

AN ACT

PROVIDING FUNDING TO THE DEPARTMENT OF TRANSPORTATION FOR CERTAIN ROAD PROJECTS ENUMERATED IN LAWS 2003 (S.S.), CHAPTER 3, SECTION 27; AUTHORIZING THE ISSUANCE OF SEVERANCE TAX BONDS; MAKING APPROPRIATIONS; DECLARING AN EMERGENCY.

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

Section 1. SEVERANCE TAX BONDS--AUTHORIZATIONS--
LIMITATIONS--REVERSIONS--APPROPRIATION OF PROCEEDS.--

A. In addition to any authority provided to the state board of finance to issue and sell severance tax bonds in fiscal year 2009 provided in Laws 2007 (1st S.S.), Chapter 3, Section 1, the state board of finance may issue and sell severance tax bonds in fiscal years 2009 through 2011 in compliance with the Severance Tax Bonding Act in an amount not to exceed one hundred fifty million dollars (\$150,000,000); provided that no more than seventy-five million dollars (\$75,000,000) shall be issued in any single fiscal year pursuant to this section. The state board of finance shall schedule the issuance and sale of the bonds in the most expeditious and economical manner possible upon a finding by the board that the projects to be included in the sale have been developed sufficiently to justify the issuance and that the projects can proceed to contract within a reasonable time. The state board of finance shall further take the appropriate

steps necessary to comply with the Internal Revenue Code of 1986, as amended. Proceeds from the sale of the bonds are appropriated to the department of transportation for projects authorized in Paragraphs (1) and (3) through (37) of Subsection A of Section 27 of Chapter 3 of Laws 2003 (S.S.); provided that the department of transportation shall comply with the requirements of Subsections C through E of Section 67-3-59.4 NMSA 1978.

B. The department of transportation shall certify to the state board of finance when the money from the proceeds of the severance tax bonds authorized in this section is needed for the purposes specified in Paragraphs (1) and (3) through (37) of Subsection A of Section 27 of Chapter 3 of Laws 2003 (S.S.). If the department of transportation has not certified the need for the issuance of the bonds provided for in this section by the end of fiscal year 2011, the authorization for the bonds provided in this section is void.

C. Before the department of transportation may certify for the issuance of severance tax bonds, the projects to be included in the sale must be developed sufficiently so that the department reasonably expects to:

(1) incur within six months after the applicable bonds have been issued substantial binding obligations to third parties to expend at least five percent of the bond proceeds for the projects; and

(2) spend at least eighty-five percent of the bond proceeds within three years after the applicable bonds have been issued.

D. The unexpended balance from the proceeds of severance tax bonds issued pursuant to this section shall revert to the severance tax bonding fund no later than six months after completion of the projects authorized in Paragraphs (1) and (3) through (37) of Subsection A of Section 27 of Chapter 3 of Laws 2003 (S.S.), but no later than the end of fiscal year 2013.

E. All remaining balances from the proceeds of severance tax bonds issued pursuant to this section shall revert to the severance tax bonding fund three months after the reversion date established in Subsection D of this section, whether or not any of the remaining balances are subject to contractual obligations to third parties.

F. Money from severance tax bond proceeds provided pursuant to this section shall not be used to pay indirect project costs.

G. As used in this section, "unexpended balance" means the remainder of an appropriation after reserving for unpaid costs and expenses covered by binding written obligations to third parties.

Section 2. GENERAL FUND APPROPRIATIONS--LIMITATIONS--
REVERSIONS.--

A. As used in this section:

(1) "general fund consensus revenue forecast" means the revenue estimates prepared by the career economists of the department of finance and administration, taxation and revenue department, department of transportation and legislative finance committee;

(2) "reserves" means "reserves as a percentage of current-year recurring appropriations" established in the general fund financial summary released by the department of finance and administration in conjunction with the general fund consensus revenue forecast; and

(3) "unexpended balance" means the remainder of an appropriation after reserving for unpaid costs and expenses covered by binding written obligations to third parties.

B. The following amounts are appropriated from the general fund to the department of transportation for the following purposes subject to the identified conditions precedent:

(1) twenty-five million dollars (\$25,000,000) for expenditure in fiscal years 2009 through 2013 for projects authorized in Paragraphs (1) and (3) through (37) of Subsection A of Section 27 of Chapter 3 of Laws 2003 (S.S.); provided that the department of transportation shall comply with the requirements of Subsections C through E of

Section 67-3-59.4 NMSA 1978; and provided further that this appropriation is contingent on either:

(a) the general fund consensus revenue forecast released in December 2008 projecting sufficient fiscal year 2009 revenue to create reserves at the end of fiscal year 2009 of at least ten percent plus eighty-six million five hundred thousand dollars (\$86,500,000); or

(b) the general fund consensus revenue forecast released in July 2009 projecting sufficient fiscal year 2010 revenue to create reserves at the end of fiscal year 2010 of at least ten percent plus twenty-five million dollars (\$25,000,000); and

(2) twenty-five million dollars (\$25,000,000) for expenditure in fiscal years 2010 through 2013 for projects authorized in Paragraphs (1) and (3) through (37) of Subsection A of Section 27 of Chapter 3 of Laws 2003 (S.S.); provided that the department of transportation shall comply with the requirements of Subsections C through E of Section 67-3-59.4 NMSA 1978; and provided further that this appropriation is contingent on the general fund consensus revenue forecast released in July 2009 projecting sufficient fiscal year 2010 revenue to create reserves at the end of fiscal year 2010 of at least ten percent plus:

(a) twenty-five million dollars (\$25,000,000) if the contingency in the appropriation in

Paragraph (1) of this subsection was met based on the December 2008 general fund consensus revenue forecast; or

(b) fifty million dollars (\$50,000,000) if the contingency in the appropriation in Paragraph (1) of this subsection was not met based on the December 2008 general fund consensus revenue forecast.

C. The unexpended balance of an appropriation made in this section from the general fund shall revert within six months of completion of the projects authorized in Paragraphs (1) and (3) through (37) of Subsection A of Section 27 of Chapter 3 of Laws 2003 (S.S.), but no later than the end of fiscal year 2013.

D. All remaining balances from a general fund appropriation made in this section shall revert three months after the reversion date established in Subsection C of this section, whether or not any of the remaining balances are subject to contractual obligations to third parties.

E. Upon satisfaction of any conditions and certification by the department of transportation that money from a general fund appropriation made in this section is needed for a purpose specified in the appropriation, the secretary of finance and administration shall disburse that amount of the appropriation for that purpose as necessary to meet that need.

F. Money from appropriations made in this section

shall not be used to pay indirect project costs.

Section 3. EMERGENCY.--It is necessary for the public peace, health and safety that this act take effect immediately.
