CHAPTER 11
INTERGOVERNMENTAL AGREEMENTS AND AUTHORITIES

ARTICLE 1
JOINT POWERS AGREEMENTS

11-1-1. Short title.

This act [11-1-1 to 11-1-7 NMSA 1978] may be cited as the "Joint Powers Agreements Act."

History: 1953 Comp., § 4-22-1, enacted by Laws 1961, ch. 135, § 1.

ANNOTATIONS

Cross-references. - For the Planning District Act, see 4-58-1 to 4-58-6 NMSA 1978.

Legislative intent. - The intent of the legislature in the Joint Powers Agreements Act was to allow a joint and coordinated effort to be undertaken by separate governmental units. 1969 Op. Att'y Gen. No. 69-127.

11-1-2. Definitions.

As used in the Joint Powers Agreements Act [11-1-1 to 11-1-7 NMSA 1978]:

A. "public agency" means the federal government or any federal department or agency, this state, an adjoining state or any state department or agency, an Indian tribe or pueblo, a county, municipality, public corporation or public district of this state or an adjoining state; it also specifically includes any state educational institution specified in Article 12, Section 11 of the constitution of New Mexico and any school district in this state;

B. "agreement" means a written contractual agreement entered into between two or more public agencies subject to any constitutional or legislative restriction imposed upon any of the contracting public agencies; provided that nothing in the Joint Powers Agreements Act shall be construed to authorize any interstate water supply agreement or to limit the powers of any interstate water compact commission, the interstate stream commission or the state engineer, or to limit the powers of any state agency or political subdivision to enter into agreements with the interstate stream commission or the state engineer;

C. "bonds" means revenue bonds;

D. "bondholder" means any person who shall be the bearer of any outstanding revenue bond or the owner of bonds which shall at the time be registered to other than the bearer;

E. "governing body" means the board or commission provided for under the Joint Powers Agreements Act;

F. "indenture" means the instrument providing the terms and conditions for the issuance of the bonds, and may be a resolution, order, agreement or other instrument; and

G. "project" means the building or other structure or improvements and all facilities appurtenant thereto or provided therefor to be financed by bonds issued pursuant to the Joint Powers Agreements Act.

History: 1953 Comp., § 4-22-2, enacted by Laws 1961, ch. 135, § 2; 1963, ch. 253, § 1; 1977, ch. 128, § 1; 1984, ch. 88, § 1.

ANNOTATIONS

The 1984 amendment inserted "an Indian tribe or pueblo" and substituted "of this state" for "or this state" in Subsection A and deleted "revenue" preceding "bonds" in Subsections F and G.

11-1-3. Authority to enter into agreements; approval of the secretary of finance and administration required.

If authorized by their legislative or other governing bodies, two or more public agencies by agreement may jointly exercise any power common to the contracting parties, even though one or more of the contracting parties may be located outside this state; provided, however, nothing contained in this Joint Powers Agreements Act [11-1-1 to 11-1-7 NMSA 1978] shall authorize any state officer, board, commission, department or any other state agency, institution or authority, or any county, municipality, public corporation or public district to make any agreement without the approval of the secretary of finance and administration as to the terms and conditions thereof. Joint powers agreements approved by the secretary of finance and administration shall be reported to the state board of finance at its next regularly scheduled public meeting. A list of the approved agreements shall be filed with the office of the state board of finance and made a part of the minutes.

History: 1953 Comp., § 4-22-3, enacted by Laws 1961, ch. 135, § 3; 1977, ch. 128, § 2; 1983, ch. 301, § 24.

ANNOTATIONS

The 1983 amendment substituted "secretary of finance and administration" for "director of the department of finance and administration" in the catchline and in two places in the section.

Temporary provisions. - Laws 1988, ch. 163, § 1 provides that within 30 days after March 9, 1988, the city of Alamogordo, the city of Las Cruces, the county of Dona Ana, the county of Lincoln, the county of Otero, the Elephant Butte irrigation district, the state land office, New Mexico state university, and the local government division of the department of finance and administration shall enter into a joint powers agreement pursuant to the Joint Powers Agreements Act (11-1-1 to 11-1-7 NMSA 1978) to coordinate water resource planning.

Generally. - Formerly, this was the only statutory section which gave the state board of finance specific control (now held by the secretary of finance and administration) over a corporation which was authorized to operate a gas public utility system, and which was jointly owned and jointly controlled by three cities. Other than those financial matters which might possibly come before the board of finance, the major item concerning the corporation which was subject to the control of the state board of finance was the joint powers agreement creating such corporation. 1966 Op. Att'y Gen. No. 66-7.

Constitutionality. - The appointment, under authority of the Joint Powers Agreements Act, of a district judge to be chairman of a joint commission for consolidation of two municipalities does not contravene the constitution. There is no incompatibility, inconsistency or subordination, and no interference. The fact that some day an action of the commission might be before a court was not enough to make the positions incompatible. 1968 Op. Att'y Gen. No. 68-67.

Agreements with federal government. - The Joint Powers Agreements Act authorizes agreements with the federal government of the type contemplated under 40 U.S.C. § 484. 1964 Op. Att'y Gen. No. 64-138.

Members of water commission had authority under the Joint Powers Agreement Act to form the commission and contract with the United States Bureau of Reclaimation for the acquisition of a water supply; the members' "common authority" existed under 72-14-28 NMSA 1978. San Juan Water Comm'n v. Taxpayers & Water Users, 116 N.M. 106, 860 P.2d 748 (1993).

As to surplus property. - The state department of finance and administration by broad general statutory provision has the authority to enter into contractual agreements with the federal government, subject to approval of such agreements by the state board of finance (now by the secretary of finance and administration), for acquisition, administration and disposition of surplus property. 1964 Op. Att'y Gen. No. 64-138. See now federal property and commodities division of the general services department, 15-4-1 NMSA 1978.

Not applicable to gaming compacts with Indian tribes. - The governor is not a "public agency" within the meaning of the Joint Powers Agreement Act and did not have authority thereunder to enter into compacts and revenue-sharing agreements with Indian tribes which would permit gaming on Indian lands pursuant to the federal Indian Gaming Regulatory Act. State ex rel. Clark v. Johnson, 120 N.M. 562, 904 P.2d 11 (1995).

11-1-4. Terms and conditions of joint agreements.

A. Every agreement executed by one or more public agencies shall clearly specify the purpose of the agreement or for any power which is to be exercised. The agreement shall provide for the method by which the purpose will be accomplished and the manner in which any power will be exercised under such agreement.

B. The parties to the agreement may provide therein that:

(1) contributions from the funds of the public agencies may be made for the purpose set forth in the agreement; or

(2) payments of public funds may be made to defray cost of such agreement; or

(3) advances of public funds of the public agencies be made for the purpose set forth in the agreement and that such advances be repaid as provided in such agreement.

C. The agreement may provide that funds be paid to and disbursed by the agency agreed upon by the public agencies under the terms of the agreement.

D. The agreement shall provide for strict accountability of all receipts and disbursements.

E. The agreement may be continued for a definite term or until rescinded or terminated, and may provide for the method by which it may be rescinded or terminated by any party.

F. The agreement shall provide for the disposition, division or distribution of any property acquired as the result of the joint exercise of powers, and shall further provide that after the completion of the agreement's purpose any surplus money on hand shall be returned in proportion to the contributions made.

G. If the purpose set forth in [the] agreement is the acquisition, construction or operation of a revenue-producing facility, the agreement may provide:

(1) for the repayment or return to the parties of all or any part of any contributions, payments or advancements made by the parties pursuant to such agreement; and

(2) for payment to the parties of any sum derived from the revenues of such facilities.

H. Payments, repayments or returns to a public agency shall be made at the time and in the manner specified in the agreement.

History: 1953 Comp., § 4-22-4, enacted by Laws 1961, ch. 135, § 4.

11-1-5. Powers of administering agency under agreement.

A. The agency provided by the agreement to administer or execute the agreement may be one of the parties to the agreement or a commission or board constituted pursuant to the agreement.

B. The administering agency under any such agreement shall be considered under the provisions of this Joint Powers Agreements Act [11-1-1 to 11-1-7 NMSA 1978] as an entity separate from the parties to such agreement.

C. The agency shall possess the common power specified in the agreement and may exercise it in the manner or according to the method provided in the agreement, subject to any of the restrictions imposed upon the manner of exercising such power of one of the contracting public agencies or such restrictions of any public agency participating which may be designated or incorporated in the agreement.

History: 1953 Comp., § 4-22-5, enacted by Laws 1961, ch. 135, § 5.

ANNOTATIONS

Scope of powers. - A development district created pursuant to the Joint Powers Agreements Act may only exercise powers common to the contracting parties. 1969 Op. Att'y Gen. No. 69-127.

11-1-6. Privileges and immunities, exemptions, benefits.

All of the privileges and immunities from liability, exemptions from laws, ordinances and rules, all pension, relief, disability, workmen's compensation and other benefits which apply to the activity of officers, agents or employees of any such public agency when performing their respective functions within the territorial limits of their respective public agencies, shall apply to them to the same extent while engaged in the performance of any of their functions and duties extraterritorially under the provisions of the Joint Powers Agreements Act [11-1-1 to 11-1-7 NMSA 1978].

History: 1953 Comp., § 4-22-6, enacted by Laws 1961, ch. 135, § 6.

ANNOTATIONS

Scope of section. - This section goes no further than to provide that an official of a participating member of the joint project does not lose his privileges, immunities or benefits during the time that he is serving under the joint project. Thus, participation by

an official previously covered by the Public Employees Retirement Act does not remove him from continued participation in the retirement system, but it does nothing whatever to confer or transfer participation to other officials who are not so covered by the system. The conclusion reached in Op. Att'y Gen. No. 69-127 was unnecessarily broad and incorrect in its analysis of the statutes. Accordingly, the conclusion stated in Op. Att'y Gen. No. 69-127 is reversed. 1970 Op. Att'y Gen. No. 70-58.

11-1-7. Power to issue revenue bonds.

In addition to other powers, any agency, commission or board provided for by a joint powers agreement pursuant to this Joint Powers Agreements Act [11-1-1 to 11-1-7 NMSA 1978] may issue revenue bonds to pay the cost and expenses of acquiring or constructing any structures, facilities or equipment necessary to effectuate the purposes of the agreement; provided, however, such authority shall be subject to the provisions of the Joint Powers Agreements Act and the constitutional provisions of this state.

History: 1953 Comp., § 4-22-7, enacted by Laws 1961, ch. 135, § 7.

ARTICLE 2
COMMISSION ON INTERGOVERNMENTAL COOPERATION

11-2-1. Commission on intergovernmental cooperation.

There is created the "commission on intergovernmental cooperation." The members and officers of the legislative council are ex-officio members and officers of the commission, and the director of the legislative council service is ex-officio executive secretary of the commission.

History: 1953 Comp., § 4-6-4, enacted by Laws 1963, ch. 90, § 1.

ANNOTATIONS

Repeals and reenactments. - Laws 1963, ch. 90, § 1, repeals 4-6-4, 1953 Comp., and enacts the above section.

11-2-2. [Duties of commission.]

It shall be the function of this commission:

A. to carry forward the participation of this state as a member of the council of state governments;

B. to encourage and assist the legislative, executive, administrative and judicial officials and employees of this state to develop and maintain friendly contact by correspondence, by conference and otherwise, with officials and employees of the other states, of the federal government and of local units of government;

C. to endeavor to advance cooperation between this state and other units of government whenever it seems advisable to do so by formulating proposals for, and by facilitating:

(1) the adoption of compacts;

(2) the enactment of uniform or reciprocal statutes;

(3) the adoption of uniform or reciprocal administrative rules and regulations;

(4) the informal cooperation of governmental offices with one another;

(5) the personal cooperation of governmental officials and employees with one another, individually;

(6) the interchange and clearance of research and information; and

(7) any other suitable process;

D. in short, to do all such acts as will, in the opinion of this commission, enable this state to do its part - or more than its part in forming a more perfect union among the various governments in the United States and in developing the council of state governments for that purpose.

History: Laws 1937, ch. 64, § 6; 1941 Comp., § 3-506; 1953 Comp., § 4-6-6.

11-2-3. [Appointment of delegations and committees.]

The commission shall establish such delegations and committees as it deems advisable, in order that they may confer and formulate proposals concerning effective means to secure intergovernmental harmony, and may perform other functions for the commission in obedience to its decisions. Subject to the approval of the commission, the member or members of each such delegation or committee shall be appointed by the chairman of the commission. State officials or employees who are not members of the commission on intergovernmental cooperation may be appointed as members of any such delegation or committee, but private citizens holding no governmental position in this state shall not be eligible. The commission may provide such other rules as it considers appropriate concerning the membership and the functioning of any such delegation or committee. The commission may provide for advisory boards for itself and for its various delegations and committees, and may authorize private citizens to serve on such boards.

History: Laws 1937, ch. 64, § 7; 1941 Comp., § 3-507; 1953 Comp., § 4-6-7.

11-2-4. [Council of state governments; joint governmental agency.]

The council of state governments is hereby declared to be a joint governmental agency of this state and of the other states which cooperate through it.

History: Laws 1937, ch. 64, § 10; 1941 Comp., § 3-510; 1953 Comp., § 4-6-10.

ARTICLE 3
REGIONAL HOUSING AUTHORITIES

(Repealed by Laws 1994, ch. 132, § 31.)

11-3-1 to 11-3-6. Repealed.

ANNOTATIONS

Repeals. - Laws 1994, ch. 132, § 31 repeals §§ 11-3-1 to 11-3-6 NMSA 1978, as enacted by Laws 1967, ch. 196, §§ 1 to 6, and as last amended by Laws 1971, ch. 227, §§ 2 and 3, and Laws 1974, ch. 52, § 1, relating to the regional housing authorities, effective May 18, 1994. For provisions of former sections, see 1983 Replacement Pamphlet. For present comparable provisions, see 11-3A-1 NMSA 1978 et seq.

ARTICLE 3A
REGIONAL HOUSING LAW

11-3A-1. Short title.

Chapter 11, Article 3A NMSA 1978 may be cited as the "Regional Housing Law".

History: Laws 1994, ch. 132, § 1; 1995, ch. 191, § 1.

ANNOTATIONS

Cross-references. - For the Housing Authority Act, see 11-4-1 NMSA 1978 et seq.

For the Municipal Housing Law, see 3-45-1 NMSA 1978 et seq.

For the Urban Development Law, see 3-46-1 NMSA 1978 et seq.

For the Community Development Law, see 3-60-1 NMSA 1978 et seq.

For the Utility Supplement Act, see 27-6-1 NMSA 1978 et seq.

For the Mortgage Finance Authority Act, see 58-18-1 NMSA 1978 et seq.

The 1995 amendment, effective June 16, 1995, substituted "Chapter 11, Article 3A NMSA 1978" for "This act".

Effective dates. - Laws 1994, ch. 132 contains no effective date provision, but, pursuant to N.M. Const., art. IV, § 23, is effective on May 18, 1994, 90 days after adjournment of the legislature. See Volume 14 NMSA 1978 for "Adjournment Dates of Sessions of Legislature" table.

Compiler's note. - Laws 1995, ch. 191, § 25, effective June 16, 1995, repeals Laws 1994, ch. 132, § 30, which provided for the repeal of this section on July 1, 1995.

Am. Jur. 2d, A.L.R. and C.J.S. references. - 81A C.J.S. States §§ 82, 133, 134, 136 to 140.

11-3A-2. Finding and declaration of necessity.

It is declared that:

A. unsanitary or unsafe dwelling accommodations exist in the state;

B. persons of low income are forced to reside in such unsanitary or unsafe accommodations;

C. within the state:

(1) there is a shortage of safe or sanitary dwelling accommodations available at rents that persons of low income can afford;

(2) low-income persons are forced to occupy overcrowded, congested dwelling accommodations; and

(3) these conditions cause an increase in and spread of disease and crime and constitute a menace to the health, safety, morals and welfare of the residents of the state and impair economic values;

D. excessive and disproportionate expenditures of public funds for crime prevention and punishment, public health and safety, fire and accident protection and other public services and facilities are necessitated;

E. private enterprise alone cannot meet the need or resolve the problems inherent in providing appropriate, safe, sanitary and sufficient housing for low-income persons, and public participation in construction of low-income housing does not compete with private enterprise;

F. demolition, replanning, reconstruction or renovation of unsanitary or unsafe housing or acquisition of land to provide safe and sanitary dwellings for persons of low income are in the public interest and are essential state and local governmental functions requiring expenditures of public money; and

G. it is in the public interest that work on projects for demolition, planning, reconstruction, renovation or land acquisition for provision of safe and sanitary dwellings for low-income people be started immediately in order to relieve the housing shortage that has reached emergency status, and it is a necessity that the Regional Housing Law [this article] be continued to relieve that emergency.

History: Laws 1994, ch. 132, § 2; 1995, ch. 191, § 2.

ANNOTATIONS

The 1995 amendment, effective June 16, 1995, divided Subsection C to form paragraphs, added "low-income" at the beginning of Paragraph (2) and "these" at the beginning of Paragraph (3), deleted "these conditions necessitate" from the beginning and added "are necessitated" at the end of Subsection D, rewrote Subsections E, F and G, and made minor stylistic changes throughout the section.

Effective dates. - Laws 1994, ch. 132 contains no effective date provision, but, pursuant to N.M. Const., art. IV, § 23, is effective on May 18, 1994, 90 days after adjournment of the legislature. See Volume 14 NMSA 1978 for "Adjournment Dates of Sessions of Legislature" table.

Compiler's note. - Laws 1995, ch. 191, § 25, effective June 16, 1995, repeals Laws 1994, ch. 132, § 30, which provided for the repeal of this section on July 1, 1995.

11-3A-3. Definitions.

As used in the Regional Housing Law [this article]:

A. "authority" means any regional housing authority or a nonprofit corporation created by an authority;

B. "bond" means any bond, note, interim certificate, debenture or other obligation issued by an authority pursuant to the Regional Housing Law;

C. "federal government" includes the United States of America, programs of the United States department of housing and urban development, the farmers home administration and rural development administration of the United States department of agriculture or housing programs or any other agency or instrumentality, corporate or otherwise, of the United States of America;

D. "housing project" means an undertaking of an authority to:

(1) demolish, clear or remove buildings from any slum area. The undertaking may embrace the adaptation of the area to public purposes, including parks or other recreational or community purposes; or

(2) provide decent, safe and sanitary dwellings, apartments, single-family dwellings or other living accommodations for persons of low income. The undertaking may include buildings, land, equipment, facilities and other real or personal property for necessary, convenient or desirable appurtenances, streets, sewers, water service, parks, site preparation, gardening, administrative, community, health, recreational, welfare or other purposes. "Housing project" also may be applied to the planning of buildings and improvements, acquisition of property or existing structures, demolition of existing structures, construction, reconstruction, alteration and repair of improvements or buildings or any other work performed to complete housing projects;

E. "local public body" means any county, municipality, commission, district or other subdivision of the state;

F. "low-income person" means any individual, couple or family whose gross income does not exceed eighty percent of the resident's particular county median income and who cannot afford to pay more than thirty percent of his gross income for housing rent or mortgage payments or a low-income person as defined by the federal government;

G. "obligee" means:

(1) a holder of bonds issued pursuant to the Regional Housing Law or a trustee for that bondholder;

(2) a lessor leasing to an authority property used in connection with a housing project or any assignee of a lessor's interest or partial interest; or

(3) the federal government when it is a party to a contract with an authority in regard to a housing project;

H. "real property" includes all lands, including improvements and fixtures on the land, property of any nature appurtenant to or used in connection with the land and every estate, interest and right, legal or equitable, in the land, including terms for years and liens by way of judgment, mortgage or other instrument and the indebtedness secured by the lien; and

I. "slum" means any area where dwellings predominate, which by reason of dilapidation, overcrowding, lack of ventilation, light or sanitary facilitates or any combination of these factors are detrimental to safety, health or morals.

History: Laws 1994, ch. 132, § 3; 1995, ch. 191, § 3.

ANNOTATIONS

The 1995 amendment, effective June 16, 1995, deleted "or 'housing authority'" preceding "means" in Subsection A, rewrote Subsection B, substituted the language beginning "programs of" and ending "housing programs" for "the public housing administration" in Subsection C, deleted Subsection D which defined "slum", redesignated former Subsection E as Subsection D, substituted "or buildings or any other work performed to complete housing projects" for "and all other work in connection therewith" at the end of Subsection D, added Subsection E, rewrote Subsections F and G, substituted "other instrument" for "otherwise" in Subsection H, rewrote Subsection I, and made minor stylistic changes throughout the section.

Effective dates. - Laws 1994, ch. 132 contains no effective date provision, but, pursuant to N.M. Const., art. IV, § 23, is effective on May 18, 1994, 90 days after adjournment of the legislature. See Volume 14 NMSA 1978 for "Adjournment Dates of Sessions of Legislature" table.

Compiler's note. - Laws 1995, ch. 191, § 25, effective June 16, 1995, repeals Laws 1994, ch. 132, § 30, which provided for the repeal of this section on July 1, 1995.

11-3A-4. Regional housing authorities created.

Seven regional housing authorities are created for the state of New Mexico. The respective areas of the seven regional housing authorities are coextensive with the boundaries of the seven housing regions created as follows:

A. Region No. 1 shall consist of the counties of Cibola, San Juan and McKinley;

B. Region No. 2 shall consist of the counties of Rio Arriba, Los Alamos, Taos, Colfax, Mora, Santa Fe and San Miguel;

C. Region No. 3 shall consist of the counties of Sandoval, Bernalillo, Valencia and Torrance;

D. Region No. 4 shall consist of the counties of DeBaca, Curry, Roosevelt, Union, Harding, Quay and Guadalupe;

E. Region No. 5 shall consist of the counties of Catron, Grant, Hidalgo and Luna;

F. Region No. 6 shall consist of the counties of Lincoln, Chaves, Otero, Eddy and Lea; and

G. Region No. 7 shall consist of the counties of Socorro, Sierra and Dona Ana.

History: Laws 1994, ch. 132, § 4.

ANNOTATIONS

Effective dates. - Laws 1994, ch. 132 contains no effective date provision, but, pursuant to N.M. Const., art. IV, § 23, is effective on May 18, 1994, 90 days after adjournment of the legislature. See Volume 14 NMSA 1978 for "Adjournment Dates of Sessions of Legislature" table.

Compiler's note. - Laws 1995, ch. 191, § 25, effective June 16, 1995, repeals Laws 1994, ch. 132, § 30, which provided for the repeal of this section on July 1, 1995.

11-3A-5. Jurisdiction.

A regional authority created by the Regional Housing Law [this article] shall operate within the area of its housing region, except for that portion of the area that lies within the territorial boundary of a municipality or county that has established an authority or housing agency. If by resolution the governing bodies of municipalities or counties that have established authorities or housing agencies consent to have the regional authority take action within the territory that would be excluded under this section, the regional authority may enlarge its jurisdiction to include the previously excluded territory. Any subsequent withdrawal of consent by resolution of a local public body or a municipal or county authority shall not prohibit the development and operation of any housing projects initiated in the city or county by the regional authority prior to the date of the resolution withdrawing consent when there is a financial assistance contract in existence for the project with the state or federal government at the date of the withdrawal of consent except upon terms that are mutually agreed upon between the regional authority, the governing bodies of the cities or counties and the state or federal government.

History: Laws 1994, ch. 132, § 5; 1995, ch. 191, § 4.

ANNOTATIONS

The 1995 amendment, effective June 16, 1995, in the first sentence, substituted "A regional authority" for "The housing authority" and "an authority or housing agency" for "a housing authority"; in the second sentence, substituted "If by resolution" for "If however", substituted "authorities or housing agencies" for "housing authorities by resolution", and substituted "jurisdiction to include the previously excluded" for "area of authority to include such territory"; in the third sentence, substituted "resolution of a local public body or a municipal or county authority" for "an authority or county", inserted "state or" preceding "federal" twice, and made minor stylistic changes throughout the section.

Effective dates. - Laws 1994, ch. 132 contains no effective date provision, but, pursuant to N.M. Const., art. IV, § 23, is effective on May 18, 1994, 90 days after adjournment of the legislature. See Volume 14 NMSA 1978 for "Adjournment Dates of Sessions of Legislature" table.

Compiler's note. - Laws 1995, ch. 191, § 25, effective June 16, 1995, repeals Laws 1994, ch. 132, § 30, which provided for the repeal of this section on July 1, 1995.

11-3A-6. Powers of authority in board of commissioners; appointment of board of authorities; terms.

A. The powers of each regional authority shall be vested in its board of commissioners as the board may be constituted, from time to time. The board of commissioners of the authority for each of the seven regions shall consist of seven commissioners who shall be residents of the region for which the authority is created and appointed by the governor. Appointments shall be for terms of four years or less and shall be made so that the terms of not more than two commissioners on each board expire on July 1 of each year. Vacancies shall be filled for the unexpired term. Commissioners shall serve until their successors have been appointed.

B. The members of the boards of commissioners may receive per diem and mileage as provided in the Per Diem and Mileage Act [10-8-1 to 10-8-8 NMSA 1978], but shall receive no other compensation, perquisite or allowance. Each board of commissioners shall select a chairman and vice chairman from among its members. Each board may employ necessary agents and employees and set the salaries of the agents and employees. Each board may delegate to its agents or employees such duties as the board deems proper. A regional planning and development district, created pursuant to the Planning District Act [4-58-1 to 4-58-6 NMSA 1978], may provide technical staff for a regional housing authority. Four commissioners shall constitute a quorum of a board for the purpose of conducting its business and exercising its powers and for all other purposes. Action may be taken by an authority upon a vote of a majority of the commissioners present. Each board shall organize itself at its annual meeting each even-numbered year. A board may authorize an authority to employ a secretary who shall be executive director and who shall be removable only for cause, and technical experts and other officers, attorneys, agents and employees, permanent and temporary, as the authority requires; to determine employee and contractor qualifications, duties and compensation; and to delegate to one or more employees or contractors the powers or duties that the board deems proper.

C. The financial affairs of every regional authority and any nonprofit corporation created by an authority shall be thoroughly examined and audited annually by the state auditor, by personnel of his office designated by him or by auditors approved by him. The audits shall be conducted in accordance with generally accepted auditing standards. Each regional authority shall submit to the state auditor, the department of finance and administration, the state housing authority of the economic development department and the legislative finance committee, within thirty days following the receipt of the audit by the authority, a copy of the annual audit.

History: Laws 1994, ch. 132, § 6; 1995, ch. 191, § 5.

ANNOTATIONS

The 1995 amendment, effective June 16, 1995, rewrote this section to such an extent that a detailed comparison is impracticable.

Effective dates. - Laws 1994, ch. 132 contains no effective date provision, but, pursuant to N.M. Const., art. IV, § 23, is effective on May 18, 1994, 90 days after adjournment of the legislature. See Volume 14 NMSA 1978 for "Adjournment Dates of Sessions of Legislature" table.

Compiler's note. - Laws 1995, ch. 191, § 25, effective June 16, 1995, repeals Laws 1994, ch. 132, § 30, which provided for the repeal of this section on July 1, 1995.

11-3A-7. Powers.

A. Every authority may:

(1) within its region, prepare, carry out, acquire, purchase, lease, construct, reconstruct, improve, alter, extend or repair any housing project and operate and maintain the housing project. For any of such purposes, the board of commissioners of the authority may appropriate money and authorize the use of any property of the authority;

(2) purchase its bonds at a price of not more than the principal amount and the accrued interest. All bonds so purchased shall be canceled;

(3) lease or rent any dwellings, houses, accommodations, lands, buildings, structures or facilities embraced in any housing project and establish and revise the rents or lease charges; own, hold and improve real or personal property; purchase, lease, obtain options upon, acquire by gift, grant, bequest, devise or otherwise any real or personal property or any interest therein; acquire by the exercise of the power of eminent domain any real property; sell, lease, mortgage, exchange, transfer, assign, pledge or dispose of any real or personal property or any interest in real or personal property; or procure or agree to the procurement of insurance or guarantees from the federal government of the payment of any bonds or parts thereof, including the power to pay premiums on the insurance;

(4) enter on any lands, buildings or property for the purpose of making surveys, soundings and examinations in connection with the planning or construction, or both, of any housing project;

(5) insure or provide for the insurance of any housing project of the authority against the risks that the authority may deem advisable;

(6) arrange or contract for the furnishing by any person or agency, public or private, of services, privileges, works or facilities for, or in connection with, a housing project or the occupants thereof and include in any construction contract let in connection with a housing project stipulations requiring that the contractor and any subcontractors comply with employment requirements, including those in the constitution and laws of this state,

as to minimum wages and maximum hours of labor and comply with any conditions that the state or federal government may have attached to its financial aid of the project;

(7) within its area of operation, investigate the living, dwelling and housing conditions and the means and methods of improving those conditions; determine where slum areas exist or where there is a shortage of decent, safe and sanitary dwelling accommodations for persons of low income; make studies and recommendations relating to the problem of clearing, replanning and reconstructing slum areas and the problem of providing dwelling accommodations for persons of low income and cooperate with the state or any political subdivision of the state in action taken in connection with the problems identified; and engage in research, studies and experimentation on the subject of housing; and

(8) exercise all or any part or combination of powers granted in this subsection.

B. To standardize the delivery of affordable housing programs and services in New Mexico, regional authorities within their jurisdictions shall:

(1) create partnerships between state, federal, city and county governments, nonprofit entities and the private sector that will provide the necessary resources to carry out the planning, financing, development and delivery of affordable housing;

(2) assist city or county authorities or housing nonprofit agencies in developing the knowledge, expertise and technical capacity to provide a comprehensive approach to the development and delivery of affordable housing; and

(3) provide or secure planning, technical assistance and training that city or county governments and nonprofit entities may need in an effort to enhance the local affordable housing delivery system.

C. Any two or more cities or authorities may join or cooperate with one another to exercise, either jointly or otherwise, any of their powers for the purpose of financing, including the provision of security for or the issuance of bonds, or contracting with respect to a housing project located within the area of operation of any one or more of the cities or authorities. A city or authority may prescribe and authorize by resolution another authority to act on its behalf to exercise, as its agent, any power granted to the city or authority pursuant to the provisions of the Regional Housing Law [this article]. The authorized authority may act in the name of the city, the authorizing authority or in its own name.

History: Laws 1994, ch. 132, § 7; 1995, ch. 191, § 6.

ANNOTATIONS

The 1995 amendment, effective June 16, 1995, rewrote this section to such an extent that a detailed comparison is impracticable.

Effective dates. - Laws 1994, ch. 132 contains no effective date provision, but, pursuant to N.M. Const., art. IV, § 23, is effective on May 18, 1994, 90 days after adjournment of the legislature. See Volume 14 NMSA 1978 for "Adjournment Dates of Sessions of Legislature" table.

Compiler's note. - Laws 1995, ch. 191, § 25, effective June 16, 1995, repeals Laws 1994, ch. 132, § 30, which provided for the repeal of this section on July 1, 1995.

Am. Jur. 2d, A.L.R. and C.J.S. references. - Tenant selection criteria under § 8 of Housing Act of 1937 (42 USCS § 1437f), 80 A.L.R. Fed. 470.

11-3A-8. Requirements respecting lease.

A. Prior to the leasing of any housing project, the authority shall determine and find the following:

(1) the amount necessary in each year to pay the principal of and the interest on the bonds proposed to be issued to finance the housing project; and

(2) the amount necessary to be paid each year into any reserve funds that the authority may deem advisable to establish in connection with the retirement of the proposed bonds and the maintenance of the housing project and, unless the terms under which the housing project is to be leased provide that the lessee shall maintain the housing project and carry all proper insurance with respect to it, the estimated cost of maintaining the housing project in good repair and keeping it properly insured.

B. The determinations and findings of the authority required to be made in this section shall be set forth in the proceedings under which the proposed bonds are to be issued.

C. Prior to the issuance of the bonds, the authority shall lease or sell the housing project to a lessee or purchaser under an agreement that is conditioned upon completion of the housing project and that provides for payment to the authority of rentals or payments in an amount that is found, based on the determinations and findings, to:

(1) pay the principal of and interest on the bonds issued to finance the housing project;

(2) build up and maintain any reserve deemed by the authority to be advisable in connection with the housing project; and

(3) pay the costs of maintaining the housing project in good repair and keeping it properly insured, unless the agreement of lease obligates the lessee to pay for the maintenance and insurance of the housing project.

History: Laws 1994, ch. 132, § 8; 1995, ch. 191, § 7.

ANNOTATIONS

The 1995 amendment, effective June 16, 1995, redesignated the subsections, substituted "section" for "subsection" in Subsection B, and made minor stylistic changes throughout the section.

Effective dates. - Laws 1994, ch. 132 contains no effective date provision, but, pursuant to N.M. Const., art. IV, § 23, is effective on May 18, 1994, 90 days after adjournment of the legislature. See Volume 14 NMSA 1978 for "Adjournment Dates of Sessions of Legislature" table.

Compiler's note. - Laws 1995, ch. 191, § 25, effective June 16, 1995, repeals Laws 1994, ch. 132, § 30, which provided for the repeal of this section on July 1, 1995.

11-3A-9. Nonprofit corporations.

Every authority, in addition to other powers conferred by the Regional Housing Law [this article], shall have, if authorized by resolution of its board, the power to create nonprofit corporations to carry out the powers and duties set forth in Section 11-3A-7 NMSA 1978. Such nonprofit corporations shall be subject to all of the duties and limitations imposed on the authority and its board of commissioners.

History: Laws 1994, ch. 132, § 9; 1995, ch. 191, § 8.

ANNOTATIONS

The 1995 amendment, effective June 16, 1995, substituted "if authorized by resolution of its board, the power" for "and is hereby authorized, by proper resolution of its board" in the first sentence, and made a stylistic change in the statutory reference.

Effective dates. - Laws 1994, ch. 132 contains no effective date provision, but, pursuant to N.M. Const., art. IV, § 23, is effective on May 18, 1994, 90 days after adjournment of the legislature. See Volume 14 NMSA 1978 for "Adjournment Dates of Sessions of Legislature" table.

Compiler's note. - Laws 1995, ch. 191, § 25, effective June 16, 1995, repeals Laws 1994, ch. 132, § 30, which provided for the repeal of this section on July 1, 1995.

11-3A-10. Interested officers or employees.

No officer or employee of an authority shall acquire any direct or indirect interest in any housing project or in any property included or planned to be included in any housing project of the authority or in any contract or proposed contract for materials or services to be furnished or used in connection with any housing project of the authority.

History: Laws 1994, ch. 132, § 10; 1995, ch. 191, § 9.

ANNOTATIONS

The 1995 amendment, effective June 16, 1995, deleted "or of a nonprofit corporation created by an authority" preceding "shall", deleted "nor shall he have any interest direct or indirect" preceding "or in any contract", and substituted "of the authority" for the former last three sentences which read: "If any officer or employee of an authority or of a nonprofit corporation created by an authority owns or controls a direct or indirect interest in any property included or planned to be included in any housing project of an authority, he immediately shall disclose the same in writing to the governing body of such authority, and such disclosure shall be entered upon the minutes of the board of commissioners. The failure so to disclose such interest shall constitute misconduct in office. Upon such disclosure, such officer or employee shall not participate in any action by the authority affecting such property."

Effective dates. - Laws 1994, ch. 132 contains no effective date provision, but, pursuant to N.M. Const., art. IV, § 23, is effective on May 18, 1994, 90 days after adjournment of the legislature. See Volume 14 NMSA 1978 for "Adjournment Dates of Sessions of Legislature" table.

Compiler's note. - Laws 1995, ch. 191, § 25, effective June 16, 1995, repeals Laws 1994, ch. 132, § 30, which provided for the repeal of this section on July 1, 1995.

11-3A-11. Eminent domain.

In addition to the other purposes for which an authority may appropriate property, an authority shall have the right to acquire by the exercise of the power of eminent domain any real property that authority deems necessary for fulfilling the purposes of the Regional Housing Law [this article] after adopting a resolution declaring that the acquisition of the real property is necessary. An authority may exercise the power of eminent domain in the manner provided by Chapter 42A, Articles 1 and 3 NMSA 1978 or any other applicable provision of law. Title to property so acquired shall be taken in the name of the authority.

History: Laws 1994, ch. 132, § 11; 1995, ch. 191, § 11.

ANNOTATIONS

Cross-references. - For Eminent Domain Code, see 42A-1-1 NMSA 1978 et seq.

The 1995 amendment, effective June 16, 1995, substituted "Chapter 42A, Articles 1 and 3 NMSA 1978 or" for "the laws of the state of New Mexico and acts amendatory thereof or supplementary thereto or it may exercise the power of eminent domain hereunder in the manner provided by any other applicable statutory provisions for the exercise of the power of eminent domain" in the second sentence, and made minor stylistic changes throughout the section.

Effective dates. - Laws 1994, ch. 132 contains no effective date provision, but, pursuant to N.M. Const., art. IV, § 23, is effective on May 18, 1994, 90 days after

adjournment of the legislature. See Volume 14 NMSA 1978 for "Adjournment Dates of Sessions of Legislature" table.

Compiler's note. - Laws 1995, ch. 191, § 25, effective June 16, 1995, repeals Laws 1994, ch. 132, § 30, which provided for the repeal of this section on July 1, 1995.

11-3A-12. State policy; operation not for profit.

A. It is declared to be the policy of this state that each authority shall manage and operate its housing projects in an efficient manner so as to enable it to fix the rentals for dwelling accommodations at the lowest possible rates consistent with its providing decent, safe and sanitary dwelling accommodations.

B. No authority shall construct or operate any housing project for profit.

C. An authority shall fix the rentals for dwellings in the housing projects it manages and operates at no higher rates than it finds to be necessary in order to produce revenues that, together with any grants or subsidies from the state or federal government or other sources for housing projects, will be sufficient to:

(1) pay, as they become due, the principal and interest on the bonds or other obligations of the authority issued under the Regional Housing Law [this article];

(2) meet the cost of and provide for maintaining and operating the housing projects, including the cost of any insurance, the administrative expenses of the authority incurred in connection with the housing projects and the funding of any operational reserves as the authority shall deem appropriate;

(3) fund operational reserves to secure the payment of its bonds as the authority deems appropriate; and

(4) allow private, profit-making entities to enter into agreements with the authority, without the agreements affecting the nonprofit status of the authority or conflicting with the intent of the creation of the authority.

History: Laws 1994, ch. 132, § 12; 1995, ch. 191, § 10.

ANNOTATIONS

The 1995 amendment, effective June 16, 1995, inserted the subsection designations for Subsections A, B and C, inserted "state or" preceding "federal" in Subsection C, redesignated former Subsections A to D as Paragraphs (1) to (4) of Subsection C, in Paragraph (3) of Subsection C, substituted "operational" for "such" and deleted "or convenient" following "appropriate", and made minor stylistic changes throughout the section.

Effective dates. - Laws 1994, ch. 132 contains no effective date provision, but, pursuant to N.M. Const., art. IV, § 23, is effective on May 18, 1994, 90 days after adjournment of the legislature. See Volume 14 NMSA 1978 for "Adjournment Dates of Sessions of Legislature" table.

Compiler's note. - Laws 1995, ch. 191, § 25, effective June 16, 1995, repeals Laws 1994, ch. 132, § 30, which provided for the repeal of this section on July 1, 1995.

11-3A-13. Sales, rentals and tenant selection.

A. In the operation or management of housing projects or the sale of any property pursuant to the Regional Housing Law [this article], an authority shall:

(1) rent, lease or sell the dwelling accommodations in the housing project only to persons falling within the standards adopted by the authority;

(2) rent, lease or sell to a tenant dwelling accommodations consisting of the number of rooms, but no greater number, that it deems necessary to provide safe and sanitary accommodations to the proposed occupants without overcrowding; and

(3) reject any person as a tenant in any housing project if the person has an annual net income in excess of federally established standards.

B. Nothing contained in this section or Section 11-3A-12 NMSA 1978 shall be construed as limiting the power of an authority to vest in an obligee the right, in the event of a default by the authority, to take possession and operate a housing project or cause the appointment of a receiver for the housing project, free from all the restrictions imposed by this section or Section 11-3A-12 NMSA 1978.

History: Laws 1994, ch. 132, § 13; 1995, ch. 191, § 12.

ANNOTATIONS

The 1995 amendment, effective June 16, 1995, deleted "at all times observe the following duties with respect to rentals, property and tenant selection" at the end of the introductory paragraph in Subsection A, deleted "it may" from the beginning of Paragraphs (1) and (2) of Subsection A, substituted "project" for "program" in Paragraph (3) of Subsection A, substituted "for the housing project" for "thereof" in Subsection B, and made minor stylistic changes throughout the section.

Effective dates. - Laws 1994, ch. 132 contains no effective date provision, but, pursuant to N.M. Const., art. IV, § 23, is effective on May 18, 1994, 90 days after adjournment of the legislature. See Volume 14 NMSA 1978 for "Adjournment Dates of Sessions of Legislature" table.

Compiler's note. - Laws 1995, ch. 191, § 25, effective June 16, 1995, repeals Laws 1994, ch. 132, § 30, which provided for the repeal of this section on July 1, 1995.

11-3A-14. Bonds.

A. An authority shall have power to issue bonds from time to time in its discretion to finance in whole or in part the cost of the preparation, acquisition, purchase, lease, construction, reconstruction, improvement, alteration, extension or repair of any housing project or housing undertaking. An authority shall also have power to issue refunding bonds for the purpose of paying or retiring bonds previously issued by it pursuant to the provisions of the Regional Housing Law [this article]. In order to carry out the purposes of the Regional Housing Law, an authority may issue, upon proper resolution, bonds on which the principal and interest are payable:

(1) exclusively from the income and revenues of the housing project financed with the proceeds of such bonds; or

(2) exclusively from such income and revenues, together with grants and contributions from the federal government or other sources in aid of the project.

B. Neither the board of commissioners of an authority nor any person executing the bonds shall be liable personally on any bonds because the bonds were issued pursuant to the Regional Housing Law. The bonds issued under the provisions of the Regional Housing Law shall be payable solely from the sources provided in this section. The bonds shall not be a general obligation of the authority issuing them, the state or any local public body of this state, and they shall so state on their face. The bonds shall not constitute a debt or indebtedness within the meaning of any constitutional, statutory or charter debt limitation or restriction.

History: Laws 1994, ch. 132, § 14; 1995, ch. 191, § 13.

ANNOTATIONS

The 1995 amendment, effective June 16, 1995, in Subsection A, substituted "housing project or housing undertaking" and "pursuant to the provisions of the Regional Housing Law" for "hereunder", and deleted "or projects" following "project" in Paragraphs (1) and (2); substituted "because the bonds were issued pursuant to the Regional Housing Law" for "by reason of the issuance thereof hereunder" in Subsection B; and made minor stylistic changes throughout the section.

Effective dates. - Laws 1994, ch. 132 contains no effective date provision, but, pursuant to N.M. Const., art. IV, § 23, is effective on May 18, 1994, 90 days after adjournment of the legislature. See Volume 14 NMSA 1978 for "Adjournment Dates of Sessions of Legislature" table.

Compiler's note. - Laws 1995, ch. 191, § 25, effective June 16, 1995, repeals Laws 1994, ch. 132, § 30, which provided for the repeal of this section on July 1, 1995.

11-3A-15. Form and sale of bonds; interest on certain obligations.

A. Bonds of an authority issued pursuant to the provisions of the Regional Housing Law [this article] shall be authorized by a resolution of the regional authority's board. The resolution, its trust indenture or the bonds to be issued shall set forth with regard to the bonds the date of issuance, the date of maturity, the rates of interest that the bonds will bear, the denominations, the form, either coupon or registered, the conversion or registration privileges, the rank or priority, the manner of execution, the medium and place of repayment and the terms of redemption, with or without premiums.

B. Obligations issued by an authority that are true loan obligations made to the farmers home administration of the United States department of agriculture or the department of housing and urban development may bear interest at a rate of interest not exceeding par.

C. The bonds shall be sold at not less than par at public sale held after notice published once at least five days prior to the sale in a newspaper having a general circulation in the authority and in a financial newspaper published in the city of New York, New York; provided that the bonds may be sold to the federal government at private sale at not less than par, and, in the event fewer than all of the bonds authorized in connection with any housing project are sold to the federal government, the balance of the bonds may be sold at private sale at not less than par at an interest cost to the authority that does not exceed the interest cost to the authority of the portion of the bonds sold to the federal government.

D. If an officer of an authority or any of its instrumentalities whose signature appears on bonds issued pursuant to the Regional Housing Law ceases to hold that office before the delivery of the bonds, the signature shall, nevertheless, be valid and sufficient for all purposes the same as if the officer had remained in office until delivery. Any provision of any law to the contrary notwithstanding, any bonds issued pursuant to the Regional Housing Law shall be fully negotiable.

E. In any suit, action or proceedings involving the validity or enforceability of any bond of an authority or the security for the bonds, any bond reciting in substance that it has been issued by the authority to aid in financing a housing project to provide dwelling accommodations for persons of low income shall be conclusively deemed to have been issued for a housing project of that character, and the housing project shall be conclusively deemed to have been planned, located and constructed in accordance with the purposes and provisions of the Regional Housing Law.

History: Laws 1994, ch. 132, § 15; 1995, ch. 191, § 14.

ANNOTATIONS

The 1995 amendment, effective June 16, 1995, rewrote Subsection A; in Subsection C, deleted "San Francisco, California or in the city of" preceding "New York" and deleted "or projects" following "project"; in Subsection D, substituted the portion of the first sentence preceding "before delivery" for "In case any of the officers of the authority, the authority or any of its instrumentalities whose signatures appear on any bonds or coupons cease to be officers", substituted "the signature" for "such signatures" and "officer" for "officers"; and made minor stylistic changes throughout the section.

Effective dates. - Laws 1994, ch. 132 contains no effective date provision, but, pursuant to N.M. Const., art. IV, § 23, is effective on May 18, 1994, 90 days after adjournment of the legislature. See Volume 14 NMSA 1978 for "Adjournment Dates of Sessions of Legislature" table.

Compiler's note. - Laws 1995, ch. 191, § 25, effective June 16, 1995, repeals Laws 1994, ch. 132, § 30, which provided for the repeal of this section on July 1, 1995.

11-3A-16. Provisions of bonds and trust indentures.

In connection with the issuance of bonds pursuant to the Regional Housing Law [this article] or the incurring of obligations under leases made pursuant to the Regional Housing Law and in order to secure the payment of bonds or obligations, an authority, in addition to its other powers, shall have power:

A. to pledge all or any part of the gross or net rents, fees or revenues of a housing project, and to mortgage and otherwise encumber a housing project financed with the proceeds of such bonds, to which its rights then exist or may thereafter come into existence;

B. to covenant against pledging all or any part of the rents, fees and revenues, or against permitting or suffering any lien on such revenues or property; to covenant with respect to limitations on its right to sell, lease or otherwise dispose of any housing project or any part thereof; and to covenant regarding what other or additional debts or obligations may be incurred by it;

C. to covenant regarding the bonds to be issued, the issuance of bonds in escrow or otherwise and the use and disposition of the proceeds of the bonds; to provide for the replacement of lost, destroyed or mutilated bonds; to covenant against extending the time for the payment of its bonds or interest accrued on the bonds; and to redeem the bonds, and to covenant for their redemption and to provide the terms and conditions of redemption;

D. to covenant, subject to the limitations contained in the Regional Housing Law, regarding the rents and fees to be charged in the operation of a housing project, the amount to be raised each year or other period of time by rents, fees and other revenues and regarding the use and disposition to be made of rents, fees and other revenues; to create or to authorize the creation of special funds for money held for construction or

operating costs, debt service, reserves or other purposes; and to covenant regarding the use and disposition of the money held in such funds;

E. to prescribe the procedure, if any, by which the terms of any contract with bondholders may be amended or abrogated, the amount of bonds the bondholders shall consent to and the manner in which such consent may be given;

F. to covenant as to the use of any or all of its real or personal property acquired pursuant to the Regional Housing Law; and to covenant regarding the maintenance of such real and personal property, the replacement of that property, the insurance to be carried on that property and the use and disposition of insurance money;

G. to covenant regarding the rights, liabilities, powers and duties arising upon the breach by the regional authority of any covenant, condition or obligation; and to covenant regarding and prescribe events of default and terms and conditions upon which the declaration and its consequences may be waived;

H. to vest in a trustee or the holders of bonds issued pursuant to the Regional Housing Law, or any specified proportion of them, the right to enforce the payment of bonds or any covenants securing or relating to the bonds; to vest in a trustee the right, in the event of a default by the authority, to take possession of any housing project or part of a housing project and, so long as the authority continues in default, to retain possession and use, operate and manage the housing project, to collect the rents and revenues arising from the housing project and to dispose of the money in accordance with the agreement of the authority and the trustee; to provide for the powers and duties of a trustee and to limit the liabilities of the trustee; and to provide the terms and conditions upon which the trustee or the holders of bonds, or any proportion of them, may enforce any covenant or rights securing or relating to the bonds; and

I. to exercise all or any part or combination of the powers granted in this section; to make covenants other than and in addition to the covenants expressly authorized, of like or different character; and to make covenants that will tend to make the bonds more marketable, notwithstanding that the covenants or acts may not be enumerated in this section.

History: Laws 1994, ch. 132, § 16; 1995, ch. 191, § 15.

ANNOTATIONS

The 1995 amendment, effective June 16, 1995, deleted "or projects" following "project" in Subsection D, substituted "the regional authority" for "it" in Subsection G, deleted "or trustees" following "trustee" three times in Subsection H, and made minor stylistic changes throughout the section.

Effective dates. - Laws 1994, ch. 132 contains no effective date provision, but, pursuant to N.M. Const., art. IV, § 23, is effective on May 18, 1994, 90 days after

adjournment of the legislature. See Volume 14 NMSA 1978 for "Adjournment Dates of Sessions of Legislature" table.

Compiler's note. - Laws 1995, ch. 191, § 25, effective June 16, 1995, repeals Laws 1994, ch. 132, § 30, which provided for the repeal of this section on July 1, 1995.

11-3A-17. Construction of bond provisions.

The Regional Housing Law [this article] without reference to other statutes of the state shall constitute full authority for the authorization and issuance of bonds pursuant to that act. No other act or law with regard to the authorization or issuance of bonds that provides for an election, requires an approval or in any way impedes or restricts the carrying out of the acts authorized by the provisions of the Regional Housing Law shall be construed as applying to any proceedings taken or acts performed pursuant to the Regional Housing Law.

History: Laws 1994, ch. 132, § 17; 1995, ch. 191, § 16.

ANNOTATIONS

The 1995 amendment, effective June 16, 1995, made minor stylistic changes throughout the section.

Effective dates. - Laws 1994, ch. 132 contains no effective date provision, but, pursuant to N.M. Const., art. IV, § 23, is effective on May 18, 1994, 90 days after adjournment of the legislature. See Volume 14 NMSA 1978 for "Adjournment Dates of Sessions of Legislature" table.

Compiler's note. - Laws 1995, ch. 191, § 25, effective June 16, 1995, repeals Laws 1994, ch. 132, § 30, which provided for the repeal of this section on July 1, 1995.

11-3A-18. Certification of attorney general.

An authority may submit to the attorney general any bonds to be issued by it after all proceedings for the issuance of the bonds have been taken. Upon the submission of the bonds and record of the proceedings to the attorney general, it is the duty of the attorney general to examine and pass upon the validity of the bonds and the regularity of all proceedings in connection with the bonds. If the bonds and proceedings conform to the provisions of the Regional Housing Law [this article] and are otherwise regular in form and if the bonds when delivered and paid for will constitute binding and legal obligations enforceable according to the terms of the sale and issuance, the attorney general shall certify in substance upon the back of each of the bonds that it is issued in accordance with the constitution and laws of New Mexico.

History: Laws 1994, ch. 132, § 18; 1995, ch. 191, § 17.

ANNOTATIONS

The 1995 amendment, effective June 16, 1995, substituted "the bonds and record of the proceedings" for "such proceedings" in the second sentence, and made minor stylistic changes throughout the section.

Effective dates. - Laws 1994, ch. 132 contains no effective date provision, but, pursuant to N.M. Const., art. IV, § 23, is effective on May 18, 1994, 90 days after adjournment of the legislature. See Volume 14 NMSA 1978 for "Adjournment Dates of Sessions of Legislature" table.

Compiler's note. - Laws 1995, ch. 191, § 25, effective June 16, 1995, repeals Laws 1994, ch. 132, § 30, which provided for the repeal of this section on July 1, 1995.

11-3A-19. Remedies of an obligee.

An obligee of an authority shall have the right, in addition to all other rights that may be conferred on such obligee, subject only to any contractual restrictions binding upon such obligee to:

A. compel by mandamus, suit, action or proceeding at law or in equity, the authority and its officers, agents or employees to perform each and every term, provision and covenant contained in any contract of the authority with or for the benefit of the obligee and to require the carrying out of any or all covenants and agreements of the authority and the fulfillment of all duties imposed upon the authority by the Regional Housing Law [this article]; and

B. enjoin by suit, action or proceeding in equity, any acts or things that may be unlawful or in violation of any of the rights of the obligee of the authority.

History: Laws 1994, ch. 132, § 19; 1995, ch. 191, § 18.

ANNOTATIONS

The 1995 amendment, effective June 16, 1995, made minor stylistic changes throughout the section.

Effective dates. - Laws 1994, ch. 132 contains no effective date provision, but, pursuant to N.M. Const., art. IV, § 23, is effective on May 18, 1994, 90 days after adjournment of the legislature. See Volume 14 NMSA 1978 for "Adjournment Dates of Sessions of Legislature" table.

Compiler's note. - Laws 1995, ch. 191, § 25, effective June 16, 1995, repeals Laws 1994, ch. 132, § 30, which provided for the repeal of this section on July 1, 1995.

11-3A-20. Additional remedies conferrable to an obligee.

An authority shall have the power by its resolution, trust indenture, lease or other contract to confer upon any obligee holding or representing a specified amount in bonds, or holding a lease, the right, in addition to all rights that may otherwise be conferred, upon default as defined in the resolution or instrument, by suit, action or proceeding in any court of competent jurisdiction:

A. to cause possession of any housing project or any part of a housing project to be surrendered to the obligee, and retained by the bondholder or trustee so long as the authority continues in default;

B. to obtain the appointment of a receiver of any housing project of the authority and of the rents and profits from the housing project. If a receiver is appointed, he may enter and take possession of all or a part of the housing project and, so long as the authority continues in default, operate and maintain the housing project and collect and receive all fees, rents, revenues or other charges arising from the housing project and shall keep the money in a separate account and apply it in accordance with the obligations of the authority as the court directs; and

C. to require the authority and its officers and agents to account for the money actually received as if it and they were the trustees of an express trust.

History: Laws 1994, ch. 132, § 20; 1995, ch. 191, § 19.

ANNOTATIONS

The 1995 amendment, effective June 16, 1995, made minor stylistic changes throughout the section.

Effective dates. - Laws 1994, ch. 132 contains no effective date provision, but, pursuant to N.M. Const., art. IV, § 23, is effective on May 18, 1994, 90 days after adjournment of the legislature. See Volume 14 NMSA 1978 for "Adjournment Dates of Sessions of Legislature" table.

Compiler's note. - Laws 1995, ch. 191, § 25, effective June 16, 1995, repeals Laws 1994, ch. 132, § 30, which provided for the repeal of this section on July 1, 1995.

11-3A-21. Exemption of property from execution sale.

All real property owned or held by an authority for the purposes of the Regional Housing Law [this article] shall be exempt from levy and sale by virtue of an execution, and no execution or other judicial process shall be issued against property of the authority or shall any judgment against an authority be a charge or lien on the authority's real property; provided, however, that the provisions of this section shall not apply to or limit the right of obligees to pursue any remedies for the enforcement of any pledge or lien given to them on rents, fees or revenues.

History: Laws 1994, ch. 132, § 21; 1995, ch. 191, § 20.

ANNOTATIONS

The 1995 amendment, effective June 16, 1995, made minor stylistic changes throughout the section.

Effective dates. - Laws 1994, ch. 132 contains no effective date provision, but, pursuant to N.M. Const., art. IV, § 23, is effective on May 18, 1994, 90 days after adjournment of the legislature. See Volume 14 NMSA 1978 for "Adjournment Dates of Sessions of Legislature" table.

Compiler's note. - Laws 1995, ch. 191, § 25, effective June 16, 1995, repeals Laws 1994, ch. 132, § 30, which provided for the repeal of this section on July 1, 1995.

11-3A-22. Exemption of property from taxation.

The real property of a housing project, as defined in the Regional Housing Law [this article], is declared to be public property used for essential public and governmental purposes and is property of an authority of this state and is exempt from taxation until a deed conveying that property to a nonexempt entity is executed and delivered by the authority.

History: Laws 1994, ch. 132, § 22.

ANNOTATIONS

Effective dates. - Laws 1994, ch. 132 contains no effective date provision, but, pursuant to N.M. Const., art. IV, § 23, is effective on May 18, 1994, 90 days after adjournment of the legislature. See Volume 14 NMSA 1978 for "Adjournment Dates of Sessions of Legislature" table.

Compiler's note. - Laws 1995, ch. 191, § 25, effective June 16, 1995, repeals Laws 1994, ch. 132, § 30, which provided for the repeal of this section on July 1, 1995.

11-3A-23. Aid from state or federal government.

In addition to the powers conferred upon an authority by other provisions of the Regional Housing Law [this article], an authority is empowered to borrow money or accept contributions, grants or other financial assistance from the state or federal government for or in aid of any housing project within its area of operation and, to these ends, to comply with conditions, trust indentures, leases or agreements as necessary, convenient or desirable. It is the purpose and intent of the Regional Housing Law to authorize every authority to do all things necessary, convenient or desirable to secure the financial aid or cooperation of the federal government in the undertaking,

acquisition, construction, maintenance or operation of any housing project of an authority.

History: Laws 1994, ch. 132, § 23; 1995, ch. 191, § 21.

ANNOTATIONS

The 1995 amendment, effective June 16, 1995, added "state or" in the section heading and in the first sentence, and made minor stylistic changes throughout the section.

Effective dates. - Laws 1994, ch. 132 contains no effective date provision, but, pursuant to N.M. Const., art. IV, § 23, is effective on May 18, 1994, 90 days after adjournment of the legislature. See Volume 14 NMSA 1978 for "Adjournment Dates of Sessions of Legislature" table.

Compiler's note. - Laws 1995, ch. 191, § 25, effective June 16, 1995, repeals Laws 1994, ch. 132, § 30, which provided for the repeal of this section on July 1, 1995.

11-3A-24. Cooperation in undertaking housing projects.

For the purpose of aiding and cooperating in the planning, undertaking, construction or operation of housing projects located within the area in which it is authorized to act, any local public body may, upon such terms as it may determine, with or without consideration:

A. dedicate, sell, convey or lease any of its interest in any property, or grant easements, licenses or any other rights or privileges to any authority;

B. cause parks, playgrounds, recreational, community, educational, water, sewer or drainage facilities, or any other works that it is otherwise empowered to undertake, to be furnished adjacent to or in connection with housing projects;

C. furnish, dedicate, close, pave, install, grade, regrade, plan or replan streets, roads, roadways, alleys, sidewalks or other places that it is otherwise empowered to undertake;

D. cause services to be furnished for housing projects of the character which the local public body is otherwise empowered to furnish;

E. enter into agreements with respect to the exercise by the local public body of its powers relating to the repair, elimination or closing of unsafe, unsanitary or unfit dwellings;

F. do any things necessary or convenient to aid and cooperate in the planning, undertaking, construction or operation of housing projects;

G. incur the entire expense of any public improvements made by the local public body in exercising the powers granted in the Regional Housing Law [this article]; and

H. enter into agreements, which may extend over any period, notwithstanding any provision or rule of law to the contrary, with any authority respecting action to be taken by the local public body pursuant to any of the powers granted by the Regional Housing Law. Any law or statute to the contrary notwithstanding, any sale, conveyance, lease or agreement provided for in this section may be made by a local public body without appraisal, public notice, advertisement or public bidding.

History: Laws 1994, ch. 132, § 24; 1995, ch. 191, § 22.

ANNOTATIONS

The 1995 amendment, effective June 16, 1995, made minor stylistic changes throughout the section.

Effective dates. - Laws 1994, ch. 132 contains no effective date provision, but, pursuant to N.M. Const., art. IV, § 23, is effective on May 18, 1994, 90 days after adjournment of the legislature. See Volume 14 NMSA 1978 for "Adjournment Dates of Sessions of Legislature" table.

Compiler's note. - Laws 1995, ch. 191, § 25, effective June 16, 1995, repeals Laws 1994, ch. 132, § 30, which provided for the repeal of this section on July 1, 1995.

11-3A-25. Procedure for exercising powers.

The exercise by an authority or other local public body of the powers granted in the Regional Housing Law [this article] may be authorized by resolution of the governing body of the public body adopted by a majority of the members of its governing body present at a meeting of the governing body. The resolution may be adopted at the meeting at which the resolution is introduced. The resolution shall take effect immediately and need not be laid over or published or posted.

History: Laws 1994, ch. 132, § 25; 1995, ch. 191, § 23.

ANNOTATIONS

The 1995 amendment, effective June 16, 1995, made minor stylistic changes throughout the section.

Effective dates. - Laws 1994, ch. 132 contains no effective date provision, but, pursuant to N.M. Const., art. IV, § 23, is effective on May 18, 1994, 90 days after adjournment of the legislature. See Volume 14 NMSA 1978 for "Adjournment Dates of Sessions of Legislature" table.

Compiler's note. - Laws 1995, ch. 191, § 25, effective June 16, 1995, repeals Laws 1994, ch. 132, § 30, which provided for the repeal of this section on July 1, 1995.

11-3A-26. Supplemental nature of the regional housing law.

The powers conferred by the Regional Housing Law [this article] shall be in addition and supplemental to the powers conferred by any other law.

History: Laws 1994, ch. 132, § 26.

ANNOTATIONS

Effective dates. - Laws 1994, ch. 132 contains no effective date provision, but, pursuant to N.M. Const., art. IV, § 23, is effective on May 18, 1994, 90 days after adjournment of the legislature. See Volume 14 NMSA 1978 for "Adjournment Dates of Sessions of Legislature" table.

Compiler's note. - Laws 1995, ch. 191, § 25, effective June 16, 1995, repeals Laws 1994, ch. 132, § 30, which provided for the repeal of this section on July 1, 1995.

11-3A-27. Housing bonds; legal investments; security; negotiable.

The state and all public officers, municipal corporations, political subdivisions and public bodies; all banks, bankers, trust companies, savings banks and institutions, building and loan associations, savings and loan associations, investment companies and other persons carrying on a banking business; all insurance companies, insurance associations and other persons carrying on an insurance business; and all executors, administrators, guardians, trustees and other fiduciaries may legally invest sinking funds, money or other funds belonging to them or within their control in bonds or other obligations issued pursuant to the Regional Housing Law [this article] or issued by any authority or agency in the United States, when the bonds or other obligations are secured by a pledge of annual contributions to be paid by the United States government or any of its agencies. Bonds and other obligations shall be authorized security for all public deposits and shall be fully negotiable in this state. It is the purpose of the Regional Housing Law to authorize any persons, firms, corporations, associations, political subdivisions, bodies and officers, public or private, to use any funds owned or controlled by them, including, but not limited to, sinking, insurance, investment, retirement, compensation, pension and trust funds and funds held on deposit, for the purchase of any bonds or other obligations of an authority. Any bonds or other obligations of an authority shall be authorized security for all public deposits and shall be fully negotiable in this state; provided, however, that nothing contained in the Regional Housing Law shall be construed as relieving any person, firm or corporation from any duty of exercising reasonable care in selecting securities.

History: Laws 1994, ch. 132, § 27; 1995, ch. 191, § 24.

ANNOTATIONS

The 1995 amendment, effective June 16, 1995, deleted "public housing" preceding "authority or agency in the United States", substituted "of an authority" for "and that", added "of an authority" following "obligations" near the end of the section, and made minor stylistic changes throughout the section.

Effective dates. - Laws 1994, ch. 132 contains no effective date provision, but, pursuant to N.M. Const., art. IV, § 23, is effective on May 18, 1994, 90 days after adjournment of the legislature. See Volume 14 NMSA 1978 for "Adjournment Dates of Sessions of Legislature" table.

Compiler's note. - Laws 1995, ch. 191, § 25, effective June 16, 1995, repeals Laws 1994, ch. 132, § 30, which provided for the repeal of this section on July 1, 1995.

11-3A-28. Law controlling.

Insofar as the provisions of the Regional Housing Law [this article] are inconsistent with the provisions of any other law, the provisions of the Regional Housing Law shall be controlling.

History: Laws 1994, ch. 132, § 28.

ANNOTATIONS

Effective dates. - Laws 1994, ch. 132 contains no effective date provision, but, pursuant to N.M. Const., art. IV, § 23, is effective on May 18, 1994, 90 days after adjournment of the legislature. See Volume 14 NMSA 1978 for "Adjournment Dates of Sessions of Legislature" table.

Compiler's note. - Laws 1995, ch. 191, § 25, effective June 16, 1995, repeals Laws 1994, ch. 132, § 30, which provided for the repeal of this section on July 1, 1995.

11-3A-29. Temporary provision; continuation of regional housing authorities and boards of commissioners.

Regional Housing Authorities and boards of commissioners created and organized under the provisions of Sections 11-3-1 through 11-3-6 NMSA 1978 are perpetuated and shall continue to exist as Regional Housing Authorities under the Regional Housing Law [this article]. Members of the boards of commissioners of Regional Housing Authorities appointed prior to the effective date of the Regional Housing Law shall continue to serve as members of boards of commissioners, until their terms expire and their successors are appointed and qualified pursuant to the provisions of the Regional Housing Law. All existing contracts and agreements of Regional Housing Authorities in effect on the effective date of the Regional Housing Law shall continue in effect under the provisions of the Regional Housing Law.

History: Laws 1994, ch. 132, § 29.

ANNOTATIONS

Effective dates. - Laws 1994, ch. 132 contains no effective date provision, but, pursuant to N.M. Const., art. IV, § 23, is effective on May 18, 1994, 90 days after adjournment of the legislature. See Volume 14 NMSA 1978 for "Adjournment Dates of Sessions of Legislature" table.

Compiler's note. - The effective date of the Regional Housing Law is May 18, 1994.

Laws 1995, ch. 191, § 25, effective June 16, 1995, repeals Laws 1994, ch. 132, § 30, which provided for the repeal of this section on July 1, 1995.

ARTICLE 4
HOUSING AUTHORITY

11-4-1. Short title.

This act [11-4-1 to 11-4-8 NMSA 1978] may be cited as the "Housing Authority Act."

History: 1953 Comp., § 4-30A-1, enacted by Laws 1975, ch. 102, § 1.

ANNOTATIONS

Cross-references. - For Regional Housing Law, see Chapter 11, Article 3A NMSA 1978.

For the Municipal Housing Law, see 3-45-1 NMSA 1978 et seq.

For the Urban Development Law, see 3-46-1 NMSA 1978 et seq.

For the Community Development Law, see 3-60-1 NMSA 1978 et seq.

For the Utility Supplement Act, see 27-6-1 NMSA 1978 et seq.

For the Mortgage Finance Authority Act, see 58-18-1 NMSA 1978 et seq.

Am. Jur. 2d, A.L.R. and C.J.S. references. - Substantive issues relative to rent levels and termination of benefits under United States Housing Act of 1937 (42 USCS §§ 1437 et seq.), 77 A.L.R. Fed. 884.

11-4-2. Legislative intent.

A. It is hereby declared that there now exists [exist] in the state unsanitary and unsafe dwelling accommodations and that families and persons of low or moderate incomes are forced for economic reasons to reside in such unsanitary and unsafe accommodations. It is further declared that there is a shortage of safe and sanitary dwelling accommodations available at rents or prices that low or moderate income families and persons can afford to pay and that unless assistance is provided to families and persons in securing new or rehabilitated housing, a large number of residents of this state will be compelled to live under unsanitary, overcrowded and unsafe conditions to the detriment of their health, welfare and well-being and the communities of which they are a part.

B. It is found that private enterprise and existing public housing organizations have been unable to profitably and adequately meet, on a statewide basis, the housing needs of the people of New Mexico. It is further found that the government of the United States has provided numerous grants and other programs for the development of low and moderate income housing and that such programs anticipate the full cooperation and coordination of existing state and local government agencies and housing development entities and that such cooperation and coordination requires [require] the establishment of an agency within [the] state government to administer these programs.

C. In order to provide for such coordination and cooperation and to provide state assistance in meeting the pressing housing needs of the people of New Mexico, the legislature hereby establishes the state housing authority.

History: 1953 Comp., § 4-30A-2, enacted by Laws 1975, ch. 102, § 2.

11-4-3. Definitions.

As used in the Housing Authority Act [11-4-1 to 11-4-8 NMSA 1978]:

A. "authority" means the state housing authority;

B. "committee" means the New Mexico state housing advisory committee; and

C. "low or moderate income families or persons" means families or persons whose gross aggregate incomes and assets are insufficient, in accordance with regulations prescribed by the authority, to secure decent, safe and sanitary housing provided by private industry without loans made by the authority or federal subsidies.

History: 1953 Comp., § 4-30A-3, enacted by Laws 1975, ch. 102, § 3.

11-4-4. Housing authority created.

The "state housing authority" is created within the economic development department.

History: 1953 Comp., § 4-30A-4, enacted by Laws 1975, ch. 102, § 4; 1977, ch. 247, § 31; 1983, ch. 296, § 23; 1991, ch. 21, § 30.

ANNOTATIONS

The 1983 amendment substituted "commerce and industry department" for "planning division of the department of finance and administration."

The 1991 amendment, effective March 27, 1991, substituted "economic development" for "commerce and industry".

Appropriations. - Laws 1985 (1st S.S.), ch. 15, § 2C appropriates $750,000 from the general fund to the state housing authority for housing rehabilitation of housing owned by low-income elderly or handicapped persons in the seventy-third and seventy-fourth fiscal years and provides that any unexpended or unencumbered balance remaining at the end of the seventy-fourth fiscal year shall revert to the general fund.

Laws 1985 (1st S.S.), ch. 15, § 10 provides that if the special session of the thirty-seventh legislature passed and signed into law other bills which authorize funding for any project enumerated in Chapter 15, authorizations for funding contained in Chapter 15 shall be reduced by the amount contained in those other acts of the special session.

Laws 1985 (1st S.S.), ch. 15, § 25 makes the act effective immediately. Approved June 7, 1985.

Laws 1994, ch. 148, § 49F, effective March 9, 1994, appropriates $25,000 from the general fund to the state housing authority of the economic development department for expenditure in the eighty-second and eighty-third fiscal years for improvements required pursuant to the federal Americans with Disabilities Act of 1990 to a handicapped-assisted housing project for the elderly in Roswell in Chaves county. Any unexpended or unencumbered balance remaining at the end of the eighty-third fiscal year shall revert to the general fund.

11-4-5. Powers and duties defined.

In addition to all other powers and duties the state housing authority may have in the Housing Authority Act [11-4-1 to 11-4-8 NMSA 1978] and other provisions of law, the state housing authority:

A. shall serve as liaison with the governor;

B. may apply to any appropriate agency of the United States for participation in and for the receipt of aid from any housing program;

C. shall administer federal and other funds which are received, controlled or disbursed for the purposes of carrying out the provisions of the Housing Authority Act;

D. shall coordinate and mobilize housing assistance and funding resources in regard to the construction of new housing, the rehabilitation of existing housing and rental or leasing programs;

E. shall be responsible for housing data collection, planning and research;

F. shall establish and define state housing goals and policies in regard to the construction of new housing, the rehabilitation of existing structures and rental or leasing programs and shall assure proper implementation of rural and urban housing programs, consistent with state needs;

G. shall coordinate with, assist and seek input from local and regional housing authorities;

H. shall carry out housing promotion activities and public information dissemination;

I. shall conduct a biennial review of all regional housing authorities' programs and report its findings in writing no later than September 1 of each even-numbered year to the finance and administration department and to the legislative finance committee;

J. shall cooperate with existing organizations in an effort to secure all available assistance for rural low-income housing;

K. shall cooperate with and provide staff support to the housing advisory committee; and

L. shall prescribe rules, regulations and policies in connection with the performance of its functions and duties.

History: 1953 Comp., § 4-30A-5, enacted by Laws 1975, ch. 102, § 5; 1979, ch. 20, § 1.

ANNOTATIONS

Temporary provisions. - Laws 1985, ch. 96, §§ 1 to 6, the Long-Term Care Planning Act, provides for a study of a comprehensive approach to long-term planning and the development of an integrated long-term care system for the care of the elderly and the handicapped adults.

Laws 1985, ch. 96, § 7, appropriates $35,000 from the general fund to the department of finance and administration to pay salaries and benefits of the staff and per diem and mileage of nonstate work group and committee members in the seventy-third and seventy-fourth fiscal years and provides that any unexpended or unencumbered balance remaining at the end of the seventy-fourth fiscal year shall revert to the general fund.

Laws 1985, ch. 96, § 8, makes the act effective immediately. Approved April 2, 1985.

Am. Jur. 2d, A.L.R. and C.J.S. references. - Suability, and liability, for torts, of public housing authority, 61 A.L.R.2d 1246.

Validity and construction of statute or ordinance providing for repair or destruction of a residential building by public authorities at owner's expense, 43 A.L.R.3d 916.

What constitutes "blighted area" within urban renewal and redevelopment statutes, 45 A.L.R.3d 1096.

11-4-6. Committee created; membership.

A. The New Mexico "state housing advisory committee" is created and shall be composed of:

(1) five citizens to be appointed by the governor representing housing organizations, development and construction concerns and other groups and individuals with an interest in housing. The citizen members shall be appointed for staggered terms of four years. In making the initial appointments, the governor shall appoint one member for a term of one year or less expiring on December 31; one member for a term of two years or less expiring on December 31; one member for a term of three years or less expiring on December 31; and two members for a term of four years or less each expiring on December 31. Thereafter all appointments shall be for four years. Vacancies shall be filled by the governor for the unexpired term. Members shall receive per diem and mileage as provided in the Per Diem and Mileage Act [10-8-1 to 10-8-8 NMSA 1978];

(2) the chairman of each of the regional housing authorities or, if there is no chairman of a regional housing authority, the governor shall appoint a member from that region. These members shall serve terms consistent with their respective regional chairmanships and shall receive per diem and mileage as provided in the Per Diem and Mileage Act; and

(3) the secretary of the economic development department who shall serve ex officio.

B. The governor shall appoint a chairman from among the committee members to serve at the pleasure of the governor. The committee may elect a vice chairman from its membership to serve in the absence of the chairman.

C. The committee shall meet at least once each quarter.

History: 1953 Comp., § 4-30A-6, enacted by Laws 1975, ch. 102, § 6; 1977, ch. 247, § 32; 1983, ch. 296, § 24; 1991, ch. 226, § 1.

ANNOTATIONS

The 1983 amendment substituted "secretary of the commerce and industry department" for "director of the planning division of the department of finance and administration or his designee and the secretary of finance and administration or his designee" in Paragraph (3) of Subsection A.

The 1991 amendment, effective June 14, 1991, in Subsection A, rewrote Paragraph (2) which read "the chairman of each of the regional housing authorities who shall serve terms consistent with their respective regional chairmanship terms and shall receive per diem and mileage as provided in the Per Diem and Mileage Act" and substituted "economic development" for "commerce and industry" in Paragraph (3).

11-4-7. Committee functions defined.

The committee shall serve as an advisory body to the authority and in this capacity shall:

A. serve as a coordinating and information-gathering body in regard to state housing needs;

B. identify state housing needs and advise the authority on such needs;

C. review housing proposals and make recommendations to the authority; and

D. provide other advice and assistance to the authority as deemed necessary pursuant to Section 5 [11-4-5 NMSA 1978] of the Housing Authority Act.

History: 1953 Comp., § 4-30A-7, enacted by Laws 1975, ch. 102, § 7.

11-4-8. Conflict of interest; committee members.

If any member of the committee owns or controls an interest, directly or indirectly, in any housing project promoted by the authority, he shall immediately disclose the same in writing to the secretary of state and such disclosure shall be entered in the records of the secretary of state. The failure to so disclose such interest shall constitute misconduct in office. Upon disclosure such members shall not participate in any action of the authority affecting such property.

History: 1953 Comp., § 4-30A-8, enacted by Laws 1975, ch. 102, § 8.

ANNOTATIONS

Severability clauses. - Laws 1975, ch. 102, § 10, provides for the severability of the act if any part or application thereof is held invalid.

ARTICLE 5
BICENTENNIAL GRANT-IN-AID

11-5-1. Short title.

This act [11-5-1 to 11-5-3 NMSA 1978] may be cited as the "Bicentennial Grant-in-Aid Act."

History: 1953 Comp., § 4-35-10, enacted by Laws 1975, ch. 195, § 1.

11-5-2. State bicentennial grant-in-aid fund.

There is created the state bicentennial grant-in-aid fund in the office of the state treasurer.

History: 1953 Comp., § 4-35-11, enacted by Laws 1975, ch. 195, § 2.

11-5-3. Administration; cost-sharing formula; limitations.

The New Mexico American revolution bicentennial commission, a division within the state park and recreation commission [state park and recreation division of the energy, minerals and natural resources department], shall administer the state bicentennial grant-in-aid fund and shall process all applications for grants from the state bicentennial grant-in-aid fund. Funds from the state bicentennial grant-in-aid fund shall be made available only upon the condition that the proceeds are matched by local or other state funds on the following basis: at least fifty percent shall be local or other state funds, which may be composed of not more than twenty-five percent in-kind services, and the remainder shall be from the state bicentennial grant-in-aid fund.

State agencies or institutions and incorporated municipalities or counties sponsoring projects of unincorporated communities, including, but not limited to Indian communities, shall be entitled to receive funds from the state bicentennial grant-in-aid fund as prescribed and approved by the New Mexico American revolution bicentennial commission. Projects proposed must be in accordance with provisions of the American revolution bicentennial administration project matching grant guidelines pursuant to Section 9 (b) of P.L. 93-179 and the New Mexico American revolution bicentennial commission's "criteria statement" and the standard contract agreement between the New Mexico state park and recreation commission bicentennial division and the participant. All terminology contained within these respective documents relating to nonprofit organizations shall be disregarded, as such entities are not eligible for state financial assistance. State funds shall be made available for expenditure by the applicant state agency or institution or political subdivision once the project is approved by the New Mexico American revolution bicentennial commission and the applicant demonstrates the availability and source of funds required for its share in the total project cost.

History: 1953 Comp., § 4-35-12, enacted by Laws 1975, ch. 195, § 3; 1976 (S.S.), ch. 55, § 1.

ANNOTATIONS

Bracketed material. - The bracketed reference to the state park and recreation division of the energy, minerals and natural resources department was inserted by the compiler. The bracketed material was not enacted by the legislature and is not a part of the law.

Compiler's note. - The New Mexico American revolution bicentennial commission, referred to in this section, was created by Laws 1973, ch. 249, § 2, which was compiled as § 4-35-6, 1953 Comp. Section 4-35-6, 1953 Comp., was repealed by Laws 1977, ch. 246, § 70, effective March 31, 1978.

ARTICLE 6
NEW MEXICO COMMUNITY ASSISTANCE

11-6-1. Short title.

This act may be cited as the "New Mexico Community Assistance Act."

History: 1953 Comp., § 14-64-1, enacted by Laws 1977, ch. 299, § 1.

ANNOTATIONS

Meaning of "this act". - The term "this act" refers to Laws 1977, ch. 299, which is compiled as 11-6-1 to 11-6-3, 11-6-4, 11-6-5, 11-6-6, 11-6-7 to 11-6-9 NMSA 1978.

11-6-2. Legislative findings and statement of purpose.

A. The development of infrastructure needs of local communities, including but not limited to water, sewage treatment, power, transportation and communication, is a prerequisite to economic development in all areas of the state. Local communities cannot finance these infrastructure needs alone because of inadequate bonding capacity, lag time between development and the generation of revenue and the dependency of economic development on an adequate infrastructure.

B. The legislature finds and declares that, to aid local communities in providing adequate, safe and sanitary services, a community assistance program is needed, particularly for those communities faced with rapid growth or loss of their tax base. A council should be created to review proposals submitted by political subdivisions and to allocate funding from several sources, including severance tax bonds as approved and issued by the state board of finance, community development block grants from the federal government and such other sources of funding as the legislature may specify

from time to time for financing needed projects for local community infrastructure development.

C. In order to maximize the utilization of various sources of funding, the legislature designates the local government division of the department of finance and administration as the central clearinghouse and administering and coordinating agency for state and federally funded programs for local community infrastructure development to provide for a common application and funding cycle, promote efficiency, prevent confusion and duplication and limit paperwork for communities seeking assistance.

History: 1978 Comp., § 11-6-2, enacted by Laws 1984, ch. 5, § 2.

ANNOTATIONS

Cross-references. - For local government division of the department of finance and administration, see 6-6-2 NMSA 1978.

Repeals and reenactments. - Laws 1984, ch. 5, § 2, repeals former 11-6-2 NMSA 1978, as amended by Laws 1983, ch. 298, § 1, and enacts the above section. For provisions of former section, see 1983 replacement pamphlet.

11-6-3. Definitions.

As used in the New Mexico Community Assistance Act:

A. "council" means the New Mexico community development council;

B. "project" means, except as limited by the state constitution, the purchase, construction, lease, gift, grant, reconstruction, improvement, option to purchase or other acquisition of educational, cultural, recreational, community, municipal, social service or other facilities by a political subdivision, including but not limited to publicly owned water systems, sewer systems, municipal utilities, roads, streets, highways, curbs, gutters, sidewalks, storm sewers, street lighting, traffic control devices, parking facilities, vocational training and rehabilitation facilities, airports, hospitals, nursing homes, publicly owned mental health, alcohol and drug abuse, child abuse and family counseling facilities, juvenile detention homes, swimming pools, parks, auditoriums, public buildings, libraries, fire and police stations, jails, waste disposal systems and sites, special assessment district improvements and all necessary real and personal property therefor, but does not include facilities for the public schools;

C. "community assistance program" means a program to assist political subdivisions with infrastructure development, which may include but is not limited to:

(1) a grant or loan of funds to the political subdivisions;

(2) gathering data about the political subdivisions;

(3) providing technical assistance to analyze the needs and seek solutions to problems related to infrastructure development in political subdivisions; and

(4) providing technical assistance in seeking funds from sources other than the council;

D. "division" means the local government division of the department of finance and administration; and

E. "political subdivision" means any county; incorporated city, town or village; drainage, conservancy, irrigation, water and sanitation or other district; mutual domestic association; public water cooperative association; or community ditch association.

History: 1953 Comp., § 14-64-3, enacted by Laws 1977, ch. 299, § 3; 1981 (1st S.S.), ch. 11, § 1; 1984, ch. 5, § 3.

ANNOTATIONS

The 1984 amendment substituted "development" for "assistance" in Subsection A, deleted "within a region affected by mineral and energy development to effectuate the purposes of the New Mexico Community Assistance Act" following "political subdivision" in Subsection B, substituted "with infrastructure development" for "impacted by mineral and energy development in New Mexico" in the introductory paragraph in Subsection C, inserted "or loan" and deleted "impacted" preceding "political" in Subsection C(1), substituted "infrastructure" for "mineral or energy" in Subsection C(3) and added Subsections D and E.

New Mexico Community Assistance Act. - See 11-6-1 NMSA 1978 and notes thereto.

11-6-3.1. Repealed.

ANNOTATIONS

Repeals. - Laws 1983, ch. 298, § 5, repeals 11-6-3.1 NMSA 1978, including carbon dioxide in the definition of mineral for the New Mexico Community Assistance Act, effective April 7, 1983. See 11-6-6.1 NMSA 1978.

11-6-4. New Mexico community development council; established; appointment; terms; officers.

A. The "New Mexico community development council" is created.

B. The council shall consist of

(1) the secretary of finance and administration or a member of his staff designated by him;

(2) the governor or a member of his staff designated by him;

(3) the secretary of health and environment or a member of his staff designated by him;

(4) the lieutenant governor or a member of his staff designated by him; and

(5) seven members appointed by the governor. Appointments shall be made for three-year terms expiring on January 1 of the appropriate year. Each of the following districts shall be represented by one member who shall reside in that district:

(a) district one - San Juan, McKinley and Cibola counties;

(b) district two - Rio Arriba, Santa Fe, Taos, Los Alamos, Colfax, Mora and San Miguel counties;

(c) district three - Bernalillo, Sandoval, Torrance and Valencia counties;

(d) district four - Union, Harding, Quay, Guadalupe, DeBaca, Roosevelt and Curry counties;

(e) district five - Catron, Hidalgo, Luna and Grant counties;

(f) district six - Lincoln, Otero, Chaves, Eddy and Lea counties; and

(g) district seven - Sierra, Dona Ana and Socorro counties.

Appointment of the two additional members provided for in the 1984 amendment to this subsection shall be for terms expiring on January 1, 1986 and January 1, 1987, and thereafter for three years.

C. An appointed member's term may be terminated by the governor for good cause shown.

D. Appointed members shall serve in office until their successors are appointed unless sooner removed according to law. If a vacancy occurs in the office of an approved member by death, resignation or otherwise, the governor shall appoint a successor to serve for the balance of the unexpired term.

E. The governor shall select one member to be chairman of the council. The council shall select such other officers as it deems necessary.

History: 1953 Comp., § 14-64-4, enacted by Laws 1977, ch. 299, § 4; 1978, ch. 63, § 1; 1981 (1st S.S.), ch. 11, § 2; 1983, ch. 296, § 15; 1983, ch. 298, § 2; 1984, ch. 5, § 4.

ANNOTATIONS

Cross-references. - For governor's office of policy and planning, see 9-14-3 NMSA 1978.

1983 amendments. - Laws 1983, ch. 296, § 15, deleting, in Subsection B, former Paragraph (2), which included "the director of the planning division, or a member of his staff designated by him" in the membership of the council and redesignating former Paragraphs (3) through (5) as present Paragraphs (2) through (4), was not approved by the governor but was enacted at a session which adjourned on March 19, 1983. Laws 1983, ch. 298, § 2, deleting, in Subsection B, "of the department" following "secretary" near the beginning of Paragraph (1), substituting present Paragraph (2) for former Paragraph (2), which read: "the director of the planning division, or a member of his staff designated by him," substituting "secretary of health and environment" for "director of the health and environment department" near the beginning of Paragraph (3), deleting "the" preceding "energy" and "department" following "minerals" in Paragraph (4), substituting the last sentence of the introductory paragraph of Paragraph (5) for "Each of the members shall reside in one of the following districts", deleting "Rio Arriba" preceding "Sandoval" near the middle of Subparagraph (a) of Paragraph (5), adding "counties" at the end of Subparagraph (c) of Paragraph (5), inserting "Rio Arriba" near the middle of Subparagraph (e) of Paragraph (5), and inserting "the 1981 amendment to" near the middle of the first sentence of the concluding paragraph following Subparagraph (e) of Paragraph (5), but not giving effect to the changes made by the first 1983 amendment, was approved April 7, 1983. The section is set out as amended by Laws 1983, ch. 298, § 2. See 12-1-8 NMSA 1978.

The 1984 amendment substituted "development" for "assistance" in the catchline and in Subsection A and rewrote the rest of the section to the extent that a detailed comparison is impracticable. For provisions of this section as amended by Laws 1983, ch. 298, § 2, see the 1983 replacement pamphlet.

Appropriations. - Laws 1981 (1st S.S.), ch. 11, § 7, authorizes the state board of finance to issue and sell severance tax bonds in compliance with the Severance Tax Bonding Act in an amount not exceeding $10,000,000 for project grants pursuant to the provisions of the New Mexico Community Assistance Act and appropriates proceeds of the bonds to the New Mexico community assistance council for the purpose of making project grants.

Transfer of personnel, funds and property. - Laws 1984, ch. 5, § 16, transfers all employees, funds and property used in the administration of the New Mexico Community Assistance Act to the local government division of the department of finance and administration and states the legislature's intention that the staff of the current New Mexico community assistance council be transferred to function as staff of the New Mexico community development council.

Secretary of health and environment. - Laws 1991, ch. 25, § 16 repealed former 9-7-4 NMSA 1978, relating to the department of health and environment, and enacted new 9-7-4 NMSA 1978, relating to the department of health. Laws 1991, ch. 25 also enacted

9-7A-1 to 9-7A-14 NMSA 1978, relating to the department of the environment. The reference to the secretary of health and environment should now be a reference to either the secretary of health or the secretary of environment. See 9-7-5 NMSA 1978 and 9-7A-5 NMSA 1978.

11-6-4.1. Regulations.

A. The council, after public hearing, shall adopt regulations to provide for:

(1) procedures and forms for making grants under the New Mexico Community Assistance Act;

(2) documentation to be provided by the proposed grantee to justify the need for the community assistance program;

(3) procedures for review, evaluation and approval of grants;

(4) procedures for reporting by the grantee of programmatic, organizational and financial information necessary to the review, evaluation and approval of a proposed or existing grant to be funded or which is funded by the council;

(5) a guide for the evaluation of the ability and competence of a proposed or existing grantee to efficiently and adequately provide for the completion of the project;

(6) development and phase-in of a common application form and funding cycle insofar as practical for all state and federal grant or loan programs for local community infrastructure development administered or coordinated by the division;

(7) procedures for the coordination and handling of applications for all state and federal grant or loan programs administered and coordinated by the division;

(8) procedures to control the number of applications from each political subdivision; and

(9) such other requirements deemed necessary by the council to ensure that the state receives the services for which the legislature appropriated money.

B. Regulations adopted by the council shall become effective when filed according to the provisions of the State Rules Act [Chapter 14, Article 4 NMSA 1978].

History: 1978 Comp., § 11-6-4.1, enacted by Laws 1981 (1st S.S.), ch. 11, § 3; 1984, ch. 5, § 5.

ANNOTATIONS

The 1984 amendment, in Subsection A, deleted "Prior to January 1, 1982" at the beginning of the introductory paragraph, inserted "New Mexico" in Paragraph (1),

inserted "assistance" in Paragraph (2), inserted present Paragraphs (6), (7), and (8) and redesignated former Paragraph (6) as present Paragraph (9).

New Mexico Community Assistance Act. - See 11-6-1 NMSA 1978 and notes thereto.

11-6-5. Powers of the council.

The council shall have all the powers necessary to carry out the purposes and provisions of the New Mexico Community Assistance Act, including but not limited to the power to:

A. develop and oversee the administration of community assistance programs;

B. adopt, amend and repeal, in accordance with the provisions of the State Rules Act [Chapter 14, Article 4 NMSA 1978] and with technical assistance from the staff of the division, all regulations necessary to administer and enforce the provisions of the rules of the New Mexico Community Assistance Act;

C. apply to any appropriate agency of the United States for participation in and for receipt of aid from any program designed to assist local community infrastructure development;

D. oversee the administration of federal and other funds which are received, controlled or disbursed for the purposes of carrying out the provisions of the community assistance program;

E. coordinate and mobilize assistance and funding resources in regard to the construction, extension or repair of projects;

F. coordinate with, assist and seek input from political subdivisions, community organizations and civic groups;

G. make and enter into all contracts and agreements necessary or incidental to its duties and the execution of its powers under the New Mexico Community Assistance Act;

H. do any and all things necessary or convenient to carry out its purposes and exercise the powers given and granted in the New Mexico Community Assistance Act; and

I. disburse and oversee the administration of any other funds appropriated to the council or as directed by the legislature.

History: 1953 Comp., § 14-64-5, enacted by Laws 1977, ch. 299, § 5; 1978, ch. 63, § 2; 1984, ch. 5, § 6.

ANNOTATIONS

The 1984 amendment substituted "oversee the administration of" for "administer" in Subsection A, "staff of the division" for "energy and minerals department staff" in Subsection B, "local community infrastructure development" for "areas of rapid growth occasioned by the impact of energy or mineral development" in Subsection C and "oversee the administration of" for "administer" in Subsection D and added Subsection I.

Appropriations. - Laws 1986, ch. 115, § 1F appropriates, from the total proceeds of the sale of severance tax bonds, $4,000,000 to the New Mexico community development council to carry out the purposes of the New Mexico Community Assistance Act and provides that the appropriation is not to revert to the severance tax bonding fund.

Laws 1986, ch. 115, § 11 provides that authorizations for the funding of any project enumerated in Chapter 115 shall be reduced by the amount contained in those acts of the second session of the thirty-seventh legislature which authorize funding for the same projects and provides that, if the agency responsible for certifying to the state board of finance the need for the issuance of bonds for a specific enumerated project does not so certify by the end of the seventy-sixth fiscal year, the issuance of bonds for that project, with the exception of authorizations for projects that require federal matching funds, is void.

Laws 1986, ch. 115, § 12 provides that unless otherwise specified, any unexpended or unencumbered balance remaining from the proceeds of severance tax bonds issued pursuant to Section 1 of that act shall revert to the severance tax bonding fund six months after completion of the project.

New Mexico Community Assistance Act. - See 11-6-1 NMSA 1978 and notes thereto.

11-6-5.1. Powers and duties of the division.

The division, in accordance with regulations adopted pursuant to Section 11-6-4.1 NMSA 1978, shall have the power and duty to:

A. act as a clearinghouse, provide coordination and handle applications for all state and federal grant or loan programs for local community infrastructure development;

B. develop and adopt, insofar as possible, a common application form and funding cycle for all state and federal grant or loan programs for local community infrastructure development, including but not limited to programs under the New Mexico Community Assistance Act, the Water Supply Construction Act [Chapter 75, Article 1 NMSA 1978], the development fund, any state or federal solid waste management program, the federal wastewater treatment construction grants program, any state wastewater treatment construction grant or loan programs and federal community development block grant funds;

C. forward all applications for federal wastewater treatment construction grants to the water quality control commission or its designated constituent agency within five working days of receipt; provided that the water quality control commission and its designated constituent agency shall have authority for the administration of federal wastewater treatment construction grant funds, including determining eligibility of grant applicants, establishing priority systems and priority lists for grant applicants, technically reviewing grant applications and approving or denying grant applications;

D. administer federal community development block grant funds and all other federal and state grant or loan programs for local community infrastructure development for which the council has oversight responsibility or where such administration is not otherwise provided for by law; and

E. make and enter into all contracts and agreements necessary or incident to its duties and the execution of its powers under the New Mexico Community Assistance Act.

History: 1978 Comp., § 11-6-5.1, enacted by Laws 1984, ch. 5, § 7.

ANNOTATIONS

Cross-references. - For the water quality control commission, see 74-6-3 NMSA 1978.

New Mexico Community Assistance Act. - See 11-6-1 NMSA 1978 and notes thereto.

Water Supply Construction Act. - The title of Chapter 75, Article 1 NMSA 1978, referred to in Subsection B, was changed from the Water Supply Construction Act to the Rural Infrastructure Act by Laws 1988, ch. 28, § 1.

11-6-6. Community assistance application requirements.

A. A political subdivision desiring a grant of funds from the council shall file an application for a grant of funds with the council, which shall contain at least the following:

(1) a general description of the proposed project and a general description of related existing facilities, if any;

(2) a general description of all real estate, if any, necessary for the proposed project;

(3) preliminary plans and other documents necessary to show the type, structure and general character of the proposed project;

(4) estimates of cost of the proposed project;

(5) a general description and statement of value of any property, real or personal, of the political subdivision applied or to be applied to the proposed project;

(6) a statement of cash funds previously applied, or currently held by or on behalf of the political subdivision, which are available for and are to be applied to the proposed project;

(7) evidence of the arrangement made by the political subdivision for the financing of all costs of the proposed project in excess of the requested assistance from the council;

(8) evidence that the political subdivision has the organizational and technical competence to utilize the requested funds efficiently; and

(9) evidence that the political subdivision can properly operate and maintain the facility to be constructed for its useful life.

B. After receipt of an application for a grant of funds, the division shall provide copies of the application to appropriate state agencies, who shall have fifteen working days to review the application and communicate their comments to the council. The division shall also review all applications and submit its recommendations to the council. In deciding whether or not to approve assistance funds, the council except as provided by applicable federal law shall consider, but is not limited to:

(1) the health and safety of the residents to be served by the proposed project;

(2) the needs of other political subdivisions for infrastructure development funding; and

(3) other sources of funds available to the political subdivision to fund the proposed project.

C. All action shall be taken by vote of a majority of the members of the council.

D. The division shall, upon a decision by the council to approve assistance funds to a political subdivision, notify all appropriate state agencies of the project and request that they monitor it to assure that all statutes, rules and regulations are complied with and that standards are maintained.

History: 1953 Comp., § 14-64-6, enacted by Laws 1977, ch. 299, § 6; 1984, ch. 5, § 8.

ANNOTATIONS

The 1984 amendment substituted "council" for "authority" in Subsection A(7) and added Subsection A(9); in the introductory paragraph of Subsection B, substituted "division shall" for "council will" and "shall" for "will" following "who" and inserted "working" following "fifteen" in the first sentence, inserted the second sentence and substituted "approve" for "recommend approval of" and inserted "except as provided by

applicable federal law" in the third sentence; substituted "for infrastructure development funding" for "impacted by mineral and energy development in New Mexico" in Subsection B(2); and rewrote former Subsections D and E as present Subsection D. For provisions of former Subsections D and E, as amended by Laws 1977, ch. 299, § 6, see 1983 replacement pamphlet.

11-6-6.1. Requirements.

A. No project which will result in increased demand for water in the area of the project shall be recommended for approval by the council until the council is satisfied that the political subdivision either holds or can acquire water rights sufficient to meet the increase in demand. Nothing in this subsection shall be construed to require any political subdivision to submit information in an application under Section 11-6-6 NMSA 1978 which information would not be required under that section.

B. The council shall not approve a grant of funds for any political subdivision unless the council is satisfied that the political subdivision has taken all reasonable steps to use other sources of funding.

C. Of the grants made in any one fiscal year, at least fifteen percent of the dollar amount shall be made to counties with populations of less than fifteen thousand and other political subdivisions with populations of less than three thousand or on behalf of areas with populations of less than three thousand. For such grants, regardless of funding source, the council may, if it finds such to be in the public interest, waive any requirements to use other sources of funding.

D. No grant in excess of five hundred thousand dollars ($500,000) for any one project shall be made to a political subdivision in any one fiscal year, provided that this maximum does not apply to state funds for matching federal wastewater treatment facility construction grants.

E. In making grants from state funds that are not limited to a particular type of project, the council shall give priority to the needs of political subdivisions impacted either by rapid growth or loss of tax base.

History: 1978 Comp., § 11-6-6.1, enacted by Laws 1979, ch. 166, § 4; 1981 (1st S.S.), ch. 11, § 4; 1983, ch. 298, § 3; 1984, ch. 5, § 9.

ANNOTATIONS

The 1983 amendment inserted "carbon dioxide" near the middle of the last sentence of Paragraph (1) of Subsection B, added the last sentence of Paragraph (3) of Subsection B, and substituted "shall" for "will" near the middle of Subsection C.

The 1984 amendment rewrote Subsection B, deleting paragraph designations (1), (2) and (3), being the criteria to be used by the council in recommending a grant of funds,

deleted former Subsection C, which read "Special consideration by the council shall be given to highway, road and street improvements," and added Subsections C, D, and E. For provisions of former Subsection B, as amended by Laws 1983, ch. 298, § 3, see the 1983 replacement pamphlet.

Am. Jur. 2d, A.L.R. and C.J.S. references. - 53A Am. Jur. 2d Mines and Minerals §§ 4, 5, 7, 8, 9, 11, 26.

What are "minerals" within deed, lease, or license, 17 A.L.R. 156, 86 A.L.R. 983.

58 C.J.S. Mines and Minerals § 2.

11-6-6.2. Repealed.

ANNOTATIONS

Repeals. - Laws 1983, ch. 298, § 5, repeals 11-6-3.1 NMSA 1978, relating to grants of funds to political subdivisions for studies of the impact of mineral and energy development, effective April 7, 1983.

11-6-7. Ownership.

Upon completion of the project, ownership of the project will reside with the political subdivision which constructed the project.

History: 1953 Comp., § 14-64-7, enacted by Laws 1977, ch. 299, § 8.

11-6-8. Staff.

The staff of the division shall be the staff of the council and shall provide technical assistance, compile data, evaluate the effectiveness of the program and report its findings to the legislature.

History: 1953 Comp., § 14-64-8, enacted by Laws 1977, ch. 299, § 9; 1978, ch. 63, § 3; 1984, ch. 5, § 10.

ANNOTATIONS

The 1984 amendment substituted "division" for "energy and mineral department" near the beginning of the section.

11-6-9. Assistance by state agencies.

A. Upon request of the council, any state agency is authorized and empowered to temporarily assign to the council such officers and employees as it may deem

necessary from time to time to assist the council in carrying out its functions and duties under the New Mexico Community Assistance Act. The officers and employees so assigned shall not lose their status or rights as public employees.

B. Upon request of the council, any state agency, or officer or employee thereof, is authorized and empowered to lend such technical assistance, render advice and attend meetings with directors and employees of the council as the council may require in carrying out its functions and duties.

History: 1953 Comp., § 14-64-9, enacted by Laws 1977, ch. 299, § 10.

ANNOTATIONS

New Mexico Community Assistance Act. - See 11-6-1 NMSA 1978 and notes thereto.

ARTICLE 6A
LOCAL DWI GRANT PROGRAM

11-6A-1. Short title.

Sections 1 through 5 [11-6A-1 to 11-6A-5 NMSA 1978] of this act may be cited as the "Local DWI Grant Program Act".

History: Laws 1993, ch. 65, § 1.

ANNOTATIONS

Effective dates. - Laws 1993, ch. 65, § 24 makes the Local DWI Grant Program Act effective on July 1, 1993.

11-6A-2. Definitions.

As used in the Local DWI Grant Program Act [this article]:

A. "council" means the DWI grant council; and

B. "division" means the local government division of the department of finance and administration.

History: Laws 1993, ch. 65, § 2.

ANNOTATIONS

Effective dates. - Laws 1993, ch. 65, § 24 makes the Local DWI Grant Program Act effective on July 1, 1993.

11-6A-3. Local DWI grant program; fund.

A. The division shall establish a local DWI grant program to make grants to municipalities or counties for new, innovative or model programs, services or activities to prevent or reduce the incidence of DWI, alcoholism and alcohol abuse. Grants shall be awarded by the council pursuant to the advice and recommendations of the division.

B. The "local DWI grant fund" is created in the state treasury and shall be administered by the division. Money in the fund is appropriated to the division to make grants to municipalities and counties upon council approval in accordance with the program established under the Local DWI Grant Program Act [this article]. No more than five percent of any appropriation to the fund in any fiscal year shall be expended for administration of the grant program. Balances in the fund at the end of any fiscal year shall not revert to the general fund.

C. In awarding DWI grants to local communities, the council:

(1) may fund new, innovative or model programs, services or activities of any kind designed to prevent or reduce the incidence of DWI, alcoholism or alcohol abuse;

(2) may fund existing community-based programs, services or facilities for prevention, screening and treatment of alcoholism and alcohol abuse;

(3) shall give consideration to a broad range of approaches to prevention, education, screening, treatment or alternative sentencing, including programs that combine incarceration, treatment and aftercare, to address the problems of DWI, alcoholism or alcohol abuse; and

(4) shall make grants only to counties or municipalities in counties that have established a DWI planning council and adopted a county DWI plan or are parties to a multicounty DWI plan that has been approved pursuant to the Alcoholism and Alcohol Abuse Prevention, Screening and Treatment Act [Chapter 43, Article 3 NMSA 1978] and only for programs, services or activities consistent with that plan.

History: Laws 1993, ch. 65, § 3.

ANNOTATIONS

Effective dates. - Laws 1993, ch. 65, § 24 makes the Local DWI Grant Program Act effective on July 1, 1993.

Appropriations. - Laws 1993, ch. 65, § 22A, effective July 1, 1993, appropriates $5,500,000 from the general fund to the local DWI grant fund for the eighty-second

fiscal year for expenditure by the local government division of the department of finance and administration for the purpose of making grants to counties and municipalities pursuant to the provisions of the Local DWI Grant Program Act [this article] and provides that any unexpended or unencumbered balance remaining at the end of the eighty-second fiscal year shall not revert to the general fund.

Laws 1994, ch. 147, § 4R, effective March 9, 1994, appropriates $5,000,000 from the general fund to the local DWI grant fund for expenditure in the eighty-third fiscal year by the local government division of the department of finance and administration for making grants to counties and municipalities pursuant to the Local DWI Grant Program Act. Any unexpended or unencumbered balance remaining at the end of the eighty-third fiscal year shall not revert to the general fund.

11-6A-4. DWI grant council; membership; duties.

A. The "DWI grant council" is created and shall consist of the president of the New Mexico municipal league, the president of the New Mexico association of counties, the secretary of health or the secretary's designee, the secretary of finance and administration or the secretary's designee, the chief of the traffic safety bureau of the state highway and transportation department and two representatives of local governing bodies who shall be appointed by the governor so as to provide geographic diversity.

B. Appointed members shall be appointed to a two-year term. In the event of a vacancy, the governor shall appoint a member for the remainder of the term.

C. The council shall meet as necessary to receive applications, consider grant requests and award DWI grants pursuant to the Local DWI Grant Program Act [this article]. All actions of the council require the affirmative vote of a majority of the members of the council.

D. Members of the council shall be reimbursed for per diem and mileage in accordance with the Per Diem and Mileage Act [10-8-1 to 10-8-8 NMSA 1978].

History: Laws 1993, ch. 65, § 4.

ANNOTATIONS

Cross-references. - For traffic safety bureau, see 66-7-504 NMSA 1978.

For local government division, see 6-6-2 NMSA 1978.

Effective dates. - Laws 1993, ch. 65, § 24 makes the Local DWI Grant Program Act effective on July 1, 1993.

11-6A-5. Administration of DWI grant program; regulations.

A. The division shall administer the DWI grant program and shall serve as staff to the council.

B. The division with the advice and approval of the council shall adopt regulations necessary for operation of the grant program, including:

(1) forms and procedures for the application process for the grant program;

(2) documentation to be provided by the applicant to assure compliance with the grant guidelines and other provisions of the Local DWI Grant Program Act [this article];

(3) procedures and guidelines for review, evaluation and approval of grant awards;

(4) procedures and guidelines for oversight, evaluation and audit of DWI grantees to assure that grants are being administered in the manner and for the purposes that the grant was awarded; and

(5) design of an evaluation mechanism for DWI grant programs and services and submission by each grantee of an annual report on each grant program or service and its effectiveness and outcomes.

History: Laws 1993, ch. 65, § 5.

ANNOTATIONS

Effective dates. - Laws 1993, ch. 65, § 24 makes the Local DWI Grant Program Act effective on July 1, 1993.

ARTICLE 7
INTERSTATE COMPACT ON MENTAL HEALTH

11-7-1. [Enactment of compact; text.]

The "Interstate Compact on Mental Health" is enacted into law and entered into with all other jurisdictions legally joining therein in the form substantially as follows:

THE INTERSTATE COMPACT ON MENTAL HEALTH

ARTICLE I

Findings and Purpose

The party states find that the proper and expeditious treatment of the mentally ill and mentally deficient can be facilitated by cooperative action, to the benefit of the patients, their families, and society as a whole. Further, the party states find that the necessity of

and desirability for furnishing such care and treatment bears no primary relation to the residence or citizenship of the patient but that, on the contrary, the controlling factors of community safety and humanitarianism require that facilities and services be made available for all who are in need of them. Consequently, it is the purpose of this compact and of the party states to provide the necessary legal basis for the institutionalization or other appropriate care and treatment of the mentally ill and mentally deficient under a system that recognizes the paramount importance of patient welfare and to establish the responsibilities of the party states in terms of such welfare.

ARTICLE II

Definitions

As used in this compact:

A. "sending state" means a party state from which a patient is transported pursuant to the provisions of the compact or from which it is contemplated that a patient may be so sent;

B. "receiving state" means a party state to which a patient is transported pursuant to the provisions of the compact or to which it is contemplated that a patient may be transported;

C. "institution" means any hospital or other facility maintained by a party state or political subdivision thereof for the care and treatment of mental illness or mental deficiency;

D. "patient" means any person subject to or eligible as determined by the laws of the sending state, for institutionalization or other care, treatment or supervision under this compact;

E. "after-care" means care, treatment and services provided a patient, as defined in this compact, on convalescent status or conditional release;

F. "mental illness" means mental disease to such extent that a person so afflicted requires care and treatment for his own welfare, or the welfare of others, or of the community;

G. "mental deficiency" means mental deficiency as defined by appropriate clinical authorities to such extent that a person so afflicted is incapable of managing himself and his affairs, but shall not include mental illness;

H. "state" means any state, territory or possession of the United States, the District of Columbia and the commonwealth of Puerto Rico.

ARTICLE III

Eligibility and Transfer

A. Whenever a person physically present in any party state shall be in need of institutionalization by reason of mental illness or mental deficiency, he shall be eligible for care and treatment in an institution in that state irrespective of his residence, settlement or citizenship qualifications.

B. The provisions of Subdivision A of this article to the contrary notwithstanding, any patient may be transferred to an institution in another state whenever there are factors based upon clinical determinations indicating that the care and treatment of the patient would be facilitated or improved thereby. Any such institutionalization may be for the entire period of care and treatment or for any portion or portions thereof. The factors referred to in this subdivision shall include the patient's full record with due regard for the location of the patient's family, character of the illness and probable duration thereof, and such other factors as shall be considered appropriate.

C. No state shall be obliged to receive any patient sent under Subdivision B of this article unless the sending state has given advance notice of its intention to send the patient; furnished all available medical and other pertinent records concerning the patient; given the qualified medical or other appropriate clinical authorities of the receiving state an opportunity to examine the patient if the authorities so wish; and unless the receiving state shall agree to accept the patient.

D. In the event that the laws of the receiving state establish a system of priorities for the admission of patients, an interstate patient under this compact shall receive the same priority as a local patient and shall be taken in the same order and at the same time that he would be taken if he were a local patient.

E. Under this compact, the determination as to the suitable place of institutionalization for a patient may be reviewed at any time and such further transfer of the patient may be made as seems likely to be in the best interest of the patient.

ARTICLE IV

After-Care

A. Whenever, under the laws of the state in which a patient is physically present, it shall be determined that the patient should receive after-care or supervision, the care or supervision may be provided in a receiving state. If the medical or other appropriate clinical authorities having responsibility for the care and treatment of the patient in the sending state shall have reason to believe that after-care in another state would be in the best interest of the patient and would not jeopardize the public safety, they shall request the appropriate authorities in the receiving state to investigate the desirability of affording the patient after-care in the receiving state, and an investigation shall be made with all reasonable speed. The request for investigation shall be accompanied by complete information concerning the patient's intended place of residence and the

identity of the person in whose charge it is proposed to place the patient, the complete medical history of the patient, and such other documents as may be pertinent.

B. If the medical or other appropriate clinical authorities having responsibility for the care and treatment of the patient in the sending state and the appropriate authorities in the receiving state find that the best interest of the patient would be served thereby, and if the public safety would not be jeopardized thereby, the patient may receive after-care or supervision in the receiving state.

C. In supervision, treating or caring for a patient on after-care under the terms of this article, a receiving state shall employ the same standards of visitation, examination, care and treatment that it employs for similar local patients.

ARTICLE V

Escape Notice

Whenever a dangerous or potentially dangerous patient escapes from an institution in any party state, that state shall promptly notify all appropriate authorities within and without the jurisdiction of the escape in a manner reasonably calculated to facilitate the speedy apprehension of the escapee. Immediately upon the apprehension and identification of any such dangerous or potentially dangerous patient, he shall be detained in the state where found pending disposition in accordance with law.

ARTICLE VI

Transporting

The duly accredited officers of any state party to this compact, upon the establishment of their authority and the identity of the patient, may transport any patient being moved under this compact through any and all states party to this compact, without interference.

ARTICLE VII

Effect and Cost of Transfer

A. No person shall be deemed a patient of more than one institution at any given time. Completion of transfer of any patient to an institution in a receiving state shall have the effect of making the person a patient of the institution in the receiving state.

B. The sending state shall pay all costs of and incidental to the transportation of any patient under this compact, but any two or more party states may, by making a specific agreement for that purpose, arrange for a different allocation of costs as among themselves.

C. No provision of this compact alters or affects any internal relationships among the departments, agencies and officers of and in the government of a party state, or between a party state and its subdivisions, as to the payment of costs, or responsibilities therefor.

D. Nothing in this compact prevents any party state or subdivision thereof from asserting any right against any person, agency or other entity in regard to cost for which such party state or subdivision thereof may be responsible pursuant to any provision of this compact.

E. Nothing in this compact invalidates any reciprocal agreement between a party state and a non-party state relating to institutionalization, care or treatment of the mentally ill or mentally deficient, or any statutory authority pursuant to which such agreements may be made.

ARTICLE VIII

Guardian

A. Nothing in this compact abridges, diminishes, or in any way impairs the rights, duties and responsibilities of any patient's guardian on his own behalf or in respect of any patient for whom he may serve, except that where the transfer of any patient to another jurisdiction makes advisable the appointment of a supplemental or substitute guardian, any court of competent jurisdiction in the receiving state may make a supplemental or substitute appointment and the court which appointed the previous guardian shall upon being duly advised of the new appointment, and upon the satisfactory completion of an accounting and other acts as the court may by law require, relieve the previous guardian of power and responsibility to whatever extent shall be appropriate in the circumstances; however, in the case of any patient having settlement in the sending state, the court of competent jurisdiction in the sending state shall have the sole discretion to relieve a guardian appointed by it or continue his power and responsibility, whichever it shall deem advisable. The court in the receiving state may, in its discretion, confirm or reappoint the person previously serving as guardian in the sending state in lieu of making a supplemental or substitute appointment.

B. The term "guardian" as used in Subdivision A of this article shall include any guardian, trustee, legal committee, conservator or other person or agency however denominated who is charged by law with power to act for or responsibility for the person or property of a patient.

ARTICLE IX

Criminals

A. No provision of this compact except Article V shall apply to any person institutionalized while under sentence in a penal or correctional institution or while

subject to trial on a criminal charge, or whose institutionalization is due to the commission of an offense for which, in the absence of mental illness or mental deficiency, the person would be subject to incarceration in a penal or correctional institution.

B. To every extent possible, it is the policy of the states party to this compact that no patient shall be placed or detained in any prison, jail or lockup, but such patient shall, with all expedition, be taken to a suitable institutional facility for mental illness or mental deficiency.

ARTICLE X

Compact Administrator

A. Each party state shall appoint a "compact administrator" who, on behalf of his state, shall act as general coordinator of activities under the compact in his state and who shall receive copies of all reports, correspondence and other documents relating to any patient processed under the compact by his state either in the capacity of sending or receiving state. The compact administrator or his duly designated representative shall be the official with whom other party states shall deal in any matter relating to the compact or any patient processed under the compact.

B. The compact administrators of the respective party states shall have power to promulgate reasonable rules and regulations to carry out more effectively the terms and provisions of this compact.

ARTICLE XI

Supplementary Agreements

The duly constituted administrative authorities of any two or more party states may enter into supplementary agreements for the provision of any service or facility or for the maintenance of any institution on a joint or cooperative basis whenever the states concerned shall find that such agreements will improve services, facilities or institutional care and treatment in the fields of mental illness or mental deficiency. No supplementary agreement shall be construed so as to relieve any party state of any obligation which it otherwise would have under other provisions of this compact.

ARTICLE XII

Entry into Force

This compact shall enter into full force and effect as to any state when enacted by it into law and such state shall thereafter be a party to the compact with any and all states legally joining in it.

ARTICLE XIII

Withdrawal

This compact shall be liberally construed so as to effectuate its purposes. The provisions of this compact shall be severable and if any phrase, clause, sentence or provision of this compact is declared to be contrary to the constitution of any party state or of the United States or the applicability thereof to any government, agency, person or circumstance is held invalid, the validity of the remainder of this compact and its applicability to any government, agency, person or circumstance shall not be affected. If this compact shall be held contrary to the constitution of any state party to the compact, the compact shall remain in full force and effect as to the remaining states and in full force and effect as to the state affected as to all severable matters.

History: 1953 Comp., § 34-5-1, enacted by Laws 1969, ch. 118, § 1.

ANNOTATIONS

Am. Jur. 2d, A.L.R. and C.J.S. references. - Change of state or national domicil of mental incompetent, 96 A.L.R.2d 1236.

11-7-2. Compact coordinator; powers and duties.

Pursuant to the Interstate Compact on Mental Health [11-7-1 NMSA 1978], the director of the behavioral health services division of the health and environment department [department of health] is designated as the compact administrator and, acting jointly with like officers of other party states, shall promulgate rules and regulations to carry out more effectively the terms of the compact. The compact administrator is authorized, empowered and directed to cooperate with all departments, agencies and officers of and in the government of this state and its subdivisions in facilitating the proper administration of the compact or of any supplementary agreement entered into by this state under the compact.

History: 1953 Comp., § 34-5-2, enacted by Laws 1969, ch. 118, § 2; 1977, ch. 253, § 46.

ANNOTATIONS

Bracketed material. - The bracketed reference to the department of health was inserted by the compiler, as Laws 1991, ch. 25, § 16 repeals former 9-7-4 NMSA 1978, relating to the department of health and environment, and enacts a new 9-7-4 NMSA 1978, relating to the department of health. The bracketed material was not enacted by the legislature and is not part of the law.

11-7-3. Supplementary agreements.

The compact administrator may enter into supplementary agreements with appropriate officials of other states under Articles VII and XI of the compact [11-7-1 NMSA 1978]. In the event that the supplementary agreements shall require or contemplate the use of any institution or facility of this state or require or contemplate the provision of any service by this state, no agreement shall have force or effect until approved by the head of the department or agency under whose jurisdiction the institution or facility is operated or whose department or agency will be charged with the rendering of the service.

History: 1953 Comp., § 34-5-3, enacted by Laws 1969, ch. 118, § 3.

11-7-4. Payments by administrator.

The compact administrator may make or arrange for any payments necessary to discharge any financial obligations imposed upon this state by the compact [11-7-1 NMSA 1978] or by any supplementary agreement entered into under the compact.

History: 1953 Comp., § 34-5-4, enacted by Laws 1969, ch. 118, § 4.

11-7-5. Notice of transfer.

Whenever the compact administrator receives a request for the transfer of a patient from an institution in this state to an institution in another party state, and he determines that the transfer is in the best interest of the patient, he shall give notice of the proposed transfer to the patient, the spouse of the patient, the parents of the patient and the adult children of the patient. This notice shall also notify these people of the right, if requested, to a court hearing on the proposed transfer and shall contain a request for written consent from these people for the transfer. The notice shall be in writing, and the respondents shall be given fourteen days from the date of mailing of the notice to consent or object to the transfer, or to request a court hearing. No transfer shall be made if there is any written objection or request made to the compact administrator except upon order of the court after hearing. However, no transfer shall be made if the compact administrator receives written objections from all these people. No transfer shall be made of a patient ordered hospitalized by any court unless written notice of the proposed transfer has been given to that court.

History: 1953 Comp., § 34-5-5, enacted by Laws 1969, ch. 118, § 5.

ARTICLE 8
COMPACT FOR EDUCATION

11-8-1. Compact for education entered into.

The "Compact for Education" is hereby entered into and enacted into law with all jurisdictions legally joining therein, in the form substantially as set out in Sections 11-8-1 through 11-8-11 NMSA 1978.

History: 1953 Comp., § 77-20-1, enacted by Laws 1967, ch. 16, § 283.

ANNOTATIONS

Cross-references. - For Western Regional Cooperation in Higher Education Compact, see 11-10-1 NMSA 1978 et seq.

Am. Jur. 2d, A.L.R. and C.J.S. references. - 78 C.J.S. Schools and School Districts § 7.

11-8-2. Purpose and policy; Article I.

A. It is the purpose of this compact [11-8-1 to 11-8-11 NMSA 1978] to:

(1) establish and maintain close cooperation and understanding among executive, legislative, professional, educational and lay leadership on a nation-wide basis at the state and local levels;

(2) provide a forum for the discussion, development, crystallization and recommendation of public policy alternatives in the field of education;

(3) provide a clearinghouse of information on matters relating to educational problems and how they are being met in different places throughout the nation, so that the executive and legislative branches of state government and of local communities may have ready access to the experience and record of the entire country, and so that both lay and professional groups in the field of education may have additional avenues for the sharing of experience and the interchange of ideas in the formation of public policy in education;

(4) facilitate the improvement of state and local educational systems so that all of them will be able to meet adequate and desirable goals in a society which requires continuous qualitative and quantitative advance in educational opportunities, methods and facilities.

B. It is the policy of this compact to encourage and promote local and state initiative in the development, maintenance, improvement and administration of educational systems and institutions in a manner which will accord with the needs and advantages of diversity among localities and states.

C. The party states recognize that each of them has an interest in the quality and quantity of education furnished in each of the other states, as well as in the excellence of its own educational systems and institutions, because of the highly mobile character

of individuals within the nation, and because the products and services contributing to the health, welfare and economic advancement of each state are supplied in significant part by persons educated in other states.

History: 1953 Comp., § 77-20-2, enacted by Laws 1967, ch. 16, § 284.

11-8-3. State defined; Article II.

As used in this compact [11-8-1 to 11-8-11 NMSA 1978], "state" means a state, territory or possession of the United States, the District of Columbia, or the commonwealth of Puerto Rico.

History: 1953 Comp., § 77-20-3, enacted by Laws 1967, ch. 16, § 285.

11-8-4. The commission; Article III.

A. The "educational commission of the states," hereinafter called "the commission," is hereby established. The commission shall consist of seven members representing each party state. One of such members shall be the governor; two shall be members of the state legislature selected by its respective houses and serving in such manner as the legislature may determine; and four shall be appointed by and serve at the pleasure of the governor, unless the laws of the state otherwise provide. If the laws of a state prevent legislators from serving on the commission, six members shall be appointed by and serve at the pleasure of the governor, unless the laws of the state otherwise provide. In addition to any other principles or requirements which a state may establish for the appointment and service of its members of the commission, the guiding principle for the composition of the membership on the commission from each party state shall be that the members representing such state shall, by virtue of their training, experience, knowledge or affiliations be in a position collectively to reflect broadly the interests of the state government, higher education, the state education system, local education, lay and professional, public and nonpublic educational leadership. Of those appointees, one shall be the head of a state agency or institution, designated by the governor, having responsibility for one or more programs of public education. In addition to the members of the commission representing the party states, there may be not to exceed ten nonvoting commissioners selected by the steering committee for terms of one year. Such commissioners shall represent leading national organizations of professional educators or persons concerned with educational administration.

B. The members of the commission shall be entitled to one vote each on the commission. No action of the commission shall be binding unless taken at a meeting at which a majority of the total number of votes on the commission are cast in favor thereof. Action of the commission shall be only at a meeting at which a majority of the commissioners are present. The commission shall meet at least once a year. In its bylaws, and subject to such directions and limitations as may be contained therein, the commission may delegate the exercise of any of its powers to the steering committee or the executive director, except for the power to approve budgets or requests for

appropriations, the power to make policy recommendations pursuant to Article IV (Section 11-8-5 NMSA 1978) and adoption of the annual report pursuant to Paragraph J of this article.

C. The commission shall have a seal.

D. The commission shall elect annually from among its members a chairman, who shall be a governor, a vice chairman and a treasurer. The commission shall provide for the appointment of an executive director. Such executive director shall serve at the pleasure of the commission, and together with the treasurer and such other personnel as the commission may deem appropriate shall be bonded in such amount as the commission shall determine. The executive director shall be secretary.

E. Irrespective of the civil service, personnel or other merit system laws of any of the party states, the executive director subject to the approval of the steering committee shall appoint, remove or discharge such personnel as may be necessary for the performance of the functions of the commission, and shall fix the duties and compensation of such personnel. The commission in its bylaws shall provide for the personnel policies and programs of the commission.

F. The commission may borrow, accept or contract for the services of personnel from any party jurisdiction, the United States, or any subdivision or agency of the aforementioned governments, or from any agency of two or more of the party jurisdictions or their subdivisions.

G. The commission may accept for any of its purposes and functions under this compact [11-8-1 to 11-8-11 NMSA 1978] any and all donations, and grants of money, equipment, supplies, materials and services, conditional or otherwise, from any state, the United States, or any other governmental agency, or from any person, firm, association, foundation, or corporation, and may receive, utilize and dispose of the same. Any donation or grant accepted by the commission pursuant to this paragraph or services borrowed pursuant to Paragraph F of this article shall be reported in the annual report of the commission. Such report shall include the nature, amount and conditions, if any, of the donation, grant, or services borrowed, and the identity of the donor or lender.

H. The commission may establish and maintain such facilities as may be necessary for the transacting of its business. The commission may acquire, hold, and convey real and personal property and any interest therein.

I. The commission shall adopt bylaws for the conduct of its business and shall have the power to amend and rescind these bylaws. The commission shall publish its bylaws in convenient form and shall file a copy thereof and a copy of any amendment thereto, with the appropriate agency or officer in each of the party states.

J. The commission annually shall make to the governor and legislature of each party state a report covering the activities of the commission for the preceding year. The commission may make such additional reports as it may deem desirable.

History: 1953 Comp., § 77-20-4, enacted by Laws 1967, ch. 16, § 286.

11-8-5. Powers; Article IV.

In addition to authority conferred on the commission by other provisions of the compact [11-8-1 to 11-8-11 NMSA 1978], the commission shall have authority to:

A. collect, correlate, analyze and interpret information and data concerning educational needs and resources;

B. encourage and foster research in all aspects of education, but with special reference to the desirable scope of instruction, organization, administration, and instructional methods and standards employed or suitable for employment in public educational systems;

C. develop proposals for adequate financing of education as a whole and at each of its many levels;

D. conduct or participate in research of the types referred to in this article in any instance where the commission finds that such research is necessary for the advancement of the purposes and policies of this compact, utilizing fully the resources of national associations, regional compact organizations for higher education and other agencies and institutions, both public and private;

E. formulate suggested policies and plans for the improvement of public education as a whole, or for any segment thereof, and make recommendations with respect thereto available to the appropriate governmental units, agencies and public officials;

F. do such other things as may be necessary or incidental to the administration of any of its authority or functions pursuant to this compact.

History: 1953 Comp., § 77-20-5, enacted by Laws 1967, ch. 16, § 287.

11-8-6. Cooperation with federal government; Article V.

A. If the laws of the United States specifically so provide, or if administrative provision is made therefor within the federal government, the United States may be represented on the commission by not to exceed ten representatives. Any such representative or representatives of the United States shall be appointed and serve in such manner as may be provided by or pursuant to federal law, and may be drawn from any one or more branches of the federal government, but no such representative shall have a vote on the commission.

B. The commission may provide information and make recommendations to any executive or legislative agency or officer of the federal government concerning the common educational policies of the states, and may advise with any such agencies or officers concerning any matter of mutual interest.

History: 1953 Comp., § 77-20-6, enacted by Laws 1967, ch. 16, § 288.

11-8-7. Committees; Article VI.

A. To assist in the expeditious conduct of its business when the full commission is not meeting, the commission shall elect a steering committee of thirty-two members which, subject to the provisions of this compact [11-8-1 to 11-8-11 NMSA 1978] and consistent with the policies of the commission, shall be constituted and function as provided in the bylaws of the commission. One-fourth of the voting membership of the steering committee shall consist of governors, one-fourth shall consist of legislators, and the remainder shall consist of other members of the commission. A federal representative on the commission may serve with the steering committee, but without vote. The voting members of the steering committee shall serve for terms of two years, except that members elected to the first steering committee of the commission shall be elected as follows: sixteen for one year and sixteen for two years. The chairman, vice chairman, and treasurer of the commission shall be members of the steering committee and, anything in this paragraph to the contrary notwithstanding, shall serve during their continuance in these offices. Vacancies in the steering committee shall not affect its authority to act, but the commission at its next regularly ensuing meeting following the occurrence of any vacancy shall fill it for the unexpired term. No person shall serve more than two terms as a member of the steering committee: provided that service for a partial term of one year or less shall not be counted toward the two term limitation.

B. The commission may establish advisory and technical committees composed of state, local, and federal officials and private persons to advise it with respect to any one or more of its functions. Any advisory or technical committee may, on request of the states concerned, be established to consider any matter of special concern to two or more of the party states.

C. The commission may establish such additional committees as its bylaws may provide.

History: 1953 Comp., § 77-20-7, enacted by Laws 1967, ch. 16, § 289.

11-8-8. Finance; Article VII.

A. The commission shall advise the governor or designated officer or officers of each party state of its budget and estimated expenditures for such period as may be required by the laws of that party state. Each of the commission's budgets of estimated expenditures shall contain specific recommendations of the amount or amounts to be appropriated by each of the party states.

B. The total amount of appropriation requests under any budget shall be apportioned among the party states. In making such apportionment, the commission shall devise and employ a formula which takes equitable account of the populations and per capita income levels of the party states.

C. The commission shall not pledge the credit of any party states. The commission may meet any of its obligations in whole or in part with funds available to it pursuant to Article III G (Subsection G of Section 11-8-4 NMSA 1978) of this compact, provided that the commission takes specific action setting aside such funds prior to incurring an obligation to be met in whole or in part in such manner. Except where the commission makes use of funds available to it pursuant to Article III G (Subsection G of Section 11-8-4 NMSA 1978), the commission shall not incur any obligation prior to the allotment of funds by the party states adequate to meet the same.

D. The commission shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the commission shall be subject to the audit and accounting procedures established by its bylaws. However, all receipts and disbursements of funds handled by the commission shall be audited yearly by a qualified public accountant, and the report of the audit shall be included in and become part of the annual reports of the commission.

E. The accounts of the commission shall be open at any reasonable time for inspection by duly constituted officers of the party states and by any persons authorized by the commission.

F. Nothing contained herein shall be construed to prevent commission compliance with laws relating to audit or inspection of accounts by or on behalf of any government contributing to the support of the commission.

History: 1953 Comp., § 77-20-8, enacted by Laws 1967, ch. 16, § 290.

11-8-9. Eligible parties; entry into and withdrawal; Article VIII.

A. This compact [11-8-1 to 11-8-11 NMSA 1978] shall have as eligible parties all states, territories, and possessions of the United States, the District of Columbia, and the commonwealth of Puerto Rico. In respect of any such jurisdiction not having a governor, the term "governor," as used in this compact, shall mean the closest equivalent official of such jurisdiction.

B. Any state or other eligible jurisdiction may enter into this compact and it shall become binding thereon when it has adopted the same: provided that in order to enter into initial effect, adoption by at least ten eligible party jurisdiction [jurisdictions] shall be required.

C. Adoption of the compact may be either by enactment thereof or by adherence thereto by the governor; provided that in the absence of enactment, adherence by the governor shall be sufficient to make his state a party only until December 31, 1967. During any

period when a state is participating in this compact through gubernatorial action, the governor shall appoint those persons who, in addition to himself, shall serve as the members of the commission from his state, and shall provide to the commission an equitable share of the financial support of the commission from any source available to him.

D. Except for a withdrawal effective on December 31, 1967 in accordance with Paragraph C of this article, any party state may withdraw from this compact by enacting a statute repealing the same, but no such withdrawal shall take effect until one year after the governor of the withdrawing state has given notice in writing of the withdrawal to the governors of all other party states. No withdrawal shall affect any liability already incurred by or chargeable to a party state prior to the time of such withdrawal.

History: 1953 Comp., § 77-20-9, enacted by Laws 1967, ch. 16, § 291.

11-8-10. Construction and severability; Article IX.

This compact [11-8-1 to 11-8-11 NMSA 1978] shall be liberally construed so as to effectuate the purposes thereof. The provisions of this compact shall be severable and if any phrase, clause, sentence or provision of this compact is declared to be contrary to the constitution of any state or of the United States, or the applicability thereof to any government, agency, person or circumstances is held invalid, the validity of the remainder of this compact and the applicability thereof to any government, agency, person or circumstance shall not be affected thereby. If this compact shall be held contrary to the constitution of any state participating therein, the compact shall remain in full force and effect as to the state affected as to all severable matters.

History: 1953 Comp., § 77-20-10, enacted by Laws 1967, ch. 16, § 292.

11-8-11. Filing of compact.

Pursuant to Article III, I (Subsection I of Section 11-8-4 NMSA 1978) the commission shall file a copy of its bylaws and any amendment thereto with the supreme court librarian of New Mexico. The governor shall make additional filings pursuant to Section 14-3-20 NMSA 1978.

History: 1953 Comp., § 77-20-11, enacted by Laws 1967, ch. 16, § 293.

ANNOTATIONS

Saving clauses. - Laws 1967, ch. 16, § 294, provides that the act shall not affect the legal status of a school district in actions commenced before the effective date of the Public School Code (Laws 1967, ch. 16), provides that the adoption of the Public School Code shall not affect any substantive right, laws authorizing issuance of bonds, laws relating to ad valorem taxes, or the running of statutes of limitations at the time the code

becomes effective and provides for the option to complete proceedings initiated under a law repealed.

Laws 1967, ch. 16, § 295, provides that reference in 22-11-1 to 22-11-45 NMSA 1978, to the Educational Retirement Act means the act of July 1, 1957 and laws amending or repealing, and provides that the Public School Code does not affect benefits to those eligible pursuant to 73-12-34 to 73-12-91, 1953 Comp. (repealed). For present provisions, see 22-11-13 to 22-11-43 NMSA 1978.

Validating clauses. - Laws 1967, ch. 16, § 296, provides that school districts recognized by the state board as existing on the effective date of the Public School Code are validated and confirmed as existing school districts pursuant to the code.

Laws 1967, ch. 16, § 297, provides that a board of educational trustees of a school district within an H class county is validated as a local school board, and provides that existing school districts are validated as an existing "school district."

Reviving clauses. - Laws 1967, ch. 16, § 302, provides that if any provisions of 22-18-1 to 22-18-12 NMSA 1978, are held unconstitutional so that general obligation bonds may not be issued and sold, 73-8-20 to 73-8-51 (repealed, see 22-18-1 to 22-18-12, 22-19-1 to 22-19-16, 22-20-1 to 22-20-3 NMSA 1978), shall be revived and become effective immediately, and provides that if any of the provisions of 77-17-1 to 77-17-14, 1953 Comp., be held unconstitutional so that revenue bonds may not be issued, 73-8-52 to 73-8-64, 1953 Comp. (repealed, see 22-18-1 to 22-18-12, 22-19-1 to 22-19-16, 22-20-1 to 22-20-3 NMSA 1978), shall be revived and become effective immediately, provides that if any of the provisions of 77-18-4 to 77-18-12, 1953 Comp. (repealed), are held unconstitutional so that severance tax bonds may not be issued and sold, 73-36-1 to 73-36-7, 73-36-9, 1953 Comp. (repealed), shall be revived and become effective immediately. Sections 77-17-1 to 77-17-14, 1953 Comp., were, in fact, held unconstitutional in McKinley v. Alamagordo Mun. School Dist. Auth., 81 N.M. 196, 465 P.2d 79 (1969).

Severability clauses. - Laws 1967, ch. 16, § 299, provides for the severability of the act if any part or application thereof is held invalid.

Compiler's note. - Laws 1967, ch. 16, § 300, provides that the Public School Code shall be liberally construed to carry out its provisions and purposes.

ARTICLE 9
WESTERN INTERSTATE NUCLEAR COMPACT

11-9-1. Western Interstate Nuclear Compact.

The Western Interstate Nuclear Compact is entered into with all other jurisdictions legally joining therein in a form substantially as follows:

WESTERN INTERSTATE NUCLEAR COMPACT

Article 1. Policy and purpose. - The party states recognize that the proper employment of scientific and technological discoveries and advances in nuclear and related fields and direct and collateral application and adaptation of processes and techniques developed in connection therewith, properly correlated with the other resources of the region, can assist substantially in the industrial progress of the west and the further development of the economy of the region. They also recognize that optimum benefit from nuclear and related scientific or technological resources, facilities and skills requires systematic encouragement, guidance, assistance and promotion from the party states on a cooperative basis. It is the policy of the party states to undertake such cooperation on a continuing basis. It is the purpose of this compact to provide the instruments and framework for such a cooperative effort in nuclear and related fields, to enhance the economy of the west and contribute to the individual and community well-being of the region's people.

Article 2. The board. - A. There is hereby created an agency of the party states to be known as the "western interstate nuclear board," hereinafter called the board. The board shall be composed of one member from each party state designated or appointed in accordance with the law of the state which he represents and serving and subject to removal in accordance with such law. Any member of the board may provide for the discharge of his duties and the performance of his functions thereon, either for the duration of his membership or for any lesser period of time, by a deputy or assistant, if the laws of his state make specific provisions therefor. The federal government may be represented without vote if provision is made by federal law for such representation.

B. The board members of the party states shall each be entitled to one vote on the board. No action of the board shall be binding unless taken at a meeting at which a majority of all members representing the party states are present and unless a majority of the total number of votes on the board are cast in favor thereof.

C. The board shall have a seal.

D. The board shall elect annually, from among its members, a chairman, a vice chairman and a treasurer. The board shall appoint and fix the compensation of an executive director who shall serve at its pleasure and who shall also act as secretary, and who, together with the treasurer and such other personnel as the board may direct, shall be bonded in such amounts as the board may require.

E. The executive director, with the approval of the board, shall appoint and remove or discharge such personnel as may be necessary for the performance of the board's functions irrespective of the civil service, personnel or other merit system laws of any of the party states.

F. The board may establish and maintain, independently or in conjunction with any one or more of the party states, or its institutions or subdivisions, a suitable retirement system for its full-time employees. Employees of the board shall be eligible for social security coverage in respect of old age and survivors insurance provided that the board takes such steps as may be necessary pursuant to federal law to participate in such program of insurance as a governmental agency or unit. The board may establish and maintain or participate in such additional programs of employee benefits as may be appropriate.

G. The board may borrow, accept or contract for the services of personnel from any state or the United States or any subdivision or agency thereof, from any interstate agency or from any institution, person, firm or corporation.

H. The board may accept for any of its purposes and functions under this compact [11-9-1 NMSA 1978] any and all donations, and grants of money, equipment, supplies, materials and services, conditional or otherwise, from any state or the United States or any subdividion [subdivision] or agency thereof, or interstate agency, or from any institution, person, firm or corporation, and may receive, utilize and dispose of the same. The nature, amount and conditions, if any, attendant upon any donation or grant accepted pursuant to this paragraph or upon any borrowing pursuant to Subsection G of this article, together with the identity of the donor, grantor or lender, shall be detailed in the annual report of the board.

I. The board may establish and maintain such facilities as may be necessary for the transacting of its business. The board may acquire, hold and convey real and personal property and any interest therein.

J. The board shall adopt bylaws, rules and regulations for the conduct of its business, and shall have the power to amend and rescind these bylaws, rules and regulations. The board shall publish its bylaws, rules and regulations in convenient form and shall file a copy thereof, and shall also file a copy of any amendment thereto, with the appropriate agency or officer in each of the party states.

K. The board annually shall make to the governor of each party state a report covering the activities of the board for the preceding year, and embodying such recommendations as may have been adopted by the board, which report shall be transmitted to the legislature of said state. The board may issue such additional reports as it may deem desirable.

Article 3. Finances. - A. The board shall submit to the governor or designated officer or officers of each party state a budget of its estimated expenditures for such period as may be required by the laws of that jurisdiction for presentation to the legislature thereof.

B. Each of the board's budgets of estimated expenditures shall contain specific recommendations of the amount or amounts to be appropriated by each of the party

states. Each of the board's requests for appropriations pursuant to a budget of estimated expenditures shall be apportioned equally among the party states. Subject to appropriation by their respective legislatures, the board shall be provided with such funds by each of the party states as are necessary to provide the means of establishing and maintaining facilities, a staff of personnel and such activities as may be necessary to fulfill the powers and duties imposed upon and entrusted to the board.

C. The board may meet any of its obligations in whole or in part with funds available to it under Article 2 H of this compact, provided that the board takes specific action setting aside such funds prior to the incurring of any obligation to be met in whole or in part in this manner. Except where the board makes use of funds available to it under Article 2 H hereof, the board shall not incur any obligation prior to the allotment of funds by the party jurisdictions adequate to meet the same.

D. Any expenses and any other costs for each member of the board in attending board meetings shall be met by the board.

E. The board shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the board shall be subject to the audit and accounting procedures established under its bylaws. However, all receipts and disbursements of funds handled by the board shall be audited yearly by a certified or licensed public accountant and the report of the audit shall be included in and become a part of the annual report of the board.

F. The accounts of the board shall be open at any reasonable time for inspection to persons authorized by the board and duly designated representatives of governments contributing to the board's support.

Article 4. Advisory committees. - The board may establish such advisory and technical committees as it may deem necessary, membership on which may include but not be limited to private citizens, expert and lay personnel, representatives of industry, labor, commerce, agriculture, civic associations, medicine, education, voluntary health agencies and officials of local, state and federal government, and may cooperate with and use the services of any such committees and the organizations which they represent in furthering any of its activities under this compact.

Article 5. Powers. - The board shall have power to:

A. encourage and promote cooperation among the party states in the development and utilization of nuclear and related technologies and their application to industry and other fields;

B. ascertain and analyze on a continuing basis the position of the west with respect to the employment in industry of nuclear and related scientific findings and technologies;

C. encourage the development and use of scientific advances and discoveries in nuclear facilities, energy, materials, products, by-products and all other appropriate adaptations of scientific and technological advances and discoveries;

D. collect, correlate and disseminate information relating to the peaceful uses of nuclear energy, materials and products and other products and processes resulting from the application of related science and technology;

E. encourage the development and use of nuclear energy, facilities, installations and products as part of a balanced economy;

F. conduct, or cooperate in conducting, programs of training for state and local personnel engaged in any aspects of:

(1) nuclear industry, medicine or education, or the promotion or regulation thereof;

(2) applying nuclear scientific advances or discoveries, and any industrial commercial or other processes resulting therefrom; and

(3) the formulation or administration of measures designed to promote safety in any matter related to the development, use or disposal of nuclear energy, materials, products, by-products, installations or wastes, or to safety in the production, use and disposal of any other substances peculiarly related thereto;

G. organize and conduct, or assist and cooperate in organizing and conducting, demonstrations or research in any of the scientific, technological or industrial fields to which this compact relates;

H. undertake such nonregulatory functions with respect to non-nuclear sources of radiation as may promote the economic development and general welfare of the west;

I. study industrial, health, safety and other standards, laws, codes, rules, regulations and administrative practices in or related to nuclear fields;

J. recommend such changes in, or amendments or additions to, the laws, codes, rules, regulations, administrative procedures and practices or local laws or ordinances of the party states or their subdivisions in nuclear and related fields, as in its judgment may be appropriate. Any such recommendations shall be made through the appropriate state agency, with due consideration of the desirability of uniformity but shall also give appropriate weight to any special circumstances which may justify variations to meet local conditions;

K. consider and make recommendations designed to facilitate the transportation of nuclear equipment, materials, products, by-products, wastes and any other nuclear or related substances, in such manner and under such conditions as will make their availability or disposal practicable on an economic and efficient basis;

L. consider and make recommendations with respect to the assumption of and protection against liability actually or potentially incurred in any phase of operations in nuclear and related fields;

M. advise and consult with the federal government concerning the common position of the party states or assist party states with regard to individual problems where appropriate in respect to nuclear and related fields;

N. cooperate with the atomic energy commission, the national aeronautics and space administration, the office of science and technology, or any agencies successor thereto, any other officer or agency of the United States and any other governmental unit or agency or officer thereof, and with any private persons or agencies in any of the fields of its interest;

O. act as licensee, contractor or subcontractor of the United States government or any party state with respect to the conduct of any research activity requiring such license or contract and operate such research facility or undertake any program pursuant thereto, provided that this power shall be exercised only in connection with the implementation of one or more other powers conferred upon the board by this compact;

P. prepare, publish and distribute, with or without charge, such reports, bulletins, newsletters or other materials as it deems appropriate;

Q. ascertain from time to time such methods, practices, circumstances and conditions as may bring about the prevention and control of nuclear incidents in the area comprising the party states, to coordinate the nuclear incident prevention and control plans and the work relating thereto of the appropriate agencies of the party states and to facilitate the rendering of aid by the party states to each other in coping with nuclear incidents. The board may formulate and, in accordance with need from time to time, revise a regional plan or regional plans for coping with nuclear incidents within the territory of the party states as a whole or within any subregion or subregions of the geographic area covered by this compact. Any nuclear incident plan in force pursuant to this paragraph shall designate the official or agency in each party state covered by the plan who shall coordinate requests for aid pursuant to Article 6 of this compact and the furnishing of aid in response thereto. Unless the party states concerned expressly otherwise agree, the board shall not administer the summoning and dispatching of aid, but this function shall be undertaken directly by the designated agencies and officers of the party states. However, the plan or plans of the board in force pursuant to this paragraph shall provide for reports to the board concerning the occurrence of nuclear incidents and the requests for aid on account thereof, together with summaries of the actual working and effectiveness of mutual aid in particular instances. From time to time, the board shall analyze the information gathered from reports of aid pursuant to Article 6 and such other instances of mutual aid as may have come to its attention, so that experience in the rendering of such aid may be available;

R. prepare, maintain and implement a regional plan or regional plans for carrying out the duties, powers or functions conferred upon the board by this compact; and

S. undertake responsibilities imposed or necessarily involved with regional participation pursuant to such cooperative programs of the federal government as are useful in connection with the fields covered by this compact.

Article 6. Mutual aid. - A. Whenever a party state, or any state or local governmental authorities therein, request [requests] aid from any other party state pursuant to this compact in coping with a nuclear incident, it shall be the duty of the requested state to render all possible aid to the requesting state which is consonant with the maintenance of protection of its own people.

B. Whenever the officers or employees of any party state are rendering outside aid pursuant to the request of another party state under this compact, the officers or employees of such state shall, under the direction of the authorities of the state to which they are rendering aid, have the same powers, duties, rights, privileges and immunities as comparable officers and employees of the state to which they are rendering aid.

C. No party state or its officers or employees rendering outside aid pursuant to this compact shall be liable on account of any act or omission on their part while so engaged, or on account of the maintenance or use of any equipment or supplies in connection therewith.

D. All liability that may arise either under the laws of the requesting state or under the laws of the aiding state or under the laws of a third state on account of or in connection with a request for aid, shall be assumed and borne by the requesting state.

E. Any party state rendering outside aid pursuant to this compact shall be reimbursed by the party state receiving such aid for any loss or damage to, or expense incurred in the operation of, any equipment answering a request for aid and for the cost of all materials, transportation, wages, salaries and maintenance of officers, employees and equipment incurred in connection with such requests; provided that nothing herein contained shall prevent any assisting party state from assuming such loss, damage, expense or other cost or from loaning such equipment or from donating such services to the receiving party state without charge or cost.

F. Each party state shall provide for the payment of compensation and death benefits to injured officers and employees and the representatives of deceased officers and employees in case officers or employees sustain injuries or death while rendering outside aid pursuant to this compact, in the same manner and on the same terms as if the injury or death were sustained within the state by or in which the officer or employee was regularly employed.

Article 7. Supplementary agreements. - A. To the extent that the board has not undertaken an activity or project which would be within its power under the provisions of

Article 5 of this compact, any two or more of the party states, acting by their duly constituted administrative officials, may enter into supplementary agreements for the undertaking and continuance of such an activity or project. Any such agreement shall specify the purpose or purposes, its duration and the procedure for termination thereof or withdrawal therefrom, the method of financing and allocating the costs of the activity or project and such other matters as may be necessary or appropriate. No such supplementary agreement entered into pursuant to this article shall become effective prior to its submission to and approval by the board. The board shall give such approval unless it finds that the supplementary agreement or activity or project contemplated thereby is inconsistent with the provisions of this compact or a program or activity conducted by or participated in by the board.

B. Unless all of the party states participate in a supplementary agreement, any cost or costs thereof shall be borne separately by the states party thereto. However, the board may administer or otherwise assist in the operation of any supplementary agreement.

C. No party to a supplementary agreement entered into pursuant to this article shall be relieved thereby of any obligation or duty assumed by said party state under or pursuant to this compact, except that timely and proper performance of such obligation or duty by means of the supplementary agreement may be offered as performance pursuant to the compact.

D. The provisions to this article shall apply to supplementary agreements and activities thereunder, but shall not be construed to repeal or impair any authority which officers or agencies of party states may have pursuant to other laws to undertake cooperative arrangements or projects.

Article 8. Other laws and relations. - Nothing in this compact shall be construed to:

A. permit or require any person or other entity to avoid or refuse compliance with any law, rule, regulation, order or ordinance of a party state or subdivision thereof now or hereafter made, enacted or in force;

B. limit, diminish or otherwise impair jurisdiction exercise by the atomic energy commission, any agency successor thereto or any other federal department, agency or officer pursuant to and in conformity with any valid and operative act of congress; nor limit, diminish, affect or otherwise impair jurisdiction exercised by any officer or agency of a party state, except to the extent that the provisions of this compact may provide therefor;

C. alter the relations between, and respective internal responsibilities of, the government of a party state and its subdivisions; or

D. permit or authorize the board to own or operate any facility, reactor or installation for industrial or commercial purposes.

Article 9. Eligible parties; entry into force and withdrawal. - A. Any or all of the states of Alaska, Arizona, California, Colorado, Hawaii, Idaho, Montana, Nevada, New Mexico, Oregon, Utah, Washington and Wyoming shall be eligible to become party to this compact.

B. As to any eligible party state, this compact shall become effective when its legislature shall have enacted the same into law; provided, that it shall not become initially effective until enacted into law by five states.

C. Any party state may withdraw from this compact by enacting a statute repealing the same, but no such withdrawal shall take effect until two years after the governor of the withdrawing state has given notice in writing of the withdrawal to the governors of all other party states. No withdrawal shall affect any liability already incurred by or chargeable to a party state prior to the time of such withdrawal.

D. Guam and American Samoa, or either of them, may participate in the compact to such extent as may be mutually agreed by the board and the duly constituted authorities of Guam or American Samoa, as the case may be. However, such participation shall not include the furnishing or receipt of mutual aid pursuant to Article 6, unless that article has been enacted or otherwise adopted so as to have the full force and effect of law in the jurisdiction affected. Neither Guam nor American Samoa shall be entitled to voting participation on the board unless it has become a full party to the compact.

Article 10. Severability and construction. - The provisions of this compact and of any supplementary agreement entered into hereunder shall be severable and if any phrase, clause, sentence or provision of this compact or such supplementary agreement is declared to be contrary to the constitution of any participating state or of the United States or the applicability thereof to any government, agency, person or circumstance is held invalid, the validity of the remainder of this compact or such supplementary agreement and the applicability thereof to any government, agency, person or circumstance shall not be affected thereby. If this compact or any supplementary agreement entered into hereunder shall be held contrary to the constitution of any state participating therein, the compact or such supplementary agreement shall remain in full force and effect as to the remaining states and in full force and effect as to the state affected as to all severable matters. The provisions of this compact and of any supplementary agreement entered into pursuant thereto shall be liberally construed to effectuate the purposes thereof.

History: 1953 Comp., § 4-34-1, enacted by Laws 1969, ch. 40, § 1.

ANNOTATIONS

States adopting compact. - States which have adopted the Western Interstate Nuclear Compact include: Alaska, Arizona, Colorado, Idaho, Nevada, Oregon, Utah, Washington and Wyoming.

11-9-2. Board members.

The member of the western interstate nuclear compact board shall be appointed by the governor. The alternate provided under Article 2 A of the compact [11-9-1 NMSA 1978] shall be designated by the member representing this state and shall serve at his pleasure.

History: 1953 Comp., § 4-34-2, enacted by Laws 1969, ch. 40, § 2.

11-9-3. Regulations.

Under Article 2 J of the compact [11-9-1 NMSA 1978], the western interstate nuclear board shall file copies of its bylaws and any amendments in accordance with the State Rules Act [Chapter 14, Article 4 NMSA 1978].

History: 1953 Comp., § 4-34-3, enacted by Laws 1969, ch. 40, § 3.

ARTICLE 9A
LOW-LEVEL RADIOACTIVE WASTE

11-9A-1. Short title.

This act [11-9A-1 to 11-9A-3 NMSA 1978] may be cited as the "Rocky Mountain Low-Level Radioactive Waste Compact."

History: Laws 1983, ch. 20, § 1.

ANNOTATIONS

Law reviews. - For article, "The Never Ending Story: Low-Level Waste and the Exclusionary Authority of Noncompacting States," 30 Nat. Resources J. 65 (1990).

For article, "Collective Bads: The Case of Low-Level Radioactive Waste Compacts," see 34 Nat. Resources J. 563 (1994).

11-9A-2. Compact entered into.

The Rocky Mountain Low-Level Radioactive Waste Compact [11-9A-1 to 11-9A-3 NMSA 1978] is enacted into law and entered into with all other jurisdictions legally joining therein in the form substantially as follows:

ROCKY MOUNTAIN LOW-LEVEL RADIOACTIVE WASTE COMPACT

ARTICLE 1

Findings and Purpose

A. The party states agree that each state is responsible for providing for the management of low-level radioactive waste generated within its borders, except for waste generated as a result of defense activities of the federal government or federal research and development activities. Moreover, the party states find that the United States congress, by enacting the Low-Level Radioactive Waste Policy Act (P.L. 96-573), has encouraged the use of interstate compacts to provide for the establishment and operation of facilities for regional management of low-level radioactive waste.

B. It is the purpose of the party states, by entering into an interstate compact, to establish the means for cooperative effort in managing low-level radioactive waste; to ensure the availability and economic viability of sufficient facilities for the proper and efficient management of low-level radioactive waste generated within the region while preventing unnecessary and uneconomic proliferation of such facilities; to encourage reduction of the volume of low-level radioactive waste requiring disposal within the region; to restrict management within the region of low-level radioactive waste generated outside the region; to distribute the costs, benefits and obligations of low-level radioactive waste management equitably among the party states; and by these means to promote the health, safety and welfare of the residents within the region.

ARTICLE 2

Definitions

As used in this compact [11-9A-1 to 11-9A-3 NMSA 1978], unless the context clearly indicates otherwise:

A. "board" means the Rocky mountain low-level radioactive waste board;

B. "carrier" means a person who transports low-level waste;

C. "disposal" means the isolation of waste from the biosphere, with no intention of retrieval, such as by land burial;

D. "facility" means any property, equipment or structure used or to be used for the management of low-level waste;

E. "generate" means to produce low-level waste;

F. "host state" means a party state in which a regional facility is located or being developed;

G. "low-level waste" or "waste" means radioactive waste, other than:

(1) waste generated as a result of defense activities of the federal government or federal research and development activities;

(2) high-level waste such as irradiated reactor fuel, liquid waste from reprocessing irradiated reactor fuel or solids into which any such liquid waste has been converted;

(3) waste material containing transuranic elements with contamination levels greater than ten nanocuries per gram of waste material;

(4) byproduct material as defined in Section 11 e. (2) of the Atomic Energy Act of 1954, as amended on November 8, 1978; or

(5) wastes from mining, milling, smelting or similar processing of ores and mineral-bearing material primarily for minerals other than radium;

H. "management" means collection, consolidation, storage, treatment, incineration or disposal;

I. "operator" means a person who operates a regional facility;

J. "person" means an individual, corporation, partnership or other legal entity, whether public or private;

K. "region" means the combined geographical area within the boundaries of the party states; and

L. "regional facility" means a facility within any party state which either:

(1) has been approved as a regional facility by the board; or

(2) is the low-level waste facility in existence on January 1, 1982, at Beatty, Nevada.

ARTICLE 3

Rights, Responsibilities and Obligations

A. There shall be regional facilities sufficient to manage the low-level waste generated within the region. At least one regional facility shall be open and operating in a party state other than Nevada within six years after this compact becomes law in Nevada and in one other state.

B. Low-level waste generated within the region shall be managed at regional facilities without discrimination among the party states; provided, however, that a host state may close a regional facility when necessary for public health or safety.

C. Each party state which, according to reasonable projections made by the board, is expected to generate twenty percent or more in cubic feet, except as otherwise determined by the board, of the low-level waste generated within the region has an obligation to become a host state in compliance with Subsection D of this article.

D. A host state, or a party state seeking to fulfill its obligation to become a host state, shall:

(1) cause a regional facility to be developed on a timely basis as determined by the board, and secure the approval of such regional facility by the board as provided in Article 4 before allowing site preparation or physical construction to begin;

(2) ensure by its own law, consistent with any applicable federal law, the protection and preservation of public health and safety in the siting, design, development, licensure or other regulation, operation, closure, decommissioning and long-term care of the regional facilities within the state;

(3) subject to the approval of the board, ensure that charges for management of low-level waste at the regional facilities within the state are reasonable;

(4) solicit comments from each other party state and the board regarding siting, design, development, licensure or other regulation, operation, closure, decommissioning and long-term care of the regional facilities within the state and respond in writing to such comments;

(5) submit an annual report to the board which contains projections of the anticipated future capacity and availability of the regional facilities within the state, together with other information required by the board; and

(6) notify the board immediately if any exigency arises requiring the possible temporary or permanent closure of a regional facility within the state at a time earlier than was projected in the state's most recent annual report to the board.

E. Once a party state has served as a host state, it shall not be obligated to serve again until each other party state having an obligation under Subsection C of this article has fulfilled that obligation. Nevada, already being a host state, shall not be obligated to serve again as a host state until every other party state has so served.

F. Each party state:

(1) agrees to adopt and enforce procedures requiring low-level waste shipments originating within its borders and destined for a regional facility to conform to packaging and transportation requirements and regulations. Such procedures shall include but are not limited to:

(a) periodic inspections of packaging and shipping practices;

(b) periodic inspections of waste containers while in the custody of carriers; and

(c) appropriate enforcement actions with respect to violations;

(2) agrees that after receiving notification from a host state that a person in the party state has violated packaging, shipping or transportation requirements or regulations, it shall take appropriate action to ensure that violations do not recur. Appropriate action may include but is not limited to the requirement that a bond be posted by the violator to pay the cost of repackaging at the regional facility and the requirement that future shipments be inspected;

(3) may impose fees to recover the cost of the practices provided for in Paragraphs (1) and (2) of this subsection;

(4) shall maintain an inventory of all generators within the state that may have low-level waste to be managed at a regional facility; and

(5) may impose requirements or regulations more stringent than those required by this subsection.

ARTICLE 4

Board Approval of Regional Facilities

A. Within ninety days after being requested to do so by a party state, the board shall approve or disapprove a regional facility to be located within that state.

B. A regional facility shall be approved by the board if and only if the board determines that:

(1) there will be, for the foreseeable future, sufficient demand to render operation of the proposed facility economically feasible without endangering the economic feasibility of operation of any other regional facility; and

(2) the facility will have sufficient capacity to serve the needs of the region for a reasonable period of years.

ARTICLE 5

Surcharges

A. The board shall impose a "compact surcharge" per unit of waste received at any regional facility. The surcharge shall be adequate to pay the costs and expenses of the board in the conduct of its authorized activities and may be increased or decreased as the board deems necessary.

B. A host state may impose a "state surcharge" per unit of waste received at any regional facility within the state. The host state may fix and change the amount of the state surcharge subject to approval by the board. Money received from the state surcharge may be used by the host state for any purpose authorized by its own law, including but not limited to costs of licensure and regulatory activities related to the regional facility, reserves for decommissioning and long-term care of the regional facility and local impact assistance.

ARTICLE 6

The Board

A. The "Rocky mountain low-level radioactive waste board," which shall not be an agency or instrumentality of any party state, is created.

B. The board shall consist of one member from each party state. Each party state shall determine how and for what term its member shall be appointed, and how and for what term any alternate may be appointed to perform that member's duties on the board in the member's absence.

C. Each party state is entitled to one vote. A majority of the board constitutes a quorum. Unless otherwise provided in this compact [11-9A-1 to 11-9A-3 NMSA 1978], a majority of the total number of votes on the board is necessary for the board to take any action.

D. The board shall meet at least once a year and otherwise as its business requires. Meetings of the board may be held in any place within the region deemed by the board to be reasonably convenient for the attendance of persons required or entitled to attend and where adequate accommodations may be found. Reasonable public notice and opportunity for comment shall be given with respect to any meeting; provided, however, that nothing in this subsection shall preclude the board from meeting in executive session when seeking legal advice from its attorneys or when discussing the employment, discipline or termination of any of its employees.

E. The board shall pay necessary travel and reasonable per diem expenses of its members, alternates and advisory committee members.

F. The board shall organize itself for the efficient conduct of its business. It shall adopt and publish rules consistent with this compact regarding its organization and procedures. In special circumstances the board, with unanimous consent of its members, may take actions by telephone; provided, however, that any action taken by telephone shall be confirmed in writing by each member within thirty days. Any action taken by telephone shall be noted in the minutes of the board.

G. The board may use for its purposes the services of any personnel or other resources which may be offered by any party state.

H. The board may establish its offices in space provided for that purpose by any of the party states or, if space is not provided or is deemed inadequate, in any space within the region selected by the board.

I. Consistent with available funds, the board may contract for necessary personnel services and may employ such staff as it deems necessary to carry out its duties. Staff shall be employed without regard for the personnel, civil service or merit system laws of any of the party states and shall serve at the pleasure of the board. The board may provide appropriate employee benefit programs for its staff.

J. The board shall establish a fiscal year which conforms to the extent practicable to the fiscal years of the party states.

K. The board shall keep an accurate account of all receipts and disbursements. An annual audit of the books of the board shall be conducted by an independent certified public accountant, and the audit report shall be made a part of the annual report of the board.

L. The board shall prepare and include in the annual report a budget showing anticipated receipts and disbursements for the ensuing year.

M. Upon legislative enactment of this compact, each party state shall appropriate seventy thousand dollars ($70,000) to the board to support its activities prior to the collection of sufficient funds through the compact surcharge imposed pursuant to Subsection A of Article 5 of this compact.

N. The board may accept any donations, grants, equipment, supplies, materials or services, conditional or otherwise, from any source. The nature, amount and condition, if any, attendant upon any donation, grant or other resources accepted pursuant to this subsection, together with the identity of the donor or grantor, shall be detailed in the annual report of the board.

O. In addition to the powers and duties conferred upon the board pursuant to other provisions of this compact, the board:

(1) shall submit communications to the governors and to the presiding officers of the legislatures of the party states regarding the activities of the board, including an annual report to be submitted by December 15;

(2) may assemble and make available to the governments of the party states and to the public through its members information concerning low-level waste management needs, technologies and problems;

(3) shall keep a current inventory of all generators within the region, based upon information provided by the party states;

(4) shall keep a current inventory of all regional facilities, including information on the size, capacity, location, specific wastes capable of being managed and the projected useful life of each regional facility;

(5) may keep a current inventory of all low-level waste facilities in the region, based upon information provided by the party states;

(6) shall ascertain on a continuing basis the needs for regional facilities and capacity to manage each of the various classes of low-level waste;

(7) may develop a regional low-level waste management plan;

(8) may establish such advisory committees as it deems necessary for the purpose of advising the board on matters pertaining to the management of low-level waste;

(9) may contract as it deems appropriate to accomplish its duties and effectuate its powers, subject to its projected available resources; but no contract made by the board shall bind any party state;

(10) shall make suggestions to appropriate officials of the party states to ensure that adequate emergency response programs are available for dealing with any exigency that might arise with respect to low-level waste transportation or management;

(11) shall prepare contingency plans, with the cooperation and approval of the host state, for management of low-level waste in the event any regional facility should be closed;

(12) may examine all records of operators of regional facilities pertaining to operating costs, profits or the assessment or collection of any charge, fee or surcharge;

(13) shall have the power to sue; and

(14) when authorized by unanimous vote of its members, may intervene as of right in any administrative or judicial proceeding involving low-level waste.

ARTICLE 7

Prohibited Acts and Penalties

A. It shall be unlawful for any person to dispose of low-level waste within the region, except at a regional facility; provided, however, that a generator who, prior to January 1, 1982, had been disposing of only his own waste on his own property may, subject to applicable federal and state law, continue to do so.

B. After January 1, 1986, it shall be unlawful for any person to export low-level waste which was generated within the region outside the region unless authorized to do so by

the board. In determining whether to grant such authorization, the factors to be considered by the board shall include, but not be limited to, the following:

(1) the economic impact of the export of the waste on the regional facilities;

(2) the economic impact on the generator of refusing to permit the export of the waste; and

(3) the availability of a regional facility appropriate for the disposal of the waste involved.

C. After January 1, 1986, it shall be unlawful for any person to manage any low-level waste within the region unless the waste was generated within the region or unless authorized to do so both by the board and by the state in which said management takes place. In determining whether to grant such authorization, the factors to be considered by the board shall include, but not be limited to, the following:

(1) the impact of importing waste on the available capacity and projected life of the regional facilities;

(2) the economic impact on the regional facilities; and

(3) the availability of a regional facility appropriate for the disposal of the type of waste involved.

D. It shall be unlawful for any person to manage at a regional facility any radioactive waste other than low-level waste as defined in this compact, unless authorized to do so both by the board and the host state. In determining whether to grant such authorization, the factors to be considered by the board shall include, but not be limited to, the following:

(1) the impact of allowing such management on the available capacity and projected life of the regional facilities;

(2) the availability of a facility appropriate for the disposal of the type of waste involved;

(3) the existence of transuranic elements in the waste; and

(4) the economic impact on the regional facilities.

E. Any person who violates Subsection A or B of this article shall be liable to the board for a civil penalty not to exceed ten times the charges which would have been charged for disposal of the waste at a regional facility.

F. Any person who violates Subsection C or D of this article shall be liable to the board for a civil penalty not to exceed ten times the charges which were charged for management of the waste at a regional facility.

G. The civil penalties provided for in Subsections E and F of this article may be enforced and collected in any court of general jurisdiction within the region where necessary jurisdiction is obtained by an appropriate proceeding commenced on behalf of the board by the attorney general of the party state wherein the proceeding is brought or by other counsel authorized by the board. In any such proceeding, the board, if it prevails, is entitled to recover reasonable attorney's fees as part of its costs.

H. Out of any civil penalty collected for a violation of Subsection A or B of this article, the board shall pay to the appropriate operator a sum sufficient in the judgment of the board to compensate the operator for any loss of revenue attributable to the violation. Such compensation may be subject to state and compact surcharges as if received in the normal course of the operator's business. The remainder of the civil penalty collected shall be allocated by the board. In making such allocation, the board shall give first priority to the needs of the long-term care funds in the region.

I. Any civil penalty collected for a violation of Subsection C or D of this article shall be allocated by the board. In making such allocation, the board shall give first priority to the needs of the long-term care funds in the region.

J. Violations of Subsection A, B, C or D of this article may be enjoined by any court of general jurisdiction within the region where necessary jurisdiction is obtained in any appropriate proceeding commenced on behalf of the board by the attorney general of the party state wherein the proceeding is brought or by other counsel authorized by the board. In any such proceeding, the board, if it prevails, is entitled to recover reasonable attorney's fees as part of its costs.

K. No state attorney general shall be required to bring any proceeding under any subsection of this article, except upon his consent.

ARTICLE 8

Eligibility, Entry Into Effect, Congressional Consent, Withdrawal, Exclusion

A. Arizona, Colorado, Nevada, New Mexico, Utah and Wyoming are eligible to become parties to this compact. Any other state may be made eligible by unanimous consent of the board.

B. An eligible state may become a party state by legislative enactment of this compact or by executive order of its governor adopting this compact; provided, however, a state becoming a party by executive order shall cease to be a party state upon adjournment of the first general session of its legislature convened thereafter, unless before such adjournment the legislature shall have enacted this compact.

C. This compact shall take effect when it has been enacted by the legislatures of two eligible states. However, Subsections B and C of Article 7 shall not take effect until

congress has by law consented to this compact. Every five years after such consent has been given, congress may by law withdraw its consent.

D. A state which has become a party state by legislative enactment may withdraw by legislation repealing its enactment of this compact; but no such repeal shall take effect until two years after enactment of the repealing legislation. If the withdrawing state is a host state, any regional facility in that state shall remain available to receive low-level waste generated within the region until five years after the effective date of the withdrawal; provided, however, this provision shall not apply to the existing facility in Beatty, Nevada.

E. A party state may be excluded from this compact by a two-thirds' vote of the members representing the other party states, acting in a meeting, on the ground that the state to be excluded has failed to carry out its obligations under this compact. Such an exclusion may be terminated upon a two-thirds' vote of the members acting in a meeting.

ARTICLE 9

Construction and Severability

A. The provisions of this compact shall be broadly construed to carry out the purposes of the compact.

B. Nothing in this compact shall be construed to affect any judicial proceeding pending on the effective date of this compact.

C. If any part or application of this compact is held invalid, the remainder, or its application to other situations or persons, shall not be affected.

History: Laws 1983, ch. 20, § 2.

ANNOTATIONS

Compiler's note. - States adopting the Rocky Mountain Low-Level Radioactive Waste Compact include Colorado, Nevada, and Wyoming.

Low-Level Radioactive Waste Policy Act. - The provisions of the Low-Level Radioactive Waste Policy Act (P.L. 96-573), referred to in Subsection A of Article 1, which have been codified appear as 42 U.S.C. § 2021b et seq.

Atomic Energy Act of 1954. - Section 11 e. (2) of the Atomic Energy Act of 1954, as amended November 8, 1983, referred to in Subsection G(4) of Article 2, appears as 42 U.S.C. § 2014(e).

11-9A-3. Board member; alternate; appointment.

A. The governor shall appoint the New Mexico member of the Rocky mountain low-level radioactive waste board, who shall serve at the pleasure of the governor.

B. The board member may, with the approval of the governor, designate an alternate to represent New Mexico in the absence of the member.

History: Laws 1983, ch. 20, § 3.

ARTICLE 10
WESTERN REGIONAL COOPERATION IN HIGHER EDUCATION COMPACT

11-10-1. [Compact for Western Regional Cooperation in Higher Education.]

That the state of New Mexico does hereby ratify, approve and adopt the compact aforesaid, which is as follows:

THE COMPACT FOR WESTERN REGIONAL COOPERATION IN HIGHER EDUCATION

ARTICLE I

Whereas, the future of this nation and of the western states is dependent upon the quality of the education of its youth; and

Whereas, many of the western states individually do not have sufficient numbers of potential students to warrant the establishment and maintenance within their borders of adequate facilities in all of the essential fields of technical, professional and graduate training, nor do all of the states have the financial ability to furnish within their borders institutions capable of providing acceptable standards of training in all of the fields mentioned above; and

Whereas, it is believed that the western states, or groups of such states within the region, cooperatively can provide acceptable and efficient educational facilities to meet the needs of the region and of the students thereof:

Now, therefore, the states of Arizona, California, Colorado, Idaho, Montana, Nevada, New Mexico, Oregon, Utah, Washington, and Wyoming, and the territories [states] of Alaska and Hawaii do hereby covenant and agree as follows:

ARTICLE II

Each of the compacting states and territories pledges to each of the other compacting states and territories faithful cooperation in carrying out all the purposes of this compact.

ARTICLE III

The compacting states and territories hereby create the western interstate commission for higher education, hereinafter called the commission. Said commission shall be a body corporate of each compacting state and territory and an agency thereof. The commission shall have all the powers and duties set forth herein, including the power to sue and be sued, and such additional powers as may be conferred upon it by subsequent action of the respective legislatures of the compacting states and territories.

ARTICLE IV

The commission shall consist of three resident members from each compacting state or territory. At all times one commissioner from each compacting state or territory shall be an educator engaged in the field of higher education in the state or territory from which he is appointed.

The commissioners from each state and territory shall be appointed by the governor thereof as provided by law in such state or territory. Any commissioner may be removed or suspended from office as provided by the law of the state or territory from which he shall have been appointed.

The terms of each commissioner shall be four years; provided however that the first three commissioners shall be appointed as follows: one for two years, one for three years and one for four years. Each commissioner shall hold office until his successor shall be appointed and qualified. If any office becomes vacant for any reason, the governor shall appoint a commissioner to fill the office for the remainder of the unexpired term.

ARTICLE V

Any business transacted at any meeting of the commission must be by affirmative vote of a majority of the whole number of compacting states and territories.

One or more commissioners from a majority of the compacting states and territories shall constitute a quorum for the transaction of business.

Each compacting state and territory represented at any meeting of the commission is entitled to one vote.

ARTICLE VI

The commission shall elect from its number a chairman and a vice chairman, and may appoint, and at its pleasure dismiss or remove, such officers, agents and employees as

may be required to carry out the purpose of this compact; and shall fix and determine their duties, qualifications and compensation, having due regard for the importance of the responsibilities involved.

The commissioners shall serve without compensation, but shall be reimbursed for their actual and necessary expenses from the funds of the commission.

ARTICLE VII

The commission shall adopt a seal and by-laws and shall adopt and promulgate rules and regulations for its management and control.

The commission may elect such committees as it deems necessary for the carrying out of its functions.

The commission shall establish and maintain an office within one of the compacting states for the transaction of its business and may meet at any time, but in any event must meet at least once a year. The chairman may call such additional meetings and upon the request of a majority of the commissioners of three or more compacting states or territories shall call additional meetings.

The commission shall submit a budget to the governor of each compacting state and territory at such time and for such period as may be required.

The commission shall, after negotiations with interested institutions, determine the cost of providing the facilities for graduate and professional education for use in its contractual agreements throughout the region.

On or before the fifteenth day of January of each year, the commission shall submit to the governors and legislatures of the compacting states and territories a report of its activities for the preceding calendar year.

The commission shall keep accurate books of account, showing in full its receipts and disbursements, and said books of account shall be open at any reasonable time for inspection by the governor of any compacting state or territory or his designated representative. The commission shall not be subject to the audit and accounting procedure of any of the compacting states or territories. The commission shall provide for an independent annual audit.

ARTICLE VIII

It shall be the duty of the commission to enter into such contractual agreements with any institutions in the region offering graduate or professional education and with any of the compacting states or territories as may be required in the judgment of the commission to provide adequate services and facilities of graduate and professional education for the citizens of the respective compacting states or territories. The

commission shall first endeavor to provide adequate services and facilities in the fields of dentistry, medicine, public health and veterinary medicine, and may undertake similar activities in other professional and graduate fields.

For this purpose the commission may enter into contractual agreements:

(a) with the governing authority of any educational institution in the region, or with any compacting state or territory, to provide such graduate or professional educational services upon terms and conditions to be agreed upon between contracting parties; and

(b) with the governing authority of any educational institution in the region or with any compacting state or territory to assist in the placement of graduate or professional students in educational institutions in the region providing the desired services and facilities, upon such terms and conditions as the commission may prescribe.

It shall be the duty of the commission to undertake studies of needs for professional and graduate educational facilities in the region, the resources for meeting such needs and the long-range effects of the compact on higher education; and from time to time to prepare comprehensive reports on such research for presentation to the western governors' conference and to the legislatures of the compacting states and territories. In conducting such studies, the commission may confer with any national or regional planning body which may be established. The commission shall draft and recommend to the governors of the various compacting states and territories, uniform legislation dealing with problems of higher education in the region.

For the purposes of this compact the word "region" shall be construed to mean the geographical limits of the several compacting states and territories.

ARTICLE IX

The operating costs of the commission shall be apportioned equally among the compacting states and territories.

ARTICLE X

This compact shall become operative and binding immediately as to those states and territories adopting it whenever five or more of the states or territories of Arizona, California, Colorado, Idaho, Montana, Nevada, New Mexico, Oregon, Utah, Washington, Wyoming, Alaska and Hawaii have duly adopted it prior to July 1, 1953. This compact shall become effective as to any additional states or territories adopting thereafter at the time of such adoption.

ARTICLE XI

This compact may be terminated at any time by consent of a majority of the compacting states or territories. Consent shall be manifested by passage and signature in the usual

manner of legislation expressing such consent by the legislature and governor of such terminating state. Any state or territory may at any time withdraw from this compact by means of appropriate legislation to that end. Such withdrawal shall not become effective until two years after written notice thereof by the governor of the withdrawing state or territory accompanied by a certified copy of the requisite legislative action is received by the commission. Such withdrawal shall not relieve the withdrawing state or territory from its obligations hereunder accruing prior to the effective date of withdrawal. The withdrawing state or territory may rescind its action of withdrawal at any time within the two-year period. Thereafter, the withdrawing state or territory may be reinstated by application to and the approval by a majority vote of the commission.

ARTICLE XII

If any compacting state or territory shall at any time default in the performance of any of its obligations assumed or imposed in accordance with the provisions of this compact, all rights, privileges and benefits conferred by this compact or agreements hereunder shall be suspended from the effective date of such default as fixed by the commission.

Unless such default shall be remedied within a period of two years following the effective date of such default, this compact may be terminated with respect to such defaulting state or territory by affirmative vote of three-fourths of the other member states or territories.

Any such defaulting state may be reinstated by:

(a) performing all acts and obligations upon which it has heretofore defaulted; and

(b) application to and the approval by a majority vote of the commission.

History: 1978 Comp., § 11-10-1, enacted by Laws 1951, ch. 138, § 1.

ANNOTATIONS

Compiler's note. - Laws 1951, ch. 138, was not compiled in the 1941 Comp. or the 1953 Comp.

11-10-2. [Notice of approval.]

Notice of approval of said compact shall be given by the governor of the state of New Mexico to the governors of the states of Arizona, California, Colorado, Idaho, Montana, Nevada, Oregon, Utah, Washington, and Wyoming, and the territories [states] of Alaska and Hawaii, and to the president of the United States.

History: 1978 Comp., § 11-10-2, enacted by Laws 1951, ch. 138, § 2.

11-10-3. [Effective date.]

That ratification and approval of said compact by this state shall not be binding or obligatory until it shall have been likewise approved by the legislatures of the states of Arizona, California, Colorado, Idaho, Montana, Nevada, Oregon, Utah, Washington, and Wyoming, and the territories [states] of Alaska and Hawaii, and consented [to] by the Congress of the United States of America.

History: 1978 Comp., § 11-10-3, enacted by Laws 1951, ch. 138, § 3.

ARTICLE 11
INTERSTATE MINING

11-11-1. to 11-11-3.

ANNOTATIONS

Repeals. - Laws 1991, ch. 61, § 2, effective April 1, 1991, repeals 11-11-1 to 11-11-3 NMSA 1978, as enacted by Laws 1982, ch. 89, §§ 1 to 3, relating to the Interstate Mining Compact, effective on the first anniversary of the date that the governor of New Mexico gives notice to the governors of all other states that are members of the compact that New Mexico is withdrawing. Governor Bruce King notified the governors of the other states of the withdrawl by letter dated April 29, 1991, making the repeal effective April 29, 1992.

Temporary provisions. - Laws 1991, ch. 61, § 1, effective April 1, 1991, provides that the state shall remain liable after its withdrawal from the Interstate Mining Compact for any amounts incurred by or charged to the state during the time that the state was a party to the compact.

ARTICLE 12
INTERSTATE AGRICULTURAL GRAIN MARKETING

11-12-1. [Interstate Compact on Agricultural Grain Marketing.]

The "Interstate Compact on Agricultural Grain Marketing" is hereby enacted into law and entered into with all jurisdictions legally joining therein, in the form substantially as follows:

Interstate Compact on Agricultural Grain Marketing

Article I. - Purpose

It is the purpose of this compact to protect, preserve and enhance:

(a) the economic and general welfare of citizens of the joining states engaged in the production and sale of agricultural grains;

(b) the economies and very existence of local communities in such states, the economies of which are dependent upon the production and sale of agricultural grains; and

(c) the continued production of agricultural grains in such states in quantities necessary to feed the increasing population of the United States and the world.

Article II. - Definitions

As used in this compact:

(a) "State" means any state of the United States in which agricultural grains are produced for the markets of the nation and world.

(b) "Agricultural grains" means wheat, durum, spelt, triticale, oats, rye, corn, barley, buckwheat, flaxseed, safflower, sunflower seed, soybeans, sorghum grains, peas and beans.

Article III. - Commission

(a) Organization and Management

(1) There is hereby created an agency of the member states to be known as the Interstate Agricultural Grain Marketing Commission, hereinafter called the commission. The commission shall consist of three residents of each member state who shall have an agricultural background and who shall be appointed as follows: (1) member appointed by the governor, who shall serve at the pleasure of the governor; (2) one senator appointed in the manner prescribed by the senate of such state, except that two senators may be appointed by the governor of the state of Nebraska from the unicameral legislature of the state of Nebraska; and (3) one member of the house of representatives appointed in the manner prescribed by the house of representatives of such state. The member first appointed by the governor shall serve for a term of one year and the senator and representative first appointed shall each serve for a term of two years; thereafter all members appointed shall serve for two-year terms. The attorneys general of member states or assistants designated thereby shall be nonvoting members of the commission.

(2) Each member shall be entitled to one vote. A member must be present to vote and no voting by proxy shall be permitted. The commission shall not act unless a majority of the voting members are present, and no action shall be binding unless approved by a majority of the total number of voting members present.

(3) The commission shall be a body corporate of each member state and shall adopt an official seal to be used as it may provide.

(4) The commission shall hold and [an] annual meeting and such other regular meetings as its bylaws may provide an [and] such special meetings as its executive committee may determine. The commission bylaws shall specify the dates of the annual and any other regular meetings, and shall provide for the giving of notice of annual, regular and special meetings. Notices of special meetings shall include the reasons therefor and an agenda of the items to be considered.

(5) The commission shall elect annually, from among its voting members, a chairperson, a vice chairperson and a treasurer. The commission shall appoint an executive director who shall serve at its pleasure, and shall fix the duties and compensation of such director. The executive director shall be secretary of the commission. The commission shall make provision for the bonding of such of its officers and employees as it may deem appropriate.

(6) Irrespective of the civil service, personnel or other merit system laws of any member state, the executive director shall appoint or discharge such personnel as may be necessary for the performance of the functions of the commission and shall fix, with the approval of the commission, their duties and compensation. The commission bylaws shall provide for personnel policies and programs. The commission may establish and maintain, independently of or in conjunction with any one or more of the member states, a suitable retirement system for its full-time employees. Employees of the commission shall be eligible for social security coverage in respect of old age and survivors insurance provided that the commission takes such steps as may be necessary pursuant to federal law to participate in such program of insurance as a governmental agency or unit. The commission may establish and maintain or participate in such additional programs of employee benefits as may be appropriate. The commission may borrow, accept or contract for the services of personnel from any state, the United States, or any other governmental entity.

(7) The commission may accept for any of its purposes and functions any and all donations and grants of money, equipment, supplies, materials and services, conditional or otherwise, from any governmental entity, and may utilize and dispose of the same.

(8) The commission may establish one or more offices for the transacting of its business.

(9) The commission shall adopt bylaws for the conduct of its business. The commission shall publish its bylaws in convenient form, and shall file a copy of the bylaws and any amendments thereto with the appropriate agency or officer in each of the member states.

(10) The commission annually shall make to the governor and legislature of each member state a report covering its activities for the preceding year. Any donation or grant accepted by the commission or services borrowed shall be reported in the annual report of the commission, and shall include the nature, amount and conditions, if any, of the donation, gift, grant or services borrowed and the identity of the donor or lender. The commission may make additional reports as it may deem desirable.

(b) Committees

(1) The commission may establish such committees from its membership as its bylaws may provide for the carrying out of its functions.

Article IV. - Powers and Duties of Commission

(a) The commission shall conduct comprehensive and continuing studies and investigations of agricultural grain marketing practices, procedures and controls and their relationship to and effect upon the citizens and economies of the member states.

(b) The commission shall make recommendations for the correction of weaknesses and solutions to problems in the present system of agricultural grain marketing or the development of alternatives thereto, including the development, drafting, and recommendation of proposed state or federal legislation.

(c) The commission is hereby authorized to do all things necessary and incidental to the administration of its functions under this compact.

Article V. - Finance

(a) The commission shall submit to the governor of each member state a budget of its estimated expenditures for such period as may be required by the laws of that state for presentation to the legislature thereof.

(b) The moneys necessary to finance the general operations of the commission not otherwise provided for in carrying forth its duties, responsibilities and powers as stated herein shall be appropriated to the commission by the member states, when authorized by the respective legislatures. Appropriations by member states for the financing of the operations of the commission in the initial biennium of the compact shall be in the amount of fifty thousand dollars ($50,000) for each member state; thereafter the total amount of appropriations requested shall be apportioned among the member states in the manner determined by the commission.

(c) The commission shall not incur any obligations of any kind prior to the making of appropriations adequate to meet the same; nor shall the commission pledge the credit of any of the member states, except by and with the authority of the member state.

(d) The commission shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the commission shall be subject to the audit and accounting procedures established under its bylaws. However, all receipts and disbursements of funds handled by the commission shall be audited yearly by a certified or licensed public accountant and the report of the audit shall be included in and become part of the annual report of the commission.

(e) The accounts of the commission shall be open for inspection at any reasonable time.

Article VI. - Eligible Parties, Entry Into Force,

Withdrawal and Termination

(a) Any agricultural grain marketing state may become a member of this compact.

(b) This compact shall become effective initially when enacted into law by any five states prior to July 1, 1988, and in additional states upon their enactment of the same into law.

(c) Any member state may withdraw from this compact by enacting a statute repealing the compact, but such withdrawal shall not become effective until one year after the enactment of such statute and the notification of the commission thereof by the governor of the withdrawing state. A withdrawing state shall be liable for any obligations which it incurred on account of its membership up to the effective date of withdrawal, and if the withdrawing state has specifically undertaken or committed itself to any performance of an obligation extending beyond the effective date of withdrawal, it shall remain liable to the extent of such obligation.

(d) This compact shall terminate one year after the notification of withdrawal by the governor of any member state which reduces the total membership in the compact to less than five states.

History: Laws 1987, ch. 239, § 1.