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AN ACT

RELATING TO INDUSTRIAL REVENUE BONDS; AMENDING THE INDUSTRIAL REVENUE BOND ACT TO INCLUDE CERTAIN ELECTRIC TRANSMISSION FACILITIES AS ELIGIBLE PROJECTS; AMENDING THE COUNTY INDUSTRIAL REVENUE BOND ACT TO INCLUDE CERTAIN ELECTRIC TRANSMISSION FACILITIES AS ELIGIBLE PROJECTS; REQUIRING PAYMENTS TO THE STATE FOR CERTAIN PROJECTS; REQUIRING PAYMENTS TO SCHOOL DISTRICTS FOR CERTAIN PROJECTS.

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

SECTION 1. Section 3-32-1 NMSA 1978 (being Laws 1965, Chapter 300, Section 14-31-1, as amended by Laws 2002, Chapter 25, Section 1 and by Laws 2002, Chapter 37, Section 1) is amended to read:

"3-32-1. INDUSTRIAL REVENUE BOND ACT--DEFINITIONS.--

Wherever used in the Industrial Revenue Bond Act unless a different meaning clearly appears in the context, the following terms whether used in the singular or plural shall be given the following respective interpretations:

A. "municipality" means a city, town or village in New Mexico;

B. "project" means any land and building or other improvements thereon, the acquisition by or for a New Mexico corporation of the assets or stock of an existing business or corporation located outside the state to be relocated within

1 or near the municipality in the state and all real and
2 personal properties deemed necessary in connection therewith,
3 whether or not now in existence, which shall be suitable for
4 use by the following or by any combination of two or more
5 thereof:

6 (1) an industry for the manufacturing,
7 processing or assembling of agricultural or manufactured
8 products;

9 (2) a commercial enterprise in storing,
10 warehousing, distributing or selling products of agriculture,
11 mining or industry but does not include a facility designed
12 for the sale of goods or commodities at retail or
13 distribution to the public of electricity, gas, water or
14 telephone or other services commonly classified as public
15 utilities;

16 (3) a business in which all or part of the
17 activities of the business involve the supplying of services
18 to the general public or to governmental agencies or to a
19 specific industry or customer but does not include an
20 establishment primarily engaged in the sale of goods or
21 commodities at retail;

22 (4) a water distribution or irrigation
23 system, including without limitation, pumps, distribution
24 lines, transmission lines, towers, dams and similar
25 facilities and equipment, designed to provide water to a

1 vineyard or winery;

2 (5) an electric generation or transmission
3 facility other than one for which both location approval and
4 a certificate of convenience and necessity are required prior
5 to commencing construction or operation of the facility,
6 pursuant to the Public Utility Act; and

7 (6) a 501(c)(3) corporation;

8 C. "governing body" means the board or body in
9 which the legislative powers of the municipality are vested;

10 D. "property" means any land, improvements
11 thereon, buildings and any improvements thereto, machinery
12 and equipment of any and all kinds necessary to the project,
13 operating capital and any other personal properties deemed
14 necessary in connection with the project;

15 E. "mortgage" means a mortgage or a mortgage and
16 deed of trust or the pledge and hypothecation of any assets
17 as collateral security;

18 F. "health care service" means the diagnosis or
19 treatment of sick or injured persons or medical research and
20 includes the ownership, operation, maintenance, leasing and
21 disposition of health care facilities such as hospitals,
22 clinics, laboratories, x-ray centers and pharmacies and, for
23 any small municipality only, office facilities for
24 physicians;

25 G. "refinance a hospital or 501(c)(3) corporation

1 project" means the issuance of bonds by a municipality and
2 the use of all or substantially all of the proceeds to
3 liquidate any obligations previously incurred to finance or
4 aid in financing a project of a nonprofit corporation engaged
5 in health care services, including nursing homes, or of a
6 501(c)(3) corporation, which would constitute a project under
7 the Industrial Revenue Bond Act had it been originally
8 undertaken and financed by a municipality pursuant to the
9 Industrial Revenue Bond Act; and

10 H. "501(c)(3) corporation" means a corporation
11 that demonstrates to the taxation and revenue department that
12 it has been granted exemption from the federal income tax as
13 an organization described in Section 501(c)(3) of the
14 Internal Revenue Code of 1986, as amended or renumbered."

15 SECTION 2. Section 3-32-6 NMSA 1978 (being Laws 1965,
16 Chapter 300, Section 14-31-3, as amended) is amended to read:

17 "3-32-6. ADDITIONAL POWERS CONFERRED ON
18 MUNICIPALITIES.--In addition to any other powers that it may
19 now have, a municipality shall have the following powers:

20 A. to acquire, whether by construction, purchase,
21 gift or lease, one or more projects that shall be located
22 within this state and may be located within or without the
23 municipality or partially within or partially without the
24 municipality, but which shall not be located more than
25 fifteen miles outside of the corporate limits of the

1 municipality; provided that:

2 (1) urban transit buses qualifying as a
3 project pursuant to Subsection B of Section 3-32-3 NMSA 1978
4 need not be continuously located within this state, but the
5 commercial enterprise using the urban transit buses for
6 leasing shall meet the location requirement of this
7 subsection; and

8 (2) a municipality shall not acquire any
9 electricity generation or transmission facility project
10 unless the school district in which the project is located
11 will receive the same amount, or greater, of annual in-lieu
12 tax payments as would have been received in property taxes
13 for the fully developed project had the project not been
14 acquired;

15 B. to sell or lease or otherwise dispose of any or
16 all of its projects upon such terms and conditions as the
17 governing body may deem advisable and as shall not conflict
18 with the provisions of the Industrial Revenue Bond Act;

19 C. to issue revenue bonds for the purpose of
20 defraying the cost of acquiring by construction and purchase,
21 or either, any project and to secure the payment of such
22 bonds, all as provided in the Industrial Revenue Bond Act.

23 No municipality shall have the power to operate any project
24 as a business or in any manner except as lessor;

25 D. to refinance one or more hospital or 501(c)(3)

1 corporation projects and to acquire any such hospital or
2 501(c)(3) corporation project whether by construction,
3 purchase, gift or lease, which hospital or 501(c)(3)
4 corporation project shall be located within this state and
5 may be located within or without the municipality or
6 partially within or partially without the municipality, but
7 which shall not be located more than fifteen miles outside of
8 the corporate limits of the municipality, and to issue
9 revenue bonds to refinance and acquire a hospital or
10 501(c)(3) corporation project and to secure the payment of
11 such bonds, all as provided in the Industrial Revenue Bond
12 Act. A municipality shall not have the power to operate a
13 hospital or 501(c)(3) corporation project as a business or in
14 any manner except as lessor; and

15 E. to refinance one or more projects of any
16 private institution of higher education and to acquire any
17 such project, whether by construction, purchase, gift or
18 lease; provided that the project shall be located within this
19 state and may be located within or without the municipality
20 or partially within or partially without the municipality,
21 but the project shall not be located more than fifteen miles
22 outside of the corporate limits of the municipality, and to
23 issue revenue bonds to refinance and acquire any project of
24 any private institution of higher education and to secure the
25 payment of such bonds. A municipality shall not have the

1 power to operate a project of a private institution of higher
2 education as a business or in any manner except as lessor."

3 SECTION 3. A new section of the Industrial Revenue Bond
4 Act is enacted to read:

5 "ELECTRIC TRANSMISSION PROJECTS--PAYMENTS TO THE
6 STATE.--The state shall receive annual payments equal to five
7 percent of the total amount of in-lieu tax payments made by a
8 person proposing an electric transmission project to
9 counties, municipalities and other local entities authorized
10 to levy taxes on property, including in-lieu tax payments
11 made to school districts pursuant to Paragraph (2) of
12 Subsection A of Section 3-32-6 NMSA 1978, and five percent of
13 the value of any other consideration paid to local entities
14 authorized to levy taxes on property by a person proposing an
15 electric transmission project. A copy of any agreement
16 providing for such in-lieu tax payments shall be provided to
17 the secretary of finance and administration within thirty
18 days of written approval of such agreement by all of the
19 parties. Each annual payment to the state shall be made no
20 later than the end of each fiscal year in which in-lieu tax
21 payments are made to local taxing entities. Each annual
22 payment shall be made to the department of finance and
23 administration for deposit to the general fund."

24 SECTION 4. Section 4-59-2 NMSA 1978 (being Laws 1975,
25 Chapter 286, Section 2, as amended) is amended to read:

1 "4-59-2. DEFINITIONS.--As used in the County Industrial
2 Revenue Bond Act, unless the context clearly indicates
3 otherwise:

4 A. "commission" means the governing body of a
5 county;

6 B. "county" means a county organized or
7 incorporated in New Mexico;

8 C. "501(c)(3) corporation" means a corporation
9 that demonstrates to the taxation and revenue department that
10 it has been granted exemption from the federal income tax as
11 an organization described in Section 501(c)(3) of the
12 Internal Revenue Code of 1986, as amended or renumbered;

13 D. "health care service" means the diagnosis or
14 treatment of sick or injured persons or medical research and
15 includes the ownership, operation, maintenance, leasing and
16 disposition of health care facilities, such as hospitals,
17 clinics, laboratories, x-ray centers and pharmacies;

18 E. "mortgage" means a mortgage or a mortgage and
19 deed of trust or the pledge and hypothecation of any assets
20 as collateral security;

21 F. "project" means any land and building or other
22 improvements thereon, the acquisition by or for a New Mexico
23 corporation of the assets or stock of an existing business or
24 corporation located outside the state to be relocated within
25 a county but, except as provided in Paragraph (1) of

1 Subsection A of Section 4-59-4 NMSA 1978, not within the
2 boundaries of any incorporated municipality in the state, and
3 all real and personal properties deemed necessary in
4 connection therewith, whether or not now in existence, that
5 shall be suitable for use by the following or by any
6 combination of two or more thereof:

7 (1) an industry for the manufacturing,
8 processing or assembling of agricultural or manufactured
9 products;

10 (2) a commercial enterprise that has
11 received a permit from the energy, minerals and natural
12 resources department for a mine that has not been in
13 operation prior to the issuance of bonds for the project for
14 which the enterprise will be involved;

15 (3) a commercial enterprise that has
16 received any necessary state permit for a refinery, treatment
17 plant or processing plant of energy products that was not in
18 operation prior to the issuance of bonds for the project for
19 which the enterprise will be involved;

20 (4) a commercial enterprise in storing,
21 warehousing, distributing or selling products of agriculture,
22 mining or industry, but does not include a facility designed
23 for the sale or distribution to the public of electricity,
24 gas, telephone or other services commonly classified as
25 public utilities, except for:

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(a) water utilities; and

(b) any electric generation or transmission facility other than one for which both location approval and a certificate of convenience and necessity are required prior to commencing construction or operation of the facility, pursuant to the Public Utility Act;

(5) a business in which all or part of the activities of the business involve the supplying of services to the general public or to governmental agencies or to a specific industry or customer;

(6) a nonprofit corporation engaged in health care services;

(7) a mass transit or other transportation activity involving the movement of passengers, an industrial park, an office headquarters and a research facility;

(8) a water distribution or irrigation system, including without limitation, pumps, distribution lines, transmission lines, towers, dams and similar facilities and equipment; and

(9) a 501(c)(3) corporation; and

G. "property" means any land, improvements thereon, buildings and any improvements thereto, machinery and equipment of any and all kinds necessary to the project, operating capital and any other personal properties deemed necessary in connection with the project."

1 SECTION 5. Section 4-59-4 NMSA 1978 (being Laws 1975,
2 Chapter 286, Section 4, as amended) is amended to read:

3 "4-59-4. ADDITIONAL POWERS CONFERRED ON COUNTIES.--In
4 addition to any other powers that it may now have, each
5 county shall have the following powers:

6 A. to acquire, whether by construction, purchase,
7 gift or lease, one or more projects, which shall be located
8 within this state and shall be located within the county
9 outside the boundaries of any incorporated municipality;
10 provided, however, that:

11 (1) a class A county with a population of
12 more than three hundred thousand may acquire projects located
13 anywhere in the county; and

14 (2) a county shall not acquire any
15 electricity generation or transmission facility project
16 unless the school district in which the project is located
17 will receive the same amount, or greater, of annual in-lieu
18 tax payments as would have been received in property taxes
19 for the fully developed project had the project not been
20 acquired;

21 B. to sell or lease or otherwise dispose of any or
22 all of its projects upon such terms and conditions as the
23 commission may deem advisable and as shall not conflict with
24 the provisions of the County Industrial Revenue Bond Act; and

25 C. to issue revenue bonds for the purpose of

1 defraying the cost of acquiring, by construction and purchase
2 or either, any project and to secure the payment of such
3 bonds, all as provided in the County Industrial Revenue Bond
4 Act. No county shall have the power to operate any project
5 as a business or in any manner except as lessor thereof."

6 SECTION 6. A new section of the County Industrial
7 Revenue Bond Act is enacted to read:

8 "ELECTRIC TRANSMISSION PROJECTS--PAYMENTS TO THE
9 STATE.--The state shall receive annual payments equal to five
10 percent of the total amount of in-lieu tax payments made to
11 counties, municipalities and other local entities authorized
12 to levy taxes on property, including in-lieu tax payments
13 made to school districts pursuant to Paragraph (2) of
14 Subsection A of Section 4-59-4 NMSA 1978, and five percent of
15 the value of any other consideration paid to local entities
16 authorized to levy taxes on property by a person proposing an
17 electric transmission project. A copy of any agreement
18 providing for such in-lieu tax payments shall be provided to
19 the secretary of finance and administration within thirty
20 days of written approval of such agreement by all of the
21 parties. Each annual payment to the state shall be made no
22 later than the end of each fiscal year in which in-lieu tax
23 payments are made to local taxing entities. Each annual
24 payment shall be made to the department of finance and
25 administration for deposit to the general fund."

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SECTION 7. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2020. _____