

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

SENATE BILL 376

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

INTRODUCED BY

Carlos R. Cisneros

AN ACT

RELATING TO INDIAN WATER RIGHTS; TEMPORARILY ALLOCATING A PORTION OF THE SEVERANCE TAX BONDING CAPACITY TO IMPLEMENT THE STATE'S SHARE OF THE AAMODT, TAOS AND NAVAJO NATION WATER RIGHTS SETTLEMENTS; TEMPORARILY REDUCING THE ALLOCATION OF SEVERANCE TAX BONDING CAPACITY FOR TRIBAL INFRASTRUCTURE PROJECTS; MAKING AN APPROPRIATION.

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

**SECTION 1.** Section 7-27-10.1 NMSA 1978 (being Laws 2003, Chapter 134, Section 1, as amended) is amended to read:

"7-27-10.1. BONDING CAPACITY--AUTHORIZATION FOR SEVERANCE TAX BONDS--PRIORITY FOR WATER PROJECTS AND TRIBAL INFRASTRUCTURE PROJECTS.--

A. By January 15 of each year, the board of finance division of the department of finance and administration shall

.184689.1

underscoring material = new  
~~[bracketed material] = delete~~

underscored material = new  
[bracketed material] = delete

1 estimate the amount of bonding capacity available for severance  
2 tax bonds to be authorized by the legislature.

3 B. The division shall allocate ten percent of the  
4 estimated bonding capacity each year for water projects, and  
5 the legislature authorizes the state board of finance to issue  
6 severance tax bonds in the annually allocated amount for use by  
7 the water trust board to fund water projects statewide, except  
8 for projects authorized in Subsection ~~[E]~~ F of this section.

9 The water trust board shall certify to the state board of  
10 finance the need for issuance of bonds for water projects. The  
11 state board of finance may issue and sell the bonds in the same  
12 manner as other severance tax bonds in an amount not to exceed  
13 the authorized amount provided for in this subsection. If  
14 necessary, the state board of finance shall take the  
15 appropriate steps to comply with the federal Internal Revenue  
16 Code of 1986, as amended. Proceeds from the sale of the bonds  
17 are appropriated to the water project fund in the New Mexico  
18 finance authority for the purposes certified by the water trust  
19 board to the state board of finance.

20 C. The board of finance division shall allocate  
21 ~~[five percent]~~ a percentage of the estimated bonding capacity  
22 each year for tribal infrastructure projects, and the  
23 legislature authorizes the state board of finance to issue  
24 severance tax bonds in the annually allocated amount for use by  
25 the tribal infrastructure board to fund tribal infrastructure

.184689.1

underscored material = new  
[bracketed material] = delete

1 projects. The tribal infrastructure board shall certify to the  
2 state board of finance the need for issuance of bonds for  
3 tribal infrastructure projects. The state board of finance may  
4 issue and sell the bonds in the same manner as other severance  
5 tax bonds in an amount not to exceed the authorized amount  
6 provided for in this subsection. If necessary, the state board  
7 of finance shall take the appropriate steps to comply with the  
8 federal Internal Revenue Code of 1986, as amended. Proceeds  
9 from the sale of the bonds are appropriated to the tribal  
10 infrastructure project fund for the purposes certified by the  
11 tribal infrastructure board to the state board of finance. The  
12 percentage of the estimated severance tax bonding capacity  
13 allocated each year pursuant to this subsection shall be:

14 (1) two percent of the estimated severance tax  
15 bonding capacity in fiscal years 2012 through 2021; and

16 (2) five percent of the estimated severance  
17 tax bonding capacity in fiscal year 2022 and each subsequent  
18 fiscal year.

19 D. For each year from fiscal year 2012 through  
20 fiscal year 2021, the board of finance division shall allocate  
21 three percent of the estimated bonding capacity for water  
22 projects required to implement the Aamodt, Taos and Navajo  
23 Nation Indian water rights settlements, and the legislature  
24 authorizes the state board of finance to issue severance tax  
25 bonds in the annually allocated amount for use by the

.184689.1

underscored material = new  
[bracketed material] = delete

1 interstate stream commission to fund the construction of water  
2 projects authorized by federal law. The interstate stream  
3 commission shall certify to the state board of finance the need  
4 for issuance of bonds for Indian water rights projects. The  
5 state board of finance may issue and sell the bonds in the same  
6 manner as other severance tax bonds in an amount not to exceed  
7 the authorized amount provided for in this subsection. If  
8 necessary, the state board of finance shall take the  
9 appropriate steps to comply with the federal Internal Revenue  
10 Code of 1986, as amended. Proceeds from the sale of the bonds  
11 are appropriated to the Indian water rights settlement fund to  
12 implement the Aamodt, Taos and Navajo Nation Indian water  
13 rights settlements enacted by congress pursuant to the Claims  
14 Resolution Act of 2010, Public Law 111-29.1 (Title V, Taos  
15 Pueblo Indian Water Rights Settlement; Title VI, Aamodt  
16 Litigation Settlement Act) and the Omnibus Public Law  
17 Management Act of 2009, Public Law 111-11 (Title X, Water  
18 Settlements, Subtitle B, Northwestern New Mexico Rural Water  
19 Projects Act Native Americans). The authorization for the  
20 bonds and the appropriation of the proceeds from the sale of  
21 the bonds constitute the authorization of the legislature to  
22 expend the proceeds for the referenced settlements, in lieu of  
23 the requirement of Section 72-1-11 NMSA 1978 for a joint  
24 resolution.

25 [~~D-~~] E. Money from the severance tax bonds provided

.184689.1

underscoring material = new  
~~[bracketed material] = delete~~

1 for in this section shall not be used to pay indirect project  
2 costs. Any unexpended balance from proceeds of severance tax  
3 bonds issued for a water project or a tribal infrastructure  
4 project shall revert to the severance tax bonding fund within  
5 six months of completion of the project. The New Mexico  
6 finance authority shall monitor and ensure proper reversions of  
7 the bond proceeds appropriated for water projects funded  
8 through the water project fund, and the department of finance  
9 and administration shall monitor and ensure proper reversions  
10 of the bond proceeds appropriated for tribal infrastructure  
11 projects and water projects funded through the Indian water  
12 rights settlement fund.

13 ~~[E.]~~ F. The board of finance division of the  
14 department of finance and administration shall:

15 (1) void the authorization to the water  
16 project fund held at the New Mexico finance authority to make  
17 grants or loans of severance tax bond proceeds for projects  
18 pursuant to Subsection U of Section 1 of Chapter 41 of Laws  
19 2006 for the northwest New Mexico council of governments in  
20 McKinley county for a water distribution project and Subsection  
21 25 of Section 1 of Chapter 139 of Laws 2007 for the Navajo  
22 Nation division of natural resources department of water  
23 resources water management branch for a regional water project  
24 in Rio Arriba, Sandoval, McKinley, San Juan and Cibola  
25 counties; and

.184689.1

underscoring material = new  
[bracketed material] = delete

1 (2) authorize the department of environment to  
2 make a grant of the unexpended proceeds of severance tax bonds  
3 issued in fiscal years 2006 and 2007 for the purposes of the  
4 water project fund to be used for the authorizations identified  
5 in Paragraph (1) of this subsection and appropriate to the  
6 department of environment five million three hundred seventy-  
7 five thousand two hundred forty-four dollars (\$5,375,244) for  
8 the Navajo Nation division of natural resources department of  
9 water resources water management branch for a regional water  
10 distribution project in Rio Arriba, Sandoval, McKinley, San  
11 Juan and Cibola counties. Any unexpended balance of the funds  
12 authorized for expenditure in this ~~[section]~~ subsection shall  
13 revert to the severance tax bonding fund at the end of fiscal  
14 year 2013 or upon completion of the project, whichever is  
15 earlier.

16 ~~[F-]~~ G. As used in this section:

17 (1) "tribal infrastructure project" means a  
18 qualified project under the Tribal Infrastructure Act; and

19 (2) "water project" means a capital outlay  
20 project for:

21 (a) the storage, conveyance or delivery  
22 of water to end users;

23 (b) the implementation of federal  
24 Endangered Species Act of 1973 collaborative programs;

25 (c) the restoration and management of

.184689.1

underscored material = new  
[bracketed material] = delete

1 watersheds;

2 (d) flood prevention; or

3 (e) conservation, recycling, treatment  
4 or reuse of water."

5 SECTION 2. Section 72-1-12 NMSA 1978 (being Laws 2005,  
6 Chapter 172, Section 2) is amended to read:

7 "72-1-12. INDIAN WATER RIGHTS SETTLEMENT FUND.--The  
8 "Indian water rights settlement fund" is created in the state  
9 treasury to facilitate the implementation of the state's  
10 portion of Indian water rights settlements. The fund consists  
11 of appropriations, gifts, grants, donations, proceeds from the  
12 issuance of severance tax bonds, income from investment of the  
13 fund and money otherwise accruing to the fund. Except for  
14 severance tax bond proceeds that are required to revert to the  
15 severance tax bonding fund, money in the fund shall not revert  
16 to any other fund at the end of a fiscal year. Money in the  
17 Indian water rights settlement fund shall be used to pay the  
18 state's portion of the costs necessary to implement Indian  
19 water rights settlements approved by ~~[the legislature and]~~ the  
20 United States congress; provided that any expenditure of  
21 severance tax bond proceeds or other legislative appropriations  
22 shall be consistent with the purpose of the appropriation. The  
23 interstate stream commission shall administer the fund, and  
24 money in the fund is appropriated to the commission to carry  
25 out the purposes of the fund. Money in the fund shall be

.184689.1

underscoring material = new  
~~[bracketed material] = delete~~

1       disbursed on warrants of the secretary of finance and  
2       administration pursuant to vouchers signed by an authorized  
3       representative of the interstate stream commission."

4               **SECTION 3. EFFECTIVE DATE.**--The effective date of the  
5       provisions of this act is July 1, 2011.

7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25