

AN ACT

RELATING TO PUBLIC BUILDINGS; AUTHORIZING THE ACQUISITION OF STATE OFFICE BUILDINGS; ENACTING THE STATE OFFICE BUILDING ACQUISITION BONDING ACT; CREATING A SPECIAL FUND CONSISTING OF GROSS RECEIPTS TAX DISTRIBUTIONS; AUTHORIZING THE NEW MEXICO FINANCE AUTHORITY TO ISSUE STATE OFFICE BUILDING TAX REVENUE BONDS; MAKING AN APPROPRIATION.

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

Section 1. SHORT TITLE. -- Sections 1 through 11 of this act may be cited as the "State Office Building Acquisition Bonding Act".

Section 2. FINDINGS AND PURPOSE. --

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

B. The purpose of the State Office Building Acquisition Bonding Act is to acquire additional state office buildings by issuing bonds paid for with distributions from a special fund composed of distributions of gross receipts tax revenue that reflect a portion of the savings that are expected from the conversion to more state-owned facilities.

Section 3. DEFINITION. --As used in the State Office Building Acquisition Bonding Act, "acquiring" or "acquisition" includes acquiring or acquisition by purchase, construction or renovation.

Section 4. NEW MEXICO FINANCE AUTHORITY SHALL ISSUE STATE OFFICE BUILDING TAX REVENUE BONDS--APPROPRIATION OF PROCEEDS. --

A. The New Mexico finance authority is authorized to issue and sell revenue bonds, known as "state office building tax revenue bonds", payable solely from the state office building bonding fund, in compliance with the State Office Building Acquisition Bonding Act for the purpose of acquiring state office buildings when the acquisition is authorized by legislative act and the director of the property control division of the general services department certifies the need for the issuance of the bonds.

B. The net proceeds from the state office building tax revenue bonds are appropriated to the property control division of the general services department for the

purpose of acquiring state office buildings, the acquisition of which shall be consistent with the purpose of the State Office Building Acquisition Bonding Act and the authorizing legislation.

Section 5. STATE OFFICE BUILDING BONDING FUND CREATED--  
-MONEY IN THE FUND PLEDGED. --

A. The "state office building bonding fund" is created as a special fund within the New Mexico finance authority. The fund shall be administered by the New Mexico finance authority as a special account. The fund shall consist of money appropriated and transferred to the fund and gross receipts tax revenues distributed to the fund by law. Earnings of the fund shall be credited to the fund. Balances in the fund at the end of any fiscal year shall remain in the fund, except as provided in this section.

B. Money in the state office building bonding fund is pledged for the payment of principal and interest on all state office building tax revenue bonds issued pursuant to the State Office Building Acquisition Bonding Act. Money in the fund is appropriated to the New Mexico finance authority for the purpose of paying debt service, including redemption premiums, on the state office building tax revenue bonds and the expenses incurred in the issuance, payment and administration of the bonds.

C. On the last day of January and July of each year, the New Mexico finance authority shall estimate the

amount needed to make debt service and other payments during the next twelve months from the state office building bonding fund on the state office building tax revenue bonds issued pursuant to the State Office Building Acquisition Bonding Act plus the amount that may be needed for any required reserves. The New Mexico finance authority shall transfer to the general fund any balance in the state office building bonding fund above the estimated amounts.

D. Any balance remaining in the state office building bonding fund shall be transferred to the general fund upon certification by the New Mexico finance authority that:

(1) the director of the property control division of the general services department and the New Mexico finance authority have agreed that the state office building tax revenue bonds issued pursuant to the State Office Building Acquisition Bonding Act have been retired, that no additional obligations of the state office building bonding fund exist and that no additional expenditures from the fund are necessary; or

(2) a court of jurisdiction has ruled that the state office building tax revenue bonds have been retired, that no additional obligations of the state office building bonding fund exist and that no additional expenditures from the fund are necessary.

E. The state office building tax revenue bonds

issued pursuant to the State Office Building Acquisition Bonding Act shall be payable solely from the state office building bonding fund or, with the approval of the bond holders, such other special funds as may be provided by law and do not create an obligation or indebtedness of the state within the meaning of any constitutional provision. No breach of any contractual obligation incurred pursuant to that act shall impose a pecuniary liability or a charge upon the general credit or taxing power of the state, and the bonds are not general obligations for which the state's full faith and credit is pledged.

F. The state does hereby pledge that the state office building bonding fund shall be used only for the purposes specified in this section and pledged first to pay the debt service on the state office building tax revenue bonds issued pursuant to the State Office Building Acquisition Bonding Act. The state further pledges that any law authorizing the distribution of taxes or other revenues to the state office building bonding fund or authorizing expenditures from the fund shall not be amended or repealed or otherwise modified so as to impair the bonds to which the state office building bonding fund is dedicated as provided in this section.

Section 6. AUTHORITY TO REFUND BONDS. --The New Mexico finance authority may issue and sell at public or private sale state office building tax revenue bonds to refund

outstanding state office building tax revenue bonds by exchange, immediate or prospective redemption, cancellation or escrow, including the escrow of debt service funds accumulated for payment of outstanding bonds, or any combination thereof when, in its opinion, such action will be beneficial to the state.

Section 7. STATE OFFICE BUILDING TAX REVENUE BONDS--  
FORM - EXECUTION. --

A. The New Mexico finance authority, except as otherwise specifically provided in the State Office Building Acquisition Bonding Act, shall determine at its discretion the terms, covenants and conditions of state office building tax revenue bonds, including, but not limited to, date of issue, denominations, maturities, rate or rates of interest, call features, call premiums, registration, refundability and other covenants covering the general and technical aspects of the issuance of the bonds.

B. The state office building tax revenue bonds shall be in such form as the New Mexico finance authority may determine, and successive issues shall be identified by alphabetical, numerical or other proper series designation.

C. State office building tax revenue bonds shall be signed and attested by the secretary of the New Mexico finance authority and shall be executed with the facsimile signature of the chairman of the New Mexico finance authority and the facsimile seal of the New Mexico finance

authority, except for bonds issued in book entry or similar form without the delivery of physical securities. Any interest coupons attached to the bonds shall bear the facsimile signature of the secretary of the New Mexico finance authority, which officer, by the execution of the bonds, shall adopt as his own signature the facsimile thereof appearing on the coupons. Except for bonds issued in book entry or similar form without the delivery of physical securities, the Uniform Facsimile Signature of Public Officials Act shall apply, and the New Mexico finance authority shall determine the manual signature to be affixed on the bonds.

Section 8. PROCEDURE FOR SALE OF BONDS. --

A. State office building tax revenue bonds shall be sold by the New Mexico finance authority at such times and in such manner as the authority may elect, consistent with the need of the property control division of the general services department, either at private sale for a negotiated price or to the highest bidder at public sale for cash at not less than par and accrued interest.

B. In connection with any public sale of state office building tax revenue bonds, the New Mexico finance authority shall publish a notice of the time and place of sale in a newspaper of general circulation in the state and also in a recognized financial journal outside the state. Such publication shall be made once each week for two

consecutive weeks prior to the date fixed for such sale, the last publication to be two business days prior to the date of sale. Such notice shall specify the amount, denomination, maturity and description of the bonds to be offered for sale and the place, day and hour at which sealed bids therefor shall be received. All bids, except that of the state, shall be accompanied by a deposit of two percent of the principal amount of the bonds. Deposits of unsuccessful bidders shall be returned upon rejection of the bid. At the time and place specified in such notice, the New Mexico finance authority shall open the bids in public and shall award the bonds, or any part thereof, to the bidder or bidders offering the best price. The New Mexico finance authority may reject any or all bids and readvertise.

C. The New Mexico finance authority may sell a state office building tax revenue bond issue, or any part thereof, to the state or to one or more investment bankers or institutional investors at private sale.

Section 9. STATE OFFICE BUILDING ACQUISITION BONDING ACT IS FULL AUTHORITY FOR ISSUANCE OF BONDS--BONDS ARE LEGAL INVESTMENTS. --

A. The State Office Building Acquisition Bonding Act shall, without reference to any other act of the legislature, be full authority for the issuance and sale of state office building tax revenue bonds, which bonds shall

have all the qualities of investment securities under the Uniform Commercial Code and shall not be invalid for any irregularity or defect or be contestable in the hands of bona fide purchasers or holders thereof for value.

B. State office building tax revenue bonds are legal investments for any person or board charged with the investment of any public funds and are acceptable as security for any deposit of public money.

Section 10. SUIT MAY BE BROUGHT TO COMPEL PERFORMANCE OF OFFICERS. -- Any holder of state office building tax revenue bonds or any person or officer being a party in interest may sue to enforce and compel the performance of the provisions of the State Office Building Acquisition Bonding Act.

Section 11. BONDS TAX EXEMPT. -- All state office building tax revenue bonds shall be exempt from taxation by the state or any of its political subdivisions.

Section 12. A new section of the Tax Administration Act is enacted to read:

"DISTRIBUTION--STATE OFFICE BUILDING BONDING FUND--GROSS RECEIPTS TAX. -- A distribution pursuant to Section 7-1-6.1 NMSA 1978 shall be made to the state office building bonding fund in the amount of five hundred thousand dollars (\$500,000) from the net receipts attributable to the gross receipts tax imposed by the Gross Receipts and Compensating Tax Act. The distribution shall be made:

A. after the required distribution pursuant to Section 7-1-6.4 NMSA 1978;

B. contemporaneously with other distributions of net receipts attributable to the gross receipts tax for payment of debt service on outstanding bonds or to a fund dedicated for that purpose; and

C. prior to any other distribution of net receipts attributable to the gross receipts tax. "

Section 13. EFFECTIVE DATE. --The effective date of the provisions of this act is July 1, 2001. \_\_\_\_\_