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AN ACT

RELATING TO THE WASTEWATER FACILITY CONSTRUCTION LOAN ACT;
CLARIFYING THAT FUNDING ASSISTANCE IS AVAILABLE FOR ELIGIBLE
PROJECTS AS PROVIDED BY THE FEDERAL CLEAN WATER ACT;
ALPHABETIZING DEFINITIONS AND ADDING DEFINITIONS FOR
"ELIGIBLE PROJECT" AND "QUALIFIED BORROWER"; MAKING
CONFORMING CHANGES.

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

SECTION 1. Section 74-6A-2 NMSA 1978 (being Laws 1986,
Chapter 72, Section 2, as amended) is amended to read:

"74-6A-2. PURPOSE.--The purpose of the Wastewater
Facility Construction Loan Act is to provide state agencies,
local authorities, interstate agencies and other qualified
borrowers in New Mexico with low-cost financial assistance in
the construction of necessary wastewater facilities and other
eligible projects through the creation of a self-sustaining
program so as to improve and protect water quality and public
health."

SECTION 2. Section 74-6A-3 NMSA 1978 (being Laws 1986,
Chapter 72, Section 3, as amended) is amended to read:

"74-6A-3. DEFINITIONS.--As used in the Wastewater
Facility Construction Loan Act:

A. "account" means the wastewater suspense
account;

1 B. "administrative fee" means a fee assessed and
2 collected by the department from a qualified borrower on each
3 loan and expressed as a percentage per year on the
4 outstanding principal amount of the loan, payable by the
5 borrower on the same date that principal and interest on the
6 loan are due, for deposit in the clean water administrative
7 fund;

8 C. "board" means the state board of finance;

9 D. "bonds" means wastewater bonds or other
10 obligations authorized by the commission to be issued by the
11 board pursuant to the Wastewater Facility Construction Loan
12 Act;

13 E. "Clean Water Act" means the federal Clean Water
14 Act of 1977 and its subsequent amendments or successor
15 provisions;

16 F. "commission" means the water quality control
17 commission;

18 G. "division" or "department" means the department
19 of environment;

20 H. "eligible project" means a project or activity
21 that is eligible for funding assistance under Section 603(c)
22 of the Clean Water Act, Section 1383 of Title 33 of the
23 United States Code, as of January 1, 2018 including a
24 wastewater facility project, a nonpoint source water
25 pollution control project and a watershed project that meet

1 the criteria of the Clean Water Act;

2 I. "federal securities" means direct obligations
3 of the United States, or obligations the principal and
4 interest of which are unconditionally guaranteed by the
5 United States, or an ownership interest in either of the
6 foregoing;

7 J. "financial assistance" means loans, the
8 purchase or refinancing of existing state agency or local
9 political subdivision obligations, loan guarantees, credit
10 enhancement techniques to reduce interest on loans and bonds,
11 bond insurance and bond guarantees or any combination of
12 these purposes;

13 K. "force account construction" means construction
14 performed by the employees of a local authority rather than
15 through a contractor;

16 L. "fund" means the wastewater facility
17 construction loan fund;

18 M. "holders" means persons who are owners of
19 bonds, whether registered or not, issued pursuant to the
20 Wastewater Facility Construction Loan Act;

21 N. "issuing resolution" means a formal statement
22 adopted by the board to issue bonds pursuant to the
23 Wastewater Facility Construction Loan Act, including any
24 trust agreement, trust indenture or similar instrument
25 providing terms and conditions for the bonds to be issued;

1 O. "local authority" means a municipality,
2 intermunicipal agency, county, incorporated county, mutual
3 domestic water consumers association as defined by the
4 Sanitary Projects Act, sanitation district, water and
5 sanitation district or any similar district, recognized
6 Indian tribe or other issuing agency created pursuant to a
7 joint powers agreement acting on behalf of any entity listed
8 in this subsection;

9 P. "operate and maintain" means to perform all
10 necessary activities, including replacement of equipment or
11 appurtenances, to ensure the dependable and economical
12 function of an eligible project in accordance with its
13 intended purpose;

14 Q. "qualified borrower" means a creditworthy
15 borrower with an identified and verifiable repayment source
16 that is eligible to receive funding pursuant to the Clean
17 Water Act, as of January 1, 2018 including a state agency, an
18 interstate agency and a local authority;

19 R. "recommending resolution" means a formal
20 statement adopted by the commission recommending to the board
21 that bonds be issued pursuant to the Wastewater Facility
22 Construction Loan Act, including any trust agreement, trust
23 indenture or similar instrument providing the terms and
24 conditions for the bonds that are issued;

25 S. "state agency" means an agency or department of

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1 the executive branch of government; and

2 T. "wastewater facility" means a publicly owned
3 system for treating or disposing of sewage or wastes either
4 by surface or underground methods, including any equipment,
5 plant, treatment works, structure, machinery, apparatus or
6 land, in any combination, that is acquired, used, constructed
7 or operated for the storage, collection, reduction,
8 recycling, reclamation, disposal, separation or treatment of
9 water or wastes or for the final disposal of residues
10 resulting from the treatment of water or wastes, such as
11 pumping and ventilating stations, facilities, plants and
12 works, outfall sewers, interceptor sewers and collector
13 sewers and other real or personal property and appurtenances
14 incident to their use or operation."

15 SECTION 3. Section 74-6A-4 NMSA 1978 (being Laws 1991,
16 Chapter 172, Section 4, as amended) is amended to read:

17 "74-6A-4. WASTEWATER FACILITY CONSTRUCTION LOAN FUND
18 CREATED--ADMINISTRATION.--

19 A. There is created in the state treasury a
20 revolving loan fund to be known as the "wastewater facility
21 construction loan fund", which shall be administered by the
22 division as agent for the commission and operated as a
23 separate account. The commission is authorized to establish
24 procedures and adopt regulations as required to administer
25 the fund in accordance with the Clean Water Act and state

1 law. Any regulations relating to the issuance of bonds and
2 the expenditure of proceeds of bond issues shall be approved
3 by the board. The commission shall, whenever possible,
4 coordinate application procedures and funding cycles with the
5 New Mexico Community Assistance Act.

6 B. The following shall be deposited directly in
7 the fund:

8 (1) grants from the federal government or
9 its agencies allotted to the state for capitalization of the
10 fund;

11 (2) funds as appropriated by the legislature
12 to implement the provisions of the Wastewater Facility
13 Construction Loan Act or to provide state matching funds that
14 are required by the terms of any federal grant under the
15 Clean Water Act;

16 (3) loan principal, interest and penalty
17 payments if required by the terms of any federal grant under
18 the Clean Water Act;

19 (4) money transferred from the account as
20 needed to fulfill requirements of the Clean Water Act; and

21 (5) any other public or private money
22 dedicated to the fund.

23 C. Money in the fund is appropriated for
24 expenditure by the commission in a manner consistent with the
25 terms and conditions of the federal capitalization grants and

1 the Clean Water Act and may be used:

2 (1) to provide funding for eligible
3 projects;

4 (2) to purchase, refund or refinance
5 obligations incurred by local authorities in the state for
6 eligible projects where the obligations were incurred and
7 construction commenced after March 7, 1985;

8 (3) to guarantee, or purchase insurance for,
9 obligations of local authorities to improve credit market
10 access or reduce interest rates;

11 (4) to provide a source of revenue or
12 security for the payments of principal and interest on bonds
13 recommended by the commission and issued by the board if the
14 proceeds of the bonds are deposited in the fund to the extent
15 provided in the terms of the federal grant;

16 (5) to provide loan guarantees for similar
17 revolving funds established by local authorities;

18 (6) to fund the administrative expenses of
19 the board, the commission and the division necessary to
20 implement the provisions of the Wastewater Facility
21 Construction Loan Act, including costs of servicing loans and
22 issuing bonds, fund start-up costs, financial management and
23 legal consulting fees and reimbursement costs for support
24 services from other state agencies; and

25 (7) to fund other programs for which the

1 federal government authorizes use of wastewater grants or to
2 provide for any other expenditure consistent with the Clean
3 Water Act grant program and state law.

4 D. Pursuant to regulations adopted by the
5 commission, the division may impose and collect an
6 administrative fee from each qualified borrower that receives
7 financial assistance from the fund, which fee shall not
8 exceed five percent of the total loan amount and which shall
9 be deposited in the clean water administrative fund.

10 E. Money not currently needed for the operation of
11 the fund or otherwise dedicated may be invested according to
12 the provisions of Chapter 6, Article 10 NMSA 1978, and all
13 interest earned on such investments shall be credited to the
14 fund. Money remaining in the fund at the end of any fiscal
15 year shall not revert to the general fund but shall accrue to
16 the credit of the fund.

17 F. Acting as agent for the commission, the
18 division shall maintain full authority for the operation of
19 the fund in accordance with applicable federal and state law,
20 including preparing the annual intended use plan and ensuring
21 that loan recipients are on the state priority list or
22 otherwise satisfy Clean Water Act requirements.

23 G. The division shall establish fiscal controls
24 and accounting procedures that are sufficient to ensure
25 proper accounting for fund payments, disbursements and

1 balances and shall provide an annual report and an annual
2 independent audit on the fund to the governor and to the
3 United States environmental protection agency as required by
4 the Clean Water Act."

5 SECTION 4. Section 74-6A-7 NMSA 1978 (being Laws 1991,
6 Chapter 172, Section 5) is amended to read:

7 "74-6A-7. LOAN PROGRAM--ADMINISTRATION.--

8 A. The division shall establish a program to
9 provide financial assistance to qualified borrowers,
10 individually or jointly, for eligible projects. The division
11 as agent of the commission is authorized to enter into
12 contracts and other agreements to carry out the provisions of
13 the Wastewater Facility Construction Loan Act, including
14 contracts and agreements with federal agencies, local
15 authorities and other parties.

16 B. The commission shall adopt a system for the
17 ranking of eligible projects for financial assistance."

18 SECTION 5. Section 74-6A-8 NMSA 1978 (being Laws 1991,
19 Chapter 172, Section 6, as amended) is amended to read:

20 "74-6A-8. FINANCIAL ASSISTANCE--CRITERIA.--

21 A. Financial assistance shall be provided only to
22 qualified borrowers that:

23 (1) meet the requirements for financial
24 capability set by the division to assure sufficient revenues
25 to operate and maintain the eligible project for its useful

1 life, if applicable, and to repay the financial assistance;

2 (2) agree to operate and maintain the
3 eligible project facility so that the project facility will
4 function properly over its structural and material design
5 life, if applicable;

6 (3) agree to maintain separate project
7 accounts, to maintain project accounts properly in accordance
8 with generally accepted governmental accounting standards and
9 to conduct an audit of the project's financial records;

10 (4) provide a written assurance, signed by
11 an attorney or other authorized representative, that the
12 qualified borrower has or will acquire proper title,
13 easements and rights of way to the property upon or through
14 which the eligible project facility proposed for funding is
15 to be constructed or extended;

16 (5) require the contractor of the eligible
17 project to post a performance and payment bond in accordance
18 with the requirements of Section 13-4-18 NMSA 1978 and its
19 subsequent amendments and successor provisions;

20 (6) provide a written notice of completion
21 of the eligible project;

22 (7) appear on the priority list of the fund,
23 regardless of rank on such list; and

24 (8) provide such information to the division
25 as required by the commission in order to comply with the

1 provisions of the Clean Water Act and state law.

2 B. Loans shall be made only to qualified borrowers
3 that establish one or more dedicated sources of revenue to
4 repay the money received from the commission and to provide
5 for operation, maintenance and equipment replacement
6 expenses. Notwithstanding any existing statute to the
7 contrary, a qualified borrower may do any of the following:

8 (1) obligate itself to pay to the commission
9 at periodic intervals a sum sufficient to provide all or any
10 part of bond debt service with respect to the bonds
11 recommended by the commission and issued by the board to fund
12 the loan for the eligible project and pay over the debt
13 service to the account of the eligible project for deposit to
14 the fund;

15 (2) fulfill any obligation to pay the
16 commission by the issuance of bonds, notes or other
17 obligations in accordance with the laws authorizing issuance
18 of state or local authority obligations; provided, however,
19 that, notwithstanding the provisions of Section 4-54-3 or 6-
20 15-5 NMSA 1978 or other statute or law requiring the public
21 sale of local authority obligations, the obligations may be
22 sold at private sale to the commission at the price and upon
23 the terms and conditions the local authority shall determine;

24 (3) levy, collect and pay over to the
25 commission and obligate itself to continue to levy, collect

1 and pay over to the commission the proceeds of one or more of
2 the following:

- 3 (a) sewer or waste disposal service
4 fees or charges;
5 (b) licenses, permits, taxes and fees;
6 (c) special assessments on the property
7 served or benefited by the eligible project; or
8 (d) other revenue available to the
9 qualified borrower;

10 (4) undertake and obligate itself to pay its
11 contractual obligation to the commission solely from the
12 proceeds from any of the sources specified in Paragraph (3)
13 of this subsection or, in accordance with the laws
14 authorizing issuance of qualified borrower obligations,
15 impose upon itself a general obligation pledge to the
16 commission additionally secured by a pledge of any of the
17 sources specified in Paragraph (3) of this subsection; or

18 (5) enter into agreements, perform acts and
19 delegate functions and duties as its governing body shall
20 determine is necessary or desirable to enable the division as
21 agent for the commission to fund a loan to the qualified
22 borrower to aid it with an eligible project.

23 C. Each loan made by the division as agent for the
24 commission shall provide that repayment of the loan shall
25 begin not later than one year after completion of the

1 eligible project for which the loan was made and shall be
2 repaid in full no later than thirty years after completion of
3 the eligible project. All principal and interest on loan
4 payments shall be deposited in the fund.

5 D. Financial assistance shall be made with an
6 annual interest rate to be five percent or less as determined
7 by the commission.

8 E. A zero-percent interest rate may be approved by
9 the division when the following conditions have been met by
10 the local authority:

11 (1) the local authority's average user cost
12 is greater than one and eighty-two hundredths percent of the
13 local authority's per capita income; and

14 (2) the local authority's per capita income
15 is less than three-fourths of the statewide per capita
16 income.

17 F. A local authority may use the proceeds from
18 financial assistance received under the Wastewater Facility
19 Construction Loan Act to provide a local match or any other
20 nonfederal share of an eligible project as allowed pursuant
21 to the Clean Water Act.

22 G. Financial assistance received pursuant to the
23 Wastewater Facility Construction Loan Act shall not be used
24 by a qualified borrower on any eligible project constructed
25 in fulfillment or partial fulfillment of requirements made of

1 a subdivider under the provisions of the Land Subdivision Act
2 or the New Mexico Subdivision Act.

3 H. Financial assistance shall be made only to
4 qualified borrowers that employ or contract with a New Mexico
5 licensed professional engineer to provide and be responsible
6 for engineering services on the eligible project. Such
7 services include an engineering report, construction contract
8 documents, supervision of construction and start-up services.

9 I. Financial assistance shall be made only for
10 eligible items. For financial assistance composed entirely
11 of state funds, eligible items include the costs of
12 engineering reports, contracted engineering design,
13 inspection of construction, special engineering services,
14 start-up services, contracted construction, materials
15 purchased or equipment leased for force account construction,
16 land or acquisition of existing facilities, but eligible
17 items do not include the costs of water rights and local
18 authority administrative costs. For financial assistance
19 made from federal funds, eligible items are those identified
20 pursuant to the Clean Water Act.

21 J. In the event of default by the qualified
22 borrower, the commission may enforce its rights by suit or
23 mandamus or may utilize all other available remedies under
24 state law."

25 SECTION 6. Section 74-6A-9 NMSA 1978 (being Laws 1991,

1 Chapter 172, Section 7, as amended) is amended to read:

2 "74-6A-9. COMMISSION--POWERS.--

3 A. In administering the Wastewater Facility
4 Construction Loan Act, the commission shall have the
5 following powers, which may be implemented by the division,
6 in addition to those specified in the Water Quality Act:

7 (1) to provide financial assistance to
8 qualified borrowers to finance all or part of an eligible
9 project, including all forms of assistance for which the fund
10 may be used pursuant to the Wastewater Facility Construction
11 Loan Act;

12 (2) to adopt resolutions recommending that
13 the board issue bonds or refunding bonds pursuant to the
14 provisions of the Wastewater Facility Construction Loan Act;

15 (3) to execute agreements concerning state
16 contributions to the fund made pursuant to the Clean Water
17 Act, including obligating the commission to pay a portion of
18 the estimated reasonable cost of an eligible project of a
19 local authority as may be required to meet the water quality
20 goals of the Clean Water Act and the state;

21 (4) to foreclose upon, attach or condemn any
22 eligible project facility, property or interest in the
23 project pledged, mortgaged or otherwise available as security
24 for a project financed in whole or in part pursuant to the
25 Wastewater Facility Construction Loan Act in the event of a

1 default by a qualified borrower;

2 (5) to acquire and hold title to or
3 leasehold interest in real and personal property and to sell,
4 convey or lease that property for the purpose of satisfying a
5 default or enforcing the provisions of a loan agreement;

6 (6) through its agent the division, to
7 manage the fund, to grant and administer financial assistance
8 to qualified borrowers and to apply for and accept grants,
9 including capitalization grant awards made to the state in
10 accordance with the Clean Water Act and the Wastewater
11 Facility Construction Loan Act;

12 (7) to appoint and employ attorneys,
13 financial advisors, underwriters and other experts and agents
14 and employees as the business of the commission may require;

15 (8) to sue or be sued and to prosecute and
16 defend, at law or in equity, in any court having jurisdiction
17 over the subject matter and the parties to the matter;

18 (9) to collect application, origination and
19 administrative fees from qualified borrowers, the total of
20 which for any loan shall not exceed four percent of the value
21 of the loan requested or authorized;

22 (10) to adopt regulations necessary and
23 appropriate to implement the provisions of the Wastewater
24 Facility Construction Loan Act; and

25 (11) to have and exercise all the rights and

1 powers necessary, incidental to or implied from the specific
2 powers enumerated in this section.

3 B. Specific powers enumerated in this section
4 shall not limit any power necessary or appropriate to carry
5 out the purposes and intent of the Wastewater Facility
6 Construction Loan Act.

7 C. The commission shall use accounting, audit and
8 fiscal procedures conforming to generally accepted government
9 accounting standards and shall otherwise prepare audits and
10 budgets in accordance with state law. The fiscal year of the
11 commission shall coincide with the fiscal year of the state.

12 D. The commission shall deliver an annual report
13 during the first week of each regular session of the
14 legislature on the status of the wastewater facility
15 construction loan program and the fund to the governor and
16 legislature."

17 **SECTION 7.** Section 74-6A-12 NMSA 1978 (being Laws 1991,
18 Chapter 172, Section 10, as amended) is amended to read:

19 "74-6A-12. COMMISSION BONDS.--

20 A. The board, upon recommendation from the
21 commission, may issue and sell bonds or other obligations
22 recommended by the commission to provide funds for any
23 purpose enumerated in the Wastewater Facility Construction
24 Loan Act or for payment of obligations incurred or temporary
25 loans made to accomplish any purpose of that act. As

1 prescribed in the recommending resolution, bonds may be
2 issued in one or more series; shall bear prescribed dates;
3 shall be in the form provided in the Supplemental Public
4 Securities Act; shall be issued in prescribed denominations;
5 shall have terms and maturities that do not exceed twenty-
6 five years from the date of issue of each series; shall bear
7 interest at prescribed rates; shall be payable and evidenced
8 in the manner and times as set by the board; may be redeemed
9 with or without premiums prior to maturity; may be ranked or
10 assigned priority status; and may contain provisions not
11 inconsistent with this subsection.

12 B. As security for the payment of the principal
13 and interest on bonds recommended by the commission and
14 issued by the board, the commission is authorized to pledge,
15 transfer and assign after consultation with the board:

16 (1) any obligations of each qualified
17 borrower, payable to the commission;

18 (2) the security for the qualified borrower
19 obligations;

20 (3) any grant, subsidy or contribution from
21 the United States or any of its agencies or
22 instrumentalities; or

23 (4) any income, revenues, funds or other
24 money of the commission from any other source appropriated or
25 authorized for use for the purpose of implementing the

1 provisions of the Wastewater Facility Construction Loan Act.

2 C. The bonds and other obligations recommended by
3 the commission and issued by the board may be sold at any
4 time the commission and the board agree upon. The bonds may
5 be sold at private or public sale at prices as provided in
6 the Public Securities Act and in a manner agreed upon by the
7 board and the commission. The commission may apply the
8 proceeds of the sale of the bonds it recommends that have
9 been issued by the board to:

10 (1) the purposes of the Wastewater Facility
11 Construction Loan Act or the purposes for which the fund may
12 be used;

13 (2) the payment of interest on bonds
14 recommended by the commission and issued by the board for a
15 period not to exceed three years from the date of issuance of
16 the bonds; and

17 (3) the payment of all expenses, including
18 publication and printing charges, attorney fees, financial
19 advisory and underwriter fees, and premiums or commissions
20 that the commission or the board determines are necessary or
21 advantageous in connection with the recommendation,
22 advertisement, sale, creation and issuance of commission-
23 recommended obligations.

24 The board retains the power to fix the date of sale of
25 the bonds and to take all actions necessary to sell and

1 deliver the bonds.

2 D. In anticipation of the issuance of bonds, the
3 board or the commission may borrow such sums as may be needed
4 for any of the purposes enumerated in Subsection C of this
5 section, obligate itself by certificate or promissory note,
6 bearing interest at a rate to be specified by the commission
7 and maturing within fifteen months from the date of the
8 certificate or promissory note. The certificates or
9 promissory notes shall be payable solely from the proceeds of
10 the bonds recommended by the commission and issued by the
11 board and from the funds from which commission-recommended
12 bonds are payable. In the event that commission funds are
13 not available for a loan for an eligible project when
14 application is made, in order to accelerate the completion of
15 any eligible project, the local authority may, with the
16 approval of the commission, obligate such local authority to
17 provide local funds to pay that portion of the cost of the
18 eligible project that the commission agrees to make available
19 by loan, and the commission may refund the amount expended on
20 its behalf by the local authority.

21 E. The commission may recommend that the board
22 issue and sell refunding bonds for the purpose of paying,
23 defeasing or refunding the principal of, interest on and any
24 redemption premiums on any matured or unmatured outstanding
25 bonds recommended by the commission and issued by the board

1 or any matured or unmatured bonds of the state issued to
2 finance eligible projects constructed pursuant to the Clean
3 Water Act grant program. Refunding bonds issued by the board
4 pursuant to a recommendation by the commission shall be
5 subject to the provisions of the Wastewater Facility
6 Construction Loan Act in the same manner and to the same
7 extent as other bonds issued pursuant to that act. The
8 holders of refunding bonds shall be subrogated and entitled
9 to all priorities, rights and pledges to which the bonds
10 refunded thereby were entitled.

11 F. Except as otherwise provided in the Wastewater
12 Facility Construction Loan Act, the proceeds of refunding
13 bonds shall be immediately applied to the retirement of the
14 bonds to be refunded or be placed in escrow or trust in one
15 or more trust banks within or without the state to be applied
16 to the payment of the refunded bonds or the refunding bonds,
17 or both, in such priority and in the manner that the
18 commission and the board may determine.

19 G. The incidental costs of refunding bonds may be
20 paid by the purchaser of the refunding bonds or be defrayed
21 from other available revenues of the commission, from the
22 proceeds of the refunding bonds, from the interest or other
23 yield derived from the investment of any refunding bond
24 proceeds or other money in escrow or trust, from any other
25 sources legally available for that purpose or from any

1 combination of sources as the commission may determine.

2 H. Any accrued interest and any premium
3 appertaining to a sale of refunding bonds may be applied to
4 the payment of the interest or the principal of the bonds, or
5 to both interest and principal, may be deposited in the
6 account or in the fund and expended solely for the purposes
7 of this subsection, may be used to refund bonds by deposit in
8 escrow, trust or otherwise or may be used to defray any
9 incidental costs appertaining to the refunding or any
10 combination thereof, as the commission may determine.

11 I. An escrow or trust shall be limited to proceeds
12 of refunding bonds.

13 J. A trust bank accounting for federal securities
14 and other securities issued by the federal government in
15 escrow or trust may place those securities for safekeeping
16 wholly or in part in one or more trust banks within or
17 without the state. Proceeds in escrow or trust may be
18 invested or reinvested in federal securities and, in the case
19 of an escrow or trust for the refunding of outstanding bonds
20 or securities, in other securities issued by the federal
21 government if the recommending and issuing resolutions
22 expressly permit the investment or reinvestment in securities
23 issued by the federal government other than federal
24 securities.

25 K. A trust bank shall continuously secure, by a

1 pledge of federal securities in an amount at all times at
2 least equal to the total uninvested amount of the money, any
3 money placed in escrow or trust in that trust bank, or by
4 that trust bank in one or more trust banks within or without
5 the state, and not invested or reinvested in federal
6 securities and other securities issued by the federal
7 government.

8 L. Proceeds and investments in escrow or trust,
9 together with interest or gain to be derived from that
10 investment, shall be in an amount at all times sufficient to
11 pay principal, interest, prior redemption premiums due,
12 charges of the escrow agent or trustee and other incidental
13 expenses, except to the extent otherwise provided for, as the
14 obligations become due at their respective maturities or due
15 at designated prior redemption dates in connection with which
16 the commission has exercised or is obligated to exercise a
17 prior redemption option.

18 M. The computations made in determining
19 sufficiency shall be verified by a certified public
20 accountant.

21 N. A purchaser of a refunding bond issued pursuant
22 to this section shall not be responsible for the application
23 of the proceeds by the commission or any of the officers,
24 agents or employees of the commission.

25 O. The state treasurer may invest any idle or

1 surplus money of the state in bonds recommended by the
2 commission and issued by the board. The governing body of
3 any public entity in the state may invest any idle or surplus
4 money held in its treasury in bonds recommended by the
5 commission and issued by the board. Bonds recommended by the
6 commission and issued by the board shall be legal investments
7 for executors, administrators, trustees and other
8 fiduciaries, unless otherwise directed by the court having
9 jurisdiction of the fiduciary relation or by the document
10 that is the source of the fiduciary's authority, and for
11 savings banks and insurance companies organized under the
12 laws of the state.

13 P. Bonds or other obligations recommended by the
14 commission and issued by the board and the interest
15 applicable thereto and the income therefrom and all projects
16 or parts thereof and all assets of the commission shall be
17 exempt from taxation in the state.

18 Q. Bonds may be issued under the provisions of the
19 Wastewater Facility Construction Loan Act only with the
20 approval of the commission and the board pursuant to
21 authority provided in that act.

22 R. Commission members or employees or board
23 members or employees and any person executing bonds issued
24 pursuant to the Wastewater Facility Construction Loan Act
25 shall not be liable personally on the bonds or be subject to

1 any personal liability or accountability by reason of the
2 issuance of the bonds.

3 S. All bonds recommended by the commission and
4 issued by the board, while registered, are declared and shall
5 be construed to be negotiable instruments.

6 T. All bonds, notes and certificates recommended
7 by the commission and issued by the board shall be special
8 obligations of the board, payable solely from the revenue,
9 income, fees or charges that may, pursuant to the provisions
10 of the Wastewater Facility Construction Loan Act, be pledged
11 to the payment of such obligations, and the bonds, notes or
12 certificates shall not create an obligation, debt or
13 liability of the state. No breach of any pledge, obligation
14 or agreement of the commission shall impose a pecuniary
15 liability upon the state or a charge upon its general credit
16 or taxing power.

17 U. Any recommending or issuing resolution shall
18 provide that each bond recommended or authorized shall recite
19 that it is issued by the board under recommendation of the
20 commission. The recital shall clearly state that the bonds
21 are in full compliance with all of the provisions of the
22 Wastewater Facility Construction Loan Act, and all bonds
23 issued containing such recital shall be incontestable for any
24 cause whatsoever after their delivery for value."

25 SECTION 8. Section 74-6A-14 NMSA 1978 (being Laws 1991,

1 Chapter 172, Section 12) is amended to read:

2 "74-6A-14. VALIDATION.--All outstanding securities of
3 the state and of all qualified borrowers, all loan or other
4 agreements entered into between the state or the division and
5 any qualified borrower, all regulations promulgated by the
6 commission and all acts and proceedings taken by or on behalf
7 of the state or any qualified borrower with respect to the
8 financing of eligible projects are validated, ratified,
9 approved and confirmed. To the extent necessary to carry out
10 its purposes, the commission shall treat any bonds,
11 obligations or agreements of the state or the division that
12 were entered into prior to April 4, 1991 for the purpose of
13 effecting the provisions of the Wastewater Facility
14 Construction Loan Act or the Clean Water Act as if such bonds,
15 obligations or agreements were those recommended by the
16 commission and issued by the board."

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