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HOUSE BILL 381

49TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2009

INTRODUCED BY

Luciano "Lucky" Varela

AN ACT

RELATING TO STATE AGENCIES; INCLUDING STATE INSTRUMENTALITIES
IN THE DEFINITION OF STATE AGENCY FOR THE PURPOSES OF CHAPTER
6, ARTICLE 3 NMSA 1978; REPEALING A DUPLICATE SECTION OF LAW.

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

Section 1. Section 6-3-1 NMSA 1978 (being Laws 1957,
Chapter 253, Section 1) is amended to read:

"6-3-1. STATE AGENCY DEFINED.--

A. As used in Chapter 6, Article 3 NMSA 1978,

"state agency" means any department, institution, board,
bureau, commission, district ~~[or]~~, committee or
instrumentality of government of the state ~~[of New Mexico]~~ and
means every office or officer of any of ~~[the above]~~ them.

B. The following instrumentalities are subject to
the provisions of Chapter 6, Article 3 NMSA 1978:

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- 1 (1) the New Mexico finance authority;
- 2 (2) the New Mexico lottery authority;
- 3 (3) the New Mexico exposition center
- 4 authority;
- 5 (4) the New Mexico mortgage finance authority;
- 6 (5) the New Mexico hospital equipment loan
- 7 council; and
- 8 (6) the New Mexico renewable energy
- 9 transmission authority."

10 Section 2. Section 6-21-4 NMSA 1978 (being Laws 1992,
11 Chapter 61, Section 4, as amended) is amended to read:

12 "6-21-4. NEW MEXICO FINANCE AUTHORITY CREATED--
13 MEMBERSHIP--QUALIFICATIONS--QUORUM--MEETINGS--COMPENSATION--
14 BOND.--

15 A. There is created a public body politic and
16 corporate [~~separate and apart from the state~~] constituting a
17 governmental instrumentality to be known as the "New Mexico
18 finance authority" for the performance of essential public
19 functions.

20 B. The authority shall be composed of twelve
21 members. The state investment officer, the secretary of
22 finance and administration, the secretary of economic
23 development, the secretary of energy, minerals and natural
24 resources, the secretary of environment, the executive director
25 of the New Mexico municipal league and the executive director

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1 of the New Mexico association of counties or their designees
2 shall be ex-officio members of the authority with voting
3 privileges. The governor, with the advice and consent of the
4 senate, shall appoint to the authority the chief financial
5 officer of a state higher educational institution and four
6 members who are residents of the state. The appointed members
7 shall serve at the pleasure of the governor.

8 C. The appointed members of the authority shall be
9 appointed to four-year terms. The initial members shall be
10 appointed to staggered terms of four years or less so that the
11 term of at least one member expires on January 1 of each year.
12 Vacancies shall be filled by appointment by the governor for
13 the remainder of the unexpired term. Any member of the
14 authority shall be eligible for reappointment.

15 D. Each appointed member, before entering upon
16 [~~his~~] the member's duty, shall take an oath of office to
17 administer the duties of [~~his~~] the member's office faithfully
18 and impartially. A record of the oath shall be filed in the
19 office of the secretary of state.

20 E. The governor shall designate an appointed member
21 of the authority to serve as [~~chairman~~] chair. The authority
22 shall elect annually one of its members to serve as vice
23 [~~chairman~~] chair. The authority shall appoint and prescribe
24 the duties of such other officers, who need not be members, as
25 the authority deems necessary or advisable, including a chief

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1 executive officer and a secretary, who may be the same person.
2 The authority may delegate to one or more of its members,
3 officers, employees or agents such powers and duties as it may
4 deem proper and consistent with the New Mexico Finance
5 Authority Act.

6 F. The chief executive officer of the authority
7 shall direct the affairs and business of the authority, subject
8 to the policies, control and direction of the authority. The
9 secretary of the authority shall keep a record of the
10 proceedings of the authority and shall be custodian of all
11 books, documents and papers filed with the authority, the
12 minute book or journal of the authority and its official seal.
13 The secretary shall make copies of all minutes and other
14 records and documents of the authority and give certificates
15 under the official seal of the authority to the effect that the
16 copies are true copies, and all persons dealing with the
17 authority may rely upon the certificates.

18 G. Meetings of the authority shall be held at the
19 call of the [~~chairman~~] chair or whenever three members shall so
20 request in writing. A majority of members then serving
21 constitutes a quorum for the transaction of any business. The
22 affirmative vote of at least a majority of a quorum present
23 shall be necessary for any action to be taken by the authority.
24 An ex-officio member may designate in writing another person to
25 attend meetings of the authority and to the same extent and

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1 with the same effect act in [~~his~~] the ex-officio member's
2 stead. No vacancy in the membership of the authority shall
3 impair the right of a quorum to exercise all rights and perform
4 all duties of the authority.

5 H. Each member of the authority shall give bond as
6 provided in the Surety Bond Act. All costs of the surety bonds
7 shall be borne by the authority.

8 I. The authority is not created or organized, and
9 its operations shall not be conducted, for the purpose of
10 making a profit. No part of the revenues or assets of the
11 authority shall benefit or be distributable to its members,
12 officers or other private persons. The members of the
13 authority shall receive no compensation for their services, but
14 shall be reimbursed for actual and necessary expenses at the
15 same rate and on the same basis as provided for public officers
16 in the Per Diem and Mileage Act.

17 J. The [~~authority shall not be subject to the~~
18 ~~supervision or control of any other board, bureau, department~~
19 ~~or agency of the state except as specifically provided in the~~
20 ~~New Mexico Finance Authority Act. No]~~ use of the [terms] term
21 "state agency" or "instrumentality" in any other law of the
22 state shall not be deemed to refer to the authority unless the
23 authority is specifically referred to in the law.

24 K. The authority is a governmental instrumentality
25 for purposes of the Tort Claims Act."

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1 Section 3. Section 6-24-5 NMSA 1978 (being Laws 1995,
2 Chapter 155, Section 5) is amended to read:

3 "6-24-5. NEW MEXICO LOTTERY AUTHORITY CREATED.--

4 A. There is created a public body politic and
5 corporate [~~separate and apart from the state~~] constituting a
6 governmental instrumentality to be known as the "New Mexico
7 lottery authority". The authority is created and organized for
8 the purpose of establishing and conducting the [~~New Mexico~~
9 ~~state~~] lottery to provide revenues for the public purposes
10 designated by the New Mexico Lottery Act.

11 B. The authority shall be governed by a board of
12 directors composed of seven members who are residents of New
13 Mexico appointed by the governor with the advice and consent of
14 the senate. The members of the board of directors shall be
15 prominent persons in their businesses or professions and shall
16 be appointed so as to provide equitable geographical
17 representation. No more than four members of the board shall
18 be from any one political party. The governor shall consider
19 appointing at least one member who has at least five years
20 experience as a law enforcement officer, at least one member
21 who is an attorney admitted to practice in New Mexico and at
22 least one member who is a certified public accountant certified
23 in New Mexico.

24 C. Board members shall be appointed for five-year
25 terms. To provide for staggered terms, four of the initially

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1 appointed members shall be appointed for terms of five years
2 and three members for terms of three years. Thereafter, all
3 members shall be appointed for five-year terms. A vacancy
4 shall be filled by appointment by the governor for the
5 remainder of the unexpired term. A member shall serve until
6 [~~his~~] a replacement is confirmed by the senate. Board members
7 shall be eligible for reappointment.

8 D. The board shall select one of its members as
9 [~~chairman~~] chair annually. A [~~chairman~~] chair may be selected
10 for successive years. Members of the board may be removed by
11 the governor for malfeasance, misfeasance or willful neglect of
12 duty after reasonable notice and a public hearing unless the
13 notice and hearing are expressly waived in writing by the
14 member.

15 E. The board shall hold regular meetings at the
16 call of the [~~chairman~~] chair, but not less often than once each
17 calendar quarter. A board meeting may also be called upon the
18 request in writing of three or more board members. A majority
19 of members then in office constitutes a quorum for the
20 transaction of any business and for the exercise of any power
21 or function of the authority.

22 F. Board members shall receive no compensation for
23 their services, but shall be paid expenses incurred in the
24 conduct of authority business as allowed and approved by the
25 authority in accordance with policies adopted by the board.

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1 G. A board member shall be subject to a background
2 check and investigation to determine [~~his~~] fitness for office.
3 The results of that background check shall be made available to
4 the governor and the senate."

5 Section 4. Section 6-25A-1 NMSA 1978 (being Laws 2005,
6 Chapter 342, Section 1) is amended to read:

7 "6-25A-1. SHORT TITLE.--~~[This act]~~ Chapter 6, Article 25A
8 NMSA 1978 may be cited as the "New Mexico Exposition Center
9 Authority Act"."

10 Section 5. Section 6-25A-4 NMSA 1978 (being Laws 2005,
11 Chapter 342, Section 4) is amended to read:

12 "6-25A-4. NEW MEXICO EXPOSITION CENTER AUTHORITY
13 CREATED--MEMBERSHIP--QUALIFICATIONS--QUORUM--MEETINGS--
14 COMPENSATION--BOND.--

15 A. [~~There~~] The "New Mexico exposition center
16 authority" is created as a public body politic and corporate
17 [~~separate and apart from the state~~] constituting a governmental
18 instrumentality [~~to be known as the "New Mexico exposition~~
19 ~~center authority"~~] for the performance of essential public
20 functions.

21 B. The authority shall be composed of fifteen
22 members, including the secretary of finance and administration,
23 the secretary of economic development, the secretary of
24 tourism, the chair of the state transportation commission, the
25 secretary of transportation, the [~~executive director~~] chief

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1 executive officer of the New Mexico finance authority, the
2 mayor of the city of Albuquerque, the chair of the Bernalillo
3 county board of county commissioners, the mayor of the city of
4 Santa Fe, the chair of the Santa Fe county board of county
5 commissioners, the executive director of the mid-region council
6 of governments and four members who are residents of the state,
7 at least three of whom are nonresidents of Bernalillo or Santa
8 Fe county, appointed by the governor, with the advice and
9 consent of the senate. The appointed members shall serve at
10 the pleasure of the governor.

11 C. The appointed members of the authority shall be
12 appointed to four-year terms. The initial members shall be
13 appointed to staggered terms of four years or less, so that the
14 term of at least one member expires on January 1 of each year.
15 Vacancies shall be filled by appointment by the governor for
16 the remainder of the unexpired term. An appointed member shall
17 continue to serve beyond the expiration of the member's term
18 until a new member is appointed. Any member shall be eligible
19 for reappointment.

20 D. Each appointed member before entering upon the
21 member's duties shall take an oath of office to administer the
22 duties of office faithfully and impartially. A record of the
23 oath shall be filed in the office of the secretary of state.

24 E. The governor shall designate an appointed member
25 of the authority to serve as chair. The authority shall elect

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1 annually one of its members to serve as vice chair. The
2 authority shall appoint and prescribe the duties of such other
3 officers, who need not be members, as the authority deems
4 necessary or advisable, including an executive director and a
5 secretary, who may be the same person. The authority may
6 delegate to one or more of its members, officers, employees or
7 agents such powers and duties as it may deem proper and
8 consistent with the New Mexico Exposition Center Authority Act.

9 F. The executive director of the authority shall
10 direct the affairs and business of the authority, subject to
11 the policies, control and direction of the authority. The
12 secretary of the authority shall keep a record of the
13 proceedings of the authority and shall be the custodian of all
14 books, documents and papers filed with the authority, the
15 minute book or journal of the authority and its official seal.
16 The secretary shall make copies of all minutes and other
17 records and documents of the authority and give certificates
18 under the official seal of the authority to the effect that the
19 copies are true copies, and all persons dealing with the
20 authority may rely upon the certificates.

21 G. Meetings of the authority shall be held at the
22 call of the chair or whenever three members shall so request in
23 writing. A majority of members then serving constitutes a
24 quorum for the transaction of any business. The affirmative
25 vote of at least a majority of a quorum present shall be

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1 necessary for any action to be taken by the authority. An
2 ex-officio member may designate in writing another person to
3 attend meetings and to act for that member with the same
4 authority as the member. No vacancy in the membership of the
5 authority shall impair the right of a quorum to exercise all
6 rights and perform all duties of the authority.

7 H. Each member of the authority shall give a bond
8 as provided in the Surety Bond Act. All costs of the surety
9 bonds shall be borne by the authority.

10 I. The authority is not created or organized, and
11 its operations shall not be conducted, for the purpose of
12 making a profit. No part of the revenues or assets of the
13 authority shall benefit or be distributable to its members,
14 officers or other private persons. The members of the
15 authority shall receive no compensation for their services, but
16 shall be reimbursed for actual and necessary expenses at the
17 same rate and on the same basis as provided for public officers
18 in the Per Diem and Mileage Act.

19 J. The ~~[authority shall not be subject to the~~
20 ~~supervision or control of any other board, bureau, department~~
21 ~~or agency of the state except as specifically provided in the~~
22 ~~New Mexico Exposition Center Authority Act. No]~~ use of the
23 ~~[terms]~~ term "state agency" or "instrumentality" in any other
24 law of the state shall not be deemed to refer to the authority
25 unless the authority is specifically referred to in the law.

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1 K. The authority may operate the exposition center
2 in the participating jurisdictions in accordance with the
3 purposes expressed in the New Mexico Exposition Center
4 Authority Act.

5 L. The authority shall be included as a "qualified
6 entity" within the meaning of that term pursuant to the New
7 Mexico Finance Authority Act.

8 M. The authority shall be included in the
9 definition of "qualifying entity" pursuant to the Local
10 Economic Development Act.

11 N. The authority shall be included as an "eligible
12 entity" within the meaning of that term pursuant to the
13 Statewide Economic Development Finance Act.

14 O. The authority is a governmental instrumentality
15 for purposes of the Tort Claims Act."

16 Section 6. Section 58-18-2 NMSA 1978 (being Laws 1975,
17 Chapter 303, Section 2, as amended) is amended to read:

18 "58-18-2. LEGISLATIVE FINDINGS--DECLARATION OF
19 PURPOSE.--

20 A. The legislature finds and declares that there
21 exists in the state of New Mexico a serious shortage of decent,
22 safe and sanitary residential housing available at prices and
23 rentals within the financial means of persons and families of
24 low or moderate income. This shortage is severe in certain
25 urban areas of the state, is especially critical in the rural

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1 areas and is inimical to the health, safety, welfare and
2 prosperity of all residents of the state.

3 B. The legislature finds and determines that the
4 shortage of residential housing causes overcrowding and
5 congestion and exacerbates existing slum conditions, which, in
6 turn, contribute substantially and increasingly to the spread
7 of disease and crime, impair economic values, necessitate
8 excessive and disproportionate expenditures of public funds for
9 crime prevention and punishment, public health, welfare and
10 safety programs, fire and accident protection and other
11 services, substantially impair or arrest the growth of
12 municipalities, aggravate traffic problems and promote juvenile
13 delinquency and other social ills.

14 C. The legislature finds and declares further that
15 private enterprise unaided has not been able to produce the
16 needed construction of decent, safe and sanitary residential
17 housing at prices and rentals that persons and families of low
18 or moderate income can afford or to achieve the urgently needed
19 rehabilitation of much of their present housing. It is
20 imperative that the supply of residential housing for persons
21 and families of low or moderate income be increased
22 substantially and that private enterprise and investment be
23 encouraged to sponsor, build and rehabilitate residential
24 housing for such persons and families.

25 D. It is found and declared that a major cause of

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1 this housing shortage is the lack of funds in private banking
2 channels available for affordable residential mortgages. This
3 lack of funds has contributed to drastic reductions in
4 construction starts of new residential housing and has
5 frustrated the sale and purchase of existing residential
6 housing in the state.

7 E. It is further found and declared that the
8 drastic reduction in residential construction starts and, in
9 residential rehabilitation projects associated with housing
10 shortages, has caused a condition of substantial unemployment
11 and underemployment in the construction industry, which results
12 in hardships to many individuals and families, wastes vital
13 human resources, increases the public assistance burdens of the
14 state and its municipalities, impairs the security of family
15 life, impedes the economic and physical development of
16 municipalities and adversely affects the welfare and prosperity
17 of all the people of the state. A stable supply of adequate
18 funds for affordable residential mortgages is required to spur
19 new housing starts and the rehabilitation of existing units in
20 an orderly and sustained manner and thereby to reduce the
21 hazards of unemployment and underemployment in the construction
22 industry. The unaided operations of private enterprise have
23 not met and cannot meet the need for a stable supply of
24 adequate funds for affordable residential mortgage financing.

25 F. The legislature further finds and determines

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1 that for the purposes of remedying these conditions, helping to
2 alleviate the shortage of adequate housing and encouraging and
3 providing the financing for the acquisition, construction,
4 rehabilitation and improvement of residential housing for
5 persons and families of low or moderate income within the
6 state, a public body politic and corporate [~~separate and apart~~
7 ~~from the state~~] constituting a governmental instrumentality to
8 be known as the New Mexico mortgage finance authority should be
9 created with power to raise funds from private and public
10 investors, to make funds available for such purposes, to create
11 and implement programs from time to time as may be necessary or
12 appropriate to accomplish its purposes and to assist,
13 administer, finance or service housing programs for or through
14 private and nonprofit organizations and local, state, federal
15 and tribal agencies or their instrumentalities. The
16 legislature finds and declares further that in accomplishing
17 these purposes, the New Mexico mortgage finance authority is
18 acting in all respects for the benefit of the people of the
19 state in the performance of essential public functions and is
20 serving a valid public purpose in improving and otherwise
21 promoting their health, welfare and prosperity, and that the
22 enactment of the provisions set forth in the Mortgage Finance
23 Authority Act is for a valid public purpose and is declared to
24 be such as a matter of express legislative determination."

25 Section 7. Section 58-18-4 NMSA 1978 (being Laws 1975,

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1 Chapter 303, Section 4, as amended) is amended to read:

2 "58-18-4. AUTHORITY CREATED.--

3 A. There is created a public body politic and
4 corporate [~~separate and apart from the state~~] constituting a
5 governmental instrumentality, to be known as the "New Mexico
6 mortgage finance authority", for the performance of essential
7 public functions. The authority shall be composed of seven
8 members. The lieutenant governor, state treasurer and attorney
9 general shall be ex-officio members of the authority with
10 voting privileges. The governor, with the advice and consent
11 of the senate, shall appoint the other four members of the
12 authority, who shall be residents of the state and shall not
13 hold other public office. The four members of the authority
14 appointed by the governor shall be appointed for terms of four
15 years or less, staggered so that the term of one member expires
16 on January 1 of each year. Vacancies shall be filled by
17 appointment by the governor for the remainder of the unexpired
18 term. Any member of the authority shall be eligible for
19 reappointment. Each member of the authority appointed by the
20 governor may be removed by the governor for misfeasance,
21 malfeasance or willful neglect of duty after reasonable notice
22 and a public hearing, unless the notice and hearing are, in
23 writing, expressly waived. Each member of the authority
24 appointed by the governor, before entering upon duty, shall
25 take an oath of office to administer the duties of the office

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1 faithfully and impartially, and a record of the oath shall be
2 filed in the office of the secretary of state. The governor
3 shall designate a member of the authority to serve as chair for
4 a term that shall be coterminous with the chair's then current
5 term as a member of the authority. The authority shall
6 annually elect one of its members as vice chair. The authority
7 shall also elect or appoint and prescribe the duties of other
8 officers, who need not be members, as the authority deems
9 necessary or advisable, including an executive director and a
10 secretary, who may be the same person. The authority shall fix
11 the compensation of officers. Officers and employees of the
12 authority are not subject to the Personnel Act. The authority
13 may delegate to one or more of its members, officers, employees
14 or agents the powers and duties it may deem proper.

15 B. All members, officers, employees or agents
16 exercising any voting power or discretionary authority shall be
17 required to have a fiduciary bond in the amount of one million
18 dollars (\$1,000,000) for the faithful performance of their
19 duties, the cost of which shall be proper expense of the
20 authority.

21 C. The executive director shall administer, manage
22 and direct the affairs and business of the authority, subject
23 to the policies, control and direction of the members of the
24 authority. The secretary of the authority shall keep a record
25 of the proceedings of the authority and shall be custodian of

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1 all books, documents and papers filed with the authority, the
2 minute book or journal of the authority and its official seal.
3 The secretary shall have authority to make copies of all
4 minutes and other records and documents of the authority and to
5 give certificates under the official seal of the authority to
6 the effect that the copies are true copies, and all persons
7 dealing with the authority may rely upon the certificates.

8 D. Meetings of the authority shall be held at the
9 call of the chair or whenever three members so request in
10 writing. A majority of members in office shall constitute a
11 quorum for the transaction of any business and for the exercise
12 of any power or function of the authority. A vacancy in the
13 membership of the authority shall not impair the rights of a
14 quorum to exercise all the rights and to perform all the duties
15 of the authority. An ex-officio member from time to time may
16 designate in writing another person to attend meetings of the
17 authority and, to the same extent and with the same effect, act
18 in the member's stead.

19 E. The authority is not created or organized, and
20 its operations shall not be conducted, for the purpose of
21 making a profit. No part of the revenues or assets of the
22 authority shall inure to the benefit of or be distributable to
23 its members or officers or other private persons. The members
24 of the authority shall not receive compensation for their
25 services, but the members of the authority, its officers and

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1 employees shall be paid allowed expenses if approved by the
2 authority in accordance with policies adopted by the authority
3 and approved by the Mortgage Finance Authority Act oversight
4 committee.

5 F. ~~[The authority shall be separate and apart~~
6 ~~from the state and shall not be subject to the supervision or~~
7 ~~control of a board, bureau, department or agency of the state~~
8 ~~except as specifically provided in the Mortgage Finance~~
9 ~~Authority Act. To effectuate the separation of the state~~
10 ~~from the authority]~~ The use of the ~~[terms]~~ term "state
11 agency" or "instrumentality" in any other law of the state
12 shall not be deemed to refer to the authority unless the
13 authority is specifically named."

14 Section 8. Section 58-23-5 NMSA 1978 (being Laws 1983,
15 Chapter 290, Section 5, as amended by Laws 2006, Chapter 90,
16 Section 2 and by Laws 2006, Chapter 92, Section 2) is amended
17 to read:

18 "58-23-5. COUNCIL--CREATED--MEMBERS--QUALIFICATIONS--
19 BOARD.--

20 A. There is created a public body politic and
21 corporate ~~[separate and apart from the state]~~ constituting a
22 governmental instrumentality to be known as the "New Mexico
23 hospital equipment loan council" for the performance of
24 essential public functions.

25 B. The council shall be governed by a board of

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1 directors consisting of five members. The governor, with the
2 advice and consent of the senate, shall appoint the members
3 of the board.

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

6 (1) two members shall be officers or
7 directors of financial institutions located in New Mexico;

8 (2) two members shall be officers or
9 directors of a health facility located in New Mexico. Such
10 members shall have been employed for a total of five years as
11 officers or directors of any health facility;

12 (3) one member shall be appointed from and
13 represent the public and shall not be directly or indirectly
14 affiliated with any health facility; and

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

17 D. The ~~[council shall be separate and apart from~~
18 ~~the state and shall not be subject to the supervision or~~
19 ~~control of any board, bureau, department or agency of the~~
20 ~~state except as specifically provided in the Hospital~~
21 ~~Equipment Loan Act. In order to effectuate the separation of~~
22 ~~the state from the council, no] use of the [terms] term~~
23 "state agency" or "instrumentality" in any other law of the
24 state shall not be deemed to refer to the council unless the
25 council is specifically referred to therein, except that the

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1 council is a state agency and instrumentality for the
2 purposes of Article 8, Section 3 of the constitution of New
3 Mexico."

4 Section 9. Section 62-16A-1 NMSA 1978 (being Laws 2007,
5 Chapter 3, Section 1) is amended to read:

6 "62-16A-1. SHORT TITLE.--~~[Sections 1 through 15 of this~~
7 ~~act]~~ Chapter 62, Article 16A NMSA 1978 may be cited as the
8 "New Mexico Renewable Energy Transmission Authority Act".

9 Section 10. Section 62-16A-3 NMSA 1978 (being Laws
10 2007, Chapter 3, Section 3) is amended to read:

11 "62-16A-3. NEW MEXICO RENEWABLE ENERGY TRANSMISSION
12 AUTHORITY CREATED--ORGANIZATION.--

13 A. The "New Mexico renewable energy transmission
14 authority" is created as a public body politic and corporate
15 ~~[separate and apart from the state]~~ constituting a
16 governmental instrumentality for the performance of essential
17 public functions.

18 B. The authority shall be composed of seven
19 members as follows:

20 (1) three members appointed by the governor
21 with the advice and consent of the senate. The initial
22 appointees shall be appointed for staggered terms of one, two
23 and three years; thereafter the members shall be appointed
24 for three-year terms;

25 (2) the state investment officer or the

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1 state investment officer's designee;

2 (3) the state treasurer or the state
3 treasurer's designee;

4 (4) one member appointed by the speaker of
5 the house of representatives who shall serve at the pleasure
6 of the speaker of the house; and

7 (5) one member appointed by the president
8 pro tempore of the senate who shall serve at the pleasure of
9 the president pro tempore.

10 C. The qualifications of the members shall be as
11 follows:

12 (1) one member appointed by the governor
13 shall have expertise in financial matters involving the
14 financing of major electrical transmission projects;

15 (2) the other four appointed members shall
16 have:

17 (a) special knowledge of the public
18 utility industry, as evidenced by college degrees or by
19 experience, at least five years of which must be with the
20 public utility industry; and

21 (b) knowledge of renewable energy
22 development; and

23 (3) no member shall represent a person that
24 owns or operates facilities.

25 D. The members initially appointed by the speaker

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underscoring material = new
[bracketed material] = delete

1 of the house and the president pro tempore of the senate
2 shall, by lot, determine one to have an initial term of two
3 years and one to have an initial term of four years;
4 thereafter, the appointments will be for staggered terms of
5 four years.

6 E. In addition to the seven voting members, the
7 secretary of energy, minerals and natural resources shall
8 serve as an ex-officio nonvoting member of the authority.

9 F. The governor shall designate an appointed
10 member of the authority to serve as chair, and the authority
11 may elect annually such other officers as it deems necessary.

12 G. The authority shall meet at the call of the
13 chair or whenever four members shall so request in writing.
14 A majority of members then serving constitutes a quorum for
15 the transaction of business, but the affirmative vote of at
16 least four members is necessary for any action to be taken by
17 the authority.

18 H. The authority is not created or organized, and
19 its operations are not conducted, for the purpose of making a
20 profit, but it is expected to recover the costs of operating
21 the authority. No part of the revenues or assets of the
22 authority shall benefit or be distributable to its members,
23 officers or other private persons. The members of the
24 authority shall receive no compensation for their services,
25 but the public members shall be reimbursed for actual and

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underscored material = new
[bracketed material] = delete

1 necessary expenses at the same rate and on the same basis as
2 provided for public officers in the Per Diem and Mileage Act.

3 I. The ~~[authority is not subject to the~~
4 ~~supervision or control of any other board, bureau, department~~
5 ~~or agency of the state except as specifically provided in the~~
6 ~~New Mexico Renewable Energy Transmission Authority Act. No]~~
7 use of the ~~[terms]~~ term "state agency" or "instrumentality"
8 in any other law of the state shall not be deemed to refer to
9 the authority unless the authority is specifically referred
10 to in the law.

11 J. The authority is a governmental
12 instrumentality for purposes of the Tort Claims Act."

13 Section 11. REPEAL.--Section 6-3-9 NMSA 1978 (being
14 Laws 1955, Chapter 114, Section 1) is repealed.

15 Section 12. EFFECTIVE DATE.--The effective date of the
16 provisions of this act is July 1, 2009.