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HOUSE BILL 139

50TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2012

INTRODUCED BY

Larry A. Larrañaga

AN ACT

RELATING TO CAPITAL EXPENDITURES; AMENDING THE SEVERANCE TAX
BONDING ACT TO ALLOW THE STATE BOARD OF FINANCE TO ISSUE
SUPPLEMENTAL ROAD SEVERANCE TAX BONDS; CLARIFYING THE TYPES OF
SUPPLEMENTAL SEVERANCE TAX BONDS; RECONCILING CONFLICTING
AMENDMENTS TO THE SAME SECTION OF LAW BY REPEALING LAWS 2001,
CHAPTER 37, SECTION 1.

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

SECTION 1. Section 7-27-9 NMSA 1978 (being Laws 1961,
Chapter 5, Section 7, as amended) is amended to read:

"7-27-9. BONDS--~~[TO BE KNOWN AS]~~ SEVERANCE TAX BONDS AND
SUPPLEMENTAL SEVERANCE TAX BONDS.--

A. Prior to July 1, 1999, all bonds issued wherein
the money in the severance tax bonding fund is pledged for
their retirement shall be known as "New Mexico severance tax

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1 bonds".

2 B. After July 1, 1999, there shall be two
3 categories of bonds issued by the state board of finance
4 wherein the money in the severance tax bonding fund is pledged
5 for their retirement. Those bonds shall be known as "New
6 Mexico severance tax bonds" and as "New Mexico supplemental
7 severance tax bonds".

8 C. Upon the effective date of this 2012 act, New
9 Mexico supplemental severance tax bonds shall include:

10 (1) supplemental public school severance tax
11 bonds used for public school capital outlay projects, as
12 provided in Subsection A of Section 7-27-12.2 NMSA 1978; and

13 (2) supplemental road severance tax bonds,
14 used for maintenance, construction and improvements of state
15 transportation projects as provided in Subsection D of Section
16 7-27-12.2 NMSA 1978."

17 SECTION 2. Section 7-27-12 NMSA 1978 (being Laws 1961,
18 Chapter 5, Section 10, as amended by Laws 2001, Chapter 37,
19 Section 1 and by Laws 2001, Chapter 338, Section 1) is amended
20 to read:

21 "7-27-12. WHEN SEVERANCE TAX BONDS TO BE ISSUED.--

22 A. The state board of finance shall issue and sell
23 all severance tax bonds when authorized to do so by any law
24 that sets out the amount of the issue and the recipient of the
25 money.

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1 B. The state board of finance shall also issue and
2 sell severance tax bonds authorized by Sections 72-14-36
3 through 72-14-42 NMSA 1978, and such authority as has been
4 given to the interstate stream commission to issue and sell
5 such bonds is transferred to the state board of finance. The
6 state board of finance shall issue and sell all severance tax
7 bonds only when so instructed by resolution of the governing
8 body or by written direction from an authorized officer of the
9 recipient of the bond money.

10 C. ~~[Except as provided in Subsection D of this~~
11 ~~section]~~ Proceeds from supplemental severance tax bonds shall
12 be used ~~[only for public school capital outlay projects~~
13 ~~pursuant to the Public School Capital Outlay Act or the Public~~
14 ~~School Capital Improvements Act]~~ as follows:

15 (1) proceeds from supplemental public school
16 severance tax bonds issued pursuant to Subsection A of Section
17 7-27-12.2 NMSA 1978 shall be used for the purpose specified in
18 that subsection;

19 ~~[D-]~~ (2) proceeds from supplemental severance
20 tax bonds issued pursuant to Paragraph (2) of Subsection A of
21 Section 19 of Chapter 6 of Laws 1999 (1st S.S.) shall be used
22 for the purposes specified in that paragraph; and

23 (3) proceeds from supplemental road severance
24 tax bonds issued pursuant to Subsection D of Section 7-27-12.2
25 NMSA 1978 shall be used for the purposes specified in that

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1 subsection.

2 ~~[E. Except as provided in Subsection F of this~~
3 ~~section]~~

4 D. The state board of finance shall:

5 (1) issue and sell all supplemental public
6 school severance tax bonds when so instructed by resolution of
7 the public school capital outlay council pursuant to Section
8 7-27-12.2 NMSA 1978; and

9 (2) issue and sell all supplemental road
10 severance tax bonds when so instructed by resolution of the
11 state transportation commission pursuant to Section 7-27-12.2
12 NMSA 1978.

13 ~~[F.]~~ E. The state board of finance shall issue and
14 sell supplemental severance tax bonds authorized by Paragraph
15 (2) of Subsection A of Section 19 of Chapter 6 of Laws 1999
16 (1st S.S.) when so instructed by resolution of the ~~[commission~~
17 ~~en]~~ higher education department."

18 **SECTION 3.** Section 7-27-12.2 NMSA 1978 (being Laws 2001,
19 Chapter 338, Section 2, as amended) is amended to read:

20 "7-27-12.2. SUPPLEMENTAL PUBLIC SCHOOL SEVERANCE TAX
21 BONDS--PUBLIC SCHOOL CAPITAL OUTLAY PROJECT--SUPPLEMENTAL ROAD
22 SEVERANCE TAX BONDS--ROAD FUND PROJECTS.--

23 A. The public school capital outlay council is
24 authorized to certify by resolution that proceeds of
25 supplemental public school severance tax bonds are needed for
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1 expenditures relating to public school capital outlay projects
2 pursuant to the Public School Capital Outlay Act or for the
3 state distribution for public school capital improvements
4 pursuant to the Public School Capital Improvements Act. The
5 resolution shall specify the total amount needed.

6 B. The state board of finance may issue and sell
7 supplemental public school severance tax bonds in compliance
8 with the Severance Tax Bonding Act when the public school
9 capital outlay council certifies by resolution the need for the
10 issuance of the bonds. The amount of the bonds sold at each
11 sale shall not exceed the lesser of the amount certified by the
12 council or the amount that may be issued pursuant to the
13 restrictions of Section 7-27-14 NMSA 1978.

14 ~~C. The state board of finance shall schedule the~~
15 ~~issuance and sale of the bonds in the most expeditious and~~
16 ~~economical manner possible.~~

17 ~~D.]~~ C. The proceeds from the sale of the
18 supplemental public school severance tax bonds are appropriated
19 as follows:

20 (1) the amount certified by the secretary of
21 public education as necessary to make the distribution pursuant
22 to Section 22-25-9 NMSA 1978 is appropriated to the public
23 school capital improvements fund for the purpose of carrying
24 out the provisions of the Public School Capital Improvements
25 Act; and

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1 (2) the remainder of the proceeds is
2 appropriated to the public school capital outlay fund for the
3 purpose of carrying out the provisions of the Public School
4 Capital Outlay Act.

5 D. The state transportation commission is
6 authorized to certify by resolution that proceeds of
7 supplemental road severance tax bonds are needed for
8 expenditures related to maintenance, construction and
9 improvements of state transportation projects. The resolution
10 shall specify the total amount needed.

11 E. The state board of finance may issue and sell
12 supplemental road severance tax bonds in compliance with the
13 Severance Tax Bonding Act when the state transportation
14 commission certifies by resolution the need for the issuance of
15 the bonds. The amount of the bonds sold at each sale shall not
16 exceed the lesser of the amount certified by the commission or
17 the amount that may be issued pursuant to the restrictions
18 provided in Section 7-27-14 NMSA 1978.

19 F. The proceeds from the sale of the supplemental
20 road severance tax bonds are appropriated to the state road
21 fund for expenditure as provided in Subsection D of this
22 section.

23 G. The state board of finance shall schedule the
24 issuance and sale of supplemental severance tax bonds in the
25 most expeditious and economical manner possible."

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1 SECTION 4. Section 7-27-14 NMSA 1978 (being Laws 1961,
2 Chapter 5, Section 11, as amended) is amended to read:

3 "7-27-14. AMOUNT OF TAX--SECURITY FOR BONDS.--

4 A. The legislature shall provide for the continued
5 assessment, levy, collection and deposit into the severance tax
6 bonding fund of the tax or taxes upon natural resource products
7 severed and saved from the soil of the state that, together
8 with such other income as may be deposited to the fund, will be
9 sufficient to produce an amount that is at least the amount
10 necessary to meet annual debt service charges on all
11 outstanding severance tax bonds and supplemental severance tax
12 bonds.

13 B. Except as otherwise specifically provided by
14 law, the state board of finance shall not issue [~~ne~~] severance
15 tax bonds unless the aggregate amount of severance tax bonds
16 outstanding, and including the issue proposed, can be serviced
17 with not more than fifty percent of the annual deposits into
18 the severance tax bonding fund, as determined by the deposits
19 during the preceding fiscal year.

20 C. The state board of finance shall not issue [~~ne~~]
21 supplemental public school severance tax bonds with a term that
22 extends beyond the fiscal year in which the bonds are issued
23 unless the aggregate amount of severance tax bonds and
24 supplemental severance tax bonds outstanding, and including the
25 issue proposed, can be serviced with not more than sixty-two

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1 and one-half percent of the annual deposits into the severance
2 tax bonding fund, as determined by the deposits during the
3 preceding fiscal year.

4 D. Except as otherwise specifically provided by
5 law, the state board of finance may issue supplemental public
6 school severance tax bonds with a term that does not extend
7 beyond the fiscal year in which they are issued if the debt
8 service on such supplemental public school severance tax bonds
9 when added to the debt service previously paid or scheduled to
10 be paid during that fiscal year on severance tax bonds and
11 supplemental public school severance tax bonds does not exceed
12 [~~ninety-five~~] seventy-five percent of the deposits into the
13 severance tax bonding fund during the preceding fiscal year.

14 E. Except as otherwise specifically provided by
15 law, the state board of finance may issue supplemental road
16 severance tax bonds for expenditures related to maintenance,
17 construction and improvements of state transportation projects
18 with a term that does not extend beyond the fiscal year in
19 which they are issued if the debt service on such supplemental
20 road severance tax bonds when added to the debt service
21 previously paid or scheduled to be paid during that fiscal year
22 on severance tax bonds and supplemental public school severance
23 tax bonds does not exceed ninety-five percent of the deposits
24 into the severance tax bonding fund during the preceding fiscal
25 year.

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