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HOUSE BILL 89

45TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2002

INTRODUCED BY

Edward C. Sandoval

AN ACT

AUTHORIZING THE ISSUANCE AND SALE OF CAPITAL PROJECTS GENERAL OBLIGATION BONDS TO MAKE CAPITAL EXPENDITURES FOR SENIOR CITIZEN FACILITY IMPROVEMENTS AND ACQUISITIONS, FOR PUBLIC EDUCATIONAL CAPITAL IMPROVEMENTS AND ACQUISITIONS, FOR PUBLIC LIBRARY ACQUISITIONS AND FOR OTHER STATE CAPITAL EXPENDITURES; PROVIDING FOR A TAX LEVY FOR PAYMENT OF PRINCIPAL OF, INTEREST ON AND CERTAIN COSTS RELATED TO THE BONDS; REQUIRING APPROVAL OF THE REGISTERED VOTERS AT THE 2002 GENERAL ELECTION OF THE STATE; DECLARING AN EMERGENCY.

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

Section 1. SHORT TITLE.--This act may be cited as the "2002 Capital Projects General Obligation Bond Act".

Section 2. PURPOSE.--For the purpose of providing funds for capital expenditures as authorized in the 2002 Capital

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1 Projects General Obligation Bond Act, general obligation
2 indebtedness of the state is authorized for the purposes and
3 in the amounts set forth in Section 10 of that act.

4 Section 3. BOND TERMS. --

5 A. The state board of finance, except as limited
6 by the 2002 Capital Projects General Obligation Bond Act,
7 shall determine the terms, covenants and conditions of bonds
8 issued pursuant to that act, including but not limited to:

9 (1) date or dates of issue, denominations and
10 maturities;

11 (2) principal amounts;

12 (3) rate or rates of interest; and

13 (4) provisions for redemption, including
14 premiums, registration and refundability, whether the bonds
15 are issued in one or more series and other covenants relating
16 to the bonds and the issuance thereof.

17 B. The bonds shall be in such form as the state
18 board of finance determines with an appropriate series
19 designation and shall bear interest payable as set forth in
20 the resolution of the state board of finance.

21 C. Payment of the principal of the bonds shall
22 begin not more than two years after the date of their
23 issuance, and the bonds shall mature not later than ten years
24 after the date of their issuance. Both principal and interest
25 shall be payable in lawful money of the United States at the

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1 office of the paying agent within or without the state as the
2 state board of finance may direct.

3 D. The bonds shall be executed with the manual or
4 facsimile signature of the governor or the state treasurer,
5 and the seal or a facsimile of the seal of the state shall be
6 placed on each bond, except for any series of bonds issued in
7 book entry or similar form without the delivery of physical
8 securities.

9 E. The bonds shall be issued in accordance with
10 the provisions of the 2002 Capital Projects General Obligation
11 Bond Act, the Supplemental Public Securities Act and the
12 Uniform Facsimile Signature of Public Officials Act and may be
13 issued in accordance with the Public Securities Short-Term
14 Interest Rate Act.

15 F. The full faith and credit of the state is
16 pledged for the prompt payment when due of the principal of
17 and interest on all bonds issued and sold pursuant to the 2002
18 Capital Projects General Obligation Bond Act.

19 Section 4. EXPENDITURES. --The proceeds from the sale of
20 the bonds shall be expended solely for providing money to be
21 distributed for the purposes and in amounts not to exceed the
22 amounts set forth in Section 10 of the 2002 Capital Projects
23 General Obligation Bond Act and to pay expenses incurred under
24 Section 6 of that act. Any proceeds from the sale of the
25 bonds that are not required for the purposes set forth in

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1 Sections 6 and 10 of that act shall be used for the purpose of
2 paying the principal of and interest on the bonds.

3 Section 5. SALE. --The bonds authorized under the 2002
4 Capital Projects General Obligation Bond Act shall be sold by
5 the state board of finance at such time and in such manner and
6 amounts as the board may elect. The bonds may be sold at
7 private sale or at public sale, in either case at not less
8 than par plus accrued interest to the date of delivery. If
9 sold at public sale, the state board of finance shall publish
10 a notice of the time and place of sale in a newspaper of
11 general circulation in the state and may also publish the
12 notice in a recognized financial journal outside the state.
13 The required publications shall be made once each week for two
14 consecutive weeks prior to the date fixed for the sale, the
15 last publication thereof to be at least five days prior to the
16 date of the sale. The notice shall specify the amount,
17 denomination, maturity and description of the bonds to be
18 offered for sale and the place, date and hour at which the
19 sealed bids shall be received. At the time and place
20 specified in the notice, the state board of finance shall open
21 the bids in public and shall award the bonds to the bidder or
22 bidders offering the best price for the bonds. The state
23 board of finance may reject any or all bids and readvertise
24 and may waive any irregularity in a bid. All bids, except
25 that of the state, shall be accompanied by a deposit of two

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1 percent of the principal amount of the bonds in a form
2 acceptable to the state board of finance. The deposit of an
3 unsuccessful bidder shall be returned upon rejection of the
4 bid. The state board of finance may also sell the bonds or
5 any part of the bonds to the state treasurer or state
6 investment officer. The state treasurer or state investment
7 officer is authorized to purchase any of the bonds for
8 investment. The bonds are legal investments for any person or
9 board charged with the investment of any public funds and may
10 be accepted as security for any deposit of public money.

11 Section 6. EXPENSES. --The expenses incurred by the state
12 board of finance in or relating to the preparation and sale of
13 the bonds shall be paid out of the proceeds from the sale of
14 the bonds, and all rebate, penalty, interest and other
15 obligations of the state relating to the bonds and bond
16 proceeds under the Internal Revenue Code of 1986, as amended,
17 shall be paid from earnings on bond proceeds or other money of
18 the state, legally available for such payments.

19 Section 7. TAX LEVY. --To provide for the payment of the
20 principal of and interest on the bonds issued and sold
21 pursuant to the provisions of the 2002 Capital Projects
22 General Obligation Bond Act, there shall be and there is
23 hereby imposed and levied during each year in which any of the
24 bonds are outstanding an ad valorem tax on all property in the
25 state subject to property taxation for state purposes

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1 sufficient to pay the interest as it becomes due on the bonds,
2 together with an amount sufficient to provide a sinking fund
3 to pay the principal of the bonds as it becomes due and, if
4 permitted by law, ad valorem taxes may be collected to pay
5 administrative costs incident to the collection of such taxes.
6 The taxes shall be imposed, levied, assessed and collected at
7 the times and in the manner that other property taxes for
8 state purposes are imposed, levied, assessed and collected.
9 It is the duty of all tax officials and authorities to cause
10 these taxes to be imposed, levied, assessed and collected.

11 Section 8. TREASURER--DUTIES.--The state treasurer shall
12 keep separate accounts of all money collected pursuant to the
13 taxes imposed and levied pursuant to the provisions of the
14 2002 Capital Projects General Obligation Bond Act and shall
15 use this money only for the purposes of paying the principal
16 of and interest on the bonds as they become due and any
17 expenses relating thereto.

18 Section 9. IRREPEALABLE CONTRACT--AUTHORITY FOR
19 ISSUANCE.--An owner of bonds issued pursuant to the provisions
20 of the 2002 Capital Projects General Obligation Bond Act may,
21 either at law or in equity, by suit, action or mandamus,
22 enforce and compel the performance of the duties required by
23 that act of any officer or entity mentioned in that act. The
24 provisions of that act constitute an irrepealable contract
25 with the owners of any of the bonds issued pursuant to that

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1 act for the faithful performance of which the full faith and
2 credit of the state is pledged. Without reference to any
3 other act of the legislature, the 2002 Capital Projects
4 General Obligation Bond Act is full authority for the issuance
5 and sale of the bonds authorized in that act, and such bonds
6 shall have all the qualities of investment securities under
7 the Uniform Commercial Code, shall not be invalid for any
8 irregularity or defect in the proceedings for the issuance and
9 sale of the bonds and shall be incontestable in the hands of
10 bona fide purchasers or holders thereof for value. All bonds
11 issued under the provisions of that act, and the interest
12 thereon, are exempt from taxation by the state and any
13 subdivision or public body thereof.

14 Section 10. PROJECTS. --The proceeds from the sale of
15 bonds issued under the provisions of the 2002 Capital Projects
16 General Obligation Bond Act shall be distributed as follows
17 for the purposes and in the amounts specified:

18 A. for senior citizen facility improvements and
19 acquisitions, to the state agency on aging:

20 (1) five million dollars (\$5,000,000) to
21 purchase meals equipment and appliances for senior centers
22 located throughout the state; and

23 (2) two hundred seventy-five thousand dollars
24 (\$275,000) to purchase defibrillators for the aging network
25 statewide;

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B. for state public educational capital
improvements and acquisitions:
(1) to the public school capital outlay fund,
five million dollars (\$5,000,000) to allocate to public
schools for critical capital outlay projects pursuant to the
Public School Capital Outlay Act; and
(2) to the commission on higher education:
(a) twenty-five million dollars
(\$25,000,000) to distribute to public post-secondary
educational institutions for infrastructure renovations and
expansion at institutions throughout the state; and
(b) ten million dollars (\$10,000,000)
to improve handicapped accessibility and meet safety
requirements at public post-secondary educational institutions
throughout the state;
C. for public library acquisitions, to the office
of cultural affairs, five million dollars (\$5,000,000) to
acquire library books, equipment and library resources for
public school and academic libraries statewide; and
D. for state facilities and equipment, to the
capital program fund, ten million dollars (\$10,000,000) to
renovate, repair, purchase equipment and make other capital
improvements to state facilities statewide.

Section 11. ELECTION. --

A. Bonds issued pursuant to the 2002 Capital

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1 Projects General Obligation Bond Act shall be submitted to the
2 registered voters of the state at the general election to be
3 held in November 2002, and, if they receive a majority of all
4 the votes cast thereon at such election, shall take effect
5 upon certification of the state canvassing board announcing
6 the results of such election. No bonds shall be issued or
7 sold under the 2002 Capital Projects General Obligation Bond
8 Act until the registered voters of this state have voted upon
9 and approved the bonds and property tax as provided in this
10 section. Any bonds issued under that act shall be issued
11 within thirty months from the date of such election.

12 B. The ballots used at the 2002 general election
13 shall contain substantially the following language:

14 (1) "The 2002 Capital Projects General
15 Obligation Bond Act authorizes the issuance and sale of senior
16 citizen facility improvement and equipment bonds. Shall the
17 state be authorized to issue general obligation bonds in an
18 amount not to exceed five million three hundred thousand
19 dollars (\$5,300,000) to make capital expenditures for certain
20 senior citizen facility improvements and equipment projects
21 and provide for a general property tax imposition and levy for
22 the payment of principal of, interest on and expenses incurred
23 in connection with the issuance of the bonds and the
24 collection of the tax as permitted by law?

25 For _____ Against _____";

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1 (2) "The 2002 Capital Projects General
2 Obligation Bond Act authorizes the issuance and sale of public
3 educational capital improvements and acquisition bonds. Shall
4 the state be authorized to issue general obligation bonds in
5 an amount not to exceed forty million one hundred forty
6 thousand dollars (\$40,140,000) to make capital expenditures
7 for certain public educational capital improvements and
8 acquisitions and provide for a general property tax imposition
9 and levy for the payment of principal of, interest on and
10 expenses incurred in connection with the issuance of the bonds
11 and the collection of the tax as permitted by law?

12 For _____ Against _____";

13 (3) "The 2002 Capital Projects General
14 Obligation Bond Act authorizes the issuance and sale of public
15 library acquisition bonds. Shall the state be authorized to
16 issue general obligation bonds in an amount not to exceed five
17 million one hundred thousand dollars (\$5,100,000) to make
18 capital expenditures for public library acquisitions and
19 provide for a general property tax imposition and levy for the
20 payment of principal of, interest on and expenses incurred in
21 connection with the issuance of the bonds and the collection
22 of the tax as permitted by law?

23 For _____ Against _____";

24 and

25 (4) "The 2002 Capital Projects General

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1 Obligation Bond Act authorizes the issuance and sale of state
2 building improvement and equipment bonds. Shall the state be
3 authorized to issue general obligation bonds in an amount not
4 to exceed ten million one hundred thousand dollars
5 (\$10,100,000) to make capital expenditures for state buildings
6 and provide for a general property tax imposition and levy for
7 the payment of principal of, interest on and expenses incurred
8 in connection with the issuance of the bonds and the
9 collection of the tax as permitted by law?

10 For _____ Against _____".

11 C. Each question set forth in this section
12 includes a specific work or object to be financed by the
13 bonds. If any such question is not approved by a majority
14 vote of the electorate at the state's 2002 general election,
15 the issuance of bonds for the work or object specified by the
16 question shall be excluded from and shall not be part of the
17 2002 Capital Projects General Obligation Bond Act. The
18 failure of a question to be approved by the electorate at the
19 2002 general election shall not affect those questions that
20 are approved at the election.

21 D. The secretary of state shall include the
22 submission of the capital projects general obligation bonds to
23 the people at the 2002 general election, and it shall be
24 included in the general election proclamation of each of the
25 county clerks. The secretary of state shall cause the 2002

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1 Capital Projects General Obligation Bond Act to be published
2 in full in at least one newspaper in each county of the state
3 if one be published therein, once each week, for four
4 successive weeks next preceding the general election as
5 required by the constitution of New Mexico.

6 Section 12. ART IN PUBLIC PLACES.--Pursuant to Section
7 13-4A-4 NMSA 1978 and where applicable, the appropriations
8 authorized in the 2002 Capital Projects General Obligation
9 Bond Act include money for the art in public places fund.

10 Section 13. PROJECT SCOPE--EXPENDITURES--REVERSION.--

11 A. If an appropriation for a project authorized in
12 the 2002 Capital Projects General Obligation Bond Act is not
13 sufficient to complete all the purposes specified, the
14 appropriation may be expended for any portion of the purposes
15 specified in the appropriation. Expenditures shall not be
16 made for purposes other than those specified in the
17 appropriation.

18 B. The state agencies and state institutions to
19 which money has been appropriated in the 2002 Capital Projects
20 General Obligation Bond Act shall be responsible for
21 monitoring the projects funded in that act to ensure
22 compliance with the constitution and laws of New Mexico, and
23 shall cause to be reverted any unexpended or unencumbered
24 balance remaining at the earlier of the third full fiscal year
25 after issuance of the bonds or the termination or completion

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1 of the specific project. Reverted funds shall be deposited in
2 the debt service fund established by the state treasurer for
3 the purpose of paying the principal of and interest on the
4 state's general obligation bonds.

5 Section 14. SEVERABILITY.--If any part or application of
6 the 2002 Capital Projects General Obligation Bond Act is held
7 invalid, the remainder or its application to other situations
8 or persons shall not be affected.

9 Section 15. EMERGENCY.--It is necessary for the public
10 peace, health and safety that this act take effect
11 immediately.