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HOUSE BILL 294

46TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2004

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 HIGHER EDUCATIONAL CAPITAL IMPROVEMENTS AND ACQUISITIONS, FOR WATER PROJECT IMPROVEMENTS, FOR PUBLIC LIBRARY ACQUISITIONS, FOR OTHER STATE CAPITAL EXPENDITURES AND FOR PUBLIC SCHOOL EDUCATIONAL TECHNOLOGY; 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 2004 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 "2004 Capital Projects General Obligation Bond Act".

Section 2. PURPOSE.--For the purpose of providing funds

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1 for capital expenditures as authorized in the 2004 Capital
2 Projects General Obligation Bond Act, general obligation
3 indebtedness of the state is authorized for the purposes and in
4 the amounts set forth in Section 10 of that act.

5 Section 3. BOND TERMS.--

6 A. The state board of finance, except as limited by
7 the 2004 Capital Projects General Obligation Bond Act, shall
8 determine the terms, covenants and conditions of bonds issued
9 pursuant to that act, including but not limited to:

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

12 (2) principal amounts;

13 (3) rate or rates of interest; and

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

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

22 C. Payment of the principal of the bonds shall
23 begin not more than two years after the date of their issuance,
24 and the bonds shall mature not later than ten years after the
25 date of their issuance. Both principal and interest shall be

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1 payable in lawful money of the United States at the office of
2 the paying agent within or without the state as the state board
3 of finance may direct.

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

10 E. The bonds shall be issued in accordance with the
11 provisions of the 2004 Capital Projects General Obligation Bond
12 Act, the Supplemental Public Securities Act and the Uniform
13 Facsimile Signature of Public Officials Act and may be issued
14 in accordance with the Public Securities Short-Term Interest
15 Rate Act.

16 F. The full faith and credit of the state is
17 pledged for the prompt payment when due of the principal of and
18 interest on all bonds issued and sold pursuant to the 2004
19 Capital Projects General Obligation Bond Act.

20 Section 4. EXPENDITURES.--The proceeds from the sale of
21 the bonds shall be expended solely for providing money to be
22 distributed for the purposes and in amounts not to exceed the
23 amounts set forth in Section 10 of the 2004 Capital Projects
24 General Obligation Bond Act and to pay expenses incurred under
25 Section 6 of that act. Any proceeds from the sale of the bonds

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1 that are not required for the purposes set forth in Sections 6
2 and 10 of that act shall be used for the purpose of paying the
3 principal of and interest on the bonds.

4 Section 5. SALE.--The bonds authorized under the 2004
5 Capital Projects General Obligation Bond Act shall be sold by
6 the state board of finance at such time and in such manner and
7 amounts as the board may elect. The bonds may be sold at
8 private sale or at public sale, in either case at not less than
9 par plus accrued interest to the date of delivery. If sold at
10 public sale, the state board of finance shall publish a notice
11 of the time and place of sale in a newspaper of general
12 circulation in the state and may also publish the notice in a
13 recognized financial journal outside the state. The required
14 publications shall be made once each week for two consecutive
15 weeks prior to the date fixed for the sale, the last
16 publication thereof to be at least five days prior to the date
17 of the sale. The notice shall specify the amount,
18 denomination, maturity and description of the bonds to be
19 offered for sale and the place, date and hour at which the
20 sealed bids shall be received. At the time and place specified
21 in the notice, the state board of finance shall open the bids
22 in public and shall award the bonds to the bidder or bidders
23 offering the best price for the bonds. The state board of
24 finance may reject any or all bids and readvertise and may
25 waive any irregularity in a bid. All bids, except that of the

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

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

20 Section 7. TAX LEVY.--To provide for the payment of the
21 principal of and interest on the bonds issued and sold pursuant
22 to the provisions of the 2004 Capital Projects General
23 Obligation Bond Act, there shall be and there is hereby imposed
24 and levied during each year in which any of the bonds are
25 outstanding an ad valorem tax on all property in the state

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

12 Section 8. TREASURER--DUTIES.--The state treasurer shall
13 keep separate accounts of all money collected pursuant to the
14 taxes imposed and levied pursuant to the provisions of the 2004
15 Capital Projects General Obligation Bond Act and shall use this
16 money only for the purposes of paying the principal of and
17 interest on the bonds as they become due and any expenses
18 relating thereto.

19 Section 9. IRREPEALABLE CONTRACT--AUTHORITY FOR
20 ISSUANCE.--An owner of bonds issued pursuant to the provisions
21 of the 2004 Capital Projects General Obligation Bond Act may,
22 either at law or in equity, by suit, action or mandamus,
23 enforce and compel the performance of the duties required by
24 that act of any officer or entity mentioned in that act. The
25 provisions of that act constitute an irrepealable contract with

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1 the owners of any of the bonds issued pursuant to that act for
2 the faithful performance of which the full faith and credit of
3 the state is pledged. Without reference to any other act of
4 the legislature, the 2004 Capital Projects General Obligation
5 Bond Act is full authority for the issuance and sale of the
6 bonds authorized in that act, and such bonds shall have all the
7 qualities of investment securities under the Uniform Commercial
8 Code, shall not be invalid for any irregularity or defect in
9 the proceedings for the issuance and sale of the bonds and
10 shall be incontestable in the hands of bona fide purchasers or
11 holders thereof for value. All bonds issued under the
12 provisions of that act, and the interest thereon, are exempt
13 from taxation by the state and any subdivision or public body
14 thereof.

15 Section 10. PROJECTS.--The proceeds from the sale of
16 bonds issued under the provisions of the 2004 Capital Projects
17 General Obligation Bond Act shall be distributed as follows for
18 the purposes and in the amounts specified:

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

21 (1) one hundred thousand dollars (\$100,000) to
22 make improvements to the Acoma senior center in Cibola county;

23 (2) fifty-two thousand dollars (\$52,000) to
24 make improvements to the Melrose senior center in Curry county;

25 (3) two hundred twenty thousand dollars

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1 (\$220,000) to make improvements to the Old Mesilla senior
2 center in Dona Ana county;

3 (4) one hundred forty thousand dollars
4 (\$140,000) to make improvements to La Loma senior center in
5 Guadalupe county;

6 (5) one hundred forty thousand dollars
7 (\$140,000) to make improvements to the Hobbs senior center in
8 Lea county;

9 (6) ninety-five thousand dollars (\$95,000) to
10 make improvements to the Crownpoint senior center in the Navajo
11 Nation in McKinley county;

12 (7) eighty-three thousand six hundred ninety-
13 three dollars (\$83,693) to make improvements to senior centers
14 throughout Rio Arriba county;

15 (8) seventy-five thousand dollars (\$75,000) to
16 make improvements to the Santa Ana Pueblo senior center in
17 Sandoval county;

18 (9) five hundred sixty-two thousand dollars
19 (\$562,000) to construct a new senior facility in Pecos in San
20 Miguel county;

21 (10) five hundred thousand dollars (\$500,000)
22 to complete construction of the Magdalena senior center in
23 Socorro county; and

24 (11) fifty thousand dollars (\$50,000) to make
25 improvements to the Pueblo of Picuris senior center in Taos

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1 county;

2 B. for higher educational capital improvements and
3 acquisitions, to the commission on higher education:

4 (1) thirty million dollars (\$30,000,000) for
5 infrastructure renovation and expansion at institutions of
6 higher learning and constitutional special schools statewide;

7 (2) eight million dollars (\$8,000,000) to
8 purchase and install information technology and related
9 infrastructure at institutions of higher learning statewide;

10 (3) eighteen million two hundred fifty
11 thousand dollars (\$18,250,000) to make accessibility and safety
12 improvements to comply with the requirements of the Americans
13 with Disabilities Act of 1990 at institutions of higher
14 learning statewide; and

15 (4) two million three hundred thousand dollars
16 (\$2,300,000) for phase 2 purchase and installation of digital
17 equipment to allow KNME television station to comply with the
18 federal communications commission mandate for public television
19 stations nationwide;

20 C. for water projects statewide, to the water
21 project fund, twenty million dollars (\$20,000,000) to carry out
22 the provisions of the Water Project Finance Act to ensure water
23 use efficiency, resource conservation and protection and fair
24 distribution and allocation of New Mexico's water resources for
25 beneficial purposes of use within the state;

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1 D. for public library acquisitions, to the office
2 of cultural affairs, five million dollars (\$5,000,000) to
3 acquire library books, equipment and library resources for
4 public school and academic libraries statewide;

5 E. for state facilities and equipment, to the
6 capital program fund, ten million dollars (\$10,000,000) to
7 renovate, repair, purchase equipment and make other capital
8 improvements to state facilities statewide; and

9 F. for educational technology for public schools,
10 to the educational technology fund, five million dollars
11 (\$5,000,000) to purchase and install educational technology in
12 public schools statewide for the purpose of implementing the
13 provisions of the Technology for Education Act.

14 Section 11. ELECTION.--

15 A. Bonds issued pursuant to the 2004 Capital
16 Projects General Obligation Bond Act shall be submitted to the
17 registered voters of the state at the general election to be
18 held in November 2004, and, if they receive a majority of all
19 the votes cast thereon at such election, shall take effect upon
20 certification of the state canvassing board announcing the
21 results of such election. No bonds shall be issued or sold
22 under the 2004 Capital Projects General Obligation Bond Act
23 until the registered voters of this state have voted upon and
24 approved the bonds and property tax as provided in this
25 section. Any bonds issued under that act shall be issued

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1 within thirty months from the date of such election.

2 B. The ballots used at the 2004 general election
3 shall contain substantially the following language:

4 (1) "The 2004 Capital Projects General
5 Obligation Bond Act authorizes the issuance and sale of senior
6 citizen facility improvement and construction bonds. Shall the
7 state be authorized to issue general obligation bonds in an
8 amount not to exceed two million one hundred five thousand six
9 hundred ninety-three dollars (\$2,105,693) to make capital
10 expenditures for certain senior citizen facility improvements
11 and construction projects and provide for a general property
12 tax imposition and levy for the payment of principal of,
13 interest on and expenses incurred in connection with the
14 issuance of the bonds and the collection of the tax as
15 permitted by law?

16 For _____ Against _____";

17 (2) "The 2004 Capital Projects General
18 Obligation Bond Act authorizes the issuance and sale of higher
19 educational capital improvement and acquisition bonds. Shall
20 the state be authorized to issue general obligation bonds in an
21 amount not to exceed fifty-eight million seven hundred twelve
22 thousand dollars (\$58,712,000) to make capital expenditures for
23 certain higher educational capital improvements and
24 acquisitions and provide for a general property tax imposition
25 and levy for the payment of principal of, interest on and

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1 expenses incurred in connection with the issuance of the bonds
2 and the collection of the tax as permitted by law?

3 For _____ Against _____";

4 (3) "The 2004 Capital Projects General
5 Obligation Bond Act authorizes the issuance and sale of water
6 project improvement bonds. Shall the state be authorized to
7 issue general obligation bonds in an amount not to exceed
8 twenty million ninety-eight thousand dollars (\$20,098,000) to
9 make capital expenditures to ensure water use efficiency,
10 resource conservation and protection and fair distribution and
11 allocation of New Mexico's water resources for beneficial
12 purposes of use within the state and provide for a general
13 property tax imposition and levy for the payment of principal
14 of, interest on and expenses incurred in connection with the
15 issuance of the bonds and the collection of the tax as
16 permitted by law?

17 For _____ Against _____";

18 (4) "The 2004 Capital Projects General
19 Obligation Bond Act authorizes the issuance and sale of public
20 library acquisition bonds. Shall the state be authorized to
21 issue general obligation bonds in an amount not to exceed five
22 million one hundred thousand dollars (\$5,100,000) to make
23 capital expenditures for public library acquisitions and
24 provide for a general property tax imposition and levy for the
25 payment of principal of, interest on and expenses incurred in

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1 connection with the issuance of the bonds and the collection of
2 the tax as permitted by law?

3 For _____ Against _____";

4 (5) "The 2004 Capital Projects General
5 Obligation Bond Act authorizes the issuance and sale of state
6 facility improvement and equipment bonds. Shall the state be
7 authorized to issue general obligation bonds in an amount not
8 to exceed ten million one hundred thousand dollars
9 (\$10,100,000) to make capital expenditures for state buildings
10 and provide for a general property tax imposition and levy for
11 the payment of principal of, interest on and expenses incurred
12 in connection with the issuance of the bonds and the collection
13 of the tax as permitted by law?

14 For _____ Against _____";

15 and

16 (6) "The 2004 Capital Projects General
17 Obligation Bond Act authorizes the issuance and sale of public
18 school technology bonds. Shall the state be authorized to
19 issue general obligation bonds in an amount not to exceed five
20 million one hundred thousand dollars (\$5,100,000) to make
21 capital expenditures for educational technology acquisitions
22 for public schools statewide and provide for a general property
23 tax imposition and levy for the payment of principal of,
24 interest on and expenses incurred in connection with the
25 issuance of the bonds and the collection of the tax as

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1 permitted by law?

2 For _____ Against _____".

3 C. Each question set forth in this section includes
4 a specific work or object to be financed by the bonds. If any
5 such question is not approved by a majority vote of the
6 electorate at the state's 2004 general election, the issuance
7 of bonds for the work or object specified by the question shall
8 be excluded from and shall not be part of the 2004 Capital
9 Projects General Obligation Bond Act. The failure of a
10 question to be approved by the electorate at the 2004 general
11 election shall not affect those questions that are approved at
12 the election.

13 D. The secretary of state shall include the
14 submission of the capital projects general obligation bonds to
15 the people at the 2004 general election, and it shall be
16 included in the general election proclamation of each of the
17 county clerks. The secretary of state shall cause the 2004
18 Capital Projects General Obligation Bond Act to be published in
19 full in at least one newspaper in each county of the state if
20 one be published therein, once each week, for four successive
21 weeks next preceding the general election as required by the
22 constitution of New Mexico.

23 Section 12. ART IN PUBLIC PLACES.--Pursuant to Section
24 13-4A-4 NMSA 1978 and where applicable, the appropriations
25 authorized in the 2004 Capital Projects General Obligation Bond
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1 Act include money for the art in public places fund.

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

3 A. If an appropriation for a project authorized in
4 the 2004 Capital Projects General Obligation Bond Act is not
5 sufficient to complete all the purposes specified, the
6 appropriation may be expended for any portion of the purposes
7 specified in the appropriation. Expenditures shall not be made
8 for purposes other than those specified in the appropriation.

9 B. The state agencies and state institutions to
10 which money has been appropriated in the 2004 Capital Projects
11 General Obligation Bond Act shall be responsible for monitoring
12 the projects funded in that act to ensure compliance with the
13 constitution and laws of New Mexico, and shall cause to be
14 reverted any unexpended or unencumbered balance remaining at
15 the earlier of the third full fiscal year after issuance of the
16 bonds or the termination or completion of the specific project.
17 Reverted funds shall be deposited in the debt service fund
18 established by the state treasurer for the purpose of paying
19 the principal of and interest on the state's general obligation
20 bonds.

21 Section 14. SEVERABILITY.--If any part or application of
22 the 2004 Capital Projects General Obligation Bond Act is held
23 invalid, the remainder or its application to other situations
24 or persons shall not be affected.

25 Section 15. EMERGENCY.--It is necessary for the public

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1 peace, health and safety that this act take effect immediately.

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