

underscored material = new
[bracketed material] = delete

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 332

53RD LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2017

INTRODUCED BY

Craig W. Brandt

AN ACT

RELATING TO PUBLIC FINANCE; CHANGING PURPOSES AND
AUTHORIZATIONS FOR THE EXPENDITURE OF SUPPLEMENTAL SEVERANCE
TAX BOND PROCEEDS; AUTHORIZING THE ISSUANCE OF SEVERANCE TAX
BONDS AND SUPPLEMENTAL SEVERANCE TAX BONDS; SUSPENDING PAYMENTS
OF REFUNDABLE FILM PRODUCTION TAX CREDITS AND FILM AND
TELEVISION TAX CREDITS; REPEALING LAWS 2017, CHAPTER 3, SECTION
2 PERTAINING TO THE REDUCTION OF SCHOOLS' CASH BALANCES; MAKING
APPROPRIATIONS; DECLARING AN EMERGENCY.

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

SECTION 1. SHORT-TERM SUPPLEMENTAL SEVERANCE TAX BONDS--
APPROPRIATION OF PROCEEDS.--In fiscal year 2017, the state
board of finance may, in compliance with the Severance Tax
Bonding Act, issue and sell supplemental severance tax bonds
whose terms end on or before the end of the fiscal year in an

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

1 aggregate amount not to exceed twenty-six million one hundred
2 thousand dollars (\$26,100,000) when the secretary of finance
3 and administration certifies the need for the bonds. The state
4 board of finance shall issue and sell the bonds as
5 expeditiously and economically as possible and take the
6 appropriate steps necessary to comply with the federal Internal
7 Revenue Code of 1986, as amended. Proceeds from the sale of
8 the bonds are appropriated to the general fund. The board of
9 finance division of the department of finance and
10 administration shall transfer the proceeds to the general fund
11 for use by the department in fiscal year 2017 to restore the
12 allotments from the general fund for capital project
13 appropriations whose expenditure periods end on or before June
14 30, 2016.

15 SECTION 2. SEVERANCE TAX BONDS--APPROPRIATION OF
16 PROCEEDS.--In fiscal year 2017, the state board of finance may,
17 in compliance with the Severance Tax Bonding Act, issue and
18 sell severance tax bonds in the amount of twenty-six million
19 one hundred thousand dollars (\$26,100,000). Upon certification
20 by the public school capital outlay council that the need
21 exists for the issuance of the bonds, the state board of
22 finance shall issue and sell the bonds as expeditiously and
23 economically as possible and take the appropriate steps
24 necessary to comply with the federal Internal Revenue Code of
25 1986, as amended. The proceeds from severance tax bonds issued

.206675.2

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

1 are appropriated to the public school capital outlay fund for
2 use by the public school capital outlay council to implement
3 the Public School Capital Outlay Act and are appropriated for
4 expenditure in fiscal years 2018 through 2022. Notwithstanding
5 the provisions of Subsection A of Section 22-24-4 NMSA 1978,
6 the unexpended or unencumbered balance remaining at the end of
7 fiscal year 2022 shall revert to the severance tax bonding
8 fund.

9 SECTION 3. Section 7-27-12 NMSA 1978 (being Laws 1961,
10 Chapter 5, Section 10, as amended by Laws 2001, Chapter 37,
11 Section 1 and by Laws 2001, Chapter 338, Section 1) is amended
12 to read:

13 "7-27-12. WHEN SEVERANCE TAX BONDS TO BE ISSUED.--

14 A. The state board of finance shall issue and sell
15 all severance tax bonds when authorized to do so by any law
16 that sets out the amount of the issue and the recipient of the
17 money.

18 B. The state board of finance shall also issue and
19 sell severance tax bonds authorized by Sections 72-14-36
20 through 72-14-42 NMSA 1978, and such authority as has been
21 given to the interstate stream commission to issue and sell
22 such bonds is transferred to the state board of finance. The
23 state board of finance shall issue and sell all severance tax
24 bonds only when so instructed by resolution of the governing
25 body or by written direction from an authorized officer of the

.206675.2

underscored material = new
[bracketed material] = delete

1 recipient of the bond money.

2 C. Except as provided in Subsection D of this
3 section, proceeds from supplemental severance tax bonds shall
4 be used only for public school capital outlay projects pursuant
5 to the Public School Capital Outlay Act or the Public School
6 Capital Improvements Act.

7 D. Proceeds from supplemental severance tax bonds
8 issued pursuant to Paragraph (2) of Subsection A of Section 19
9 of Chapter 6 of Laws 1999 (1st S.S.) and Section 1 of this 2017
10 act shall be used for the purposes specified in [~~that~~
11 ~~paragraph~~] those provisions.

12 E. Except as provided in Subsection F of this
13 section, the state board of finance shall issue and sell all
14 supplemental severance tax bonds when so instructed by
15 resolution of the public school capital outlay council pursuant
16 to Section 7-27-12.2 NMSA 1978.

17 F. The state board of finance shall issue and sell
18 the supplemental severance tax bonds authorized by:

19 (1) Paragraph (2) of Subsection A of Section
20 19 of Chapter 6 of Laws 1999 (1st S.S.) when so instructed by
21 resolution of the [~~commission on~~] higher education department;
22 and

23 (2) Section 1 of this 2017 act upon
24 certification by the secretary of finance and administration of
25 the need to use proceeds from those bonds as outlined in that

.206675.2

underscored material = new
[bracketed material] = delete

1 section."

2 SECTION 4. Section 22-8-41 NMSA 1978 (being Laws 1967,
3 Chapter 16, Section 99, as amended by Laws 2017, Chapter 3,
4 Section 1) is amended to read:

5 "22-8-41. RESTRICTION ON OPERATIONAL FUNDS--EMERGENCY
6 ACCOUNTS--CASH BALANCES.--

7 A. A school district shall not expend money from
8 its operational fund for the acquisition of a building site or
9 for the construction of a new structure, unless the school
10 district has bonded itself to practical capacity or the
11 secretary determines and certifies to the legislative finance
12 committee that the expending of money from the operational fund
13 for this purpose is necessary for an adequate public
14 educational program and will not unduly hamper the school
15 district's current operations.

16 B. A school district or charter school may budget
17 out of cash balances carried forward from the previous fiscal
18 year an amount not to exceed five percent of its proposed
19 operational fund expenditures for the ensuing fiscal year as an
20 emergency account. Money in the emergency account shall be
21 used only for unforeseen expenditures incurred after the annual
22 budget was approved and shall not be expended without the prior
23 written approval of the secretary.

24 C. In addition to the emergency account, school
25 districts or charter schools may also budget operational fund

.206675.2

underscored material = new
[bracketed material] = delete

1 cash balances carried forward from the previous fiscal year for
2 operational expenditures, exclusive of salaries and payroll,
3 upon specific prior approval of the secretary. The secretary
4 shall notify the legislative finance committee in writing of
5 the secretary's approval of such proposed expenditures.

6 ~~[D. Notwithstanding any provision of this section~~
7 ~~to the contrary, the secretary shall reduce school districts'~~
8 ~~and charter schools' fiscal year 2017 state equalization~~
9 ~~guarantee distributions as credit for excess fiscal year 2016~~
10 ~~operational fund cash balances in accordance with Section 2 of~~
11 ~~this 2017 act, and a school district or charter school whose~~
12 ~~distribution is accordingly reduced shall apply in the amount~~
13 ~~of that credit its audited fiscal year 2016 operational fund~~
14 ~~cash balance toward the school district's or charter school's~~
15 ~~fiscal year 2017 operations.]"~~

16 SECTION 5. TEMPORARY PROVISION--FILM PRODUCTION TAX

17 CREDIT AND FILM AND TELEVISION TAX CREDIT PAYMENT SUSPENSION.--
18 For the period from the effective date of this act through June
19 30, 2017, notwithstanding the provisions of the Film Production
20 Tax Credit Act, the Tax Administration Act or any other
21 provision of law, the taxation and revenue department shall
22 suspend payments of the refundable portion of the film
23 production tax credit or the film and television tax credit due
24 to any taxpayer claiming a credit until the aggregate amount of
25 payments suspended equals twenty million dollars (\$20,000,000).

.206675.2

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

1 Beginning July 1, 2017, the department shall, in the order they
2 are due, make the payments of the refundable portion of the tax
3 credits that were suspended.

4 SECTION 6. REPEAL.--Laws 2017, Chapter 3, Section 2 is
5 repealed.

6 SECTION 7. SEVERABILITY.--If, in this act, a change in
7 the use of severance tax bond proceeds or an authorization to
8 expend severance tax bond proceeds is held invalid or otherwise
9 cannot be effectuated, the remainder of the act and any change
10 in the use of severance tax bond proceeds or authorization to
11 expend severance tax bond proceeds shall not be affected.

12 SECTION 8. EMERGENCY.--It is necessary for the public
13 peace, health and safety that this act take effect immediately.