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SENATE BILL 214

45TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2001

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

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

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

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

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

22 A. The state board of finance is authorized to
23 issue and sell revenue bonds, known as "state office building
24 tax revenue bonds", payable solely from the state office
25 building bonding fund, in compliance with the State Office

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1 Building Acquisition Bonding Act for the purpose of acquiring
2 state office buildings when the acquisition is authorized by
3 legislative act and the director of the property control
4 division of the general services department certifies the need
5 for the issuance of the bonds.

6 B. The net proceeds from the state office building
7 tax revenue bonds are appropriated to the property control
8 division of the general services department for the purpose of
9 acquiring state office buildings, the acquisition of which
10 shall be consistent with the purpose of the State Office
11 Building Acquisition Bonding Act and the authorizing
12 legislation.

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

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

24 B. Money in the state office building bonding fund
25 is pledged for the payment of principal and interest on all

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1 state office building tax revenue bonds issued pursuant to the
2 State Office Building Acquisition Bonding Act. Money in the
3 fund is appropriated to the state board of finance for the
4 purpose of paying debt service, including redemption premiums,
5 on the state office building tax revenue bonds and the
6 expenses incurred in the issuance, payment and administration
7 of the bonds.

8 C. On the last day of January and July of each
9 year, the state board of finance shall estimate the amount
10 needed to make debt service and other payments during the next
11 twelve months from the state office building bonding fund on
12 the state office building tax revenue bonds issued pursuant to
13 the State Office Building Acquisition Bonding Act plus the
14 amount that may be needed for any required reserves. The
15 state board of finance shall transfer to the general fund any
16 balance in the state office building bonding fund above the
17 estimated amounts.

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

21 (1) the director of the property control
22 division of the general services department and the state
23 board of finance have agreed that the state office building
24 tax revenue bonds issued pursuant to the State Office Building
25 Acquisition Bonding Act have been retired, that no additional

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1 obligations of the state office building bonding fund exist
2 and that no additional expenditures from the fund are
3 necessary; or

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

9 E. The state office building tax revenue bonds
10 issued pursuant to the State Office Building Acquisition
11 Bonding Act shall be payable solely from the state office
12 building bonding fund or, with the approval of the bond
13 holders, such other special funds as may be provided by law
14 and do not create an obligation or indebtedness of the state
15 within the meaning of any constitutional provision. No breach
16 of any contractual obligation incurred pursuant to that act
17 shall impose a pecuniary liability or a charge upon the
18 general credit or taxing power of the state, and the bonds are
19 not general obligations for which the state's full faith and
20 credit is pledged.

21 F. The state does hereby pledge that the state
22 office building bonding fund shall be used only for the
23 purposes specified in this section and pledged first to pay
24 the debt service on the state office building tax revenue
25 bonds issued pursuant to the State Office Building Acquisition

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1 Bonding Act. The state further pledges that any law
2 authorizing the distribution of taxes or other revenues to the
3 state office building bonding fund or authorizing expenditures
4 from the fund shall not be amended or repealed or otherwise
5 modified so as to impair the bonds to which the state office
6 building bonding fund is dedicated as provided in this
7 section.

8 Section 6. [NEW MATERIAL] AUTHORITY TO REFUND BONDS. --

9 The state board of finance may issue and sell at public or
10 private sale state office building tax revenue bonds to refund
11 outstanding state office building tax revenue bonds by
12 exchange, immediate or prospective redemption, cancellation or
13 escrow, including the escrow of debt service funds accumulated
14 for payment of outstanding bonds, or any combination thereof
15 when, in its opinion, such action will be beneficial to the
16 state.

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

19 A. The state board of finance, except as otherwise
20 specifically provided in the State Office Building Acquisition
21 Bonding Act, shall determine at its discretion the terms,
22 covenants and conditions of state office building tax revenue
23 bonds, including, but not limited to, date of issue,
24 denominations, maturities, rate or rates of interest, call
25 features, call premiums, registration, refundability and other

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1 covenants covering the general and technical aspects of the
2 issuance of the bonds.

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

7 C. State office building tax revenue bonds shall
8 be signed and attested by the state treasurer and shall be
9 executed with the facsimile signature of the governor and the
10 facsimile seal of the state, except for bonds issued in book
11 entry or similar form without the delivery of physical
12 securities. Any interest coupons attached to the bonds shall
13 bear the facsimile signature of the state treasurer, which
14 officer, by the execution of the bonds, shall adopt as his own
15 signature the facsimile thereof appearing on the coupons.
16 Except for bonds issued in book entry or similar form without
17 the delivery of physical securities, the Uniform Facsimile
18 Signature of Public Officials Act shall apply, and the state
19 board of finance shall determine the manual signature to be
20 affixed on the bonds.

21 Section 8. [NEW MATERIAL] PROCEDURE FOR SALE OF BONDS. --

22 A. State office building tax revenue bonds shall
23 be sold by the state board of finance at such times and in
24 such manner as the board may elect, consistent with the need
25 of the property control division of the general services

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1 department, either at private sale for a negotiated price or
2 to the highest bidder at public sale for cash at not less than
3 par and accrued interest.

4 B. In connection with any public sale of state
5 office building tax revenue bonds, the state board of finance
6 shall publish a notice of the time and place of sale in a
7 newspaper of general circulation in the state and also in a
8 recognized financial journal outside the state. Such
9 publication shall be made once each week for two consecutive
10 weeks prior to the date fixed for such sale, the last
11 publication to be two business days prior to the date of sale.
12 Such notice shall specify the amount, denomination, maturity
13 and description of the bonds to be offered for sale and the
14 place, day and hour at which sealed bids therefor shall be
15 received. All bids, except that of the state, shall be
16 accompanied by a deposit of two percent of the principal
17 amount of the bonds. Deposits of unsuccessful bidders shall
18 be returned upon rejection of the bid. At the time and place
19 specified in such notice, the state board of finance shall
20 open the bids in public and shall award the bonds, or any part
21 thereof, to the bidder or bidders offering the best price.
22 The state board of finance may reject any or all bids and
23 readvertise.

24 C. The state board of finance may sell a state
25 office building tax revenue bond issue, or any part thereof,

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1 to the state or to one or more investment bankers or
2 institutional investors at private sale.

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

6 A. The State Office Building Acquisition Bonding
7 Act shall, without reference to any other act of the
8 legislature, be full authority for the issuance and sale of
9 state office building tax revenue bonds, which bonds shall
10 have all the qualities of investment securities under the
11 Uniform Commercial Code and shall not be invalid for any
12 irregularity or defect or be contestable in the hands of bona
13 fide purchasers or holders thereof for value.

14 B. State office building tax revenue bonds are
15 legal investments for any person or board charged with the
16 investment of any public funds and are acceptable as security
17 for any deposit of public money.

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

24 Section 11. [NEW MATERIAL] BONDS TAX EXEMPT.--All state
25 office building tax revenue bonds shall be exempt from

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1 taxation by the state or any of its political subdivisions.

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

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

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

13 B. contemporaneously with other distributions of
14 net receipts attributable to the gross receipts tax for
15 payment of debt service on outstanding bonds or to a fund
16 dedicated for that purpose; and

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

19 Section 13. EFFECTIVE DATE. -- The effective date of the
20 provisions of this act is July 1, 2001.