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SENATE BILL 342

45TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2001

INTRODUCED BY

Ben D. Altamirano

AN ACT

RELATING TO HEALTH CARE; AMENDING CERTAIN SECTIONS OF THE NMSA 1978 PERTAINING TO FINANCING OPPORTUNITIES FOR HEALTH CARE PROVIDERS; 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~~] HEALTHCARE FINANCE COUNCIL- - AUTHORITY- - SECURITY- - RESTRICTIONS AND LIMITATIONS [~~AND OTHER DETAILS~~]. - -

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~~] healthcare finance council created under the [~~Hospital~~

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

9 B. The board of trustees of a special hospital
10 district entering into agreement with the New Mexico ~~[hospital~~
11 ~~equipment loan]~~ healthcare 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
15 of a hospital facility for the payment of rentals, principal
16 and interest and any other amount or obligation required under
17 the lease, loan or other financing agreement with the ~~[New~~
18 ~~Mexico 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,
21 loan or other financing agreement with the New Mexico
22 ~~[hospital equipment loan]~~ healthcare finance council as
23 authorized in this section, the board of trustees may adopt a
24 resolution declaring the necessity for entering into the
25 lease, loan or other financing agreement with the ~~[New Mexico~~

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

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

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1 limitation and shall never constitute or give rise to a
2 pecuniary liability or charge against the general credit or
3 taxing power of the special hospital district or the county or
4 counties in which the special hospital district is located [~~or~~
5 ~~charge against its general credit or taxing power~~].

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

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

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1 and the rights and remedies available in event of default to
2 the New Mexico [~~hospital equipment loan~~] healthcare finance
3 council under a mortgage, all as the board of trustees shall
4 deem advisable and as shall not conflict with the provisions
5 of the Special Hospital District Act.

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

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

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

18 A. A county or counties agreeing jointly under
19 Section 4-48B-9 NMSA 1978, [~~and~~] a county or counties entering
20 into an agreement with a municipality under Section 4-48B-9
21 NMSA 1978, or a hospital governing board appointed pursuant to
22 Section 4-48B-10 NMSA 1978 may enter into a lease, loan or
23 other financing agreement, with a term not exceeding thirty
24 years from the date of execution, with the New Mexico
25 [~~hospital equipment loan~~] healthcare finance council created

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1 under the [~~Hospital Equipment Loan~~] Healthcare Finance Act to
2 acquire funds for [~~the construction, purchase, renovation,~~
3 ~~remodeling, equipping, reequipping or refinancing of a county~~
4 ~~hospital or a jointly owned county-municipal hospital, for~~
5 ~~purchasing the land necessary therefor~~] a health-related
6 project, as defined in the act, and for refunding revenue
7 bonds previously issued for [~~any of the foregoing purposes~~]
8 such project or for any combination thereof.

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

21 C. At a regular or special meeting called for the
22 purpose of approving the execution and delivery of a lease,
23 loan or other financing agreement with the New Mexico
24 [~~hospital equipment loan~~] healthcare finance council as
25 authorized in this section, the county or hospital governing

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

12 D. The rentals, principal and interest and any
13 other amounts and obligations owed under a lease, loan or
14 other financing agreement with the New Mexico [~~hospital~~
15 ~~equipment loan~~] healthcare finance council shall be payable
16 solely out of all or a portion of the revenues derived from
17 the ownership and operation of a county hospital or jointly
18 owned county-municipal hospital and revenues derived from the
19 leasing of or other contractual arrangement for the operation
20 of a county hospital or jointly owned county-municipal
21 hospital [~~for which the lease, loan or other financing~~
22 ~~agreement with the New Mexico hospital equipment loan council~~
23 ~~is entered into~~]. The amount and obligations under a lease,
24 loan or other financing agreement with the [~~New Mexico~~
25 ~~hospital equipment loan~~] council entered into under the

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1 authority of the Hospital Funding Act shall never constitute
2 an indebtedness of a county or municipality within the meaning
3 of any state constitutional provision or statutory limitation
4 and shall never constitute or give rise to a pecuniary
5 liability or charge against the general credit or taxing power
6 of the county [~~or charge against its general credit or taxing~~
7 ~~power~~] or municipality.

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

18 F. The resolution or proceedings under which the
19 lease, loan or other financing agreement are authorized to be
20 entered into or any mortgage relating thereto may contain any
21 agreement and provisions customarily contained in instruments
22 securing leases, loans or other financing arrangements,
23 including, without limiting the generality of the foregoing,
24 provisions respecting the designation and collection of the
25 revenues from the county hospital or jointly owned

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1 county- municipal hospital covered by such proceedings or
2 mortgage, the maintenance and insurance of those hospitals,
3 the creation and maintenance of special funds derived from the
4 revenues relating to such hospital and the rights and remedies
5 available in event of default to the New Mexico [~~hospital~~
6 ~~equipment loan~~] healthcare finance council under a mortgage,
7 all as the hospital governing board may deem advisable. The
8 resolution or proceedings authorizing any lease, loan or other
9 financing agreement and any mortgage securing those
10 obligations may provide the procedure and remedies in the
11 event of default and the payment of the rentals, principal and
12 interest or other amounts and obligations thereunder or in the
13 performance of any agreement. No breach of any agreement
14 shall impose any pecuniary liability upon a county or
15 municipality or charge against its general credit or taxing
16 power.

17 G. No notice, consent or approval by any
18 governmental body, ~~commission~~ or public officer shall be
19 required as a prerequisite to the entering into of a lease,
20 loan or other financing agreement with the New Mexico
21 [~~hospital equipment loan~~] healthcare finance council or the
22 making of a mortgage under the authority of the Hospital
23 Funding Act, except as provided in this section. "

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

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1 "6-10-10.1. SHORT-TERM INVESTMENT FUND CREATED--
2 DISTRIBUTION OF EARNINGS--REPORT OF INVESTMENTS.--

3 A. There is created in the state treasury the
4 "short-term investment fund". The fund shall consist of all
5 deposits from governmental entities and Indian tribes or
6 pueblos that are placed in the custody of the state treasurer
7 for short-term investment purposes pursuant to this section.
8 The state treasurer shall maintain a separate account for each
9 governmental entity and Indian tribe or pueblo having deposits
10 in the fund.

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

22 C. Before any local funds are invested or
23 reinvested for the purpose of short-term investment pursuant
24 to this section, the local public body finance official shall
25 notify and make such funds available to banks, savings and

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1 loan associations and credit unions located within the
2 geographical boundaries of their respective governmental unit,
3 subject to the limitation on credit union accounts. To be
4 eligible for such funds, the financial institution shall pay
5 to the local public body the rate established by the state
6 treasurer pursuant to a policy adopted by the state board of
7 finance for such short-term investments.

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

15 E. The state treasurer shall invest the fund as
16 provided for state funds under Section 6-10-10 NMSA 1978 and
17 may elect to have the short-term investment fund consolidated
18 for investment purposes with the state funds under the control
19 of the state treasurer; provided that accurate and detailed
20 accounting records are maintained for the account of each
21 participating entity and Indian tribe or pueblo and that a
22 proportionate amount of interest earned is credited to each of
23 the separate government accounts. The state treasurer may
24 invest a portion of the funds in banks, savings and loan
25 associations or credit unions subject to the requirements of

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1 this section. The fund shall be invested to achieve its
2 objective, which is to realize the maximum return consistent
3 with safe and prudent management.

4 F. At the end of each month, all interest earned
5 from investment of the short-term investment fund shall be
6 distributed by the state treasurer to the contributing
7 entities and Indian tribes or pueblos in amounts directly
8 proportionate to the respective amounts deposited in the fund
9 and the length of time the amounts in the fund were invested.
10 The state treasurer shall charge participating entities,
11 Indian tribes and pueblos a fee of five basis points for the
12 investment services provided pursuant to this section.

13 G. As used in this section:

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

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

18 H. In addition to the deposit of funds of local
19 public bodies, the state treasurer may also accept for
20 deposit, deposit and account for, in the same manner as funds
21 of local public bodies, funds of the following governmental
22 entities if the governing authority of the entity approves by
23 resolution the deposit of the funds for the short-term
24 investment:

25 (1) the agricultural commodity commission

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1 established under the Agricultural Commodity Commission Act;

2 (2) the Albuquerque metropolitan arroyo flood
3 control authority established under the Arroyo Flood Control
4 Act;

5 (3) the business improvement district
6 management committee established under the Business
7 Improvement District Act;

8 (4) the New Mexico community [~~assistance~~]
9 development council established under the New Mexico Community
10 Assistance Act;

11 (5) the governing authority of only special
12 districts authorized under Chapter 73 NMSA 1978;

13 (6) the board of trustees established under
14 the Economic Advancement District Act;

15 (7) the board of directors of a corporation
16 or foundation established under the Educational Assistance
17 Act;

18 (8) a board of directors established under
19 the Flood Control District Act;

20 (9) the New Mexico [~~hospital equipment loan~~]
21 healthcare finance council established under the [~~Hospital~~
22 ~~Equipment Loan~~] Healthcare Finance Act;

23 (10) the authority established under the
24 Industrial and Agricultural Finance Authority Act;

25 (11) the authority established under the Las

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1 Cruces Arroyo Flood Control Act;

2 (12) the authority established under the
3 Mortgage Finance Authority Act;

4 (13) the authority established under the
5 Municipal Mortgage Finance Act;

6 (14) the authority established under the
7 Public School Insurance Authority Act;

8 (15) the authority established under the
9 Southern Sandoval County Arroyo Flood Control Act;

10 (16) a board of trustees established under
11 the Special Hospital District Act; and

12 (17) the authority established under the
13 New Mexico Finance Authority Act.

14 I. In addition to the deposit of funds of local
15 public bodies, the state treasurer may also accept for deposit
16 and deposit and account for, in the same manner as funds of
17 local public bodies, funds of any Indian tribe or pueblo in
18 the state if authorized to do so under a joint powers
19 agreement executed by the state treasurer and the governing
20 authority of the Indian tribe or pueblo under the provisions
21 of the Joint Powers Agreements Act. "

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

24 "6-14-2. DEFINITIONS.--As used in the Public Securities
25 Act:

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1 A. "net effective interest rate" means the
2 interest rate of public securities, compounded semi annually,
3 necessary to discount the scheduled debt service payments of
4 principal and interest to the date of the public securities
5 and to the price paid to the public body for the public
6 securities, excluding any interest accrued to the date of
7 delivery and based upon a year with the same number of days as
8 the number of days for which interest is computed on the
9 public securities;

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

15 C. "public securities" means any bonds, notes,
16 warrants or other obligations now or hereafter authorized to
17 be issued by any public body pursuant to the provisions of any
18 general or special law enacted by the legislature, but does
19 not include bonds, notes, warrants or other obligations issued
20 pursuant to:

- 21 (1) the Industrial Revenue Bond Act;
22 (2) the County Improvement District Act;
23 (3) Sections 3-33-1 through 3-33-43 NMSA
24 1978;
25 (4) the Pollution Control Revenue Bond Act;

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1 (5) the County Pollution Control Revenue Bond
2 Act;

3 (6) the County Industrial Revenue Bond Act;

4 (7) the Metropolitan Redevelopment Code;

5 (8) the Supplemental Municipal Gross Receipts
6 Tax Act;

7 (9) the [~~Hospital Equipment Loan~~] Healthcare
8 Finance Act; or

9 (10) the New Mexico Finance Authority Act. "

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

12 "6-18-4. DEFINITIONS. --As used in the Public Securities
13 Short-Term Interest Rate Act, unless the context otherwise
14 requires:

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

20 B. "governing body" means the city council or
21 other body or officer of a public body in which the
22 legislative powers are vested;

23 C. "indebtedness" means any debt evidenced by a
24 bond issued by a public body pursuant to any law of this state
25 that constitutes a debt for the purposes of Section 12 or 13

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1 of Article 9 of the constitution of New Mexico and the
2 issuance of which must be submitted to a vote of the qualified
3 electors of the public body pursuant to those sections and any
4 bond issued for the purpose of paying or refunding any such
5 bond;

6 D. "bond legislation" means an ordinance or a
7 resolution or other appropriate enactment adopted by a
8 governing body [~~of a public body~~] providing for the
9 authorization or sale of bonds and any trust agreement, credit
10 agreement, letter of credit, reimbursement agreement or other
11 credit facility, dealer agreement, issuing or paying agent
12 agreement, purchase commitment agreement, escrow agreement,
13 remarketing agreement, index agent agreement or other
14 agreement with respect to the bonds to which the public body
15 or trustee for the bonds is a party; and

16 E. "public body" means any municipality, any
17 county, any school district, any special district, any H class
18 county [~~located in New Mexico~~], the New Mexico [~~hospital~~
19 ~~equipment loan~~] healthcare finance council, state institutions
20 enumerated in Section 6-13-2 NMSA 1978, the water quality
21 control commission, the state board of finance, the New Mexico
22 finance authority or the state. "

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

25 "58-23-1. SHORT TITLE. -- Chapter 58, Article 23 NMSA 1978

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1 may be cited as the [~~"Hospital Equipment Loan Act"~~]
2 "Healthcare Finance Act". "

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

5 "58-23-2. LEGISLATIVE FINDINGS. -- The legislature finds
6 that:

7 A. the delivery of high-quality community-based
8 health care in New Mexico has in recent years become
9 increasingly dependent upon [~~sophisticated equipment~~] creative
10 and innovative solutions to assist in delivery of health care
11 at a time when the [~~acquisition and~~] means for financing [~~of~~
12 ~~equipment by health care providers has~~] and administering
13 solutions to assist in delivery of health care have become
14 increasingly expensive and complicated;

15 B. the increased costs of [~~financing modern~~
16 ~~equipment~~] delivery of high-quality community-based health
17 care by New Mexico health care providers is necessarily passed
18 on to patients receiving [~~medical~~] care from the health care
19 providers, resulting in higher medical bills, increased health
20 insurance premiums and higher medicare and medicaid payments;

21 C. the problems relating to the delivery of health
22 care cannot be remedied solely through the operation of
23 private enterprise or efforts by individual communities, but
24 can be alleviated through the creation of a program to
25 facilitate and enable the investment of private capital and

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1 the allocation of public capital for the purpose of financing
2 [~~health-related equipment at interest rates lower than those~~
3 ~~available in the conventional credit markets]~~ health care
4 support facilities and services;

5 D. the creation of a program to coordinate and
6 cooperate with health care providers and local communities is
7 essential to alleviating the problematic conditions relating
8 to the provision of health care and is in the public interest;
9 and

10 E. alleviating these conditions by the
11 encouragement of private investment is a public purpose and a
12 beneficial use for which money provided by the sale of revenue
13 bonds may be borrowed, expended, advanced, loaned and
14 granted. "

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

17 "58-23-3. DEFINITIONS. --As used in the [~~Hospital~~
18 ~~Equipment Loan]~~ Healthcare Finance Act:

19 A. "board" means the board of directors of the
20 council;

21 B. "bonds" means bonds, notes, interim
22 certificates, bond anticipation notes or other evidences of
23 indebtedness of the council issued pursuant to the [~~Hospital~~
24 ~~Equipment Loan]~~ Healthcare Finance Act, including refunding
25 bonds;

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

5 (1) all direct or indirect costs of the
6 acquisition, including repair, restoration, reconditioning,
7 financing and refinancing or installation of the health-
8 related [~~equipment~~] project;

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

12 (3) the cost of architectural, engineering,
13 planning, drafting, legal and any incidental or related
14 services necessary for acquisition or installation of the
15 health-related [~~equipment~~] project;

16 (4) the cost of all financing charges and
17 interest accrued prior to the acquisition or refinancing of
18 the health-related [~~equipment~~] project for a maximum of two
19 years after or prior to such acquisition or refinancing;

20 (5) all direct and indirect costs incurred in
21 connection with [~~the financing of~~] the health-related
22 [~~equipment~~] project, including out-of-pocket expenses; the
23 cost of financing; legal, accounting, financial, advisory and
24 consulting expenses; the cost of any policy of insurance; the
25 cost of printing, engraving and reproduction services; and

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1 costs associated with any trust indenture; and

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

6 D. "council" means the New Mexico ~~[hospital~~
7 ~~equipment loan]~~ healthcare finance council;

8 E. ~~["health facility" means any entity providing~~
9 ~~health-related services which is licensed by the health and~~
10 ~~environment department]~~ "health care provider" means any
11 person, licensed by the department of health, providing
12 health-related services, assisted living support or long-term
13 care and all customary and necessary supporting services or
14 any person providing health-related research and all customary
15 and necessary supporting services;

16 F. ~~["health-related equipment"]~~ "health-related
17 project" means any real or personal property, instrument,
18 service or operational necessity, ~~[which]~~ including working
19 capital, that is found and determined by the council to be
20 needed, directly or indirectly, for [medical] care, treatment
21 or research or [other equipment] as otherwise might be needed
22 ~~[to operate the health facility]~~ by a participating health
23 care provider;

24 G. ~~["participating health facility" means a public~~
25 ~~or private nonprofit or for profit corporation, association,~~

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1 ~~foundation, trust, cooperative, agency or other person or~~
2 ~~organization which operates or proposes to operate a health~~
3 ~~facility in New Mexico and] "participating health care~~
4 ~~provider" means a health care provider that~~ contracts with the
5 council for the financing or refinancing of [~~the lease or~~
6 ~~acquisition of health-related equipment] a health-related
7 project. Public, district, county, city, county-municipal or
8 other municipal hospitals and hospitals affiliated with an
9 institution of higher education in New Mexico [are] may be
10 participating health care [~~facilities]~~ providers; and~~

11 H. "program" means the New Mexico [~~hospital~~
12 ~~equipment loan]~~ healthcare finance program created by the
13 [~~Hospital Equipment Loan]~~ Healthcare Finance Act and
14 administered by the council. "

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

17 "58-23-4. ADDITIONAL DEFINITIONS. --As used in the
18 [~~Hospital Equipment Loan]~~ Healthcare Finance Act in connection
19 with refinancing, renewing, funding, refunding or paying any
20 bonds, "bonds" also means any bond, note, certificate or other
21 evidence of indebtedness previously issued or incurred by any
22 health [~~facility]~~ care provider, municipality, county, special
23 hospital district or other political subdivision to refinance,
24 finance or aid in financing [~~property]~~ a project that would
25 have constituted a health-related [~~equipment]~~ project had it

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1 been originally financed by the council. "

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

4 "58-23-5. COUNCIL--CREATED--MEMBERS--QUALIFICATIONS--
5 BOARD.--

6 A. There is created a public body politic and
7 corporate, separate and apart from the state, constituting a
8 governmental instrumentality to be known as the [~~"New Mexico
9 hospital equipment loan council"~~] "New Mexico healthcare
10 finance council" for the performance of essential public
11 functions.

12 B. The council shall be governed by a board of
13 directors consisting of five members. The governor, with the
14 advice and consent of the senate, shall appoint the members of
15 the board. The members shall serve at the pleasure of the
16 governor.

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

19 (1) two members shall be officers or
20 directors of financial institutions, investment banks or
21 brokerages located in New Mexico;

22 (2) two members shall be officers or
23 directors of a health [~~facility~~] care provider located in New
24 Mexico or health care providers practicing in New Mexico.

25 Such members shall have been employed for a total of five

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1 years as officers or directors of any health ~~[facility]~~ care
2 provider or practicing as a health care provider for a total
3 of five years;

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

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

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

18 Section 11. Section 58-23-6 NMSA 1978 (being Laws 1983,
19 Chapter 290, Section 6) is amended to read:

20 "58-23-6. COUNCIL--BOARD OF DIRECTORS--TERMS [~~AND~~
21 ~~CONDITIONS OF SERVICE]~~. -- [~~A.~~] The members of the board shall
22 be appointed for staggered terms of four or fewer years each
23 so that the term of at least one member expires on January 1
24 of each year. Each member shall hold office for the term of
25 his appointment and until his successor has been appointed and

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1 qualified. Any member is eligible for reappointment.

2 ~~[B. Each member of the board shall be removed for~~
3 ~~misfeasance, malfeasance or willful neglect of duty after~~
4 ~~reasonable notice and a public hearing, unless the same are~~
5 ~~expressly waived in writing.]"~~

6 Section 12. Section 58-23-7 NMSA 1978 (being Laws 1983,
7 Chapter 290, Section 7) is amended to read:

8 "58-23-7. BOARD--EXPENSES.--The members of the board
9 shall receive no compensation for their services but shall
10 receive reimbursement for actual and necessary expenses at the
11 same rate and basis as provided for nonsalaried public
12 officers in the Per Diem and Mileage Act. "

13 Section 13. Section 58-23-8 NMSA 1978 (being Laws 1983,
14 Chapter 290, Section 8) is amended to read:

15 "58-23-8. BOARD--QUORUM --A majority of the members of
16 the board then serving shall constitute a quorum for the
17 transaction of business. The affirmative vote of at least a
18 majority of a quorum present shall be necessary for any action
19 to be taken by the [authority] council. No vacancy in the
20 membership of the council shall impair the right of a quorum
21 to exercise all rights and perform all duties of the [loan]
22 program. "

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

25 "58-23-10. BOARD--BONDING REQUIREMENTS.--At the time of

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1 the issuance of any bonds pursuant to the [~~Hospital Equipment~~
2 ~~Loan~~] Healthcare Finance Act, each member of the board shall
3 execute a surety bond in the sum of twenty-five thousand
4 dollars (\$25,000). To the extent any member of the board is
5 already required by state law to provide a surety bond, that
6 member need not obtain another bond as long as the bond
7 required by state law is in at least the sum specified in this
8 section and covers the member's activities for the council.
9 In lieu of such bonds, the chairman of the board may execute a
10 blanket fidelity bond covering each member and the employees
11 of the council. Each fidelity bond shall be conditioned upon
12 the faithful performance of the duties of the respective
13 office of the member or the employee and shall be issued by a
14 surety company authorized to transact business in this state
15 as surety. At all times after the issuance of any surety
16 bonds, each member and employee shall maintain such surety
17 bonds in full force and effect. All costs of the surety bonds
18 shall be borne by the council."

19 Section 15. Section 58-23-11 NMSA 1978 (being Laws 1983,
20 Chapter 290, Section 11) is amended to read:

21 "58-23-11. POWERS.--The council is granted all powers
22 necessary and appropriate to carry out and effectuate its
23 public and corporate purposes, including [~~but not limited to~~]
24 the following powers:

25 A. to adopt, amend and repeal bylaws, rules and

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1 regulations to effectuate the purposes of the [~~Hospital~~
2 ~~Equipment Loan~~] Healthcare Finance Act;

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

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

5 D. to maintain an office within the state;

6 E. to make and execute contracts and all other
7 instruments necessary or convenient for the performance of its
8 duties and the exercise of its powers under the [~~Hospital~~
9 ~~Equipment Loan~~] Healthcare Finance Act;

10 F. to employ architects, engineers, attorneys,
11 inspectors, accountants and health-care and financial experts
12 and such other advisors, consultants, agents and other
13 employees as may be necessary, and to fix their compensation;

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

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

21 (1) on a loan, lease or purchase payment owed
22 by a participating health [~~facility~~] care provider to the
23 council; and

24 (2) of any bonds issued by the council,
25 including the power to pay the premium on any such insurance

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1 or guarantee;

2 I. to procure letters of credit from any national
3 or state banking association or other entity authorized to
4 issue a letter of credit to secure the payment of any bonds
5 issued by the council or to secure the payment of any loan,
6 lease or purchase payment owed by a participating health
7 ~~[facility]~~ care provider to the council, including the power
8 to pay the cost of obtaining such letter of credit;

9 J. to receive and accept from any source
10 contributions, gifts or grants of money, property, labor or
11 other things of value to be held, used and applied to carry
12 out the purposes of the ~~[Hospital Equipment Loan]~~ Healthcare
13 Finance Act, subject to the conditions upon which the grants,
14 gifts or contributions are made;

15 K. to provide or cause to be provided by or to a
16 participating health ~~[facility]~~ care provider, by acquisition,
17 lease, loan, fabrication, repair, restoration, reconditioning,
18 refinancing or installation, a health-related ~~[equipment]~~
19 project to be located ~~[within a health facility]~~ at or
20 utilized by a health care provider in this state;

21 L. to lease as lessor health-related ~~[equipment]~~
22 project to a participating health care provider upon such
23 terms and conditions as the council may deem advisable and as
24 are not in conflict with the provisions of the ~~[Hospital~~
25 ~~Equipment Loan]~~ Healthcare Finance Act;

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1 M to sell for installment payments or otherwise,
2 to option or contract for sale and to convey all or any part
3 of a health-related [equipment] project upon such terms and
4 conditions as the council may deem advisable and as are not in
5 conflict with the provisions of the [~~Hospital Equipment Loan~~]
6 Healthcare Finance Act;

7 N. to make contracts and incur liabilities, borrow
8 money at such rates of interest as the council may determine,
9 issue its bonds in accordance with the provisions of the
10 [~~Hospital Equipment Loan~~] Healthcare Finance Act and secure
11 any of its bonds or obligations by mortgage or pledge of all
12 or any of its property, franchises and income or as otherwise
13 provided in the [~~Hospital Equipment Loan~~] Healthcare Finance
14 Act;

15 O. to make secured or unsecured loans for the
16 purpose of providing temporary or permanent financing or
17 refinancing for the cost of health-related [equipment]
18 projects, including the retiring of any outstanding
19 obligations or advances issued and the reimbursement for the
20 cost of any health-related [equipment] projects previously
21 purchased [~~within twelve months immediately preceding the date~~
22 ~~of the bond issue, made or given~~] or incurred by any
23 participating health [facility] care provider for the cost of
24 health-related [equipment] projects and to charge and collect
25 interest on such loans for such loan payments and upon such

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1 terms and conditions as the council may deem advisable and as
2 are not in conflict with the provisions of the [~~Hospital~~
3 ~~Equipment Loan~~] Healthcare Finance Act. Loans may be made to
4 participating health [~~facilities~~] care providers or to any
5 bank, savings and loan association or other entity which will,
6 directly or indirectly, provide to participating health
7 [~~facilities~~] care providers such financing, refinancing or
8 reimbursement of the cost of health-related [~~equipment~~]
9 projects;

10 P. to invest and reinvest its funds and to take
11 and hold property as security for the investment of such funds
12 as provided in the [~~Hospital Equipment Loan~~] Healthcare
13 Finance Act;

14 Q. to purchase, lease or otherwise acquire health-
15 related [~~equipment~~] projects or any interest therein, as the
16 purposes of the council require;

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

20 S. to the extent permitted under its contract, if
21 any, with the holders of bonds of the council, to consent to
22 any modification with respect to the rate of interest, time
23 and payment of any installment of principal or interest or any
24 other term of any loan, loan note, loan note commitment, lease
25 or agreement of any kind to which the council is a party;

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

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

6 V. to do any other act necessary or convenient to
7 the exercise of the powers granted by the ~~[Hospital-Equipment~~
8 ~~Loan]~~ Healthcare Finance Act or reasonably implied from it. "

9 Section 16. Section 58-23-12 NMSA 1978 (being Laws 1983,
10 Chapter 290, Section 12, as amended) is amended to read:

11 "58-23-12. COUNCIL--DUTIES.--The council shall have the
12 following duties:

13 A. to invest any funds not needed for immediate
14 disbursement, including any funds held in reserve, in direct
15 and general obligations of or obligations fully and
16 unconditionally guaranteed by the United States, obligations
17 issued by agencies of the United States, obligations of this
18 state or any political subdivisions thereof, ~~[the unsecured~~
19 ~~promissory notes or other obligations of state and national~~
20 ~~banking associations and other entities having an investment~~
21 ~~grade rating]~~ money market funds that invest in the types of
22 obligations described in the preceding clauses and rated in
23 the highest category by a national rating service, interest-
24 bearing time deposits, commercial paper issued by corporations
25 organized and operating within the United States and rated

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1 "prime" quality by a national rating service, investments
2 permitted pursuant to Sections 6-10-10 and 6-10-10.1 NMSA 1978
3 or as otherwise provided by the trust indenture or bond
4 resolution securing the issuance of the bonds;

5 B. to collect fees and charges as the council
6 determines to be reasonable in connection with its loans,
7 leases, sales, advances, insurance, commitments and servicing;
8 and

9 C. to cooperate with and exchange services,
10 personnel and information with any federal, state or local
11 governmental agency. "

12 Section 17. Section 58-23-13 NMSA 1978 (being Laws 1983,
13 Chapter 290, Section 13) is amended to read:

14 "58-23-13. LEASE AND LOAN AGREEMENTS WITH PARTICIPATING
15 HEALTH CARE PROVIDERS--INSURANCE--LOAN AND LEASE PAYMENTS. --In
16 addition to its other powers and duties, the council is
17 specifically authorized to initiate a program of financing,
18 refinancing or reimbursing the cost of health-related
19 ~~[equipment to be operated by participating health facilities]~~
20 projects. In this regard, the council ~~[is authorized to]~~ may
21 exercise the following powers:

22 A. to establish eligibility standards for
23 participating health ~~[facilities]~~ care providers;

24 B. to enter into an agreement with any entity
25 securing the payment of bonds pursuant to Subsections H and I

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1 of Section [~~11 of the Hospital Equipment Loan Act~~] 58-23-11
2 NMSA 1978, authorizing that entity to approve the
3 participating health care providers that can finance or
4 refinance health-related [~~equipment~~] projects with proceeds
5 from the bond issue secured by that entity and to approve any
6 banks, savings and loan associations or other entities to
7 which the council may loan its funds to finance, refinance or
8 reimburse, directly or indirectly, the cost of health-related
9 [~~equipment~~] projects for participating health [~~facilities~~]
10 care providers;

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

16 D. to lend to a participating health [~~facility~~]
17 care provider or a bank, savings and loan association or other
18 entity to finance, refinance or reimburse, directly or
19 indirectly, the cost of health-related [~~equipment~~] projects to
20 a participating health [~~facility~~] care provider upon a secured
21 or unsecured promissory note evidencing such loan upon such
22 terms and conditions as the council may deem proper;

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

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

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

7 H. to enter into any agreement, contract or other
8 instrument with respect to any insurance, guarantee or letter
9 of credit, accepting payment in the event of default by a
10 participating health [~~facility~~] care provider, and to assign
11 any such insurance, guarantee or letter of credit as security
12 for bonds issued by the council. "

13 Section 18. Section 58-23-14 NMSA 1978 (being Laws 1983,
14 Chapter 290, Section 14) is amended to read:

15 "58-23-14. OPTIONAL POWERS. -- Prior to the exercise of
16 any of the powers conferred by Section [~~13 of the Hospital~~
17 ~~Equipment Loan Act~~] 58-23-13 NMSA 1978, the council may:

18 A. require that the lease or installment purchase
19 contract or loan agreement involved be insured by a loan
20 insurer, be guaranteed by a loan guarantor or be secured by a
21 letter of credit; or

22 B. require any other type of security from the
23 participating health facilities or banks, savings and loan
24 associations or other entities that it deems reasonable and
25 necessary. "

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

3 "58-23-15. ISSUANCE OF BONDS. --The council is authorized
4 to issue, sell and deliver its bonds, in accordance with the
5 terms of the [~~Hospital Equipment Loan~~] Healthcare Finance Act,
6 for the purpose of paying for or making loans to participating
7 health [~~facilities~~] care providers, banks, savings and loan
8 associations and other entities for the financing or
9 refinancing of all or any part of the cost of health-related
10 [~~equipment~~] projects and any other purposes authorized by the
11 [~~Hospital Equipment Loan~~] Healthcare Finance Act. In
12 addition, the council has the power to issue from time to time
13 bonds to renew or to pay bonds, including any interest, and,
14 whenever it deems refunding expedient, to refund any bonds by
15 the issuance of new bonds and to issue bonds partly to refund
16 outstanding bonds and partly for another of its purposes. The
17 refunding bonds may be sold and the proceeds applied to the
18 purchase, redemption or payment of the bonds to be refunded or
19 may be exchanged for the bonds to be refunded. "

20 Section 20. Section 58-23-16 NMSA 1978 (being Laws 1983,
21 Chapter 290, Section 16, as amended) is amended to read:

22 "58-23-16. TERMS OF PAYMENT AND SALE OF BONDS. --

23 A. The bonds shall be dated, shall bear interest
24 at such rate or rates, fixed or variable, shall mature at such
25 time or times not exceeding twenty years, or not to exceed

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1 thirty years if the council determines bonds are necessary in
2 connection with the acquisition, lease, fabrication, repair,
3 restoration, reconditioning, refinancing or installation of
4 real property, from their date and may be made redeemable
5 prior to maturity at such price or prices and upon terms and
6 conditions determined by the council. In cases where any
7 officer whose signature or a facsimile of whose signature
8 appears on any bonds or coupons ceases to be such officer
9 before the delivery of and payment for such bonds, that
10 signature or facsimile is valid and sufficient for all
11 purposes the same as if the officer had remained in office
12 until delivery and payment. The bonds may be issued in coupon
13 or in fully registered form or both or may be payable to a
14 specific person, as the council may determine, and provision
15 may be made for the registration of any coupon bonds as to
16 principal or as to both principal and interest, for the
17 conversion of coupon bonds into fully registered bonds without
18 coupons and for the conversion into coupon bonds of any fully
19 registered bonds without coupons. The duty of conversion may
20 be imposed upon a trustee in a trust agreement.

21 B. The principal of, redemption premium, if any,
22 and interest on such bonds shall be payable solely from and
23 may be secured by a pledge of the proceeds of bonds, revenues
24 derived from the lease or sale of a health-related [equipment]
25 project or realized from a loan made by the council to finance

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1 or refinance in whole or in part health-related [~~equipment~~
2 projects, revenues derived from operating health-related
3 [~~equipment~~] projects, including insurance proceeds, or any
4 other revenues provided by a participating health care
5 provider or a bank, savings and loan association or other
6 entity to which a loan is made.

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

9 Section 21. Section 58-23-16.1 NMSA 1978 (being Laws
10 1986, Chapter 60, Section 8, as amended) is amended to read:

11 "58-23-16.1. INTEREST RATES--REFUNDING--APPROVAL BY
12 COUNCIL--FINDINGS.--Bonds issued under the [~~Hospital Equipment~~
13 ~~Loan~~] Healthcare Finance Act are not subject to any
14 limitations on interest rates or net effective interest rates
15 or interest rate approval requirements contained in any other
16 laws of the state, provided that:

17 A. the bond resolution or other instruments under
18 which such bonds are issued shall contain findings by the
19 council that any fixed rate or rates of interest or discount
20 on the bonds or, in the case of a variable rate or rates of
21 interest, that the ~~maximum~~ rate or method of determining the
22 ~~maximum~~ rate and that the ~~maximum~~ net effective interest rate
23 on the bonds are reasonable under existing or anticipated bond
24 market conditions and necessary and advisable for the
25 marketing and sale of the bonds. The bond resolution or other

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1 instruments under which such bonds are issued shall declare
2 that the council has considered all relevant information and
3 data in making its findings. The findings and declarations in
4 the bond resolution or other instruments under which such
5 bonds are issued shall constitute conclusive authority for the
6 council to issue the bonds within the interest rate
7 limitations set forth in the bond resolution, and no
8 additional approval of any department, board or other officer
9 of the state or any other official approval is required; and
10 B. any bonds issued pursuant to the [~~Hospital~~
11 ~~Equipment Loan~~] Healthcare Finance Act to renew, fund or
12 refund any prior issue of bonds, in whole or in part, may be
13 issued notwithstanding the provisions of any other laws of the
14 state; provided that the bond resolution or other instruments
15 under which such bonds are issued shall contain findings that
16 the issuance of such bonds is necessary or advisable and the
17 amount of such bonds which it is deemed necessary and
18 advisable to issue. The determination of necessity or
19 advisability contained in the bond resolution or other
20 instruments under which such bonds are issued shall constitute
21 conclusive authority for the council to issue any such
22 renewal, funding or refunding bonds, and no additional
23 approval of any department, board or other officer of the
24 state or any official approval is required. "

25 Section 22. Section 58-23-17 NMSA 1978 (being Laws 1983,

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1 Chapter 290, Section 17) is amended to read:

2 "58-23-17. USE OF BOND PROCEEDS. --The proceeds of the
3 bonds of each issue shall not be used other than to pay, renew
4 or refund bonds or to pay all or part of the cost of
5 financing, refinancing or reimbursing health-related
6 [~~equipment~~] projects or to make loans to participating health
7 [~~facilities~~] care providers, banks, savings and loan
8 associations or other entities in order to directly or
9 indirectly finance, refinance or reimburse the cost of the
10 health-related [~~equipment~~] projects for which such bonds have
11 been authorized. At the option of the council, the proceeds
12 of each issue may be deposited to a reserve fund for the
13 bonds; provided that the council [~~shall~~] may be paid, out of
14 money from the proceeds of the sale and delivery of its bonds,
15 the council's out-of-pocket expenses and costs in connection
16 with the issuance, sale and delivery of such bonds. "

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

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

24 A. pledging or assigning the revenues generated by
25 the health-related [~~equipment~~] project or pledging or

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1 assigning the notes, [~~and mortgage, lease~~] mortgages, leases
2 or other security given by the participating health
3 [~~facilities~~] care providers, banks, savings and loan
4 associations or other entities receiving loans with respect to
5 which such bonds are to be issued or other specified revenues
6 or property of the council;

7 B. the rentals, fees, interest and other amounts
8 to be charged by the council, the schedule of principal
9 payments and the sums to be raised in each year thereby and
10 the use, investment and disposition of such sums;

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

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

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

17 F. limitations on the issuance of additional
18 bonds, the terms upon which additional bonds may be issued and
19 secured and the terms upon which additional bonds may rank on
20 a parity with, or be subordinate or superior to, other bonds;

21 G. the refunding of outstanding bonds;

22 H. the procedure, if any, by which the terms of
23 any contract with bondholders may be amended or abrogated, the
24 amounts of bonds the holders of which must consent thereto,
25 the manner in which such consent may be given and restrictions

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1 on the individual rights of action by bondholders;

2 I. acts or omissions which shall constitute a
3 default in the duties of the ~~[authority]~~ council to holders of
4 its bonds, and rights of the holders in the event of default;

5 J. limitation of the liability of a participating
6 health ~~[facility]~~ care provider only for the amount of its
7 obligation to the council; and

8 K. any other matters relating to the bonds which
9 the council deems desirable. In addition to the provisions
10 set forth in this section, bonds of the council may be secured
11 by and payable from a pooling of leases or of notes and
12 mortgages or other security instruments whereby the council
13 may assign its rights, as lessor, and pledge rents under two
14 or more leases of health-related ~~[equipment]~~ projects with two
15 or more participating health ~~[facilities]~~ care providers, as
16 lessees, or assign its rights as payee or secured party and
17 pledge the revenues under two or more notes and loan
18 agreements from two or more participating health ~~[facilities]~~
19 care providers, banks, savings and loan associations or other
20 entities upon such terms as may be provided for in bond
21 resolutions or other instruments under which such bonds are
22 issued. "

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

25 "58-23-20. ~~[GENERAL OBLIGATION BONDS]~~ SPECIAL LIMITED

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1 OBLIGATIONS-- PAYMENT AND SECURITY. -- ~~[Except as may otherwise~~
2 ~~be provided by the council]~~ Every issue of ~~[its]~~ bonds is a
3 ~~[general]~~ special limited obligation of the council payable
4 solely out of any particular revenue, reserve fund or money of
5 the council ~~[subject only to any agreements with the holders~~
6 ~~of particular bonds pledging any particular money or revenue]~~
7 pledged to particular bonds. The bonds may be additionally
8 secured by a pledge of any grant, contribution or guarantee
9 from the federal government or any corporation, association,
10 institution or person or a pledge of any money, income or
11 revenue of the council from any source. "

12 Section 25. Section 58-23-21 NMSA 1978 (being Laws 1983,
13 Chapter 290, Section 21, as amended) is amended to read:

14 "58-23-21. BONDS-- NO OBLIGATION OF STATE. -- No bonds
15 issued by the council under the ~~[Hospital Equipment Loan]~~
16 Healthcare Finance Act shall constitute a debt, liability or
17 general obligation of this state or a pledge of the faith and
18 credit of this state, but shall be payable solely as provided
19 by Section 58-23-19 NMSA 1978. Each bond issued under the
20 ~~[Hospital Equipment Loan]~~ Healthcare Finance Act shall contain
21 on its face a statement that neither the faith and credit nor
22 the taxing power of this state or any political subdivision
23 thereof is pledged to the payment of the principal of or the
24 interest on such bond. "

25 Section 26. Section 58-23-25 NMSA 1978 (being Laws 1983,

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1 Chapter 290, Section 25) is amended to read:

2 "58-23-25. COUNCIL MEMBERS--LIMITATION ON PERSONAL
3 LIABILITY.--Neither the members of the council nor any other
4 person executing the bonds issued under the [~~Hospital~~
5 ~~Equipment Loan~~] Healthcare Finance Act shall be subject to
6 personal liability in connection with issuance of the bonds."

7 Section 27. Section 58-23-26 NMSA 1978 (being Laws 1983,
8 Chapter 290, Section 26, as amended) is amended to read:

9 "58-23-26. DEPOSIT OF MONEY.--All money of the council,
10 except as otherwise authorized or provided in the [~~Hospital~~
11 ~~Equipment Loan~~] Healthcare Finance Act or in a bond
12 resolution, trust agreement or other instrument under which
13 bonds are issued, shall be deposited as soon as practical in a
14 separate account or accounts in banks or trust companies
15 organized under the laws of this state or in national banking
16 associations. All deposits of money shall, if required by the
17 council, be secured in such a manner as the council determines
18 to be prudent. Banks or trust companies are authorized to
19 give security for the deposits of the council."

20 Section 28. Section 58-23-27 NMSA 1978 (being Laws 1983,
21 Chapter 290, Section 27) is amended to read:

22 "58-23-27. BONDHOLDERS--PLEDGE--AGREEMENT OF THE
23 STATE.--The state pledges and agrees with the holder of any
24 bonds issued under the [~~Hospital Equipment Loan~~] Healthcare
25 Finance Act that the state will not alter the rights vested in

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1 the council to fulfill the terms of any agreements made with
2 the bondholders or in any way impair the rights or remedies of
3 the holders until the bonds, together with the interest
4 thereon, with interest on any unpaid installments of interest,
5 and all costs and expenses in connection with any action or
6 proceeding by or on behalf of the holders are fully met and
7 discharged. The council is authorized to include this pledge
8 and agreement of the state in any agreement with the holders
9 of the bonds. "

10 Section 29. Section 58-23-28 NMSA 1978 (being Laws 1983,
11 Chapter 290, Section 28) is amended to read:

12 "58-23-28. COUNCIL EXPENSES--LIABILITY OF STATE OR
13 POLITICAL SUBDIVISION PROHIBITED.--All expenses incurred by
14 the council in carrying out the provisions of the [~~Hospital~~
15 ~~Equipment Loan~~] Healthcare Finance Act shall be payable solely
16 from funds provided under that act. "

17 Section 30. Section 58-23-29 NMSA 1978 (being Laws 1983,
18 Chapter 290, Section 29, as amended) is amended to read:

19 "58-23-29. EXEMPTION FROM TAXATION--ASSETS TO STATE UPON
20 DISSOLUTION.--All property acquired or held by the council
21 under the [~~Hospital Equipment Loan~~] Healthcare Finance Act,
22 income therefrom and bonds issued under the [~~Hospital~~
23 ~~Equipment Loan~~] Healthcare Finance Act, plus the interest
24 payable and income derived from the bonds, shall be exempt
25 from taxation by the state or any subdivision thereof. Upon

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1 dissolution of the council, its assets, after payment of its
2 indebtedness, shall inure to the benefit of the state."

3 Section 31. Section 58-23-30 NMSA 1978 (being Laws 1983,
4 Chapter 290, Section 30) is amended to read:

5 "58-23-30. BONDS--LEGAL INVESTMENTS.--The bonds issued
6 under the authority of the [~~Hospital Equipment Loan~~]
7 Healthcare Finance Act shall be legal investments in which all
8 public officers or public bodies of this state, insurance
9 companies, banks and savings and loan associations, organized
10 under the laws of this state, may invest funds."

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

13 "58-23-32. LIBERAL CONSTRUCTION.--The [~~Hospital~~
14 ~~Equipment Loan~~] Healthcare Finance Act shall be liberally
15 construed to accomplish its purposes."

16 Section 33. TEMPORARY PROVISION.--~~Members~~ of the board
17 of directors of the New Mexico hospital equipment loan council
18 appointed prior to the effective date of the Healthcare
19 Finance Act shall continue to serve as appointed members of
20 the board of directors of the New Mexico healthcare finance
21 council, until their terms expire and their successors are
22 appointed and qualified pursuant to the provisions of the
23 Healthcare Finance Act. All existing contracts, agreements
24 and outstanding bonds of the New Mexico hospital equipment
25 loan council in effect on the effective date of the Healthcare

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1 Finance Act shall continue in effect under the provisions of
2 the Healthcare Finance Act and shall be assumed by the New
3 Mexico healthcare finance council.

4 Section 34. EMERGENCY.--It is necessary for the public
5 peace, health and safety that this act take effect
6 immediately.

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