

1 SENATE BILL 60

2 **50TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2011**

3 INTRODUCED BY

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6
7 ENDORSED BY THE NEW MEXICO

8 FINANCE AUTHORITY OVERSIGHT COMMITTEE

9
10 AN ACT

11 RELATING TO THE NEW MEXICO RENEWABLE ENERGY TRANSMISSION
12 AUTHORITY; TRANSFERRING FUNDS; AUTHORIZING RENEWABLE ENERGY
13 TRANSMISSION BONDS TO BE SOLD AT, ABOVE OR BELOW PAR; PROVIDING
14 FOR CONFIDENTIALITY OF CERTAIN PROPRIETARY INFORMATION.

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

17 SECTION 1. Section 62-16A-1 NMSA 1978 (being Laws 2007,
18 Chapter 3, Section 1) is amended to read:

19 "62-16A-1. SHORT TITLE.--~~[Sections 1 through 15 of this~~
20 ~~act]~~ Chapter 62, Article 16A NMSA 1978 may be cited as the "New
21 Mexico Renewable Energy Transmission Authority Act"."

22 SECTION 2. Section 62-16A-6 NMSA 1978 (being Laws 2007,
23 Chapter 3, Section 6) is amended to read:

24 "62-16A-6. RENEWABLE ENERGY TRANSMISSION BONDING FUND
25 CREATED--MONEY IN THE FUND PLEDGED.--

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1 A. The "renewable energy transmission bonding fund"
2 is created in the [~~state treasury~~] authority. The fund shall
3 consist of revenues received by the authority from operating or
4 leasing eligible facilities, fees and service charges collected
5 and, if the authority has provided financing for eligible
6 facilities, money from payments of principal and interest on
7 loans. The authority may create separate accounts within the
8 fund in connection with any issuance of renewable energy
9 transmission bonds and may deposit in such separate accounts
10 revenues received by the authority derived from the financing
11 or leasing of eligible facilities. Any such separate account
12 shall be held by a trustee acting under a trust indenture
13 relating to those bonds. Earnings of the fund or any separate
14 account shall be credited to the fund or the applicable
15 separate account. Balances in the fund at the end of any
16 fiscal year shall remain in the fund, except as provided in
17 this section.

18 B. Money in the fund shall be deposited in a bank
19 designated by the authority in an account or accounts as the
20 authority may establish. Money in accounts shall be withdrawn
21 on the order of persons whom the authority may authorize. All
22 deposits of money shall be secured in such manner as the
23 authority may determine. The state auditor and the state
24 auditor's legally authorized representatives shall periodically
25 examine the accounts and books of the authority, including its

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1 receipts, disbursements, contracts, leases, sinking funds,
2 investments and any other records and papers relating to its
3 financial standing. The authority shall pay a reasonable fee
4 for the examination as determined by the state auditor.

5 [B-] C. Money in the renewable energy transmission
6 bonding fund is pledged for the payment of principal and
7 interest on [~~all~~] bonds issued pursuant to the New Mexico
8 Renewable Energy Transmission Authority Act. Money in any
9 separate account may be pledged solely to payment of bonds for
10 which the separate account was created. Money in the fund or
11 any separate account is appropriated to the authority for the
12 purpose of paying debt service, including redemption premiums,
13 on the bonds and the expenses incurred in the issuance, payment
14 and administration of the bonds.

15 [G-] D. On the last day of January and the last day
16 of July of each year, the authority shall estimate the amount
17 needed to make debt service and other payments during the next
18 twelve months from the renewable energy transmission bonding
19 fund or any separate account on the bonds plus the amount that
20 may be needed for any required reserves or other requirements
21 as may be set forth in the trust indenture related to the
22 bonds. The authority shall transfer to the renewable energy
23 transmission authority operational fund any balance in the
24 renewable energy transmission bonding fund or any separate
25 account above the estimated amounts. Payments for

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1 administrative costs shall be deposited in the renewable energy
2 transmission authority operational fund.

3 ~~[D-]~~ E. Bonds issued pursuant to the New Mexico
4 Renewable Energy Transmission Authority Act shall be payable
5 solely from the renewable energy transmission bonding fund or
6 from any separate account, or, with the approval of the
7 bondholders, such other special funds as may be provided by law
8 and do not create an obligation or indebtedness of the state
9 within the meaning of any constitutional provision. No breach
10 of any contractual obligation incurred pursuant to that act
11 shall impose a pecuniary liability or a charge upon the general
12 credit or taxing power of the state, and the bonds are not
13 general obligations for which the state's full faith and credit
14 is pledged.

15 ~~[E-]~~ F. The state does hereby pledge that the
16 renewable energy transmission bonding fund, including any
17 separate account within the fund, shall be used only for the
18 purposes specified in this section and pledged first to pay the
19 debt service on the bonds issued pursuant to the New Mexico
20 Renewable Energy Transmission Authority Act. The state further
21 pledges that any law requiring the deposit of revenues in the
22 renewable energy transmission bonding fund or authorizing
23 expenditures from the fund shall not be amended or repealed or
24 otherwise modified so as to impair the bonds to which the
25 renewable energy transmission bonding fund is dedicated as

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1 provided in this section."

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

4 "62-16A-9. PROCEDURE FOR SALE OF RENEWABLE ENERGY
5 TRANSMISSION BONDS.--

6 A. Bonds shall be sold by the authority at such
7 times and in such manner as the authority may elect, either at
8 private sale for a negotiated price or to the highest bidder at
9 public sale for cash at [~~not less than~~] par, above par or below
10 par and accrued interest.

11 B. In connection with any public sale of the bonds,
12 the authority shall publish a notice of the time and place of
13 sale in a newspaper of general circulation in the state and
14 also in a recognized financial journal outside the state. The
15 publication shall be made once each week for two consecutive
16 weeks prior to the date fixed for such sale, the last
17 publication to be two business days prior to the date of sale.
18 The notice shall specify the amount, denomination, maturity and
19 description of the bonds to be offered for sale and the place,
20 day and hour at which sealed bids [~~therefore~~] therefor shall be
21 received. All bids, except those of the state, shall be
22 accompanied by a deposit of two percent of the principal amount
23 of the bonds. Deposits of unsuccessful bidders shall be
24 returned upon rejection of the bid. At the time and place
25 specified in such notice, the authority shall open the bids in

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1 public and shall award the bonds, or any part thereof, to the
2 bidder or bidders offering the best price. The authority may
3 reject any or all bids and readvertise.

4 C. The authority may sell a bond issue, or any part
5 thereof, to the state or to one or more investment bankers or
6 institutional investors at private sale."

7 SECTION 4. Section 62-16A-13 NMSA 1978 (being Laws 2007,
8 Chapter 3, Section 13) is amended to read:

9 "62-16A-13. RENEWABLE ENERGY TRANSMISSION AUTHORITY
10 OPERATIONAL FUND.--The "renewable energy transmission authority
11 operational fund" is created in the [~~state treasury~~] authority.
12 The fund shall consist of money appropriated and transferred to
13 the fund. Earnings from investment of the fund shall be
14 credited to the fund. Money in the fund is appropriated to the
15 authority for the purpose of carrying out the provisions of the
16 New Mexico Renewable Energy Transmission Authority Act. Any
17 unexpended or unencumbered balance remaining at the end of a
18 fiscal year shall not revert. [~~Disbursements from the fund~~
19 ~~shall be made upon warrants drawn by the secretary of finance~~
20 ~~and administration pursuant to vouchers signed by the executive~~
21 ~~director of] The authority is authorized to establish
22 procedures required to administer the fund in accordance with
23 the New Mexico Renewable Energy Transmission Authority Act and
24 state law."~~

25 SECTION 5. A new section of the New Mexico Renewable

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Energy Transmission Authority Act is enacted to read:

"[NEW MATERIAL] PROPRIETARY INFORMATION.--Information obtained by the authority that is proprietary technical or business information shall be confidential and not subject to inspection pursuant to the Inspection of Public Records Act. Proprietary confidential information includes power purchase agreements, costs of production, costs of transmission, transmission service agreements, credit reviews, detailed power models and financing statements."

SECTION 6. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2011.