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SENATE BILL 135

**44TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION,
2000**

INTRODUCED BY
Joseph A. Fidel

AN ACT

RELATING TO PUBLIC BUILDINGS; AUTHORIZING THE ACQUISITION OF
STATE OFFICE BUILDINGS; ENACTING THE STATE OFFICE BUILDING
ACQUISITION BONDING ACT; CREATING A SPECIAL FUND CONSISTING
OF GROSS RECEIPTS TAX DISTRIBUTIONS; AUTHORIZING THE STATE
BOARD OF FINANCE TO ISSUE STATE OFFICE BUILDING TAX REVENUE
BONDS; MAKING AN APPROPRIATION.

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

Section 1. [NEW MATERIAL] SHORT TITLE.--Sections 1
through 11 of this act may be cited as the "State Office
Building Acquisition Bonding Act".

Section 2. [NEW MATERIAL] FINDINGS AND PURPOSE.--

A. The legislature finds that the expense of
leasing office space for state occupancy has grown to the
point that the state would be better served if more state-
owned facilities were acquired. The legislature further

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1 finds that the state's overall occupancy costs could be
2 reduced even after taking into account the payments necessary
3 on bonds issued to acquire additional facilities and that,
4 therefore, it is economically advantageous for the state to
5 own additional office space. Further, in anticipation of the
6 state's future office space needs, the legislature finds it
7 prudent to establish an office acquisition program.

8 B. The purpose of the State Office Building
9 Acquisition Bonding Act is to acquire additional state office
10 buildings by issuing bonds paid for with distributions from a
11 special fund composed of distributions of gross receipts tax
12 revenue that reflect a portion of the savings that are
13 expected from the conversion to more state-owned facilities.

14 Section 3. [NEW MATERIAL] DEFINITION.--As used in the
15 State Office Building Acquisition Bonding Act, "acquiring" or
16 "acquisition" includes acquiring or acquisition by purchase,
17 construction or renovation.

18 Section 4. [NEW MATERIAL] STATE BOARD OF FINANCE SHALL
19 ISSUE STATE OFFICE BUILDING TAX REVENUE BONDS--APPROPRIATION
20 OF PROCEEDS.--

21 A. The state board of finance is authorized to
22 issue and sell revenue bonds, known as "state office building
23 tax revenue bonds", payable solely from the state office
24 building bonding fund, in compliance with the State Office
25 Building Acquisition Bonding Act for the purpose of acquiring
state office buildings when the acquisition is authorized by
legislative act and the director of the property control

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1 division of the general services department certifies the
2 need for the issuance of the bonds.

3 B. The net proceeds from the state office building
4 tax revenue bonds are appropriated to the property control
5 reserve fund for the purpose of acquiring state office
6 buildings, the acquisition of which shall be consistent with
7 the purpose of the State Office Building Acquisition Bonding
8 Act and the authorizing legislation.

9 Section 5. [NEW MATERIAL] STATE OFFICE BUILDING BONDING
10 FUND CREATED--MONEY IN THE FUND PLEDGED.--

11 A. The "state office building bonding fund" is
12 created as a special fund within the state treasury. The
13 fund shall be administered by the state board of finance as a
14 special account. The fund shall consist of money
15 appropriated to the fund and gross receipts tax revenues
16 distributed to the fund by law. Earnings of the fund shall
17 be credited to the fund. Balances in the fund at the end of
18 any fiscal year shall remain in the fund, except as provided
19 in this section.

20 B. Money in the state office building bonding fund
21 is pledged for the payment of principal and interest on all
22 state office building tax revenue bonds issued pursuant to
23 the State Office Building Acquisition Bonding Act. Money in
24 the fund is appropriated to the state board of finance for
25 the purpose of paying debt service, including redemption
premiums, on the state office building tax revenue bonds and
the expenses incurred in the issuance, payment and

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1 administration of the bonds.

2 C. On the last day of May and November of each
3 calendar year, the state board of finance shall estimate the
4 amount needed to make debt service and other payments during
5 the next twelve months from the state office building bonding
6 fund on the state office building tax revenue bonds issued
7 pursuant to the State Office Building Acquisition Bonding Act
8 plus the amount that may be needed for any required reserves.
9 The state board of finance shall transfer to the general fund
10 any balance in the state office building bonding fund above
11 the estimated amounts.

12 D. Any balance remaining in the state office
13 building bonding fund shall be transferred to the general
14 fund upon certification by the state board of finance that:

15 (1) the director of the property control
16 division of the general services department and the state
17 board of finance have agreed that the state office building
18 tax revenue bonds issued pursuant to the State Office
19 Building Acquisition Bonding Act have been retired, that no
20 additional obligations of the state office building bonding
21 fund exist and that no additional expenditures from the fund
22 are necessary; or

23 (2) a court of jurisdiction has ruled that
24 the state office building tax revenue bonds have been
25 retired, that no additional obligations of the state office
building bonding fund exist and that no additional
expenditures from the fund are necessary.

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1 E. The state office building tax revenue bonds
2 issued pursuant to the State Office Building Acquisition
3 Bonding Act shall be payable solely from the state office
4 building bonding fund and do not create an obligation or
5 indebtedness of the state within the meaning of any
6 constitutional provision. No breach of any contractual
7 obligation incurred pursuant to that act shall impose a
8 pecuniary liability or a charge upon the general credit or
9 taxing power of the state, and the bonds are not general
10 obligations for which the state's full faith and credit is
11 pledged.

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

24 Section 6. [NEW MATERIAL] AUTHORITY TO REFUND BONDS.--
25 The state board of finance may issue and sell at public or
private sale state office building tax revenue bonds to
refund outstanding state office building tax revenue bonds by

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1 exchange, immediate or prospective redemption, cancellation
2 or escrow, including the escrow of debt service funds
3 accumulated for payment of outstanding bonds, or any
4 combination thereof when, in its opinion, such action will be
5 beneficial to the state.

6 Section 7. [NEW MATERIAL] STATE OFFICE BUILDING TAX
7 REVENUE BONDS--FORM--EXECUTION.--

8 A. The state board of finance, except as otherwise
9 specifically provided in the State Office Building
10 Acquisition Bonding Act, shall determine at its discretion
11 the terms, covenants and conditions of state office building
12 tax revenue bonds, including, but not limited to, date of
13 issue, denominations, maturities, rate or rates of interest,
14 call features, call premiums, registration, refundability and
15 other covenants covering the general and technical aspects of
16 the issuance of the bonds.

17 B. The state office building tax revenue bonds
18 shall be in such form as the state board of finance may
19 determine, and successive issues shall be identified by
20 alphabetical, numerical or other proper series designation.

21 C. State office building tax revenue bonds shall
22 be signed and attested by the state treasurer and shall be
23 executed with the facsimile signature of the governor and the
24 facsimile seal of the state, except for bonds issued in book
25 entry or similar form without the delivery of physical
securities. Any interest coupons attached to the bonds shall
bear the facsimile signature of the state treasurer, which

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1 officer, by the execution of the bonds, shall adopt as his
2 own signature the facsimile thereof appearing on the coupons.

3 Except for bonds issued in book entry or similar form
4 without the delivery of physical securities, the Uniform
5 Facsimile Signature of Public Officials Act shall apply, and
6 the state board of finance shall determine the manual
7 signature to be affixed on the bonds.

8 Section 8. [NEW MATERIAL] PROCEDURE FOR SALE OF BONDS.-
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10 A. State office building tax revenue bonds shall
11 be sold by the state board of finance at such times and in
12 such manner as the board may elect, consistent with the need
13 of the property control division of the general services
14 department, either at private sale for a negotiated price or
15 to the highest bidder at public sale for cash at not less
16 than par and accrued interest.

17 B. In connection with any public sale of state
18 office building tax revenue bonds, the state board of finance
19 shall publish a notice of the time and place of sale in a
20 newspaper of general circulation in the state and also in a
21 recognized financial journal outside the state. Such
22 publication shall be made once each week for two consecutive
23 weeks prior to the date fixed for such sale, the last
24 publication to be two business days prior to the date of
25 sale. Such notice shall specify the amount, denomination,
maturity and description of the bonds to be offered for sale
and the place, day and hour at which sealed bids therefor

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1 shall be received. All bids, except that of the state, shall
2 be accompanied by a deposit of two percent of the principal
3 amount of the bonds. Deposits of unsuccessful bidders shall
4 be returned upon rejection of the bid. At the time and place
5 specified in such notice, the state board of finance shall
6 open the bids in public and shall award the bonds, or any
7 part thereof, to the bidder or bidders offering the best
8 price. The state board of finance may reject any or all bids
9 and readvertise.

10 C. The state board of finance may sell a state
11 office building tax revenue bond issue, or any part thereof,
12 to the state or to one or more investment bankers or
13 institutional investors at private sale.

14 Section 9. [NEW MATERIAL] STATE OFFICE BUILDING
15 ACQUISITION BONDING ACT IS FULL AUTHORITY FOR ISSUANCE OF
16 BONDS--BONDS ARE LEGAL INVESTMENTS.--

17 A. The State Office Building Acquisition Bonding
18 Act shall, without reference to any other act of the
19 legislature, be full authority for the issuance and sale of
20 state office building tax revenue bonds, which bonds shall
21 have all the qualities of investment securities under the
22 Uniform Commercial Code and shall not be invalid for any
23 irregularity or defect or be contestable in the hands of bona
24 fide purchasers or holders thereof for value.

25 B. State office building tax revenue bonds are
legal investments for any person or board charged with the
investment of any public funds and are acceptable as security

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1 for any deposit of public money.

2 Section 10. [NEW MATERIAL] SUIT MAY BE BROUGHT TO
3 COMPEL PERFORMANCE OF OFFICERS.--Any holder of state office
4 building tax revenue bonds or any person or officer being a
5 party in interest may sue to enforce and compel the
6 performance of the provisions of the State Office Building
7 Acquisition Bonding Act.

8 Section 11. [NEW MATERIAL] BONDS TAX EXEMPT.--All state
9 office building tax revenue bonds shall be exempt from
10 taxation by the state or any of its political subdivisions.

11 Section 12. A new section of the Tax Administration Act
12 is enacted to read:

13 "[NEW MATERIAL] DISTRIBUTION--STATE OFFICE BUILDING
14 BONDING FUND--GROSS RECEIPTS TAX.--A distribution pursuant to
15 Section 7-1-6.1 NMSA 1978 shall be made to the state office
16 building bonding fund in the amount of five hundred thousand
17 dollars (\$500,000) from the net receipts attributable to the
18 gross receipts tax imposed by the Gross Receipts and
19 Compensating Tax Act. The distribution shall be made:

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

22 B. contemporaneously with other distributions of
23 net receipts attributable to the gross receipts tax for
24 payment of debt service on outstanding bonds or to a fund
25 dedicated for that purpose; and

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

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1 Section 13. EFFECTIVE DATE.--The effective date of the
2 provisions of this act is July 1, 2000.

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