

1 SENATE BILL 121

2 **55TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2021**

3 INTRODUCED BY

4 Roberto "Bobby" J. Gonzales

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10 AN ACT

11 RELATING TO PUBLIC FINANCE; PROVIDING FOR THE ISSUANCE AND USE
12 OF STATE TRANSPORTATION PROJECT BONDS FOR CERTAIN
13 TRANSPORTATION PROJECTS; DECLARING AN EMERGENCY.

14
15 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

16 SECTION 1. [NEW MATERIAL] AUTHORIZED TRANSPORTATION
17 PROJECTS.--The department of transportation may use the net
18 proceeds of state transportation project bonds issued by the
19 New Mexico finance authority pursuant to Section 67-3-59.2 NMSA
20 1978 and Section 5 of this 2021 act for the following
21 transportation projects:

22 A. for state highway construction, reconstruction
23 and improvement projects specifically authorized by the
24 legislature during the first session of the fifty-fifth
25 legislature;

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1 B. for keeping projects in the state transportation
2 improvement program on schedule due to reduced revenues from
3 the coronavirus disease 2019 pandemic; and

4 C. other state highway projects identified in the
5 state transportation improvement program.

6 **SECTION 2.** Section 67-3-59.2 NMSA 1978 (being Laws 1999
7 (1st S.S.), Chapter 9, Section 3, as amended) is amended to
8 read:

9 "67-3-59.2. HIGHWAY INFRASTRUCTURE FUND CREATED--
10 PURPOSE.--

11 A. The "highway infrastructure fund" is created in
12 the state treasury and shall be administered by the department.
13 The fund shall consist of money from various fees and taxes
14 distributed to the fund. Earnings on investment of the fund
15 shall be credited to the fund. Balances in the fund at the end
16 of any fiscal year shall not revert and shall remain in the
17 fund for the purposes authorized in this section.

18 B. Money in the fund shall be used solely for
19 acquisition of rights of way or planning, design, engineering,
20 construction or improvement of state highway projects
21 authorized pursuant to the provisions of Laws 1998, Chapter 84,
22 Subsections C through H of Section 1 of Chapter 85 of Laws
23 1998, Laws 2003 (1st S.S.), Chapter 3, Sections 27 and 28,
24 [~~and~~] Laws 2020 (1st S.S.), Chapter 3, Section 8 [~~of this 2020~~
25 ~~act~~] and Section 1 of this 2021 act and is appropriated to the

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1 department for expenditure for those purposes.

2 C. The taxes and fees required by law to be
3 distributed to the highway infrastructure fund may be pledged
4 for the payment of bonds issued pursuant to Sections 67-3-59.1,
5 67-3-59.3 and 67-3-59.4 NMSA 1978, [~~and~~] Laws 2020 (1st S.S.),
6 Chapter 3, Section 8 [of this 2020 act] and Section 1 of this
7 2021 act for the highway projects authorized in the laws
8 specified in Subsection B of this section."

9 SECTION 3. Section 67-3-59.3 NMSA 1978 (being Laws 2003
10 (1st S.S.), Chapter 3, Section 24, as amended) is amended to
11 read:

12 "67-3-59.3. STATE TRANSPORTATION PROJECT BONDS--
13 ISSUANCE--PROCEDURES--APPROVAL.--

14 A. In order to provide funds to finance state
15 transportation projects, the New Mexico finance authority, when
16 directed by the state transportation commission, is authorized,
17 subject to the limitations of this section, Section 67-3-59.4
18 NMSA 1978, [~~and~~] Laws 2020 (1st S.S.), Chapter 3, Section 8 [of
19 this 2020 act] and Section 5 of this 2021 act, to issue state
20 transportation project bonds from time to time, payable from:

21 (1) federal funds not otherwise obligated that
22 are paid into the state road fund;

23 (2) proceeds of the collection of taxes and
24 fees that are required to be paid into the state road fund and
25 not otherwise pledged exclusively to the payment of outstanding

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1 bonds and debentures; and

2 (3) taxes and fees required by law to be paid
3 into the highway infrastructure fund.

4 B. The New Mexico finance authority, when directed
5 by the state transportation commission, may issue bonds to
6 refund other bonds issued by or at the direction of the state
7 transportation commission pursuant to this section or Section
8 67-3-59.1 NMSA 1978 by exchange or current or advance
9 refunding.

10 C. In consultation with the state transportation
11 commission, the New Mexico finance authority shall determine
12 all terms, covenants and conditions of the bonds; provided that
13 the project design life of a project meets or exceeds the life
14 of the bond issued for that project, and each series of bonds
15 shall be sold, executed and delivered in accordance with the
16 provisions of the New Mexico Finance Authority Act. The New
17 Mexico finance authority may enter into interest rate exchange
18 agreements, interest rate swap contracts, insurance agreements,
19 remarketing agreements and any other agreements deemed
20 necessary in connection with the issuance of the bonds.

21 D. Proceeds of the bonds and amounts on deposit in
22 the state road fund and the highway infrastructure fund may be
23 used to pay expenses incurred in the preparation,
24 administration, issuance and sale of the bonds and, together
25 with the earnings on the proceeds of the bonds, may be used to

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1 pay rebate, penalty, interest and other obligations relating to
2 the bonds and the proceeds of the bonds under the Internal
3 Revenue Code of 1986, as amended.

4 E. This section is full authority for the issuance
5 and sale of the bonds, and the bonds shall not be invalid for
6 any irregularity or defect in the proceedings for their
7 issuance and sale and shall be incontestable in the hands of
8 bona fide purchasers or holders of the bond for value.

9 F. The bonds shall be legal investments for a
10 person or board charged with the investment of public funds and
11 may be accepted as security for a deposit of public money and,
12 with the interest thereon, are exempt from taxation by the
13 state and a political subdivision or agency of the state.

14 G. Any law authorizing the imposition or
15 distribution of taxes or fees paid into the state road fund or
16 the highway infrastructure fund or that affects those taxes and
17 fees shall not be amended or repealed or otherwise directly or
18 indirectly modified so as to impair outstanding bonds secured
19 by a pledge of revenues from those taxes and fees paid into the
20 state road fund or the highway infrastructure fund, unless the
21 bonds have been discharged in full or provisions have been made
22 for a full discharge. In addition, while any bonds issued by
23 the New Mexico finance authority pursuant to the provisions of
24 this section remain outstanding, the powers or duties of the
25 state transportation commission or the authority shall not be

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1 diminished or impaired in any manner that will affect adversely
2 the interests and rights of the holder of such bonds.

3 H. In contracting for state transportation projects
4 to be paid in whole or in part with proceeds of bonds
5 authorized by this section, the department shall require that
6 any sand, gravel, caliche or similar material needed for the
7 project shall, if practicable, be mined from state lands. Each
8 contract shall provide that the contractor notify the
9 commissioner of public lands of the need for the material and
10 that, through lease or purchase, the material shall be mined
11 from state lands if:

12 (1) the material needed is available from
13 state lands in the vicinity of the project;

14 (2) the commissioner determines that the lease
15 or purchase is in the best interest of the state land trust
16 beneficiaries; and

17 (3) the cost to the contractor for the
18 material, including the costs of transportation, is competitive
19 with other available material from nonstate lands.

20 I. Bonds issued pursuant to this section shall be
21 paid solely from federal funds not otherwise obligated and
22 taxes and fees deposited into the state road fund and the
23 highway infrastructure fund and shall not constitute a general
24 obligation of the state.

25 J. For purposes of this section, "state

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1 transportation project bonds" includes only those bonds issued
2 pursuant to this section and excludes transportation bonds as
3 defined in Section 67-3-72 NMSA 1978."

4 SECTION 4. Section 67-3-59.4 NMSA 1978 (being Laws 2003
5 (1st S.S.), Chapter 3, Section 26, as amended) is amended to
6 read:

7 "67-3-59.4. STATE TRANSPORTATION PROJECT BONDS--
8 AUTHORIZATION AND APPROPRIATION--PRIORITIES--CRITERIA--
9 REPORTS.--

10 A. It is the intent of the legislature to authorize
11 the New Mexico finance authority to issue state transportation
12 project bonds pursuant to Section 67-3-59.3 NMSA 1978 for
13 projects specified in Laws 2003 (1st S.S.), Chapter 3, Sections
14 27 and 28, ~~[and in]~~ Laws 2020 (1st S.S.), Chapter 3, Section 8
15 ~~[of this 2020 act]~~ and Section 1 of this 2021 act in the total
16 aggregate principal amount of one billion five hundred eighty-
17 five million dollars (\$1,585,000,000).

18 B. The state transportation commission may
19 authorize the New Mexico finance authority to issue and sell
20 state transportation project bonds. The proceeds of the bonds
21 are appropriated to the department of transportation for
22 projects listed in Laws 2003 (1st S.S.), Chapter 3, Sections 27
23 and 28, ~~[and in]~~ Laws 2020 (1st S.S.), Chapter 3, Section 8 ~~[of~~
24 ~~this 2020 act]~~ and Section 1 of this 2021 act.

25 C. The department of transportation shall provide
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1 to the legislature and the governor a report on transportation
2 priorities and progress. The report shall include:

3 (1) justification of priority ranking of
4 projects, including the following for each highway project
5 enumerated in Laws 2003 (1st S.S.), Chapter 3, Sections 27 and
6 28:

7 (a) traffic counts and accident rates
8 and the expected improvements to traffic flow, health and
9 safety;

10 (b) the ranking of the pavement and
11 substructure conditions;

12 (c) an assessment of economic
13 development impacts; and

14 (d) other information deemed significant
15 by the department;

16 (2) the expected life of the proposed
17 improvement;

18 (3) sufficiency of revenue to pay the
19 principal and interest of all outstanding and proposed bonds
20 based on a five- and twenty-year financial forecast for the
21 state road fund and the effect of the bond program on the
22 department's construction and maintenance program;

23 (4) status report of ongoing major
24 construction;

25 (5) the relationship between the requested

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1 projects and the statewide transportation improvement program;
2 and

3 (6) any other information requested by the
4 legislature or the executive.

5 D. The department of transportation shall provide
6 quarterly progress reports to the department of finance and
7 administration and the legislative finance committee.

8 E. The department of transportation shall adopt and
9 enforce rules with the goal that no less than seventy percent
10 of the work force of an exclusively state-funded project
11 authorized in Laws 2003 (1st S.S.), Chapter 3, Sections 27 and
12 28 shall be residents of New Mexico."

13 SECTION 5. Laws 2020 (1st S.S.), Chapter 3, Section 8 is
14 amended to read:

15 "SECTION 8. DEPARTMENT OF TRANSPORTATION PROJECTS
16 [APPROPRIATION REVERSION]--AUTHORIZATION TO ISSUE STATE
17 TRANSPORTATION PROJECT BONDS.--

18 ~~[A. Notwithstanding the provisions of Laws 2019,~~
19 ~~Chapter 271, Section 9, seventy-five million dollars~~
20 ~~(\$75,000,000) of the unexpended or unencumbered balance of the~~
21 ~~appropriation provided pursuant to that law from the general~~
22 ~~fund to the department of transportation for acquisition of~~
23 ~~rights of way, planning, design and construction and to match~~
24 ~~federal and other state funds for projects shall not be~~
25 ~~expended or encumbered and shall revert to the general fund at~~

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1 ~~the end of fiscal year 2020.~~

2 ~~B.]~~ A. Of the aggregate principal amount of one
3 billion five hundred eighty-five million dollars
4 (\$1,585,000,000) for state transportation project bonds that
5 the New Mexico finance authority is authorized to issue
6 pursuant to Sections 67-3-59.3 and 67-3-59.4 NMSA 1978, the New
7 Mexico finance authority may, on or after July 1, ~~[2022]~~ 2021,
8 issue and sell state transportation project bonds in a
9 principal amount not to exceed ~~[seventy-five million dollars~~
10 ~~(\$75,000,000)]~~ two hundred thirty-four million six hundred
11 thousand dollars (\$234,600,000) for acquisition of rights of
12 way, planning, design and construction and to match federal and
13 other state funds for projects for which general fund
14 appropriations were made pursuant to Laws 2019, Chapter 271,
15 Section 9 and projects in Section 1 of this 2021 act.

16 ~~[C.]~~ B. The department of transportation may use
17 the net proceeds of state transportation project bonds issued
18 by the New Mexico finance authority pursuant to Subsection ~~[B]~~
19 A of this section for the projects for which general fund
20 appropriations were made pursuant to Laws 2019, Chapter 271,
21 Section 9 and projects in Section 1 of this 2021 act.

22 ~~[D.]~~ C. Any unexpended or unencumbered balance
23 after the completion of the projects authorized in this section
24 and in Section 1 of this 2021 act shall revert to the state
25 road fund."

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SECTION 6. EMERGENCY.--It is necessary for the public
peace, health and safety that this act take effect immediately.