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SENATE BILL 1054

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

INTRODUCED BY

MANNY M ARAGON

AN ACT

RELATING TO REVENUES; AUTHORIZING THE ISSUANCE OF SEVERANCE TAX BONDS FOR CONSTRUCTION OR ACQUISITION OF STATE CORRECTIONAL FACILITIES AND TREATMENT FACILITIES FOR ADULT INMATES AND JUVENILE OFFENDERS; REMOVING A CREDIT AGAINST THE GROSS RECEIPTS TAX FOR MUNICIPAL GROSS RECEIPTS TAXES PAID; FUNDING IN-PLANT DEVELOPMENT TRAINING AND A WATER RESOURCE STUDY AND WATER RIGHTS ASSESSMENT; MAKING APPROPRIATIONS; AMENDING, REPEALING AND ENACTING SECTIONS OF THE NMSA 1978; DECLARING AN EMERGENCY.

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

Section 1. FUND CREATED--PURPOSE--APPROPRIATION. --

A. The "correctional facilities financing fund" is created as a special fund within the state treasury. The fund shall consist of money appropriated to the fund and gross receipts tax revenues distributed to the fund by law. Balances

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1 in the fund at the end of any fiscal year shall remain in the
2 fund, except as provided in Subsection E of this section.

3 Earnings from investment of the fund shall be credited to the
4 fund.

5 B. Money in the correctional facilities financing
6 fund is appropriated to the property control division of the
7 general services department for the following specified
8 purposes:

9 (1) ninety-five million dollars (\$95,000,000)
10 to design, construct and equip or acquire:

11 (a) a correctional facility in Guadalupe
12 county of not more than six hundred beds, expandable to one
13 thousand two hundred beds; and

14 (b) a correctional facility in Lea county
15 of not more than one thousand two hundred beds, expandable to
16 two thousand two hundred beds;

17 (2) fifteen million dollars (\$15,000,000) to
18 design, construct and equip or acquire a four-hundred-bed adult
19 male behavioral and mental health facility in the Rio Grande
20 corridor;

21 (3) two million dollars (\$2,000,000) to design,
22 construct and equip or acquire a two-hundred-fifty-bed adult
23 female reintegration facility in the Rio Grande corridor;

24 (4) five million dollars (\$5,000,000) to
25 acquire:

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1 (a) a fifty-bed prefabricated juvenile
2 detention facility at the youth development and diagnostic
3 center; and

4 (b) a fifty-bed prefabricated juvenile
5 detention facility at the New Mexico boys' school at Springer;
6 and

7 (5) ten million dollars (\$10,000,000) to
8 design, construct and equip or acquire a three-hundred-bed
9 behavioral and mental health facility for male juveniles in the
10 Rio Grande corridor.

11 C. No contract for the construction or acquisition
12 of a facility shall be entered into pursuant to Subsection B of
13 this section unless the secretary of the contracting agency
14 certifies that the facility will be built by a primary
15 contractor and subcontractors that:

16 (1) maintain their primary places of business
17 in New Mexico;

18 (2) hire laborers for construction of the
19 facilities as employees, rather than independent contractors,
20 and who are New Mexico residents;

21 (3) provide health care benefits and retirement
22 benefits to their employees working on construction of the
23 facilities; and

24 (4) maintain apprenticeship programs for their
25 employees.

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1 D. For the correctional facilities in Lea county and
2 Guadalupe county pursuant to Paragraphs (1) and (2) of
3 Subsection B of this section, each county or political
4 subdivisions in the county shall provide land for the facility
5 site and arrange for utilities, roads and related infrastructure
6 needs to the property line of the prison site in the form of in-
7 kind contributions. In addition, prior to entering into a
8 contract for the construction or acquisition of the correctional
9 facility in Lea county, the city of Hobbs and Lea county shall
10 each contribute five million dollars (\$5,000,000) in local
11 matching funds, which shall be deposited into the correctional
12 facilities financing fund.

13 E. Upon certification by the secretary of the
14 contracting agency that the agency has constructed or acquired
15 the facilities pursuant to Subsection B of this section and no
16 additional expenditures from the fund are necessary for that
17 purpose, any balance remaining in the correctional facilities
18 financing fund shall be transferred to the general fund.

19 F. Any law authorizing the distribution of taxes or
20 other revenues to the correctional facilities financing fund
21 shall not be amended or repealed or otherwise modified so as to
22 impair any contract entered into by the contracting agency
23 pursuant to which those taxes or revenues are dedicated to the
24 construction or acquisition of facilities as provided in this
25 section.

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1 Section 2. A new section of the Tax Administration Act is
2 enacted to read:

3 "[NEW MATERIAL] DISTRIBUTION--CORRECTIONAL FACILITIES
4 FINANCING FUND.--Unless a credit is allowed pursuant to Section
5 7-9-82 NMSA 1978, a distribution pursuant to Section 7-1-6.1
6 NMSA 1978 shall be made to the correctional facilities financing
7 fund in an amount equal to the net receipts, exclusive of
8 penalties and interest, attributable to one-fourth of one
9 percent of the taxable gross receipts subject to the municipal
10 gross receipts tax imposed pursuant to Section 7-19D-4 NMSA
11 1978."

12 Section 3. Section 7-9-82 NMSA 1978 (being Laws 1986,
13 Chapter 20, Section 68, as amended) is amended to read:

14 "7-9-82. CREDIT--GROSS RECEIPTS TAX--MUNICIPAL GROSS
15 RECEIPTS TAX PAID.--A credit shall be allowed for each reporting
16 period after July 1, 2002 against the gross receipts tax for:

17 A. an amount of the municipal gross receipts tax
18 equal to one-half of one percent of the taxable gross receipts
19 for which the taxpayer is liable for that reporting period
20 imposed by a municipality pursuant to Section 7-19D-4 NMSA 1978
21 if that municipality has imposed a total municipal gross
22 receipts tax rate of at least one-half of one percent;

23 or

24 B. an amount of the municipal gross receipts tax
25 equal to one-fourth of one percent of the taxable gross receipts

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1 for which the taxpayer is liable for that reporting period
2 imposed by a municipality pursuant to Section 7-19D-4 NMSA 1978
3 if that municipality has imposed a total municipal gross
4 receipts tax rate of one-fourth of one percent. "

5 Section 4. Section 33-1-17 NMSA 1978 (being Laws 1985,
6 Chapter 149, Section 1, as amended) is amended to read:

7 "33-1-17. PRIVATE CONTRACT. - -

8 A. The corrections department may contract for the
9 operation of any adult female facility or for housing adult
10 female inmates in a private facility with a person or entity in
11 the business of providing correctional or jail services to
12 government entities.

13 B. The corrections department may contract ~~[with a~~
14 ~~person or entity in the business of providing correctional or~~
15 ~~jail services to government entities]~~ for the

16 ~~[(1) a correctional facility in Guadalupe~~
17 ~~county of not less than five hundred fifty and not more than two~~
18 ~~thousand two hundred beds;~~

19 ~~(2) a correctional facility in Lea, Chaves or~~
20 ~~Santa Fe county of not less than one thousand two hundred and~~
21 ~~not more than two thousand two hundred beds;~~

22 ~~(3) design and construction of a support~~
23 ~~services building, a laundry and an infirmary at the~~
24 ~~penitentiary of New Mexico in Santa Fe; or~~

25 ~~(4)] construction of a public facility to house~~

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1 a special incarceration alternative program for adult male and
2 adult female felony offenders.

3 ~~[C. The authorization in Subsection B of this~~
4 ~~section for a correctional facility in Guadalupe county and a~~
5 ~~correctional facility in Lea, Chaves or Santa Fe county is~~
6 ~~contingent upon construction of both facilities, so that one of~~
7 ~~the facilities shall not be constructed unless both of the~~
8 ~~facilities are constructed, as nearly as practicable,~~
9 ~~simultaneously.~~

10 ~~D.]~~ C. The corrections department shall solicit
11 proposals and award any contract under this section in
12 accordance with the provisions of the Procurement Code. The
13 contract shall include such terms and conditions as the
14 corrections department may require after consultation with the
15 general services department; provided that the terms and
16 conditions shall include provisions:

17 (1) setting forth comprehensive standards for
18 conditions of incarceration;

19 (2) that the contractor assumes all liability
20 caused by or arising out of all aspects of the provision or
21 operation of the facility;

22 (3) for liability insurance or other proof of
23 financial responsibility acceptable to the general services
24 department covering the contractor and its officers, employees
25 and agents in an amount sufficient to cover all liability caused

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1 by or arising out of all aspects of the provision or operation
2 of the facility;

3 (4) for termination for cause upon ninety days'
4 notice to the contractor for failure to meet contract provisions
5 when such failure seriously affects the availability or
6 operation of the facility;

7 (5) that venue for the enforcement of the
8 contract shall be in the district court for Santa Fe county;

9 (6) that continuation of the contract is
10 subject to the availability of funds; and

11 (7) that compliance with the contract shall be
12 monitored by the corrections department and the contract may be
13 terminated for noncompliance.

14 [~~E.~~] D. When the contractor begins operation of a
15 facility, [~~for which private contractor operation is authorized~~]
16 his employees performing the functions of correctional officers
17 shall be deemed correctional officers for the purposes of
18 Sections 33-1-10 and 33-1-11 NMSA 1978 but for no other purpose
19 of state law, unless specifically stated.

20 [~~F.~~] E. Any contract awarded pursuant to this
21 section may include terms to provide for the renovation of the
22 facility or for the construction of new buildings. Work
23 performed pursuant to such terms and conditions shall not be
24 considered a capital project as defined in Section 15-3-23.3
25 NMSA 1978 or a state public works project as defined in Section
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1 13-1-91 NMSA 1978 nor shall it be subject to the requirements of
2 Section 13-1-150 NMSA 1978 or of the Capital Program Act, review
3 by the staff architect of the property control division of the
4 general services department pursuant to Section 15-3-20 NMSA
5 1978 or regulation by the director of that division pursuant to
6 Section 15-3-11 NMSA 1978.

7 [G-] E. Any contract entered into by the corrections
8 department with a private contractor to operate an existing
9 facility shall include a provision securing the right of all
10 persons employed by that facility prior to the effective date of
11 that contract to be employed by that contractor in any position
12 for which they qualify before that position is offered to any
13 person not employed by that facility prior to that date. "

14 Section 5. Section 33-1-18 NMSA 1978 (being Laws 1990
15 (1st. S.S.), Chapter 5, Section 1, as amended) is amended to
16 read:

17 "33-1-18. [~~FUNDS~~] FUND CREATED. -- There [~~are~~] is created in
18 the state treasury a special [~~funds~~] fund to be known as the
19 "corrections department building fund" [~~the "Guadalupe county~~
20 ~~prison fund" and the "New Mexico prison fund"~~]. The [~~funds~~]
21 fund shall consist of money appropriated by the legislature,
22 from year to year, from the income of the permanent fund and
23 land income of which the penitentiary of New Mexico is the
24 beneficiary [~~and any other revenues that are appropriated to the~~
25 ~~funds, other than revenues derived from property taxes or~~

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1 ~~general fund revenues].~~ Income from investment of [each
2 ~~special] the fund [created by this section] shall be credited to~~
3 ~~[that] the fund. No other funds of the state shall be deposited~~
4 ~~or paid into the corrections department building fund."]~~

5 Section 6. Section 33-1-19 NMSA 1978 (being Laws 1990
6 (1st. S.S.), Chapter 5, Section 2, as amended by Laws 1995,
7 Chapter 43, Section 1 and also by Laws 1995, Chapter 215,
8 Section 4) is amended to read:

9 "33-1-19. USE OF ~~[FUNDS]~~ FUND. -- ~~[A.]~~ The ~~[funds created~~
10 ~~in or pursuant to Section 33-1-18 NMSA 1978]~~ corrections
11 department building fund shall be used by the corrections
12 department ~~[or the board of finance]~~ solely for the purpose of
13 acquiring, ~~[designing, constructing or equipping]~~ by lease or
14 ~~[lease purchase, or by financing the ownership by the~~
15 ~~corrections department through the issuance of bonds or other~~
16 ~~obligations by the corrections department or the board of~~
17 ~~finance, or]~~ other means, a corrections department central
18 office complex, a personnel training academy, a special
19 incarceration alternative facility ~~[correctional facilities]~~ or
20 any combination of these facilities. ~~[and for paying the~~
21 ~~expenses relating to the lease, lease purchase or financing of~~
22 ~~these facilities. Before any of the funds created in Section~~
23 ~~33-1-18 NMSA 1978 may be used for any such purpose, the state~~
24 ~~board of finance shall approve the proposed facility and the~~
25 ~~proposed use of the funds.~~

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1 ~~B. The funds created in or pursuant to Section~~
2 ~~33-1-18 NMSA 1978 shall be used so that available appropriations~~
3 ~~are devoted to the following projects:~~

4 ~~(1) payment for the corrections department~~
5 ~~central office complex;~~

6 ~~(2) a correctional facility in Guadalupe county~~
7 ~~of not less than five hundred fifty and not more than two~~
8 ~~thousand two hundred beds;~~

9 ~~(3) a correctional facility in Lea, Chaves or~~
10 ~~Santa Fe county of not less than one thousand two hundred and~~
11 ~~not more than two thousand two hundred beds; and~~

12 ~~(4) design and construction of a support~~
13 ~~services building, a laundry and an infirmary at the~~
14 ~~penitentiary of New Mexico in Santa Fe.~~

15 ~~C. The use of funds designated in Subsection B of~~
16 ~~this section for a correctional facility in Guadalupe county and~~
17 ~~a correctional facility in Lea, Chaves or Santa Fe county is~~
18 ~~contingent upon construction of both facilities, so that one of~~
19 ~~the facilities shall not be constructed unless both of the~~
20 ~~facilities are constructed, as nearly as possible,~~
21 ~~simultaneously.~~

22 ~~D.] Any balance at the end of any fiscal year in the~~
23 ~~[special funds created in Section 33-1-18 NMSA 1978 that are]~~
24 ~~corrections department building fund that is not needed to pay~~
25 ~~leases, loans, bonds or other financing instruments in that~~

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1 fiscal year may be appropriated by the legislature for
2 expenditure in succeeding fiscal years by the corrections
3 department for corrections purpose. "

4 Section 7. SEVERANCE TAX BONDS--PURPOSE--APPROPRIATION OF
5 PROCEEDS.--The state board of finance shall issue and sell
6 severance tax bonds in compliance with the Severance Tax Bonding
7 Act in an amount not to exceed forty-seven million dollars
8 (\$47,000,000) when the corrections department certifies the need
9 for the issuance of the bonds. The state board of finance shall
10 schedule the issuance and sale of the bonds in the most
11 expeditious and economical manner possible upon a finding by the
12 board that the project has been developed sufficiently to
13 justify the issuance and that the project can proceed to
14 contract within a reasonable time. The state board of finance
15 shall further take the appropriate steps necessary to comply
16 with the Internal Revenue Code of 1986, as amended. The
17 proceeds from the sale of the bonds are appropriated to the
18 correctional facilities financing fund for the design,
19 construction and equipping or acquisition of a state
20 correctional facility in Guadalupe county, a state correctional
21 facility in Lea county, a male adult behavioral and mental
22 health facility in the Rio Grande corridor, an adult female
23 reintegration facility in the Rio Grande corridor and a male
24 juvenile behavioral and mental health facility in the Rio Grande
25 corridor and acquisition of prefabricated juvenile facilities at
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[bracketed material] = delete

1 the youth development and diagnostic center and the New Mexico
2 boys' school at Springer as provided in Section 1 of this act.
3 Any unexpended or unencumbered balance remaining six months
4 after completion of a project shall revert to the severance tax
5 bonding fund. If the corrections department has not certified
6 the need for the issuance of the bonds by the end of fiscal year
7 1999, the authorization provided in this section shall be void.

8 Section 8. APPROPRIATIONS. --

9 A. Six million dollars (\$6,000,000) is appropriated
10 from the general fund to the development training fund for
11 expenditure in fiscal year 1998 and subsequent fiscal years.

12 B. One million dollars (\$1,000,000) is appropriated
13 from the general fund to the state engineer for expenditure in
14 fiscal years 1998 and 1999 for the purpose of conducting a
15 comprehensive statewide water resources study, which includes
16 combining other ongoing or completed studies' data, and
17 compiling an assessment of water rights and water resources,
18 quantities, qualities and locations.

19 Section 9. REPEAL. --

20 A. Section 7-27-5.22 NMSA 1978 (being Laws 1995,
21 Chapter 215, Section 2) is repealed.

22 B. Laws 1995, Chapter 214, Section 2 is repealed.

23 Section 10. EFFECTIVE DATE. --

24 A. The effective date of the provisions of Sections
25 3 and 8 of this act is July 1, 1997.

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B. The effective date of the provisions of Section 2 of this act is August 1, 1997.

Section 11. EMERGENCY.--It is necessary for the public peace, health and safety that this act take effect immediately.

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SENATE FINANCE COMMITTEE SUBSTITUTE FOR
SENATE BILL 1054

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

AN ACT

RELATING TO REVENUES; AUTHORIZING THE ISSUANCE OF SEVERANCE TAX BONDS AND NEW MEXICO FINANCE AUTHORITY REVENUE BONDS FOR ACQUISITION OF CORRECTIONAL FACILITIES; REMOVING A CREDIT AGAINST THE GROSS RECEIPTS TAX FOR MUNICIPAL GROSS RECEIPTS TAXES PAID; CREATING FUNDS; MAKING DISTRIBUTIONS; EXPANDING THE GOVERNMENTAL GROSS RECEIPTS TAX; AMENDING, REPEALING AND ENACTING SECTIONS OF THE NMSA 1978; MAKING APPROPRIATIONS; DECLARING AN EMERGENCY.

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

Section 1. [NEW MATERIAL] CORRECTIONAL FACILITIES ACQUISITION FUND CREATED. --

A. The "correctional facilities acquisition fund" is created in the state treasury. The fund shall consist of severance tax bond proceeds and New Mexico finance authority

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1 revenue bond proceeds deposited in the fund and appropriations
2 to the fund. Except as provided in Subsection C of this
3 section, balances in the fund at the end of any fiscal year
4 shall remain in the fund. Earnings from investment of the fund
5 shall be credited to the fund.

6 B. Money in the correctional facilities acquisition
7 fund is available for appropriation by the legislature for the
8 acquisition of correctional facilities.

9 C. Upon certification by the secretary of
10 corrections and the secretary of general services to the
11 department of finance and administration that no additional
12 money is needed from the correctional facilities acquisition
13 fund for the acquisition of correctional facilities, any balance
14 remaining in the fund shall be transferred to the general fund.

15 Section 2. [NEW MATERIAL] PUBLIC HEALTH, SAFETY AND
16 WELFARE FUND CREATED. --The "public health, safety and welfare
17 fund" is created in the state treasury. The fund shall consist
18 of money distributed to the fund pursuant to Section 7-9-82 NMSA
19 1978. Money in the fund may be appropriated by the legislature
20 for any general governmental purpose. Balances in the fund at
21 the end of any fiscal year shall remain in the fund. Earnings
22 from investment of the fund shall be credited to the fund.

23 Section 3. A new section of the New Mexico Finance
24 Authority Act is enacted to read:

25 " [NEW MATERIAL] CORRECTIONAL FACILITIES DEBT SERVICE FUND

1 CREATED. --

2 A. The "correctional facilities debt service fund" is
3 created within the authority. The fund shall be administered by
4 the authority as a separate account. The authority may create such
5 subaccounts as the authority deems necessary to carry out the
6 purposes of the fund. The authority is authorized to establish
7 procedures as required to administer the fund in accordance with
8 the New Mexico Finance Authority Act.

9 B. The correctional facilities debt service fund shall
10 consist of money distributed to the fund for the purpose of
11 acquiring correctional facilities.

12 C. Money appropriated to pay administrative costs and
13 money available for administrative costs from other sources shall
14 not be deposited in the correctional facilities debt service fund
15 but shall be deposited in a separate account of the authority and
16 may be used by the authority to meet administrative costs of the
17 authority. The authority is authorized to deduct administrative
18 costs annually from the fund prior to making the transfer required
19 by Subsection F of this section.

20 D. Money in the correctional facilities debt service
21 fund not needed for immediate disbursement, including any money
22 held in reserve, may be deposited with the state treasurer for
23 short-term investment pursuant to Section 6-10-10.1 NMSA 1978 or
24 may be invested in direct and general obligations of or obligations
25 fully and unconditionally guaranteed by the United States,

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1 obligations issued by agencies of the United States, obligations of
2 this state or any political subdivision of the state, interest-
3 bearing time deposits, commercial paper issued by corporations
4 organized and operating in the United States and rated "prime"
5 quality by a national rating service or as otherwise provided by
6 the trust indenture or bond resolution, if money in the fund is
7 pledged for or to secure payment of bonds issued by the authority.

8 E. The authority shall establish fiscal controls and
9 accounting procedures that are sufficient to assure proper
10 accounting for correctional facilities debt service fund payments,
11 disbursements and balances.

12 F. At the end of any fiscal year, after all debt
13 service charges, replenishment of reserves and administrative costs
14 on all outstanding revenue bonds, notes or other obligations
15 payable from the correctional facilities debt service fund are
16 satisfied, the balance remaining in the correctional facilities
17 debt service fund shall be transferred by the authority to the
18 general fund for appropriation by the legislature."

19 Section 4. Section 6-24-24 NMSA 1978 (being Laws 1995,
20 Chapter 155, Section 24) is amended to read:

21 "6-24-24. DISPOSITION OF REVENUE. --

22 A. As nearly as practical, an amount equal to at least
23 fifty percent of the gross annual revenues from the sale of lottery
24 tickets shall be returned to the public in the form of lottery
25 prizes.

1 B. The authority shall transmit all net revenues to the
2 state treasurer, who shall deposit sixty percent of the revenues in
3 the public school capital outlay fund for expenditure pursuant to
4 the provisions of the Public School Capital Outlay Act and forty
5 percent in the lottery tuition fund. Estimated net revenues shall
6 be transmitted monthly to the state treasurer for deposit in the
7 funds, provided the total amount of annual net revenues for the
8 fiscal year shall be transmitted no later than August 1 each year.

9 C. In determining net revenues, operating expenses of
10 the lottery include all costs incurred in the operation and
11 administration of the lottery and all costs resulting from any
12 contracts entered into for the purchase or lease of goods or
13 services required by the lottery, including but not limited to, the
14 costs of supplies, materials, tickets, independent audit services,
15 independent studies, data transmission, advertising, promotion,
16 incentives, public relations, communications, commissions paid to
17 lottery retailers, printing, distribution of tickets, purchases of
18 annuities or investments to be used to pay future installments of
19 winning lottery tickets, debt service and payment of any revenue
20 bonds issued, contingency reserves, transfers to the reserve fund
21 and any other necessary costs incurred in carrying out the
22 provisions of the New Mexico Lottery Act.

23 D. An amount up to two percent of the gross annual
24 revenues shall be set aside as a reserve fund to cover bonuses and
25 incentive plans for lottery retailers, special promotions for

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1 retailers, purchasing special promotional giveaways, sponsoring
2 special promotional events, compulsive gambling rehabilitation and
3 such other purposes as the board deems necessary to maintain the
4 integrity and meet the revenue goals of the lottery. The board
5 shall report annually to the governor and each regular session of
6 the legislature on the use of the money in the reserve fund. Any
7 balance in excess of fifty thousand dollars (\$50,000) at the end of
8 any fiscal year shall be transferred to the lottery tuition fund.

9 E. As used in this section, "gross annual revenues"
10 does not include governmental gross receipts tax collected or
11 paid."

12 Section 5. Section 7-1-6.38 NMSA 1978 (being Laws 1994,
13 Chapter 145, Section 1, as amended) is amended to read:

14 "7-1-6.38. DISTRIBUTION--GOVERNMENTAL GROSS RECEIPTS TAX.--

15 A. A distribution pursuant to Section 7-1-6.1 NMSA 1978
16 shall be made to the correctional facilities debt service fund
17 administered by the New Mexico finance authority in an amount equal
18 to the net receipts attributable to the governmental gross receipts
19 tax imposed on the receipts from operation of the New Mexico state
20 lottery.

21 B. From the balance remaining after the distribution in
22 Subsection A of this section of the net receipts attributable to
23 the governmental gross receipts tax:

24 [A-] (1) a distribution pursuant to Section
25 7-1-6.1 NMSA 1978 shall be made to the public project revolving

1 fund administered by the New Mexico finance authority in an amount
 2 equal to seventy-five percent of that balance of the net receipts
 3 attributable to the governmental gross receipts tax; and

4 ~~[B-]~~ (2) a distribution pursuant to Section
 5 7-1-6.1 NMSA 1978 shall be made to the energy, minerals and natural
 6 resources department in an amount equal to twenty-five percent of
 7 that balance of the net receipts attributable to the governmental
 8 gross receipts tax. Forty percent of the distribution is
 9 appropriated to the energy, minerals and natural resources
 10 department to implement the provisions of the New Mexico Youth
 11 Conservation Corps Act, and sixty percent of the distribution is
 12 appropriated to the energy, minerals and natural resources
 13 department for state park and recreation area capital improvements,
 14 including the costs of planning, engineering, design, construction,
 15 renovation, repair, equipment and furnishings.

16 C. The state pledges to and agrees with the holders of
 17 any bonds or notes issued by the New Mexico finance authority or by
 18 the energy, minerals and natural resources department and payable
 19 from the net receipts attributable to the governmental gross
 20 receipts tax distributed to the New Mexico finance authority or the
 21 energy, minerals and natural resources department pursuant to this
 22 section that the state will not limit, reduce or alter the
 23 distribution of the net receipts attributable to the governmental
 24 gross receipts tax to the New Mexico finance authority or the
 25 energy, minerals and natural resources department; limit, reduce,

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1 alter or exempt any of the receipts of governmental entities
2 subject to the governmental gross receipts tax; or limit, reduce or
3 alter the rate of imposition of the governmental gross receipts tax
4 until the bonds or notes together with the interest thereon are
5 fully met and discharged or provision has been made for their full
6 payment and discharge. The New Mexico finance authority and the
7 energy, minerals and natural resources department are authorized to
8 include this pledge and agreement of the state in any agreement
9 with the holders of the bonds or notes."

10 Section 6. Section 7-9-3.2 NMSA 1978 (being Laws 1991,
11 Chapter 8, Section 1, as amended) is amended to read:

12 "7-9-3.2. ADDITIONAL DEFINITION. --As used in the Gross
13 Receipts and Compensating Tax Act, "governmental gross receipts"
14 means all receipts of the state ~~[of New Mexico]~~ or any agency,
15 institution, instrumentality or political subdivision thereof from:

16 A. the sale of tangible personal property other than
17 water from facilities open to the general public;

18 B. the performance of or admissions to recreational,
19 athletic or entertainment services or events in facilities open to
20 the general public;

21 C. refuse collection, refuse disposal or both;

22 D. sewage services; ~~[and]~~

23 E. the sale of water by a utility owned or operated by
24 a county, municipality or other political subdivision of the state;

25 and

1 F. the operation of a lottery.

2 "Governmental gross receipts" includes receipts from the sale
3 of tangible personal property handled on consignment when sold from
4 facilities open to the general public but excludes cash discounts
5 taken and allowed, governmental gross receipts tax payable on
6 transactions reportable for the period and any type of time-price
7 differential. "

8 Section 7. Section 7-9-82 NMSA 1978 (being Laws 1986,
9 Chapter 20, Section 68, as amended) is amended to read:

10 "7-9-82. ~~[CREDIT GROSS RECEIPTS TAX MUNICIPAL GROSS~~
11 ~~RECEIPTS TAX PAID]~~ DISTRIBUTION-- AMOUNT EQUAL TO A PERCENTAGE OF
12 MUNICIPAL GROSS RECEIPTS TAX -- [A credit shall be allowed for each
13 reporting period against the gross receipts tax for] After August
14 1, 1997, from the net receipts attributable to the gross receipts
15 tax a distribution pursuant to Section 7-1-6.1 NMSA 1978 shall be
16 made to the public health, safety and welfare fund in an amount
17 equal to:

18 A. ~~[an]~~ the amount of the municipal gross receipts tax
19 equal to one-half of one percent of the taxable gross receipts for
20 which [the taxpayer is] taxpayers are liable for that reporting
21 period [imposed by a municipality pursuant to Section 7-19D-4 NMSA
22 1978 if that municipality has imposed] to municipalities that have
23 imposed a total municipal gross receipts tax rate of at least one-
24 half of one percent [or] pursuant to Section 7-19D-4 NMSA 1978; and

25 B. ~~[an]~~ the amount of the municipal gross receipts tax

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1 equal to one-fourth of one percent of the taxable gross receipts
2 for which ~~[the taxpayer is]~~ taxpayers are liable for that reporting
3 period ~~[imposed by a municipality pursuant to Section 17-19D-4 NMSA~~
4 ~~1978 if that municipality has imposed]~~ to municipalities that have
5 imposed a total municipal gross receipts tax rate of one-fourth of
6 one percent pursuant to Section 7-19D-4 NMSA 1978 "

7 Section 8. NEW MEXICO FINANCE AUTHORITY--REVENUE BONDS--
8 PURPOSE--APPROPRIATION OF PROCEEDS.--The New Mexico finance
9 authority may issue and sell revenue bonds, payable solely from the
10 correctional facilities debt service fund, in compliance with the
11 provisions of the New Mexico Finance Authority Act in installments
12 or at one time in an amount necessary to provide net proceeds of
13 twenty-one million dollars (\$21,000,000) for the acquisition of
14 correctional facilities and for payment of the costs of issuance of
15 the bonds and establishing necessary reserves for the bonds, when
16 the corrections department certifies the need for the issuance of
17 the bonds. Twenty-one million dollars (\$21,000,000) of the
18 proceeds from the bonds shall be deposited in the correctional
19 facilities acquisition fund for appropriation by the legislature
20 for acquisition of correctional facilities.

21 Section 9. SEVERANCE TAX BONDS--PURPOSE--APPROPRIATION OF
22 PROCEEDS.--The state board of finance shall issue and sell
23 severance tax bonds in compliance with the Severance Tax Bonding
24 Act in an amount not to exceed forty-four million dollars
25 (\$44,000,000) when the corrections department certifies the need

1 for the issuance of the bonds. The state board of finance shall
 2 schedule the issuance and sale of the bonds in the most expeditious
 3 and economical manner possible upon a finding by the board that the
 4 project has been developed sufficiently to justify the issuance and
 5 that the project can proceed to contract within a reasonable time.
 6 The state board of finance shall further take the appropriate steps
 7 necessary to comply with the Internal Revenue Code of 1986, as
 8 amended. The proceeds from the sale of the bonds shall be
 9 deposited in the correctional facilities acquisition fund for
 10 appropriation by the legislature for acquisition of correctional
 11 facilities. Any unexpended or unencumbered balance remaining six
 12 months after completion of a project shall revert to the severance
 13 tax bonding fund. If the corrections department has not certified
 14 the need for the issuance of the bonds by the end of fiscal year
 15 1999, the authorization provided in this section shall be void.

16 Section 10. APPROPRIATION. -- Twenty-eight million dollars
 17 (\$28,000,000) is appropriated from the general fund to the
 18 correctional facilities acquisition fund in fiscal year 1998 for
 19 appropriation by the legislature for acquisition of correctional
 20 facilities.

21 Section 11. REPEAL. --

22 A. Section 7-27-5.22 NMSA 1978 (being Laws 1995,
 23 Chapter 215, Section 2, as amended) is repealed.

24 B. Laws 1995, Chapter 214, Section 2 is repealed.

25 Section 12. EFFECTIVE DATE. --

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FORTY-THIRD LEGISLATURE

FIRST SESSION

March 16, 1997

SENATE FLOOR AMENDMENT number _____ to SENATE FINANCE COMMITTEE
SUBSTITUTE FOR
SENATE BILL 1054

Amendment sponsored by Senator Manny M. Aragon

1. On page 1, line 13, after the semicolon strike the remainder of the line, strike all of line 14 and on line 15, strike "TAXES PAID" and insert in lieu thereof "INCREASING THE RATE OF THE CIGARETTE TAX AND DISTRIBUTING THE ADDITIONAL REVENUES".

2. On page 2, strike Section 2 in its entirety.

3. Renumber the succeeding sections accordingly.

4. On page 6, between lines 11 and 12, insert the following new

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3 section:

4
5 "Section 4. Section 7-1-6.11 NMSA 1978 (being Laws 1983,
6 Chapter 211, Section 16, as amended) is amended to read:

7
8 "7-1-6.11. DISTRIBUTIONS OF CIGARETTE TAXES. --

9
10 A. A distribution pursuant to Section 7-1-6.1 NMSA 1978
11 shall be made to the county and municipality recreational fund in an
12 amount equal to [~~four and three-quarters~~] three and twenty-three
13 hundredths percent of the net receipts, exclusive of penalties and
14 interest, attributable to the cigarette tax.

15
16 B. A distribution pursuant to Section 7-1-6.1 NMSA 1978
17 shall be made to the county and municipal cigarette tax fund in an
18 amount equal to [~~nine and one-half~~] six and forty-five hundredths
19 percent of the net receipts, exclusive of penalties and interest,
20 attributable to the cigarette tax.

21
22 C. A distribution pursuant to Section 7-1-6.1 NMSA 1978
23 shall be made to the cancer center at the university of New Mexico

24 119041.1

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Underscored material = new
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FORTY-THIRD LEGISLATURE
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school of medicine in an amount equal to ~~[four and three-quarters]~~
~~twelve and nine-tenths~~ percent of the net receipts, exclusive of
penalties and interest, attributable to the cigarette tax.

D. A distribution pursuant to Section 7-1-6.1 NMSA 1978
shall be made to the New Mexico finance authority in an amount equal
to ~~[seven and one-eighth]~~ four and eighty-three hundredths percent of
the net receipts, exclusive of penalties and interest, attributable
to the cigarette tax.

E. A distribution pursuant to Section 7-1-6.1 NMSA 1978
shall be made to the board of regents of the university of New Mexico
in an amount equal to three and twenty-three hundredths percent of
the net receipts, exclusive of penalties and interest, attributable
to the cigarette tax for the purpose of establishing a special chair
for genetics research.

F. A distribution pursuant to Section 7-1-6.1 NMSA 1978
shall be made to the state fair commission in an amount equal to
three and twenty-three hundredths percent of the net receipts,
exclusive of penalties and interest, attributable to the cigarette

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tax for the purpose of conducting the New Mexico state fair.

G. A distribution pursuant to Section 7-1-6.1 NMSA 1978 shall be made to the office of cultural affairs in an amount equal to twelve and nine-tenths percent of the net receipts, exclusive of penalties and interest, attributable to the cigarette tax to be distributed as follows for the following purposes:

(1) three-fourths of the distribution to the board of directors of the New Mexico Hispanic cultural center for any necessary design, construction or equipping of the Hispanic cultural center and thereafter for the operation of the Hispanic cultural center;

(2) one-eighth of the distribution to the New Mexico farm and ranch heritage museum division for operation of the New Mexico farm and ranch heritage museum; and

(3) one-eighth of the distribution to the board of trustees of the New Mexico museum of natural history and science for operation of that museum.

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FORTY-THIRD LEGISLATURE
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G. A distribution pursuant to Section 7-1-6.1 NMSA 1978 shall be made to the brain injury services fund in an amount equal to three and twenty-three hundredths percent of the net receipts, exclusive of penalties and interest, attributable to the cigarette tax, contingent upon enactment into law of Senate Bill 37 or other bill of the first session of the forty-third legislature creating the fund. "

5. Renumber the succeeding sections accordingly.

6. On pages 9 and 10, strike Section 7 in its entirety and insert in lieu thereof:

"Section 7. Section 7-12-3 NMSA 1978 (being Laws 1971, Chapter 77, Section 3, as amended) is amended to read:

"7-12-3. EXCISE TAX ON CIGARETTES--RATES. --

A. For the privilege of selling, giving or consuming cigarettes in New Mexico, there is levied an excise tax at the rate of ~~[one and five hundredths cents (\$.0105)]~~ one and fifty-five

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hundredths cents (\$.0155) for each cigarette sold, given or consumed
in this state.

B. The tax imposed by this section shall be referred to as
the "cigarette tax". "".

7. On page 12, line 1, strike "4" and insert in lieu thereof
"3".

8. On page 12, line 3, strike "Section" and insert in lieu
thereof "Sections 4 and".

Manny M. Aragon

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[bracketed material] = delete

FORTY-THIRD LEGISLATURE
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Adopted _____ Not Adopted _____
(Chief Clerk) (Chief Clerk)

Date _____

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Underscored material = new
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State of New Mexico
House of Representatives

FORTY-THIRD LEGISLATURE
FIRST SESSION, 1997

March 18, 1997

Mr. Speaker:

Your TAXATION AND REVENUE COMMITTEE, to whom has been referred

SENATE FINANCE COMMITTEE SUBSTITUTE
FOR SENATE BILL 1054, as amended

has had it under consideration and reports same with recommendation that it DO NOT PASS, but that

HOUSE TAXATION AND REVENUE COMMITTEE SUBSTITUTE
FOR SENATE FINANCE COMMITTEE SUBSTITUTE
FOR SENATE BILL 1054

DO PASS, and thence referred to the APPROPRIATIONS AND FINANCE COMMITTEE.

FORTY-THIRD LEGISLATURE
FIRST SESSION, 1997

SFC/SB 1054

HTPC/CS 1054

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Respectfully submitted,

Jerry W. Sandel, Chairman

Adopted _____ Not Adopted _____

(Chief Clerk)

(Chief Clerk)

Date _____

The roll call vote was 11 For 1 Against

Yes: 11

No: Parsons

Excused: Crook

Absent: None

M \S1054

Underscored material = new
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HOUSE TAXATION AND REVENUE COMMITTEE SUBSTITUTE FOR
SENATE FINANCE COMMITTEE SUBSTITUTE FOR

SENATE BILL 1054

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

AN ACT

RELATING TO REVENUES; AUTHORIZING THE ISSUANCE OF SEVERANCE TAX
BONDS AND NEW MEXICO FINANCE AUTHORITY REVENUE BONDS FOR
ACQUISITION OF CORRECTIONAL FACILITIES; AUTHORIZING THE
CORRECTIONS DEPARTMENT TO ENTER INTO CONTRACTS TO HOUSE INMATES;
CREATING A FUND; MAKING DISTRIBUTIONS; EXPANDING THE
GOVERNMENTAL GROSS RECEIPTS TAX; AMENDING, REPEALING AND
ENACTING SECTIONS OF THE NMSA 1978; REPEALING A SECTION OF LAWS
1995; MAKING APPROPRIATIONS; DECLARING AN EMERGENCY.

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

Section 1. A new section of the New Mexico Finance
Authority Act is enacted to read:

" NEW MATERIAL CORRECTIONAL FACILITIES DEBT SERVICE FUND
CREATED. --

A. The "correctional facilities debt service fund" is
created within the authority. The fund shall be administered by
the authority as a separate account. The authority may create

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Underscored material = new
[bracketed material] = delete

1 such subaccounts as the authority deems necessary to carry out
2 the purposes of the fund. The authority is authorized to
3 establish procedures as required to administer the fund in
4 accordance with the New Mexico Finance Authority Act.

5 B. The correctional facilities debt service fund shall
6 consist of money distributed to the fund for the purpose of
7 acquiring correctional facilities.

8 C. Money appropriated to pay administrative costs and
9 money available for administrative costs from other sources
10 shall not be deposited in the correctional facilities debt
11 service fund but shall be deposited in a separate account of the
12 authority and may be used by the authority to meet
13 administrative costs of the authority. The authority is
14 authorized to deduct administrative costs annually from the fund
15 prior to making the transfer required by Subsection F of this
16 section.

17 D. Money in the correctional facilities debt service
18 fund not needed for immediate disbursement, including any money
19 held in reserve, may be deposited with the state treasurer for
20 short-term investment pursuant to Section 6-10-10.1 NMSA 1978 or
21 may be invested in direct and general obligations of or
22 obligations fully and unconditionally guaranteed by the United
23 States, obligations issued by agencies of the United States,
24 obligations of this state or any political subdivision of the
25 state, interest-bearing time deposits, commercial paper issued

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1 by corporations organized and operating in the United States and
 2 rated "prime" quality by a national rating service or as otherwise
 3 provided by the trust indenture or bond resolution, if money in the
 4 fund is pledged for or to secure payment of bonds issued by the
 5 authority.

6 E. The authority shall establish fiscal controls and
 7 accounting procedures that are sufficient to assure proper
 8 accounting for correctional facilities debt service fund payments,
 9 disbursements and balances.

10 F. At the end of any fiscal year, after all debt service
 11 charges, replenishment of reserves and administrative costs on all
 12 outstanding revenue bonds, notes or other obligations payable from
 13 the correctional facilities debt service fund are satisfied, the
 14 balance remaining in the correctional facilities debt service fund
 15 shall be transferred by the authority to the public project
 16 revolving fund for public projects as authorized by the
 17 legislature. "

18 Section 2. Section 6-24-24 NMSA 1978 (being Laws 1995,
 19 Chapter 155, Section 24) is amended to read:

20 "6-24-24. DISPOSITION OF REVENUE. --

21 A. As nearly as practical, an amount equal to at least
 22 fifty percent of the gross annual revenues from the sale of lottery
 23 tickets shall be returned to the public in the form of lottery
 24 prizes.

25 B. The authority shall transmit all net revenues to the

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1 state treasurer, who shall deposit sixty percent of the revenues in
2 the public school capital outlay fund for expenditure pursuant to
3 the provisions of the Public School Capital Outlay Act and forty
4 percent in the lottery tuition fund. Estimated net revenues shall
5 be transmitted monthly to the state treasurer for deposit in the
6 funds, provided the total amount of annual net revenues for the
7 fiscal year shall be transmitted no later than August 1 each year.

8 C. In determining net revenues, operating expenses of the
9 lottery include all costs incurred in the operation and
10 administration of the lottery and all costs resulting from any
11 contracts entered into for the purchase or lease of goods or
12 services required by the lottery, including but not limited to, the
13 costs of supplies, materials, tickets, independent audit services,
14 independent studies, data transmission, advertising, promotion,
15 incentives, public relations, communications, commissions paid to
16 lottery retailers, printing, distribution of tickets, purchases of
17 annuities or investments to be used to pay future installments of
18 winning lottery tickets, debt service and payment of any revenue
19 bonds issued, contingency reserves, transfers to the reserve fund
20 and any other necessary costs incurred in carrying out the
21 provisions of the New Mexico Lottery Act.

22 D. An amount up to two percent of the gross annual
23 revenues shall be set aside as a reserve fund to cover bonuses and
24 incentive plans for lottery retailers, special promotions for
25 retailers, purchasing special promotional giveaways, sponsoring

1 special promotional events, compulsive gambling rehabilitation and
 2 such other purposes as the board deems necessary to maintain the
 3 integrity and meet the revenue goals of the lottery. The board
 4 shall report annually to the governor and each regular session of
 5 the legislature on the use of the money in the reserve fund. Any
 6 balance in excess of fifty thousand dollars (\$50,000) at the end of
 7 any fiscal year shall be transferred to the lottery tuition fund.

8 E. As used in this section, "gross annual revenues" does
 9 not include governmental gross receipts tax collected or paid."

10 Section 3. Section 7-1-6.38 NMSA 1978 (being Laws 1994,
 11 Chapter 145, Section 1, as amended) is amended to read:

12 "7-1-6.38. DISTRIBUTION--GOVERNMENTAL GROSS RECEIPTS TAX.--

13 A. A distribution pursuant to Section 7-1-6.1 NMSA 1978
 14 shall be made to the correctional facilities debt service fund
 15 administered by the New Mexico finance authority in an amount equal
 16 to the net receipts attributable to the governmental gross receipts
 17 tax imposed on the receipts from operation of the New Mexico state
 18 lottery.

19 B. From the balance remaining after the distribution in
 20 Subsection A of this section of the net receipts attributable to
 21 the governmental gross receipts tax:

22 ~~[A-]~~ (1) a distribution pursuant to Section 7-1-6.1
 23 NMSA 1978 shall be made to the public project revolving fund
 24 administered by the New Mexico finance authority in an amount equal
 25 to seventy-five percent of that balance of the net receipts

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1 attributable to the governmental gross receipts tax; and

2 ~~[B-]~~ (2) a distribution pursuant to Section 7-1-6.1
3 NMSA 1978 shall be made to the energy, minerals and natural
4 resources department in an amount equal to twenty-five percent of
5 that balance of the net receipts attributable to the governmental
6 gross receipts tax. Forty percent of the distribution is
7 appropriated to the energy, minerals and natural resources
8 department to implement the provisions of the New Mexico Youth
9 Conservation Corps Act, and sixty percent of the distribution is
10 appropriated to the energy, minerals and natural resources
11 department for state park and recreation area capital improvements,
12 including the costs of planning, engineering, design, construction,
13 renovation, repair, equipment and furnishings.

14 C. The state pledges to and agrees with the holders of
15 any bonds or notes issued by the New Mexico finance authority or by
16 the energy, minerals and natural resources department and payable
17 from the net receipts attributable to the governmental gross
18 receipts tax distributed to the New Mexico finance authority or the
19 energy, minerals and natural resources department pursuant to this
20 section that the state will not limit, reduce or alter the
21 distribution of the net receipts attributable to the governmental
22 gross receipts tax to the New Mexico finance authority or the
23 energy, minerals and natural resources department; limit, reduce,
24 alter or exempt any of the receipts of governmental entities
25 subject to the governmental gross receipts tax; or limit, reduce or

1 alter the rate of imposition of the governmental gross receipts tax
 2 until the bonds or notes together with the interest thereon are
 3 fully met and discharged or provision has been made for their full
 4 payment and discharge. The New Mexico finance authority and the
 5 energy, minerals and natural resources department are authorized to
 6 include this pledge and agreement of the state in any agreement
 7 with the holders of the bonds or notes."

8 Section 4. Section 7-9-3.2 NMSA 1978 (being Laws 1991,
 9 Chapter 8, Section 1, as amended) is amended to read:

10 "7-9-3.2. ADDITIONAL DEFINITION. --As used in the Gross
 11 Receipts and Compensating Tax Act, "governmental gross receipts"
 12 means all receipts of the state [~~of New Mexico~~] or any agency,
 13 institution, instrumentality or political subdivision thereof from:

14 A. the sale of tangible personal property other than
 15 water from facilities open to the general public;

16 B. the performance of or admissions to recreational,
 17 athletic or entertainment services or events in facilities open to
 18 the general public;

19 C. refuse collection, refuse disposal or both;

20 D. sewage services; [~~and~~]

21 E. the sale of water by a utility owned or operated by a
 22 county, municipality or other political subdivision of the state;

23 and

24 F. the operation of a lottery.

25 "Governmental gross receipts" includes receipts from the sale

1 of tangible personal property handled on consignment when sold from
2 facilities open to the general public but excludes cash discounts
3 taken and allowed, governmental gross receipts tax payable on
4 transactions reportable for the period and any type of time-price
5 differential. "

6 Section 5. [NEW MATERIAL] CONTRACT TO HOUSE ADULT FEMALE
7 INMATES IN A REINTEGRATION FACILITY. --

8 A. The corrections department shall solicit proposals for
9 the purpose of entering into a contract with a private detention
10 facility pursuant to Subsection G of Section 31-20-2 NMSA 1978 to
11 operate an adult female reintegration facility.

12 B. The facility contracting with the corrections
13 department pursuant to Subsection A of this section shall:

14 (1) be privately financed, designed, constructed and
15 operated by the contractor; provided that a facility financed by
16 bonds issued pursuant to the Industrial Revenue Bond Act or the
17 County Industrial Revenue Bond Act and sold to the contractor shall
18 be privately financed by the contractor for the purposes of this
19 paragraph;

20 (2) consist of a two-hundred-fifty-bed adult female
21 reintegration facility that is adjacent to a four-hundred-bed
22 medium-security correctional facility that is located in the middle
23 Rio Grande corridor; and

24 (3) certify that the facility was built by a primary
25 contractor and subcontractors that:

1 (a) maintain their primary places of business
2 in New Mexico;

3 (b) hired laborers for construction of the
4 facility as employees, rather than as independent contractors, and
5 who are New Mexico residents;

6 (c) provided health care benefits, retirement
7 benefits and unemployment insurance to their employees working on
8 construction of the facility; and

9 (d) maintain apprenticeship programs for their
10 employees.

11 C. The corrections department shall solicit proposals and
12 award any contract under this section in accordance with the
13 provisions of the Procurement Code. The contract shall include
14 such terms and conditions as the department may require after
15 consultation with the general services department; provided that
16 the terms and conditions shall include provisions that:

17 (1) set forth comprehensive standards for conditions
18 of incarceration;

19 (2) require the facility to meet or exceed
20 corrections department standards and meet appropriate certification
21 requirements within one year after beginning operation and remain
22 accredited through the life of the contract;

23 (3) require the contractor to assume all liability
24 caused by or arising out of all aspects of the provision or
25 operation of the facility;

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1 (4) require liability insurance or other proof of
2 financial responsibility acceptable to the general services
3 department that covers the contractor and its officers, employees
4 and agents in an amount sufficient to cover all liability caused by
5 or arising out of all aspects of the provision or operation of the
6 facility;

7 (5) require termination for cause upon ninety days'
8 notice to the contractor for failure to meet contract provisions
9 when such failure seriously affects the availability or operation
10 of the facility;

11 (6) provide that venue for enforcement of the
12 contract shall be in the district court for Santa Fe county;

13 (7) require continuation of the contract to be
14 subject to the availability of funds;

15 (8) provide that compliance with the contract shall
16 be monitored by the corrections department and the contract may be
17 terminated for noncompliance; and

18 (9) payments under the contract shall be made only
19 on a per diem per inmate basis without any additional or separate
20 charge for capital costs.

21 Section 6. [NEW MATERIAL] CONTRACT TO HOUSE ADJUDICATED
22 DELINQUENTS IN A CARE, REHABILITATION AND TREATMENT FACILITY. --

23 A. The children, youth and families department shall
24 solicit proposals for the purpose of entering into a contract with
25 a private care, rehabilitation and treatment facility to house male

1 adjudicated delinquents committed to the children, youth and
2 families department.

3 B. The facility contracting with the children, youth and
4 families department pursuant to Subsection A of this section shall:

5 (1) be privately financed, designed, constructed and
6 operated by the contractor; provided that a facility financed by
7 bonds issued pursuant to the Industrial Revenue Bond Act or the
8 County Industrial Revenue Bond Act and sold to the contractor shall
9 be privately financed by the contractor for the purposes of this
10 paragraph;

11 (2) consist of one hundred fifty beds and provide
12 care, rehabilitation and treatment for male adjudicated
13 delinquents;

14 (3) be located in the middle Rio Grande corridor;
15 and

16 (4) certify that the facility was built by a primary
17 contractor and subcontractors that:

18 (a) maintain their primary places of business
19 in New Mexico;

20 (b) hired laborers for construction of the
21 facility as employees, rather than as independent contractors, and
22 who are New Mexico residents;

23 (c) provided health care benefits, retirement
24 benefits and unemployment insurance to their employees working on
25 construction of the facility; and

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1 (d) maintain apprenticeship programs for their
2 employees.

3 C. The children, youth and families department shall
4 solicit proposals and award any contract under this section in
5 accordance with the provisions of the Procurement Code. The
6 contract shall include such terms and conditions as the department
7 may require after consultation with the general services
8 department; provided that the terms and conditions shall include
9 provisions that:

10 (1) set forth comprehensive standards for conditions
11 of incarceration;

12 (2) require the facility to meet or exceed
13 applicable juvenile detention facility standards and meet
14 appropriate certification requirements within one year after
15 beginning operation and remain accredited through the life of the
16 contract;

17 (3) require the contractor to assume all liability
18 caused by or arising out of all aspects of the provision or
19 operation of the facility;

20 (4) require liability insurance or other proof of
21 financial responsibility acceptable to the general services
22 department that covers the contractor and its officers, employees
23 and agents in an amount sufficient to cover all liability caused by
24 or arising out of all aspects of the provision or operation of the
25 facility;

1 (5) require termination for cause upon ninety days'
2 notice to the contractor for failure to meet contract provisions
3 when such failure seriously affects the availability or operation
4 of the facility;

5 (6) provide that venue for enforcement of the
6 contract shall be in the district court for Santa Fe county;

7 (7) require continuation of the contract to be
8 subject to the availability of funds;

9 (8) provide that compliance with the contract shall
10 be monitored by the children, youth and families department and the
11 contract may be terminated for noncompliance; and

12 (9) payments under the contract shall be made only
13 on a per diem per inmate basis without any additional or separate
14 charge for capital costs.

15 Section 7. NEW MEXICO FINANCE AUTHORITY--PUBLIC PROJECT
16 APPROVAL.--Pursuant to the provisions of Section 6-21-6 NMSA 1978,
17 the legislature authorizes the New Mexico finance authority to
18 issue and sell revenue bonds in installments or at one time in an
19 amount not to exceed twenty million dollars (\$20,000,000) payable
20 solely from the public project revolving fund for the acquisition
21 of correctional facilities on terms and conditions established by
22 the authority when the corrections department certifies the need
23 for the issuance of the bonds. The net proceeds from the sale of
24 the bonds shall be appropriated by the legislature for the
25 acquisition of correctional facilities, subject to the provisions

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1 and requirements in Section 13 of this act for those facilities.

2 Section 8. NEW MEXICO FINANCE AUTHORITY--GOVERNMENTAL GROSS
3 RECEIPTS TAX REVENUE BONDS--PURPOSE. --The New Mexico finance
4 authority may issue and sell revenue bonds, payable solely from
5 governmental gross receipts tax revenues distribution to the
6 correctional facilities debt service fund, in compliance with the
7 provisions of the New Mexico Finance Authority Act in installments
8 or at one time in an amount necessary to provide net proceeds of
9 twenty-one million dollars (\$21,000,000) for the acquisition of
10 correctional facilities and for payment of the costs of issuance of
11 the bonds and establishing necessary reserves for the bonds, when
12 the corrections department certifies the need for the issuance of
13 the bonds. The net proceeds from the bonds shall be appropriated
14 by the legislature for acquisition of correctional facilities,
15 subject to the provisions and requirements in Section 13 of this
16 act for those facilities. Any unexpended or unencumbered balance
17 remaining six months after completion of a project shall revert to
18 the public project revolving fund for appropriation by the
19 legislature for public projects pursuant to the provisions of the
20 New Mexico Finance Authority Act. If the corrections department
21 has not certified the need for the issuance of the bonds by the end
22 of fiscal year 1999, the authorization provided in this section
23 shall be void.

24 Section 9. SEVERANCE TAX BONDS--PURPOSE. --The state board of
25 finance shall issue and sell severance tax bonds in compliance with

1 the Severance Tax Bonding Act in an amount not to exceed forty-four
 2 million dollars (\$44,000,000) when the corrections department
 3 certifies the need for the issuance of the bonds. The state board
 4 of finance shall schedule the issuance and sale of the bonds in the
 5 most expeditious and economical manner possible upon a finding by
 6 the board that the project has been developed sufficiently to
 7 justify the issuance and that the project can proceed to contract
 8 within a reasonable time. The state board of finance shall further
 9 take the appropriate steps necessary to comply with the Internal
 10 Revenue Code of 1986, as amended. The proceeds from the sale of
 11 the bonds shall be appropriated by the legislature for acquisition
 12 of correctional facilities subject to the provisions and
 13 requirements in Section 13 of this act for those facilities. Any
 14 unexpended or unencumbered balance remaining six months after
 15 completion of a project shall revert to the severance tax bonding
 16 fund. If the corrections department has not certified the need for
 17 the issuance of the bonds by the end of fiscal year 1999, the
 18 authorization provided in this section shall be void.

19 Section 10. APPROPRIATIONS--HOUSING INMATES OUT OF STATE.--

20 A. One million one hundred thousand dollars (\$1,100,000)
 21 is appropriated from the general fund to the corrections department
 22 for expenditure in fiscal year 1997 for the purpose of paying for
 23 adult male inmates transferred to out-of-state correctional
 24 facilities for a period not to exceed twelve months to relieve
 25 overcrowding in state correctional facilities and paying for

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1 accompanying costs, including medical costs and transportation
2 costs. Any unexpended or unencumbered balance remaining at the end
3 of fiscal year 1997 shall revert to the general fund.

4 B. One million eight hundred thousand dollars
5 (\$1,800,000) is appropriated from the general fund to the
6 corrections department for expenditure in fiscal year 1998 for the
7 purpose of paying for adult male inmates transferred to out-of-
8 state correctional facilities for a period not to exceed twelve
9 months and paying for accompanying costs, including medical costs
10 and transportation costs. Any unexpended or unencumbered balance
11 remaining at the end of fiscal year 1998 shall revert to the
12 general fund.

13 Section 11. APPROPRIATION--HOUSING INMATES IN CIBOLA
14 COUNTY-- CONTRACT PROVISIONS. --

15 A. Two million dollars (\$2,000,000) is appropriated from
16 the general fund to the corrections department for expenditure in
17 fiscal year 1998 to contract with Cibola county to house additional
18 inmates at the Cibola county corrections center. Any unexpended or
19 unencumbered balance remaining at the end of fiscal year 1998 shall
20 revert to the general fund.

21 B. The contract entered into pursuant to Subsection A of
22 this section shall provide:

23 (1) that the total number of state inmates housed at
24 the Cibola county corrections center shall equal five hundred
25 fifty-two medium-security inmates and one hundred seventy-six

1 minimum restrict inmates; and

2 (2) that the corrections department shall not reduce
 3 the number of inmates housed at the Cibola county corrections
 4 center below the numbers specified in Paragraph (1) of this
 5 subsection unless it has first removed all similarly classified
 6 state inmates from all other private or county operated
 7 correctional facilities.

8 Section 12. APPROPRIATION-- PREFABRICATED JUVENILE DETENTION
 9 FACILITIES.-- Five million dollars (\$5,000,000) of the proceeds of
 10 the general obligation bonds for juvenile correctional and
 11 rehabilitative facilities approved by the voters in the 1996
 12 general election is appropriated to the children, youth and
 13 families department for expenditure in fiscal years 1997 and 1998
 14 to acquire a fifty-bed prefabricated juvenile detention facility at
 15 the youth development and diagnostic center in Albuquerque and a
 16 fifty-bed prefabricated facility at the New Mexico boys' school at
 17 Springer.

18 Section 13. ACQUISITION OF CORRECTIONAL FACILITIES--
 19 CONDITIONS-- APPROPRIATIONS.--

20 A. The corrections department shall solicit proposals for
 21 the purpose of acquiring correctional facilities in Guadalupe
 22 county, Lea county and the middle Rio Grande corridor as provided
 23 in this section. The department shall solicit proposals separately
 24 for each correctional facility.

25 B. The appropriations in this section for correctional

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Underscored material = new
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1 facilities are contingent upon the enactment into law of House
2 Taxation and Revenue Committee Substitute for Senate Finance
3 Committee Substitute for Senate Bill 1273 of the first session of
4 the forty-third legislature.

5 C. The following amounts from the following sources are
6 appropriated to the corrections department for expenditure in
7 fiscal years 1997 through 1999 for the acquisition of a six-
8 hundred-bed correctional facility in Guadalupe county:

9 (1) three million dollars (\$3,000,000) of the
10 proceeds from the issuance of governmental gross receipts tax
11 revenue bonds by the New Mexico finance authority pursuant to
12 Section 8 of this act;

13 (2) twenty million dollars (\$20,000,000) of the
14 proceeds from public project revenue bonds issued by the New Mexico
15 finance authority pursuant to Section 7 of this act; and

16 (3) eight million dollars (\$8,000,000) of the
17 proceeds from the severance tax bonds issued pursuant to Section 9
18 of this act.

19 D. The following amounts from the following sources are
20 appropriated to the corrections department for expenditure in
21 fiscal years 1997 through 1999 for the acquisition of an eight-
22 hundred-bed correctional facility in Lea county:

23 (1) thirteen million dollars (\$13,000,000) from the
24 general fund; and

25 (2) eighteen million dollars (\$18,000,000) of the

1 proceeds from the governmental gross receipts tax revenue bonds
 2 issued by the New Mexico finance authority pursuant to Section 8 of
 3 this act.

4 E. Thirty-six million dollars (\$36,000,000) of the
 5 proceeds from the severance tax bonds issued pursuant to Section 9
 6 of this act is appropriated to the corrections department for
 7 expenditure in fiscal years 1997 through 1999 in the following
 8 amounts for the acquisition of the following facilities to be
 9 located adjacent to each other in the middle Rio Grande corridor:

10
 11 (1) twenty-one million dollars (\$21,000,000) for a
 12 correctional facility with four hundred medium-security beds for
 13 adult male inmates; and

14 (2) fifteen million dollars (\$15,000,000) for a
 15 four-hundred-bed adult male in-prison substance abuse treatment
 16 facility.

17 F. Each county or political subdivisions in the county in
 18 which a correctional facility is to be located pursuant to
 19 Subsections C and D of this section shall provide land for the
 20 facility site and arrange for utilities, roads and related
 21 infrastructure needs to the property line of the facility site in
 22 the form of in-kind contributions. In addition, the city of Hobbs
 23 and Lea county shall contribute jointly ten million dollars
 24 (\$10,000,000) in local matching funds for the correctional facility
 25 project authorized in Lea county pursuant to Subsection D of this

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Underscored material = new
 [bracketed material] = delete

1 section.

2 G. Any unexpended or unencumbered balance from the
3 general fund appropriation in Paragraph (1) of Subsection D of this
4 section remaining at the end of fiscal year 1999 shall revert to
5 the general fund.

6 H. No contract for the acquisition of a facility shall be
7 entered into pursuant to Subsections C through E of this section
8 unless the secretary of corrections certifies that the facility
9 will be built by a primary contractor and subcontractors that:

10 (1) maintain their primary places of business in New
11 Mexico;

12 (2) hire laborers for construction of the facility
13 as employees, rather than as independent contractors, and who are
14 New Mexico residents;

15 (3) provide health care benefits, retirement
16 benefits and unemployment insurance to their employees working on
17 construction of the facility; and

18 (4) maintain apprenticeship programs for their
19 employees.

20 Section 14. REPEAL. --

21 A. Section 7-27-5.22 NMSA 1978 (being Laws 1995, Chapter
22 215, Section 2, as amended) is repealed.

23 B. Laws 1995, Chapter 214, Section 2 is repealed.

24 Section 15. EFFECTIVE DATE. --

25 A. The effective date of the provisions of Sections 2, 4

1 and 11 of this act is July 1, 1997.

2 B. The effective date of the provisions of Section 3 of
3 this act is August 1, 1997.

4 Section 16. EMERGENCY.--It is necessary for the public peace,
5 health and safety that this act take effect immediately.

Underscored material = new
[bracketed material] = delete