

AN ACT

RELATING TO PUBLIC SECURITIES; AMENDING SECTIONS OF THE NMSA
1978.

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

Section 1. Section 6-14-2 NMSA 1978 (being Laws 1970,
Chapter 10, Section 2, as amended) is amended to read:

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

A. "net effective interest rate" means the
interest rate of public securities, compounded semiannually,
necessary to discount the scheduled debt service payments of
principal and interest to the date of the public securities
and to the price paid to the public body for the public
securities, excluding any interest accrued to the date of
delivery and based upon a year with the same number of days
as the number of days for which interest is computed on the
public securities;

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

C. "public securities" means any bonds, notes,
warrants or other obligations now or hereafter authorized to

be issued by any public body pursuant to the provisions of any general or special law enacted by the legislature, but does not include bonds, notes, warrants or other obligations issued pursuant to:

- (1) the Industrial Revenue Bond Act;
- (2) the County Improvement District Act;
- (3) Sections 3-33-1 through 3-33-43 NMSA 1978;
- (4) the Pollution Control Revenue Bond Act;
- (5) the County Pollution Control Revenue Bond Act;
- (6) the County Industrial Revenue Bond Act;
- (7) the Metropolitan Redevelopment Code;
- (8) the Supplemental Municipal Gross Receipts Tax Act;
- (9) the Hospital Equipment Loan Act; or
- (10) the New Mexico Finance Authority Act."

Section 2. Section 6-15-5 NMSA 1978 (being Laws 1929, Chapter 201, Section 3, as amended) is amended to read:

"6-15-5. SALE OF BONDS.--

A. Before any bonds issued by a municipal corporation are offered for public sale, the corporate authorities issuing the bonds shall designate the maximum net effective interest rate the bonds shall bear, which shall not exceed the maximum permitted by the Public Securities Act.

All the bonds shall be sold at public sale.

B. A notice calling for bids for the purchase of the bonds shall be published once at least one week prior to the date of the sale in a newspaper having local circulation. The notice shall specify a place and designate a day and hour subsequent to the date of the publication when bids shall be received and publicly opened for the purchase of the bonds. The notice shall specify the maximum net effective interest rate permitted for the bonds and the maximum discount if a discount is allowed by the governing body and shall require bidders to submit a bid specifying the lowest rate of interest and any premium or discount if allowed by the governing body at, above or below par at which the bidder will purchase the bonds. The bonds shall be sold to the responsible bidder making the best bid determined by the municipal corporation as set forth in the notice, subject to the right of the governing body to reject any and all bids and readvertise. All bids shall be sealed or sent by facsimile or other electronic transmission to the municipal corporation as set forth in the notice. Except for the bid of the state of New Mexico or the United States, if one is received, all bids shall be accompanied by a deposit of not less than two percent of the principal amount of the bonds, either in the form of a financial security bond or in cash or by cashier's or treasurer's check of, or by certified check

drawn on, a solvent commercial bank or trust company in the United States, which deposit shall be returned if the bid is not accepted. The financial surety bond or the long-term debt obligations of the issuer or person guarantying the obligations of the issuer of the financial surety bond shall be rated in one of the top two rating categories of a nationally recognized rating agency, without regard to any modification of the rating, and the financial surety bond must be issued by an insurance company licensed to issue such a bond in New Mexico. If the successful bidder does not complete the purchase of the bonds within thirty days following the acceptance of his bid or within ten days after the bonds are made ready and are offered by the municipal corporation for delivery, whichever is later, the amount of his deposit shall be forfeited to the municipal corporation issuing the bonds, and, in that event, the governing body may accept the bid of the bidder making the next best bid. If all bids are rejected, the governing body may readvertise the bonds for sale in the same manner as for the original advertisement or sell the bonds at private sale to the state of New Mexico or the United States. If there are two or more equal bids and the bids are the best bids received, the governing body shall determine which bid shall be accepted.

B. Except as provided in this section, bonds to be issued by a municipal corporation for various purposes may

be sold and issued as a single combined issue even though they may have been authorized by separate votes at an election or elections. Bonds authorized by any city, town or village for the construction or purchase of a system for supplying water, a sanitary sewer system or a storm sewer system may be combined with each other and sold and issued as a single issue but may not be combined with bonds to be issued for any other purpose that may be subject to the debt limitation of Article 9, Section 13 of the constitution of New Mexico."

Section 3. Section 6-15-9 NMSA 1978 (being Laws 1933, Chapter 114, Section 1, as amended) is amended to read:

"6-15-9. BONDS AUTHORIZED AT ELECTION--TIME LIMIT ON ISSUANCE--EXCEPTIONS.--No bonds shall be issued or sold by any school district, county or municipality after the expiration of three years from the date of the election authorizing the issue, except for the purpose of refunding previous bond issues or in payment of judgments or if the issuance of the bonds has been authorized at a regular election for officers of any such school district, county or municipality or, where authorized by statute, at a special election held for that purpose. The bonds may be sold to the United States or to the state of New Mexico in any case in which the state of New Mexico or the United States has made an offer to purchase the bonds and the offer was accepted

prior to the expiration of the three-year period. Any period of time when the validity of bonds or the election therefor is in litigation shall be excluded from the three-year period."

Section 4. Section 6-15-10 NMSA 1978 (being Laws 1933, Chapter 114, Section 2, as amended) is amended to read:

"6-15-10. UNISSUED BONDS AUTHORIZED AT ELECTION--WHEN VOID--EXCEPTIONS.--In all cases where bond issues by the school districts, counties or municipalities have been authorized by special election and the bonds have not been issued and sold within three years from the date of the special election authorizing the proposed issue, the proposed bond issue is void, except where issued for refunding bonded debt or for payment of judgments against the district, county or municipality and, except where the issuance of the bonds has been authorized at a regular election for officers of any school district, county or municipality or, where authorized by statute, at a special election held for those purposes. Such bonds may be sold to the United States or to the state of New Mexico at private sale in any case in which the state of New Mexico or the United States has made an offer to purchase the bonds and the offer was accepted prior to the expiration of the three-year period."

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

"6-18-6. SHORT-TERM BONDS.--A public body may authorize short-term bonds which provide for any or all of the following in or pursuant to the bond legislation:

A. principal maturities may be for any one or more periods of two years or less from the respective dates of issuance;

B. interest may be payable on any one or more dates, or at principal maturity;

C. interest may but need not be represented by coupons;

D. the bonds may be in coupon form, in form registered as to principal or registered as to both principal and interest, or in book entry form, and provision may be made for exchange of one form for another;

E. the bonds may be in form with stated interest or in discount form without stated interest, or a combination thereof;

F. the bond legislation may provide for the renewal or refunding of such bonds, at or before maturity, by the issuance or successive issuance of renewal or refunding bonds under that bond legislation without necessity for further act by the governing body, provided that the maturities of such renewal or refunding bonds shall not exceed two years from their respective dates of issuance. In the bond legislation approved by the governing body, the

governing body may authorize or direct one or more officers of the public body to:

(1) fix the interest rate or rates for each issue of bonds and renewal or refunding issues, subject to a maximum rate or rates as a stated interest rate or net effective interest rate, which maximum shall be set forth in such bond legislation or determined from time to time in accordance with a formula, index, data or procedure as provided for in the bond legislation, provided that, whether or not such a formula, index, data or procedure is provided for, bond legislation with respect to indebtedness shall set forth stated maximums of net effective interest rates;

(2) determine the discount for bonds with stated interest and for bonds without stated interest, subject to any limitations thereon provided in the bond legislation;

(3) fix the date of such bonds, which may be stated in such bond legislation as the date or dates of issue and which may be a date on or before the respective date or dates of issuance;

(4) fix the maturity date or dates of such bonds, which shall be within minimum and maximum periods described in such bond legislation; and

(5) designate the denomination of such bonds, subject to minimums and integral multiples of stated

amounts provided in such bond legislation;

G. the public body may contract with agents or trustees for services in connection with the issuance, transfer, exchange, registration, record keeping for and the payment of such bonds and matters incidental thereto, and the public body has authority to act under such contracts.

Without limiting the generality of the preceding sentence, such contracts may provide:

(1) for the maintenance of a supply of bond forms with the agent or trustee, which forms bear the facsimile of all signatures of officers of the public body necessary for the purpose and, if applicable, the facsimile of the seal of the public body, contain blanks as to owner, date, maturity, denomination, interest rates and original issue discount as appropriate, and provide a form of authentication by the agent or trustee upon issuance;

(2) for the officer or officers of the public body, authorized by the governing body to do so, to direct the agent or trustee with respect to the completion of such blanks and the delivery of the bonds, by oral, electronic or written communication prior to the authentication and delivery of such bonds, and that any such oral or electronic communication thereafter shall be confirmed in writing; and

(3) for the establishment with the agent or

trustee of funds, in trust, for payment of the principal of and interest on the bonds and for payments by and on behalf of the public body into such funds, including payments thereto from the proceeds of renewal or refunding bonds;

H. the public body may contract with banks or investment bankers, or others with appropriate capabilities, to provide services, which may be on an exclusive basis, in the placement of the bonds with purchasers, or to purchase the bonds, or both, which contract may provide for all matters incidental thereto and may be a negotiated contract;

I. the public body may covenant, in the bond legislation, to the holders or owners of the bonds and to the trustee, if any, for the benefit of such holders and owners, that it will issue bonds to renew, or fund or refund, the bonds and any accrued interest thereon, at or before maturity to the extent not provided for from money otherwise available for the purpose. In addition to other reductions permitted in the levy of property taxes for principal or interest on indebtedness, reduction may be made to the extent that principal or interest thereon is to be covered by the proceeds of refunding or renewal bonds;

J. in addition to the authority to issue bonds for such purposes under the Public Securities Short-Term Interest Rate Act, the public body may, to the extent not prohibited by the bond legislation, retire or provide for the

payment at any time of the bonds authorized under that act by the issuance of bonds under authority of any other law consistent with the maturities and other terms authorized by such laws and without impediment or other effect thereunder by reason of previously having issued the bonds under the Public Securities Short-Term Interest Rate Act, except as stated in Subsection B of Section 6-18-10 NMSA 1978; and

K. the provisions of Section 6-18-7 NMSA 1978 may be used with respect to any bonds issued pursuant to this section."
