of each issue may be deposited to a
19 reserve fund for the bonds; provided that the council ~~[shall]~~
20 may be paid, out of money from the proceeds of the sale and
21 delivery of its bonds, the council's out-of-pocket expenses and
22 costs in connection with the issuance, sale and delivery of such
23 bonds. "

24 Section 22. Section 58-23-19 NMSA 1978 (being Laws 1983,
25 Chapter 290, Section 19) is amended to read:

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1 "58-23-19. SECURITY FOR PAYMENT OF BONDS. -- Any bond
2 resolution or related trust agreement, trust indenture,
3 indenture of mortgage or deed of trust may contain provisions,
4 which shall be a part of the contract with the holders of the
5 bonds to be authorized, as to:

6 A. pledging or assigning the revenues generated by the
7 health-related ~~[equipment]~~ project or pledging or assigning the
8 notes, ~~[and mortgage, lease]~~ mortgages, leases or other security
9 given by the participating ~~[health facilities]~~ health-care
10 providers, banks, savings and loan associations or other
11 entities receiving loans with respect to which such bonds are to
12 be issued or other specified revenues or property of the
13 council;

14 B. the rentals, fees, interest and other amounts to be
15 charged by the council, the schedule of principal payments and
16 the sums to be raised in each year thereby and the use,
17 investment and disposition of such sums;

18 C. setting aside any reserves of sinking funds and the
19 regulation, investment and disposition thereof;

20 D. limitations on the use of the health-related
21 ~~[equipment]~~ project;

22 E. limitations on the purpose for which the proceeds
23 of sale of any issue or bonds may be applied;

24 F. limitations on the issuance of additional bonds,
25 the terms upon which additional bonds may be issued and secured

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1 and the terms upon which additional bonds may rank on a parity
2 with, or be subordinate or superior to, other bonds;

3 G. the refunding of outstanding bonds;

4 H. the procedure, if any, by which the terms of any
5 contract with bondholders may be amended or abrogated, the
6 amounts of bonds the holders of which must consent thereto, the
7 manner in which such consent may be given and restrictions on
8 the individual rights of action by bondholders;

9 I. acts or omissions which shall constitute a default
10 in the duties of the authority to holders of its bonds, and
11 rights of the holders in the event of default;

12 J. limitation of the liability of a participating
13 [~~health facility~~] health-care provider only for the amount of
14 its obligation to the council; and

15 K. any other matters relating to the bonds [~~which~~]
16 that the council deems desirable.

17 In addition to the provisions set forth in this section,
18 bonds of the council may be secured by and payable from a
19 pooling of leases or of notes and mortgages or other security
20 instruments whereby the council may assign its rights, as
21 lessor, and pledge rents under two or more leases of health-
22 related [~~equipment~~] projects with two or more participating
23 [~~health facilities~~] health-care providers, as lessees, or assign
24 its rights as payee or secured party and pledge the revenues
25 under two or more notes and loan agreements from two or more

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1 participating health facilities, banks, savings and loan
2 associations or other entities upon such terms as may be
3 provided for in bond resolutions or other instruments under
4 which such bonds are issued. "

5 Section 23. Section 58-23-20 NMSA 1978 (being Laws 1983,
6 Chapter 290, Section 20) is amended to read:

7 "58-23-20. [~~GENERAL OBLIGATION BONDS~~] SPECIAL LIMITED
8 OBLIGATIONS - PAYMENT AND SECURITY. -- [~~Except as may otherwise be~~
9 ~~provided by the council~~] Every issue of [its] bonds is a
10 [~~general~~] special limited obligation of the council payable
11 solely out of any particular revenue, reserve fund or money of
12 the council [~~subject only to any agreements with the holders of~~
13 ~~particular bonds pledging any particular money or revenue~~
14 pledged to particular bonds. The bonds may be additionally
15 secured by a pledge of any grant, contribution or guarantee from
16 the federal government or any corporation, association,
17 institution or person or a pledge of any money, income or
18 revenue of the council from any source. "

19 Section 24. Section 58-23-21 NMSA 1978 (being Laws 1983,
20 Chapter 290, Section 21, as amended) is amended to read:

21 "58-23-21. BONDS--NO OBLIGATION OF STATE. --No bonds issued
22 by the council under the [~~Hospital Equipment Loan~~] Health Care
23 Finance Act shall constitute a debt, liability or general
24 obligation of this state or a pledge of the faith and credit of
25 this state, but shall be payable solely as provided by Section

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1 58-23-19 NMSA 1978. Each bond issued under the ~~Hospital~~
2 ~~Equipment Loan~~ Health Care Finance Act shall contain on its
3 face a statement that neither the faith and credit nor the
4 taxing power of this state or any political subdivision thereof
5 is pledged to the payment of the principal of or the interest on
6 such bond. "

7 Section 25. Section 58-23-25 NMSA 1978 (being Laws 1983,
8 Chapter 290, Section 25) is amended to read:

9 "58-23-25. COUNCIL MEMBERS--LIMITATION ON PERSONAL
10 LIABILITY.--Neither the members of the council nor any other
11 person executing the bonds issued under the ~~Hospital Equipment~~
12 ~~Loan~~ Health Care Finance Act shall be subject to personal
13 liability in connection with issuance of the bonds. "

14 Section 26. Section 58-23-26 NMSA 1978 (being Laws 1983,
15 Chapter 290, Section 26, as amended) is amended to read:

16 "58-23-26. DEPOSIT OF MONEY.--All money of the council,
17 except as otherwise authorized or provided in the ~~Hospital~~
18 ~~Equipment Loan~~ Health Care Finance Act or in a bond resolution,
19 trust agreement or other instrument under which bonds are
20 issued, shall be deposited as soon as practical in a separate
21 account or accounts in banks or trust companies organized under
22 the laws of this state or in national banking associations. All
23 deposits of money shall, if required by the council, be secured
24 in such a manner as the council determines to be prudent. Banks
25 or trust companies are authorized to give security for the

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1 deposits of the council. "

2 Section 27. Section 58-23-27 NMSA 1978 (being Laws 1983,
3 Chapter 290, Section 27) is amended to read:

4 "58-23-27. BONDHOLDERS--PLEDGE--AGREEMENT OF THE STATE.--
5 The state pledges and agrees with the holder of any bonds issued
6 under the [~~Hospital Equipment Loan~~] Health Care Finance Act that
7 the state will not alter the rights vested in the council to
8 fulfill the terms of any agreements made with the bondholders or
9 in any way impair the rights or remedies of the holders until
10 the bonds, together with the interest thereon, with interest on
11 any unpaid installments of interest, and all costs and expenses
12 in connection with any action or proceeding by or on behalf of
13 the holders are fully met and discharged. The council is
14 authorized to include this pledge and agreement of the state in
15 any agreement with the holders of the bonds. "

16 Section 28. Section 58-23-28 NMSA 1978 (being Laws 1983,
17 Chapter 290, Section 28) is amended to read:

18 "58-23-28. COUNCIL EXPENSES--LIABILITY OF STATE OR
19 POLITICAL SUBDIVISION PROHIBITED.--All expenses incurred by the
20 council in carrying out the provisions of the [~~Hospital~~
21 ~~Equipment Loan~~] Health Care Finance Act shall be payable solely
22 from funds provided under that act. "

23 Section 29. Section 58-23-29 NMSA 1978 (being Laws 1983,
24 Chapter 290, Section 29, as amended) is amended to read:

25 "58-23-29. EXEMPTION FROM TAXATION--ASSETS TO STATE UPON

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1 DISSOLUTION. -- All property acquired or held by the council under
2 the ~~[Hospital Equipment Loan]~~ Health Care Finance Act, income
3 therefrom and bonds issued under the ~~[Hospital Equipment Loan]~~
4 Health Care Finance Act, plus the interest payable and income
5 derived from the bonds, shall be exempt from taxation by the
6 state or any subdivision thereof. Upon dissolution of the
7 council, its assets, after payment of its indebtedness, shall
8 inure to the benefit of the state."

9 Section 30. Section 58-23-30 NMSA 1978 (being Laws 1983,
10 Chapter 290, Section 30) is amended to read:

11 "58-23-30. BONDS--LEGAL INVESTMENTS.--The bonds issued
12 under the authority of the ~~[Hospital Equipment Loan]~~ Health Care
13 Finance Act shall be legal investments in which all public
14 officers or public bodies of this state, insurance companies,
15 banks and savings and loan associations, organized under the
16 laws of this state, may invest funds."

17 Section 31. Section 58-23-31 NMSA 1978 (being Laws 1983,
18 Chapter 290, Section 31) is amended to read:

19 "58-23-31. ~~[LOAN PROGRAM--]~~ ANNUAL REPORT--CONTENTS--
20 AUDIT.--The council shall, following the close of each fiscal
21 year, submit an annual report of its activities for the
22 preceding year to the governor and to the ~~[legislative finance]~~
23 New Mexico health care finance council oversight committee.

24 Each member of the legislature may receive a copy of such report
25 by requesting a copy from the ~~[chairman of the council]~~

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1 committee. Each report shall set forth a complete operating and
2 financial statement for the council during the fiscal year."

3 Section 32. Section 58-23-32 NMSA 1978 (being Laws 1983,
4 Chapter 290, Section 32) is amended to read:

5 "58-23-32. LIBERAL CONSTRUCTION. -- The ~~[Hospital Equipment~~
6 ~~Loan]~~ Health Care Finance Act shall be liberally construed to
7 accomplish its purposes."

8 Section 33. A new section of Chapter 58, Article 23 NMSA
9 1978 is enacted to read:

10 "[NEW MATERIAL] OVERSIGHT COMMITTEE. -- There is created a
11 joint interim legislative committee that shall be known as the
12 "New Mexico health care finance council oversight committee".
13 The New Mexico legislative council shall determine the
14 membership of the committee and shall appoint the members and
15 designate the chairman and the vice chairman in accordance with
16 legislative council policies. The staff for the committee shall
17 be provided by the legislative council service."

18 Section 34. A new section of Chapter 58, Article 23 NMSA
19 1978 is enacted to read:

20 "[NEW MATERIAL] OVERSIGHT COMMITTEE-- POWERS AND DUTIES. --
21 The New Mexico health care finance council oversight committee
22 shall:

23 A. monitor and oversee the operation of the New Mexico
24 health care finance council;

25 B. meet on a regular basis to receive and review

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1 reports from the council on implementation of the provisions of
2 the Health Care Finance Act;

3 C. monitor and provide assistance and advice on the
4 program of the council;

5 D. monitor capital planning and financing by health-
6 care providers and take testimony from officials on capital and
7 financing needs of health-care providers;

8 E. provide advice and assistance to the council and
9 cooperate with the executive branch of state government and
10 health-care providers on planning and financing of health-care
11 projects;

12 F. undertake an ongoing examination of the statutes,
13 regulations and court decisions governing capital and financing
14 needs for health-care providers in New Mexico; and

15 G. report its findings and recommendations, including
16 recommended legislation or necessary changes, to the governor
17 and to each session of the legislature. The report and any
18 proposed legislation shall be made available on or before
19 December 15 each year. "

20 Section 35. TEMPORARY PROVISION--CONTINUATION OF BOARD.--
21 Members of the board of directors of the New Mexico hospital
22 equipment loan council for the performance of essential public
23 functions appointed prior to the effective date of the Health
24 Care Finance Act shall continue to serve as appointed members of
25 the board of the New Mexico health care finance council, until

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1 their terms expire and their successors are appointed and
2 qualified pursuant to the provisions of the Health Care Finance
3 Act. All existing contracts, agreements and outstanding bonds
4 of the New Mexico hospital equipment loan council for the
5 performance of essential public functions in effect on the
6 effective date of the Health Care Finance Act shall continue in
7 effect under the provisions of the Health Care Finance Act and
8 shall be assumed by the New Mexico health care finance council.

9 Section 36. EMERGENCY.--It is necessary for the public
10 peace, health and safety that this act take effect immediately.

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FORTY-THIRD LEGISLATURE

FIRST SESSION, 1997

SB 906/a

March 16, 1997

Mr. President:

Your PUBLIC AFFAIRS COMMITTEE, to whom has been referred

SENATE BILL 906

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

1. On page 44, line 10, strike "is" and insert in lieu thereof "may be".,

and thence referred to the CORPORATIONS & TRANSPORTATION COMMITTEE.

Respectfully submitted,

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Shannon Robinson, Chairman

Adopted _____ Not Adopted _____
(Chief Clerk) (Chief Clerk)

Date _____

The roll call vote was 6 For 0 Against

Yes: 6

No: 0

Excused: Adair, Boitano, Vernon

Absent: None

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1 FORTY-THIRD LEGISLATURE

2 FIRST SESSION, 1997

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4
5
6 March 18, 1997

7
8 Mr. President:

9
10 Your CORPORATIONS & TRANSPORTATION COMMITTEE, to
11 whom has been referred

12
13 SENATE BILL 906, as amended

14
15 has had it under consideration and reports same with
16 recommendation that it DO PASS.

17
18 Respectfully submitted,

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23 _____
24 Roman M. Maes, III, Chairman
25

Adopted _____ Not Adopted _____
(Chief Clerk) (Chief Clerk)

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Date _____

The roll call vote was 7 For 0 Against

Yes: 7

No: 0

Excused: Fidel, Howes, Robinson

Absent: None

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