

SENATE FINANCE COMMITTEE SUBSTITUTE FOR
SENATE BILL 221

49TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2009

AN ACT

RELATING TO STATE BUILDINGS; AUTHORIZING STATE OFFICE BUILDING
TAX REVENUE BONDS FOR AN EXECUTIVE OFFICE BUILDING; INCREASING
THE AMOUNT OF A CERTAIN TAX DISTRIBUTION; EXTENDING THE
EXPENDITURE PERIOD AND EXPANDING THE PURPOSES OF CERTAIN
APPROPRIATIONS; MAKING APPROPRIATIONS; DECLARING AN EMERGENCY.

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

Section 1. Section 6-21C-4 NMSA 1978 (being Laws 2001,
Chapter 199, Section 4, as amended) is amended to read:

"6-21C-4. NEW MEXICO FINANCE AUTHORITY SHALL ISSUE
BUILDING 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
building bonding fund, in compliance with the State Building

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1 Bonding Act for the purpose of acquiring state office buildings
2 and related facilities and other critical state facilities
3 within the master planning jurisdiction of the capitol
4 buildings planning commission when the acquisition has been
5 reviewed by the capitol buildings planning commission and has
6 been authorized by legislative act and the director of the
7 property control division of the general services department
8 has certified the need for the issuance of the bonds; provided
9 that the total amount of state office building tax revenue
10 bonds outstanding at any one time shall not exceed one hundred
11 fifteen million dollars (\$115,000,000).

12 B. The net proceeds from the building bonds are
13 appropriated to the property control division of the general
14 services department for the purpose of acquiring state office
15 buildings and related facilities and other critical state
16 facilities within the master planning jurisdiction of the
17 capitol buildings planning commission, the acquisition of which
18 shall be consistent with the State Building Bonding Act and the
19 authorizing legislation."

20 Section 2. Section 6-21C-5 NMSA 1978 (being Laws 2001,
21 Chapter 199, Section 5, as amended) is amended to read:

22 "6-21C-5. STATE BUILDING BONDING FUND CREATED--MONEY IN
23 THE FUND PLEDGED.--

24 A. The "state building bonding fund" is created as
25 a special fund within the New Mexico finance authority. The

1 fund shall be administered by the New Mexico finance authority
 2 as a special account. The fund shall consist of money
 3 appropriated and transferred to the fund and gross receipts tax
 4 revenues distributed to the fund by law. Earnings of the fund
 5 shall be credited to the fund. Balances in the fund at the end
 6 of any fiscal year shall remain in the fund, except as provided
 7 in this section.

8 B. Money in the state building bonding fund is
 9 pledged for the payment of principal and interest on all
 10 building bonds issued pursuant to the State Building Bonding
 11 Act. Money in the fund is appropriated:

12 (1) to the New Mexico finance authority for
 13 the purpose of paying debt service, including redemption
 14 premiums, on the building bonds and the expenses incurred in
 15 the issuance, payment and administration of the bonds; and

16 (2) if specifically authorized in the law
 17 authorizing the acquisition of a building, to the property
 18 control division of the general services department for
 19 expenditures for required maintenance and repairs of that
 20 building but only if the authority determines that money in the
 21 fund is sufficient to meet the requirements of Paragraph (1) of
 22 this subsection.

23 C. On the last day of January and July of each
 24 year, the New Mexico finance authority shall estimate the
 25 amount needed to make debt service and other payments during

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1 the next twelve months from the state building bonding fund on
2 the building bonds issued pursuant to the State Building
3 Bonding Act plus the amount that may be needed for any required
4 reserves and, if specifically authorized in the law authorizing
5 the acquisition of a building, the amount that may be needed
6 for required maintenance and repairs of that building. The New
7 Mexico finance authority shall transfer to the general fund any
8 balance in the state building bonding fund above the estimated
9 amounts.

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

13 (1) the director of the property control
14 division of the general services department and the New Mexico
15 finance authority have agreed that the building bonds issued
16 pursuant to the State Building Bonding Act have been retired,
17 that no additional obligations of the state building bonding
18 fund exist and that no additional expenditures from the fund
19 are necessary; or

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

24 E. The building bonds issued pursuant to the State
25 Building Bonding Act shall be payable solely from the state

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1 building bonding fund or, with the approval of the bondholders,
 2 such other special funds as may be provided by law and do not
 3 create an obligation or indebtedness of the state within the
 4 meaning of any constitutional provision. No breach of any
 5 contractual obligation incurred pursuant to that act shall
 6 impose a pecuniary liability or a charge upon the general
 7 credit or taxing power of the state, and the bonds are not
 8 general obligations for which the state's full faith and credit
 9 is pledged.

10 F. The state does hereby pledge that the state
 11 building bonding fund shall be used only for the purposes
 12 specified in this section and pledged first to pay the debt
 13 service on the building bonds issued pursuant to the State
 14 Building Bonding Act. The state further pledges that any law
 15 authorizing the distribution of taxes or other revenues to the
 16 state building bonding fund or authorizing expenditures from
 17 the fund shall not be amended or repealed or otherwise modified
 18 so as to impair the bonds to which the state building bonding
 19 fund is dedicated as provided in this section."

20 Section 3. Section 7-1-6.42 NMSA 1978 (being Laws 2001,
 21 Chapter 199, Section 12, as amended) is amended to read:

22 "7-1-6.42. DISTRIBUTION--STATE BUILDING BONDING
 23 FUND--GROSS RECEIPTS TAX.--A distribution pursuant to
 24 Section 7-1-6.1 NMSA 1978 shall be made to the state building
 25 bonding fund in the amount of [~~five hundred thirty thousand~~
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1 ~~dollars (\$530,000)]~~ six hundred eighty thousand dollars
2 (\$680,000) from the net receipts attributable to the gross
3 receipts tax imposed by the Gross Receipts and Compensating Tax
4 Act. The distribution shall be made:

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

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

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

13 Section 4. Laws 2001, Chapter 166, Section 2, as amended
14 by Laws 2004, Chapter 123, Section 7, Laws 2005, Chapter 320,
15 Section 4 and by Laws 2007, Chapter 64, Section 4, is amended
16 to read:

17 "Section 2. STATE OFFICE BUILDING TAX REVENUE BONDS--
18 AUTHORIZATION--CONTINGENCY.--

19 A. The New Mexico finance authority may issue and
20 sell state office building tax revenue bonds in compliance with
21 the State Building Bonding Act when the director of the
22 property control division of the general services department
23 certifies to the authority that the proceeds from the state
24 office building tax revenue bonds are needed for one or more of
25 the purposes specified in Laws 2001, Chapter 166, Section 1, as
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1 amended by Laws 2007, Chapter 64, Section 3 [~~of this 2007 act;~~
2 ~~provided that the total amount of state office building tax~~
3 ~~revenue bonds outstanding at any one time shall not exceed one~~
4 ~~hundred million dollars (\$100,000,000)]]. The authority shall
5 schedule the issuance and sale of the bonds in the most
6 expeditious and economical manner possible. Except as provided
7 in Subsections B and C of this section, net proceeds from the
8 sale of the bonds are appropriated to the property control
9 division of the general services department for expenditure in
10 fiscal year 2001 and subsequent fiscal years for the purposes
11 specified in Laws 2001, Chapter 166, Section 1, as amended by
12 Laws 2007, Chapter 64, Section 3 [~~of this 2007 act~~].~~

13 B. Two hundred fifty thousand dollars (\$250,000) of
14 the proceeds from the bonds issued pursuant to Subsection A of
15 this section are appropriated to the legislative council
16 service for expenditure in fiscal years 2004 through 2008 for
17 the purpose of providing funding for the capitol buildings
18 planning commission, master planning process for state
19 facilities and for annual updates to master plans, but
20 excluding any payments for salaries, benefits and costs of
21 state employees. Any unexpended or unencumbered balance
22 remaining at the end of fiscal year 2008 shall revert to the
23 state building bonding fund.

24 C. Three hundred fifty thousand dollars (\$350,000)
25 of the proceeds from the bonds issued pursuant to Subsection A

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1 of this section are appropriated to the legislative council
2 service for expenditure in fiscal years 2007 through [~~2009~~]
3 2012 for the purpose of providing funding for the capitol
4 buildings planning commission, master planning process for
5 state facilities and annual updates to master plans, but
6 excluding any payments for salaries, benefits and costs of
7 state employees. Any unexpended or unencumbered balance
8 remaining at the end of fiscal year [~~2009~~] 2012 shall revert to
9 the state building bonding fund."

10 Section 5. [NEW MATERIAL] STATE OFFICE BUILDING TAX
11 REVENUE BONDS--AUTHORIZATION FOR EXECUTIVE OFFICE BUILDING.--

12 A. The New Mexico finance authority may issue and
13 sell state office building tax revenue bonds in compliance with
14 the State Building Bonding Act when the director of the
15 property control division of the general services department
16 certifies to the authority that the proceeds from the state
17 office building tax revenue bonds are needed for the purpose
18 specified in Subsection B of this section. The authority shall
19 schedule the issuance and sale of the bonds in the most
20 expeditious and economical manner possible. Net proceeds from
21 the sale of the bonds, after providing for debt service until
22 occupancy, are appropriated to the property control division of
23 the general services department for expenditure in fiscal year
24 2010 and subsequent fiscal years for the purpose specified in
25 Subsection B of this section.

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1 B. The property control division of the general
 2 services department, after issuing a request for proposals,
 3 shall enter into contracts for a design and build project
 4 delivery system for the planning, designing, constructing,
 5 equipping and furnishing of a new executive office building in
 6 the main capitol campus in Santa Fe.

7 C. The distribution of gross receipts taxes
 8 pursuant to Section 7-1-6.42 NMSA 1978, as increased in Section
 9 3 of this 2009 act, contains a component for the maintenance
 10 and repair of the executive office building that, over the
 11 period that the bonds are outstanding, approximates the amount
 12 that will be needed for the maintenance and repair of the
 13 building. Pursuant to Paragraph (2) of Subsection B of Section
 14 6-21C-5 NMSA 1978, the property control division of the general
 15 services department is authorized to expend a portion of the
 16 state building bonding fund for required maintenance and
 17 repairs on the executive office building.

18 Section 6. Laws 2007, Chapter 64, Section 6 is amended to
 19 read:

20 "Section 6. APPROPRIATIONS.--~~[A.]~~ The following amounts
 21 from the following sources are appropriated to the property
 22 control division of the general services department for
 23 expenditure in fiscal years 2007 through ~~[2009]~~ 2011 for the
 24 acquisition of the property within the west capitol complex
 25 owned by the United States general services administration and
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1 the United States forest service. Any unexpended or
2 unencumbered balance remaining at the end of fiscal year [2009]
3 2011 shall revert proportionately to the originating fund:

4 [~~1~~] A. one million five hundred thousand dollars
5 (\$1,500,000) from the property control reserve fund; and

6 [~~2~~] B. three million five hundred thousand
7 dollars (\$3,500,000) from the public buildings repair fund.

8 [~~B. One million dollars (\$1,000,000) is~~
9 ~~appropriated from the general fund to the property control~~
10 ~~division of the general services department for expenditure in~~
11 ~~fiscal years 2007 through 2009 for the planning and designing~~
12 ~~of a New Mexico state police crime laboratory to be located~~
13 ~~adjacent to or within close proximity to the state laboratory~~
14 ~~facility in Bernalillo county. Any unexpended or unencumbered~~
15 ~~balance remaining at the end of fiscal year 2009 shall revert~~
16 ~~to the general fund.]"~~

17 Section 7. [NEW MATERIAL] EXPANSION OF PURPOSE FOR MASTER
18 PLANNING AND COMPLETION OF PARKING STRUCTURE.--One million
19 dollars (\$1,000,000) of the unexpended balance of the
20 appropriations to the legislative council service in
21 Subsections A, B and C of Section 1 of Chapter 192 of Laws 2007
22 for the purpose of constructing and renovating capitol north
23 and the capitol and as reauthorized for an expanded purpose in
24 Laws 2008, Chapter 83, Section 381 may be expended by the
25 legislative council service in fiscal years 2009 through 2012

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1 for the purpose of providing funding for the capitol buildings
 2 planning commission master planning process for statewide state
 3 facilities, including feasibility studies and annual updates to
 4 master plans, and, if needed, the completion of the parking
 5 structure in the central capitol campus in Santa Fe, but
 6 excluding any payments for salaries, benefits and costs of
 7 state employees.

8 Section 8. EFFECTIVE DATE.--The effective date of the
 9 provisions of Section 3 of this act is the later of:

10 A. July 1, 2011; or

11 B. the first day of the month following the day
 12 that the chief executive officer of the New Mexico finance
 13 authority certifies to the secretary of taxation and revenue,
 14 the secretary of finance and administration, the legislative
 15 council service and the New Mexico compilation commission that
 16 the distribution is needed to make debt service payments on the
 17 bonds issued pursuant to Section 5 of this act.

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

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