

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 HEALTHCARE FINANCE COUNCIL-- AUTHORITY-- SECURITY-- RESTRICTIONS AND LIMITATIONS. --

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 healthcare finance council created under the Healthcare Finance Act to acquire funds for a health-related project, as defined in that act, and for refunding revenue bonds previously issued for such project or for any combination thereof.

B. The board of trustees of a special hospital district entering into agreement with the New Mexico healthcare finance council may pledge irrevocably all or a portion of the revenues derived from the operation of a hospital facility and revenues derived from the leasing of or other contractual arrangement for the operation of a

hospital facility for the payment of rentals, principal and interest and any other amount or obligation required under the lease, loan or other financing agreement with the council.

C. At a regular or special meeting called for the purpose of approving the execution and delivery of a lease, loan or other financing agreement with the New Mexico healthcare finance council as authorized in this section, the board of trustees may adopt a resolution declaring the necessity for entering into the lease, loan or other financing agreement with the council; authorizing the entering into of the lease, loan or other financing agreement with the council; and designating the source of the pledged revenues for the payment or repayment of rentals, principal and interest and any other amounts and obligations required under the lease, loan or other financing agreement with the council.

D. The rentals, principal and interest and any other amounts and obligations owed under a lease, loan or other financing agreement with the New Mexico healthcare finance council shall be payable solely out of all or a portion of the revenues derived from the ownership and operation of a hospital facility and revenues derived from the leasing of or other contractual arrangement for the operation of a hospital facility. The amount and obligations under a lease, loan or other financing agreement

with the council entered into under the authority of the Special Hospital District Act shall never constitute an indebtedness of the special hospital district or the county or counties in which the special hospital district is located within the meaning of any state constitutional provision or statutory limitation and shall never constitute or give rise to a pecuniary liability or charge against the general credit or taxing power of the special hospital district or the county or counties in which the special hospital district is located.

E. The rentals, principal and interest and any other amounts and obligations owed under a lease, loan or other financing agreement with the New Mexico healthcare finance council shall be secured by the pledge of the revenues out of which such rentals, principal and interest and any other amounts and obligations shall be payable and may be secured by a mortgage covering all or any part of a hospital facility.

F. The resolution or proceedings under which the lease, loan or other financing agreement are authorized to be entered into or any mortgage relating thereto may contain any agreement and provisions customarily contained in instruments securing leases, loans or other financing arrangements, including, without limiting the generality of the foregoing, provisions respecting the designation and

collection of the revenues from a hospital facility covered by such proceedings or mortgage, the maintenance and insurance of such hospital facility, the creation and maintenance of special funds derived from the revenues relating to such hospital facility and the rights and remedies available in event of default to the New Mexico healthcare finance council under a mortgage, all as the board of trustees shall deem advisable and as shall not conflict with the provisions of the Special Hospital District Act.

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

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

"4-48B-28. AGREEMENTS WITH THE NEW MEXICO HEALTHCARE FINANCE COUNCIL--AUTHORITY--SECURITY--RESTRICTIONS AND LIMITATIONS.--

A. A county or counties agreeing jointly under Section 4-48B-9 NMSA 1978, a county or counties entering into an agreement with a municipality under Section 4-48B-9 NMSA 1978, or a hospital governing board appointed pursuant

to Section 4-48B-10 NMSA 1978 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 healthcare finance council created under the Healthcare Finance Act to acquire funds for a health-related project, as defined in the act, and for refunding revenue bonds previously issued for such project or for any combination thereof.

B. A county or hospital governing board entering into an agreement with the New Mexico healthcare finance council may pledge irrevocably all or a portion of the revenues derived from the operation of the county hospital or jointly owned county-municipal hospital and revenues derived from the leasing of or other contractual arrangement for the operation of the county hospital or jointly owned county-municipal hospital for the payment of rentals, principal and interest and any other amount or obligation required under the lease, loan or other financing agreement with the council.

C. At a regular or special meeting called for the purpose of approving the execution and delivery of a lease, loan or other financing agreement with the New Mexico healthcare finance council as authorized in this section, the county or hospital governing board may adopt a resolution or other proceedings declaring the necessity for entering into the lease, loan or other financing agreement

with the council; authorizing the entering into of the lease, loan or other financing agreement with the council; and designating the source of the pledged revenues for the payment or repayment of rentals, principal and interest and any other amounts and obligations required under the lease, loan or other financing agreement with the council.

D. The rentals, principal and interest and any other amounts and obligations owed under a lease, loan or other financing agreement with the New Mexico healthcare finance council shall be payable solely out of all or a portion of the revenues derived from the ownership and operation of a county hospital or jointly owned county-municipal hospital and revenues derived from the leasing of or other contractual arrangement for the operation of a county hospital or jointly owned county-municipal hospital. The amount and obligations under a lease, loan or other financing agreement with the council entered into under the authority of the Hospital Funding Act shall never constitute an indebtedness of a county or municipality within the meaning of any state constitutional provision or statutory limitation and shall never constitute or give rise to a pecuniary liability or charge against the general credit or taxing power of the county or municipality.

E. The rentals, principal and interest and any other amounts and obligations owed under a lease, loan or

other financing agreement with the New Mexico healthcare finance council shall be secured by the pledge of the revenues out of which such rentals, principal and interest and any other amounts and obligations shall be payable and may be secured by a mortgage covering all or any part of the county hospital or jointly owned county-municipal hospital.

F. The resolution or proceedings under which the lease, loan or other financing agreement are authorized to be entered into or any mortgage relating thereto may contain any agreement and provisions customarily contained in instruments securing leases, loans or other financing arrangements, including, without limiting the generality of the foregoing, provisions respecting the designation and collection of the revenues from the county hospital or jointly owned county-municipal hospital covered by such proceedings or mortgage, the maintenance and insurance of those hospitals, the creation and maintenance of special funds derived from the revenues relating to such hospital and the rights and remedies available in event of default to the New Mexico healthcare finance council under a mortgage, all as the hospital governing board may deem advisable. The resolution or proceedings authorizing any lease, loan or other financing agreement and any mortgage securing those obligations may provide the procedure and remedies in the event of default and the payment of the rentals, principal and interest or other amounts and obligations thereunder or

in the performance of any agreement. No breach of any agreement shall impose any pecuniary liability upon a county or municipality or charge against its general credit or taxing power.

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

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

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

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

B. If any local public body is unable to receive payment on public money at the rate of interest as set forth in Section 6-10-36 NMSA 1978 from financial institutions



within the geographic boundaries of the governmental unit, then a local public finance official having money of that local public body in his custody required for expenditure within thirty days or less may, with the consent of the appropriate local board of finance, if any, remit some or all of such money to the state treasurer, bank, savings and loan association or credit union for deposit for the purpose of short-term investment as allowed by this section.

C. Before any local funds are invested or reinvested for the purpose of short-term investment pursuant to this section, the local public body finance official shall notify and make such funds available to banks, savings and loan associations and credit unions located within the geographical boundaries of their respective governmental unit, subject to the limitation on credit union accounts. To be eligible for such funds, the financial institution shall pay to the local public body the rate established by the state treasurer pursuant to a policy adopted by the state board of finance for such short-term investments.

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

request.

E. The state treasurer shall invest the fund as provided for state funds under Section 6-10-10 NMSA 1978 and may elect to have the short-term investment fund consolidated for investment purposes with the state funds under the control of the state treasurer; provided that accurate and detailed accounting records are maintained for the account of each participating entity and Indian tribe or pueblo and that a proportionate amount of interest earned is credited to each of the separate government accounts. The state treasurer may invest a portion of the funds in banks, savings and loan associations or credit unions subject to the requirements of this section. The fund shall be invested to achieve its objective, which is to realize the maximum return consistent with safe and prudent management.

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

G. As used in this section:

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

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

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

(1) the agricultural commodity commission established under the Agricultural Commodity Commission Act;

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

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

(4) the New Mexico community development council established under the New Mexico Community Assistance Act;

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

(6) the board of trustees established under

the Economic Advancement District Act;

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

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

(9) the New Mexico healthcare finance council established under the Healthcare Finance Act;

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

(11) the authority established under the Las Cruces Arroyo Flood Control Act;

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

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

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

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

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

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

I. In addition to the deposit of funds of local public bodies, the state treasurer may also accept for

deposit and deposit and account for, in the same manner as funds of local public bodies, funds of any Indian tribe or pueblo in the state if authorized to do so under a joint powers agreement executed by the state treasurer and the governing authority of the Indian tribe or pueblo under the provisions of the Joint Powers Agreements Act. "

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

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

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

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

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

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

- (1) the Industrial Revenue Bond Act;
- (2) the County Improvement District Act;
- (3) Sections 3-33-1 through 3-33-43 NMSA

1978;

- (4) the Pollution Control Revenue Bond Act;
- (5) the County Pollution Control Revenue

Bond Act;

- (6) the County Industrial Revenue Bond Act;
- (7) the Metropolitan Redevelopment Code;
- (8) the Supplemental Municipal Gross

Receipts Tax Act;

- (9) the Healthcare Finance Act; or
- (10) the New Mexico Finance Authority Act."

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

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

A. "bond" means any bond, debenture, note, refunding or renewal bond or note, warrant or other security evidencing an obligation authorized to be issued by a public body pursuant to any provision of law of this state,

including the Public Securities Short-Term Interest Rate Act;

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

C. "indebtedness" means any debt evidenced by a bond issued by a public body pursuant to any law of this state that constitutes a debt for the purposes of Section 12 or 13 of Article 9 of the constitution of New Mexico and the issuance of which must be submitted to a vote of the qualified electors of the public body pursuant to those sections and any bond issued for the purpose of paying or refunding any such bond;

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

E. "public body" means any municipality, any county, any school district, any special district, any H class county, the New Mexico healthcare finance council,

state institutions enumerated in Section 6-13-2 NMSA 1978, the water quality control commission, the state board of finance, the New Mexico finance authority or the state."

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

"58-23-1. SHORT TITLE. -- Chapter 58, Article 23 NMSA 1978 may be cited as the "Healthcare Finance Act". "

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

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

A. the delivery of high-quality community-based health care in New Mexico has in recent years become increasingly dependent upon creative and innovative solutions to assist in delivery of health care at a time when the means for financing and administering solutions to assist in delivery of health care have become increasingly expensive and complicated;

B. the increased costs of delivery of high-quality community-based health care by New Mexico health care providers is necessarily passed on to patients receiving care from the health care providers, resulting in higher medical bills, increased health insurance premiums and higher medicare and medicaid payments;

C. the problems relating to the delivery of health care cannot be remedied solely through the operation



of private enterprise or efforts by individual communities, but can be alleviated through the creation of a program to facilitate and enable the investment of private capital and the allocation of public capital for the purpose of financing health care support facilities and services;

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

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

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

"58-23-3. DEFINITIONS. -- As used in the Healthcare Finance Act:

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

B. "bonds" means bonds, notes, interim certificates, bond anticipation notes or other evidences of indebtedness of the council issued pursuant to the Healthcare Finance Act, including refunding bonds;

C. "cost" as applied to a health-related project

means any and all costs incurred by a participating health care provider, including but not limited to the following:

(1) all direct or indirect costs of the acquisition, including repair, restoration, reconditioning, financing and refinancing or installation of the health-related project;

(2) the cost of any property interest in the health-related project, including an option to purchase or a lease-hold interest;

(3) the cost of architectural, engineering, planning, drafting, legal and any incidental or related services necessary for acquisition or installation of the health-related project;

(4) the cost of all financing charges and interest accrued prior to the acquisition or refinancing of the health-related project for a maximum of two years after or prior to such acquisition or refinancing;

(5) all direct and indirect costs incurred in connection with the health-related project, including out-of-pocket expenses; the cost of financing; legal, accounting, financial, advisory and consulting expenses; the cost of any policy of insurance; the cost of printing, engraving and reproduction services; and costs associated with any trust indenture; and

(6) any costs incurred by the council for the administration of any program for health-related

projects;

D. "council" means the New Mexico healthcare finance council;

E. "health care provider" means any person, licensed by the department of health, providing health-related services, assisted living support or long-term care and all customary and necessary supporting services or any person providing health-related research and all customary and necessary supporting services;

F. "health-related project" means any real or personal property, instrument, service or operational necessity, including working capital, that is found and determined by the council to be needed, directly or indirectly, for care, treatment or research or as otherwise might be needed by a participating health care provider;

G. "participating health care provider" means a health care provider that contracts with the council for the financing or refinancing of a health-related project. Public, district, county, city, county-municipal or other municipal hospitals and hospitals affiliated with an institution of higher education in New Mexico may be participating health care providers; and

H. "program" means the New Mexico healthcare finance program created by the Healthcare Finance Act and administered by the council. "

Chapter 41, Section 7) is amended to read:

"58-23-4. **ADDITIONAL DEFINITIONS.** -- As used in the Healthcare Finance Act in connection with refinancing, renewing, funding, refunding or paying any bonds, "bonds" also means any bond, note, certificate or other evidence of indebtedness previously issued or incurred by any health care provider, municipality, county, special hospital district or other political subdivision to refinance, finance or aid in financing a project that would have constituted a health-related project had it been originally financed by the council."

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

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

A. There is created a public body politic and corporate, separate and apart from the state, constituting a governmental instrumentality to be known as the "New Mexico healthcare finance council" for the performance of essential public functions.

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

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

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

(2) two members shall be officers or directors of a health care provider located in New Mexico or health care providers practicing in New Mexico. Such members shall have been employed for a total of five years as officers or directors of any health care provider or practicing as a health care provider for a total of five years;

(3) one member shall be appointed from and represent the public and shall not be directly or indirectly affiliated with any health care provider; and

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

D. The council shall be separate and apart from the state and shall not be subject to the supervision or control of any board, bureau, department or agency of the state except as specifically provided in the Healthcare Finance Act. In order to effectuate the separation of the state from the council, no use of the terms "state agency" or "instrumentality" in any other law of the state shall be deemed to refer to the council unless the council is specifically referred to therein. "

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

"58-23-6. COUNCIL--BOARD OF DIRECTORS--TERMS.--The members of the board shall be appointed for staggered terms of four or fewer years each so that the term of at least one member expires on January 1 of each year. Each member shall hold office for the term of his appointment and until his successor has been appointed and qualified. Any member is eligible for reappointment."

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

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

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

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

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

"58-23-10. BOARD--BONDING REQUIREMENTS.--At the time of the issuance of any bonds pursuant to the Healthcare Finance Act, each member of the board shall execute a surety bond in the sum of twenty-five thousand dollars (\$25,000). To the extent any member of the board is already required by state law to provide a surety bond, that member need not obtain another bond as long as the bond required by state law is in at least the sum specified in this section and covers the member's activities for the council. In lieu of such bonds, the chairman of the board may execute a blanket fidelity bond covering each member and the employees of the council. Each fidelity bond shall be conditioned upon the faithful performance of the duties of the respective office of the member or the employee and shall be issued by a surety company authorized to transact business in this state as surety. At all times after the issuance of any surety bonds, each member and employee shall maintain such surety bonds in full force and effect. All costs of the surety bonds shall be borne by the council."

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

"58-23-11. POWERS.--The council is granted all powers necessary and appropriate to carry out and effectuate its public and corporate purposes, including the following

powers:

A. to adopt, amend and repeal bylaws, rules and regulations to effectuate the purposes of the Healthcare Finance Act;

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

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

D. to maintain an office within the state;

E. to make and execute contracts and all other instruments necessary or convenient for the performance of its duties and the exercise of its powers under the Healthcare Finance Act;

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

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

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

(1) on a loan, lease or purchase payment owed by a participating health care provider to the council;  
and



(2) of any bonds issued by the council, including the power to pay the premium on any such insurance or guarantee;

I. to procure letters of credit from any national or state banking association or other entity authorized to issue a letter of credit to secure the payment of any bonds issued by the council or to secure the payment of any loan, lease or purchase payment owed by a participating health care provider to the council, including the power to pay the cost of obtaining such letter of credit;

J. to receive and accept from any source contributions, gifts or grants of money, property, labor or other things of value to be held, used and applied to carry out the purposes of the Healthcare Finance Act, subject to the conditions upon which the grants, gifts or contributions are made;

K. to provide or cause to be provided by or to a participating health care provider, by acquisition, lease, loan, fabrication, repair, restoration, reconditioning, refinancing or installation, a health-related project to be located at or utilized by a health care provider in this state;

L. to lease as lessor health-related project to a participating health care provider upon such terms and conditions as the council may deem advisable and as are not in conflict with the provisions of the Healthcare Finance

Act;

M. to sell for installment payments or otherwise, to option or contract for sale and to convey all or any part of a health-related project upon such terms and conditions as the council may deem advisable and as are not in conflict with the provisions of the Healthcare Finance Act;

N. to make contracts and incur liabilities, borrow money at such rates of interest as the council may determine, issue its bonds in accordance with the provisions of the Healthcare Finance Act and secure any of its bonds or obligations by mortgage or pledge of all or any of its property, franchises and income or as otherwise provided in the Healthcare Finance Act;

O. to make secured or unsecured loans for the purpose of providing temporary or permanent financing or refinancing for the cost of health-related projects, including the retiring of any outstanding obligations or advances issued and the reimbursement for the cost of any health-related projects previously purchased or incurred by any participating health care provider for the cost of health-related projects and to charge and collect interest on such loans for such loan payments and upon such terms and conditions as the council may deem advisable and as are not in conflict with the provisions of the Healthcare Finance Act. Loans may be made to participating health care providers or to any bank, savings and loan association or

other entity which will, directly or indirectly, provide to participating health care providers such financing, refinancing or reimbursement of the cost of health-related projects;

P. to invest and reinvest its funds and to take and hold property as security for the investment of such funds as provided in the Healthcare Finance Act;

Q. to purchase, lease or otherwise acquire health-related projects or any interest therein, as the purposes of the council require;

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

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

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

U. to refuse to make loans or enter into leases for health-related projects when not in the best interest of the program; and

V. to do any other act necessary or convenient to

the exercise of the powers granted by the Healthcare Finance Act or reasonably implied from it."

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

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

A. to invest any funds not needed for immediate disbursement, including any funds held in reserve, in direct and general obligations of or obligations fully and unconditionally guaranteed by the United States, obligations issued by agencies of the United States, obligations of this state or any political subdivisions thereof, money market funds that invest in the types of obligations described in the preceding clauses and rated in the highest category by a national rating service, interest-bearing time deposits, commercial paper issued by corporations organized and operating within the United States and rated "prime" quality by a national rating service, investments permitted pursuant to Sections 6-10-10 and 6-10-10.1 NMSA 1978 or as otherwise provided by the trust indenture or bond resolution securing the issuance of the bonds;

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

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

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

"58-23-13. LEASE AND LOAN AGREEMENTS WITH PARTICIPATING HEALTH CARE PROVIDERS--INSURANCE-- LOAN AND LEASE PAYMENTS.--In addition to its other powers and duties, the council is specifically authorized to initiate a program of financing, refinancing or reimbursing the cost of health-related projects. In this regard, the council may exercise the following powers:

A. to establish eligibility standards for participating health care providers;

B. to enter into an agreement with any entity securing the payment of bonds pursuant to Subsections H and I of Section 58-23-11 NMSA 1978, authorizing that entity to approve the participating health care providers that can finance or refinance health-related projects with proceeds from the bond issue secured by that entity and to approve any banks, savings and loan associations or other entities to which the council may loan its funds to finance, refinance or reimburse, directly or indirectly, the cost of health-related projects for participating health care providers;

C. to lease to a participating health care

provider specific items constituting health-related projects upon such terms and conditions as the council may deem proper or to purchase any or all of the health-related project to which the lease applies;

D. to lend to a participating health care provider or a bank, savings and loan association or other entity to finance, refinance or reimburse, directly or indirectly, the cost of health-related projects to a participating health care provider upon a secured or unsecured promissory note evidencing such loan upon such terms and conditions as the council may deem proper;

E. to sell or otherwise dispose of unneeded health-related projects under conditions as determined by the council;

F. to maintain, repair, replace and otherwise improve any health-related projects owned by the council;

G. to obtain or aid in obtaining insurance on health-related projects owned or financed by the council; and

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

Section 18. Section 58-23-14 NMSA 1978 (being Laws

1983, Chapter 290, Section 14) is amended to read:

"58-23-14. OPTIONAL POWERS.--Prior to the exercise of any of the powers conferred by Section 58-23-13 NMSA 1978, the council may:

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

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

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

"58-23-15. ISSUANCE OF BONDS.--The council is authorized to issue, sell and deliver its bonds, in accordance with the terms of the Healthcare Finance Act, for the purpose of paying for or making loans to participating health care providers, banks, savings and loan associations and other entities for the financing or refinancing of all or any part of the cost of health-related projects and any other purposes authorized by the Healthcare Finance Act. In addition, the council has the power to issue from time to time bonds to renew or to pay bonds, including any interest, and, whenever it deems refunding expedient, to refund any bonds by the issuance of new bonds and to issue bonds partly

to refund outstanding bonds and partly for another of its purposes. The refunding bonds may be sold and the proceeds applied to the purchase, redemption or payment of the bonds to be refunded or may be exchanged for the bonds to be refunded. "

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

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

A. The bonds shall be dated, shall bear interest at such rate or rates, fixed or variable, shall mature at such time or times not exceeding twenty years, or not to exceed thirty years if the council determines bonds are necessary in connection with the acquisition, lease, fabrication, repair, restoration, reconditioning, refinancing or installation of real property, from their date and may be made redeemable prior to maturity at such price or prices and upon terms and conditions determined by the council. In cases where any officer whose signature or a facsimile of whose signature appears on any bonds or coupons ceases to be such officer before the delivery of and payment for such bonds, that signature or facsimile is valid and sufficient for all purposes the same as if the officer had remained in office until delivery and payment. The bonds may be issued in coupon or in fully registered form or both or may be payable to a specific person, as the council



may determine, and provision may be made for the registration of any coupon bonds as to principal or as to both principal and interest, for the conversion of coupon bonds into fully registered bonds without coupons and for the conversion into coupon bonds of any fully registered bonds without coupons. The duty of conversion may be imposed upon a trustee in a trust agreement.

B. The principal of, redemption premium, if any, and interest on such bonds shall be payable solely from and may be secured by a pledge of the proceeds of bonds, revenues derived from the lease or sale of a health-related project or realized from a loan made by the council to finance or refinance in whole or in part health-related projects, revenues derived from operating health-related projects, including insurance proceeds, or any other revenues provided by a participating health care provider or a bank, savings and loan association or other entity to which a loan is made.

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

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

"58-23-16.1. INTEREST RATES--REFUNDING--APPROVAL BY COUNCIL--FINDINGS.--Bonds issued under the Healthcare Finance Act are not subject to any limitations on interest rates or net effective interest rates or interest rate

approval requirements contained in any other laws of the state, provided that:

A. the bond resolution or other instruments under which such bonds are issued shall contain findings by the council that any fixed rate or rates of interest or discount on the bonds or, in the case of a variable rate or rates of interest, that the maximum rate or method of determining the maximum rate and that the maximum net effective interest rate on the bonds are reasonable under existing or anticipated bond market conditions and necessary and advisable for the marketing and sale of the bonds. The bond resolution or other instruments under which such bonds are issued shall declare that the council has considered all relevant information and data in making its findings. The findings and declarations in the bond resolution or other instruments under which such bonds are issued shall constitute conclusive authority for the council to issue the bonds within the interest rate limitations set forth in the bond resolution, and no additional approval of any department, board or other officer of the state or any other official approval is required; and

B. any bonds issued pursuant to the Healthcare Finance Act to renew, fund or refund any prior issue of bonds, in whole or in part, may be issued notwithstanding the provisions of any other laws of the state; provided that the bond resolution or other instruments under which such

bonds are issued shall contain findings that the issuance of such bonds is necessary or advisable and the amount of such bonds which it is deemed necessary and advisable to issue. The determination of necessity or advisability contained in the bond resolution or other instruments under which such bonds are issued shall constitute conclusive authority for the council to issue any such renewal, funding or refunding bonds, and no additional approval of any department, board or other officer of the state or any official approval is required. "

Section 22. Section 58-23-17 NMSA 1978 (being Laws 1983, Chapter 290, Section 17) is amended to read:

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

delivery of such bonds. "

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

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

A. pledging or assigning the revenues generated by the health-related project or pledging or assigning the notes, mortgages, leases or other security given by the participating health care providers, banks, savings and loan associations or other entities receiving loans with respect to which such bonds are to be issued or other specified revenues or property of the council;

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

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

D. limitations on the use of the health-related project;

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

F. limitations on the issuance of additional

bonds, the terms upon which additional bonds may be issued and secured and the terms upon which additional bonds may rank on a parity with, or be subordinate or superior to, other bonds;

G. the refunding of outstanding bonds;

H. the procedure, if any, by which the terms of any contract with bondholders may be amended or abrogated, the amounts of bonds the holders of which must consent thereto, the manner in which such consent may be given and restrictions on the individual rights of action by bondholders;

I. acts or omissions which shall constitute a default in the duties of the council to holders of its bonds, and rights of the holders in the event of default;

J. limitation of the liability of a participating health care provider only for the amount of its obligation to the council; and

K. any other matters relating to the bonds which the council deems desirable. In addition to the provisions set forth in this section, bonds of the council may be secured by and payable from a pooling of leases or of notes and mortgages or other security instruments whereby the council may assign its rights, as lessor, and pledge rents under two or more leases of health-related projects with two or more participating health care providers, as lessees, or assign its rights as payee or secured party and pledge the

revenues under two or more notes and loan agreements from two or more participating health care providers, banks, savings and loan associations or other entities upon such terms as may be provided for in bond resolutions or other instruments under which such bonds are issued. "

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

"58-23-20. SPECIAL LIMITED OBLIGATIONS--PAYMENT AND SECURITY.--Every issue of bonds is a special limited obligation of the council payable solely out of any particular revenue, reserve fund or money of the council pledged to particular bonds. The bonds may be additionally secured by a pledge of any grant, contribution or guarantee from the federal government or any corporation, association, institution or person or a pledge of any money, income or revenue of the council from any source. "

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

"58-23-21. BONDS--NO OBLIGATION OF STATE.--No bonds issued by the council under the Healthcare Finance Act shall constitute a debt, liability or general obligation of this state or a pledge of the faith and credit of this state, but shall be payable solely as provided by Section 58-23-19 NMSA 1978. Each bond issued under the Healthcare Finance Act shall contain on its face a statement that neither the faith

and credit nor the taxing power of this state or any political subdivision thereof is pledged to the payment of the principal of or the interest on such bond. "

Section 26. Section 58-23-25 NMSA 1978 (being Laws 1983, Chapter 290, Section 25) is amended to read:

"58-23-25. COUNCIL MEMBERS--LIMITATION ON PERSONAL LIABILITY.--Neither the members of the council nor any other person executing the bonds issued under the Healthcare Finance Act shall be subject to personal liability in connection with issuance of the bonds. "

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

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

Section 28. Section 58-23-27 NMSA 1978 (being Laws

1983, Chapter 290, Section 27) is amended to read:

"58-23-27. BONDHOLDERS--PLEDGE--AGREEMENT OF THE STATE.--The state pledges and agrees with the holder of any bonds issued under the Healthcare Finance Act that the state will not alter the rights vested in the council to fulfill the terms of any agreements made with the bondholders or in any way impair the rights or remedies of the holders until the bonds, together with the interest thereon, with interest on any unpaid installments of interest, and all costs and expenses in connection with any action or proceeding by or on behalf of the holders are fully met and discharged. The council is authorized to include this pledge and agreement of the state in any agreement with the holders of the bonds. "

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

"58-23-28. COUNCIL EXPENSES--LIABILITY OF STATE OR POLITICAL SUBDIVISION PROHIBITED.--All expenses incurred by the council in carrying out the provisions of the Healthcare Finance Act shall be payable solely from funds provided under that act. "

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

"58-23-29. EXEMPTION FROM TAXATION--ASSETS TO STATE UPON DISSOLUTION.--All property acquired or held by the



council under the Healthcare Finance Act, income therefrom and bonds issued under the Healthcare Finance Act, plus the interest payable and income derived from the bonds, shall be exempt from taxation by the state or any subdivision thereof. Upon dissolution of the council, its assets, after payment of its indebtedness, shall inure to the benefit of the state. "

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

"58-23-30. BONDS--LEGAL INVESTMENTS.--The bonds issued under the authority of the Healthcare Finance Act shall be legal investments in which all public officers or public bodies of this state, insurance companies, banks and savings and loan associations, organized under the laws of this state, may invest funds. "

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

"58-23-32. LIBERAL CONSTRUCTION.--The Healthcare Finance Act shall be liberally construed to accomplish its purposes. "

Section 33. TEMPORARY PROVISION.--Members of the board of directors of the New Mexico hospital equipment loan council appointed prior to the effective date of the Healthcare Finance Act shall continue to serve as appointed members of the board of directors of the New Mexico healthcare finance council, until their terms expire and

their successors are appointed and qualified pursuant to the provisions of the Healthcare Finance Act. All existing contracts, agreements and outstanding bonds of the New Mexico hospital equipment loan council in effect on the effective date of the Healthcare Finance Act shall continue in effect under the provisions of the Healthcare Finance Act and shall be assumed by the New Mexico healthcare finance council.

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

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