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AN ACT  
RELATING TO PUBLIC SECURITIES; ALLOWING PUBLIC BODIES TO  
DELEGATE AUTHORITY FOR MAKING CERTAIN DETERMINATIONS  
REGARDING SALES OF PUBLIC SECURITIES; CLARIFYING THE  
DEFINITIONS OF "PUBLIC BODY" AND "PUBLIC SECURITIES";  
REQUIRING REPORTING TO THE NEW MEXICO FINANCE AUTHORITY  
OVERSIGHT COMMITTEE.

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

SECTION 1. Section 6-14-9 NMSA 1978 (being Laws 1983,  
Chapter 265, Section 2) is amended to read:

"6-14-9. DEFINITIONS.--As used in the Supplemental  
Public Securities Act:

A. "authorizing instrument" means the ordinance,  
resolution, other official action or any applicable  
combination thereof by which public securities are authorized  
to be issued by a public body;

B. "public body" means this state or any  
department, board, agency or instrumentality of the state,  
any county, city, town, village, school district, other  
district or educational institution or any other governmental  
agency or political subdivision of the state or the  
New Mexico finance authority;

C. "public securities" means any bonds, notes,  
loans, warrants or other obligations now or hereafter

1 authorized to be issued by any public body pursuant to the  
2 provisions of any general or special statute, any  
3 constitutional or statutory charter or any other law; and

4 D. "registrar" means the treasurer or any other  
5 officer of the public body or of any other public body or any  
6 corporate or other trustee, registrar, paying agent, transfer  
7 agent, custodian or other financial intermediary within the  
8 United States as may be appointed or designated in the  
9 authorizing instrument."

10 SECTION 2. A new section of the Supplemental Public  
11 Securities Act is enacted to read:

12 "DELEGATION OF AUTHORITY BY PUBLIC BODY--AUTHORIZING  
13 INSTRUMENT.--

14 A. A public body may adopt an authorizing  
15 instrument that delegates to one or more members, officers or  
16 employees of the public body, acting in a fiduciary capacity  
17 within the scope of authority and the parameters and  
18 conditions for the public securities set forth by the public  
19 body in the authorizing instrument as described in Subsection  
20 B of this section, the authority to sign a contract for the  
21 purchase or sale of public securities or to accept a binding  
22 bid for public securities and to determine the final terms  
23 for public securities to be issued pursuant to Subsection C  
24 of this section. The authorizing instrument shall be  
25 effective for one hundred twenty days or for a specified

1 shorter period.

2 B. An authorizing instrument delegating authority  
3 pursuant to Subsection A of this section shall establish the  
4 parameters and conditions for the public securities,  
5 including:

6 (1) the public purpose for which the public  
7 securities are to be issued;

8 (2) the maximum par amount of the public  
9 securities;

10 (3) the maximum term for which the public  
11 securities may be outstanding;

12 (4) the maximum interest rate that the  
13 public securities may bear;

14 (5) each tax or revenue source that is  
15 pledged to or that shall secure payment for the public  
16 securities;

17 (6) whether the public securities will be  
18 sold at a public or a private sale;

19 (7) the minimum sales price or the maximum  
20 sales price of the public securities;

21 (8) the maximum amount of underwriting  
22 discount, if any, as a percentage of the aggregate principal  
23 amount of the public securities;

24 (9) the form of the public securities,  
25 subject to the final terms described in Subsection C of this

1 section;

2 (10) the public securities that may be  
3 refunded, if any; and

4 (11) the appointment of a trustee, paying  
5 agent, registrar, escrow agent, tender agent, remarketing  
6 agent, dissemination agent or any other agent or service  
7 provider required for the sale, issuance and delivery of the  
8 public securities and the form of agreement for each  
9 appointment.

10 C. Subject to the parameters and conditions  
11 established in Subsection B of this section, a delegatee may  
12 be authorized, pursuant to the authorizing instrument, to  
13 determine any or all of the following final terms of the  
14 public securities:

15 (1) the interest and principal payment  
16 dates;

17 (2) the principal amount, denominations and  
18 maturity amortization;

19 (3) the sale price;

20 (4) the interest rate;

21 (5) the interest payment periods;

22 (6) the redemption and tender provisions;

23 (7) the procurement of municipal bond  
24 insurance and any related covenants or agreements;

25 (8) the creation of any capitalized interest

1 or debt service reserve funds, including the size and funding  
2 of the funds;

3 (9) the amount of underwriting discount, if  
4 any;

5 (10) the public securities to be refunded,  
6 if any; and

7 (11) the final terms of agreements, if any,  
8 with one or more trustee, paying agent, registrar, escrow  
9 agent, tender agent, remarketing agent, dissemination agent  
10 or any other agent or service provider required for the  
11 purchase, sale, issuance and delivery of the public  
12 securities.

13 D. The public body shall determine and approve any  
14 term not listed in Subsection C of this section.

15 E. The delegatee shall certify in writing, prior  
16 to the delivery of the public securities, that the final  
17 terms determined pursuant to Subsection C of this section  
18 comply with the parameters and conditions established in the  
19 authorizing instrument pursuant to Subsection B of this  
20 section. The delegatee shall present the written  
21 certification containing the final terms of the public  
22 securities to the public body in a timely manner, before or  
23 after the delivery of the public securities, at a regularly  
24 scheduled meeting of the public body held in compliance with  
25 the Open Meetings Act.

1 F. A public body need not approve a determination  
2 made by the delegatee pursuant to Subsection C of this  
3 section if the determination complies with the parameters and  
4 conditions established in the authorizing instrument pursuant  
5 to Subsection B of this section. A determination made by the  
6 delegatee pursuant to this section has the same force and  
7 effect as a determination made by the public body. The  
8 delegatee, while acting within the scope of the delegatee's  
9 authority and the parameters and conditions established in  
10 the authorizing instrument pursuant to Subsection B of this  
11 section, shall not be subject to any personal liability for  
12 any action taken or omitted within that scope of authority.

13 G. A public body's adoption of an authorizing  
14 instrument that includes a delegation of authority pursuant  
15 to this section constitutes final passage of the authorizing  
16 instrument for the purposes of any applicable general or  
17 special law or any constitutional or statutory provision or  
18 municipal charter related to any referendum or petition  
19 right."

20 SECTION 3. A new section of the New Mexico Finance  
21 Authority Act is enacted to read:

22 "REPORT TO LEGISLATURE--AUTHORIZING INSTRUMENT--  
23 DELEGATION OF AUTHORITY FOR PUBLIC SECURITIES ISSUANCES.--By  
24 September 30 of each year, the authority shall report to the  
25 New Mexico finance authority oversight committee about the

1 authority's public securities issuances, completed in the  
2 prior twelve months, that involved a delegation of authority  
3 through an authorizing instrument pursuant to Section 2 of  
4 this 2017 act."

5 SECTION 4. EFFECTIVE DATE.--The effective date of the  
6 provisions of this act is July 1, 2017. \_\_\_\_\_

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