

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

HOUSE BILL 315

51ST LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2014

INTRODUCED BY

Cathrynn N. Brown

AN ACT

RELATING TO HIGHWAYS; CREATING THE HIGHWAY DISTRICT PROJECT FUND; PROVIDING FOR A DISTRIBUTION OF A PORTION OF THE MOTOR VEHICLE EXCISE TAX TO THE HIGHWAY DISTRICT PROJECT FUND; PROVIDING FOR SEVERANCE TAX BONDS FOR HIGHWAY PROJECTS IMPACTED BY ENERGY DEVELOPMENT; TEMPORARILY REDIRECTING CERTAIN LOCAL GOVERNMENTS ROAD FUND MONEY; SETTING REQUIREMENTS FOR THE FUNDING OF HIGHWAY PROJECTS IMPACTED BY ENERGY DEVELOPMENT; MAKING AN APPROPRIATION.

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

SECTION 1. [NEW MATERIAL] FINDINGS AND PURPOSE--HIGHWAY DISTRICT PROJECT FUND CREATED--APPROPRIATION--USE-- LIMITATION.--

A. The legislature finds that New Mexico, as the third-largest net energy supplier to the nation, is currently

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

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

1 in the midst of an oil and gas production boom bringing record
2 earnings to the state and its institutions that depend on those
3 earnings but, at the same time, the increased use of heavy
4 vehicles used in energy production is rapidly deteriorating
5 state and local government highways and roads in those areas of
6 the state where most of the energy production occurs.

7 B. The purpose of this 2014 act is to provide a
8 fund for use by the department of transportation and local
9 governments dedicated to the maintenance, repair and
10 rehabilitation of those highways and roads used by energy
11 producers and necessary to energy production in New Mexico.

12 C. The "highway district project fund" is created
13 as a nonreverting fund in the state treasury. The fund
14 consists of money from taxes distributed to the fund and
15 earnings on investment of the fund. Money in the fund shall
16 not be transferred to any other fund. The department of
17 transportation shall administer the fund, and money in the fund
18 is appropriated to the department of transportation for
19 expenditures as provided in this section. Disbursements from
20 the fund shall be by warrant of the secretary of finance and
21 administration on vouchers signed by the secretary of
22 transportation or the secretary of transportation's authorized
23 representative.

24 D. For the period beginning July 1, 2014 and ending
25 with the receipts collected for June 2019, distributions from

.195523.2

underscored material = new
[bracketed material] = delete

1 the fund shall be expended only in state transportation
2 commission districts 2 and 5, as described in Section 67-3-3
3 NMSA 1978, for projects on highways and roads that are
4 frequently and consistently used by vehicles involved in the
5 production of oil and gas in the state as certified by the
6 secretary of transportation. Distributions from the fund may
7 be used for cooperative agreements pursuant to Section 67-3-28
8 NMSA 1978 with local governments within state transportation
9 commission districts 2 and 5.

10 SECTION 2. Section 7-14-10 NMSA 1978 (being Laws 1988,
11 Chapter 73, Section 20, as amended) is amended to read:

12 "7-14-10. DISTRIBUTION OF PROCEEDS.--The receipts from
13 the tax and any associated interest and penalties shall be
14 deposited in the "motor vehicle suspense fund", hereby created
15 in the state treasury. As of the end of each month, the net
16 receipts attributable to the tax and associated penalties and
17 interest shall be distributed to the general fund; except that
18 beginning July 1, 2014 and ending with the receipts collected
19 for June 2019, sufficient net receipts attributable to the tax,
20 exclusive of penalties and interest, shall be distributed to
21 the highway district project fund at the end of each month
22 equal to one-sixtieth of the total amount to be distributed so
23 that the aggregate total of the distributions from the motor
24 vehicle suspense fund to the highway district project fund
25 during that time period equals fifty million dollars

.195523.2

1 (\$50,000,000)."

2 **SECTION 3.** A new section of the Severance Tax Bonding Act
3 is enacted to read:

4 "[NEW MATERIAL] AUTHORIZATION FOR SEVERANCE TAX BONDS FOR
5 TRANSPORTATION INFRASTRUCTURE IMPACTED BY ENERGY PRODUCTION--
6 APPROPRIATION OF PROCEEDS.--

7 A. The state board of finance may issue and sell
8 severance tax bonds in fiscal years 2015 through 2017 in
9 compliance with the Severance Tax Bonding Act in an amount not
10 exceeding a total of thirty million dollars (\$30,000,000) when
11 the department of transportation certifies the need for the
12 issuance of the bonds; provided that in each of fiscal years
13 2015, 2016 and 2017, no more than ten million dollars
14 (\$10,000,000) in bonds shall be issued.

15 B. The state board of finance shall schedule the
16 issuance and sale of the bonds in the most expeditious and
17 economical manner possible upon a finding by the board that,
18 based upon a certification from the secretary of
19 transportation, the proceeds of the bonds are needed and that
20 the projects can proceed to contract within a reasonable time.
21 The state board of finance shall further take the appropriate
22 steps necessary to comply with the federal Internal Revenue
23 Code of 1986, as amended. The state board of finance may issue
24 and sell the bonds in the same manner as other severance tax
25 bonds in an amount not to exceed the authorized amount provided

.195523.2

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

1 for in this section.

2 C. The proceeds from the sale of the bonds are
3 appropriated as follows:

4 (1) fifty percent of the proceeds of the bonds
5 issued in each fiscal year are appropriated to the local
6 government transportation fund for distribution as approved by
7 the department of transportation pursuant to Section 6-21-6.12
8 NMSA 1978 and authorization is specifically given for projects,
9 as certified by the secretary of transportation, that maintain
10 or rehabilitate local government highways and roads impacted by
11 energy development in state transportation commission districts
12 2 and 5 as identified in Section 67-3-3 NMSA 1978; and

13 (2) fifty percent of the proceeds of the bonds
14 issued in each fiscal year are appropriated to the department
15 of transportation to maintain or rehabilitate state highways
16 impacted by energy development in state transportation
17 commission districts 2 and 5 as identified in Section 67-3-3
18 NMSA 1978.

19 D. Money from the severance tax bonds provided for
20 in this section shall not be used to pay indirect costs. If
21 the department of transportation has not certified the need for
22 the issuance of the bonds by July 1, 2017, the authorization
23 provided in this section shall expire."

24 SECTION 4. Section 67-3-28.2 NMSA 1978 (being Laws 1986,
25 Chapter 20, Section 125, as amended) is amended to read:

.195523.2

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

1 "67-3-28.2. LOCAL GOVERNMENTS ROAD FUND CREATED--
2 USES.--

3 A. There is created in the state treasury the
4 "local governments road fund" to be administered by the
5 department. All income received from investment of the fund
6 shall be credited to the fund. No money in the fund shall be
7 used by the department to administer any program, and except as
8 provided in Subsection E of this section, no entity receiving a
9 distribution pursuant to a program requiring matching funds
10 shall use another distribution made pursuant to this section to
11 meet the match required.

12 B. No more than five hundred thousand dollars
13 (\$500,000) annually from the local governments road fund shall
14 be used by the department to purchase at fair market value, for
15 municipalities and counties that can demonstrate financial
16 hardship as determined by the department, automotive, major
17 road and miscellaneous equipment that would otherwise be sold
18 at auction by the department as unusable for department
19 purposes. The department shall adopt rules setting the
20 procedure to carry out the purposes of this subsection.

21 C. Except for the amounts in Subsections B and E of
22 this section, money in the local governments road fund shall be
23 distributed in the following amounts for the specified
24 purposes:

- 25 (1) forty-two percent for the cooperative

.195523.2

underscored material = new
[bracketed material] = delete

1 agreements program, to be used solely for the cooperative
2 agreements entered into pursuant to Section 67-3-28 NMSA 1978
3 and in accordance with the match authorized pursuant to Section
4 67-3-32 NMSA 1978; provided, however, that distribution amounts
5 made pursuant to this paragraph in each year shall be based on
6 the following allocations:

7 (a) beginning July 1, 2014 and extending
8 through June 30, 2019, thirty-three percent for agreements
9 entered into with counties within state transportation
10 commission districts 2 and 5 to address the maintenance of
11 highways and roads that as certified by the secretary are
12 deteriorating due to the impact of energy development and,
13 provided further that, the provisions of Subsection E of this
14 section and Section 67-3-32 NMSA 1978 shall not apply to this
15 subparagraph;

16 (b) on and after July 1, 2019, thirty-
17 three percent for agreements entered into with counties;

18 [~~(b)~~] (c) beginning July 1, 2014 and
19 extending through June 30, 2019, forty-nine percent for
20 agreements entered into with municipalities within state
21 transportation commission districts 2 and 5 to address the
22 maintenance of highways and roads that as certified by the
23 secretary are deteriorating due to the impact of energy
24 development and, provided further that, the provisions of
25 Subsection E of this section and Section 67-3-32 NMSA 1978

.195523.2

underscored material = new
[bracketed material] = delete

1 shall not apply to this subparagraph;

2 (d) on and after July 1, 2019, forty-
3 nine percent for agreements entered into with municipalities;

4 [~~e~~] (e) fourteen percent for
5 agreements entered into with school districts; and

6 [~~d~~] (f) four percent for agreements
7 entered into with other entities;

8 (2) sixteen percent for the municipal arterial
9 program, to be used solely for the necessary project
10 development, construction, reconstruction, improvement,
11 maintenance, repair and right-of-way and material acquisition
12 of and for those streets that are principal extensions of rural
13 state highways and of other streets not on the state highway
14 system but that qualify under the designated criteria
15 established by the department. In entering into agreements
16 with municipalities to provide funds for any project qualifying
17 for the municipal arterial program, the department shall give
18 preference to municipalities that contribute an amount equal to
19 at least twenty-five percent of the project cost, including a
20 contribution made through funding received pursuant to
21 Subsection E of this section;

22 (3) sixteen percent for school bus routes, to
23 be used solely for cooperative agreements entered into pursuant
24 to Section 67-3-28 NMSA 1978 and in accordance with the match
25 authorized pursuant to Section 67-3-32 NMSA 1978 for acquiring

.195523.2

underscored material = new
[bracketed material] = delete

1 rights of way and constructing, maintaining, repairing,
2 improving and paving school bus routes and public school
3 parking lots; and

4 (4) twenty-six percent for the county arterial
5 program, to be used for project development, construction,
6 reconstruction, improvement, maintenance, repair and right-of-
7 way and material acquisition of and for county roads for which
8 individual counties have prioritized road projects. Prior to
9 entering into any agreements for projects with the counties for
10 the following fiscal year, in June of each year the department
11 shall determine and certify the amount to which each county is
12 entitled pursuant to the following schedule:

13 Road Mileage Category Based on	
14 Number of Miles Maintained	
15 By a County:	Entitlement to County:
16 400 miles or under	\$250 for each mile
17 401 to 800 miles	\$100,000 plus \$200 for each
18	mile over 400 miles
19 801 to 1,200 miles	\$180,000 plus \$150 for each
20	mile over 800 miles
21 1,201 to 1,600 miles	\$240,000 plus \$100 for each
22	mile over 1,200 miles
23 Over 1,600 miles	\$300,000 plus [\$50] <u>\$50.00</u> for
24	each mile over 1,600 miles.

25 If in any year there is an insufficient amount in the fund
.195523.2

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

1 of the county arterial program to certify the total amount to
2 which all counties are entitled, the department shall decrease
3 the entitlement amount due to each county in the same
4 proportion as the insufficiency is to the total entitlements to
5 all counties. Distribution of an entitlement amount and an
6 agreement entered into with a county for any of the purposes
7 for which the money may be spent requires an amount from the
8 county equal to at least twenty-five percent of the
9 entitlement. The county contribution may be made through funds
10 received pursuant to Subsection E of this section. Any
11 uncommitted or unencumbered balance remaining in the county
12 arterial program fund at the end of a fiscal year shall be
13 transferred to the cooperative agreements program specified in
14 Paragraph (1) of this subsection for additional funding of that
15 program in the next fiscal year.

16 D. The department may transfer funds from the state
17 road fund to the local governments road fund to facilitate cash
18 flow for the funding of these local governments road projects.
19 The administrator of the local governments road fund shall
20 reimburse the state road fund in a timely manner for any such
21 transfers.

22 E. The department may distribute up to one million
23 dollars (\$1,000,000) per calendar year of the money in the
24 local governments road fund to municipalities and counties that
25 can demonstrate financial hardship, for use as all or a portion

.195523.2

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

1 of the municipality's or county's matching fund requirements
2 pursuant to this section. In order to qualify for matching
3 funds under this subsection, a county or municipality shall
4 provide the department with a financial hardship qualification
5 certificate issued by the department of finance and
6 administration."

7 SECTION 5. APPLICABILITY.--The distributions pursuant to
8 Section 2 of this act apply to receipts from the motor vehicle
9 excise tax that are attributable to sales subject to that tax
10 on July 1, 2014 through June 30, 2019.

11 SECTION 6. EFFECTIVE DATE.--The effective date of the
12 provisions of this act is July 1, 2014.