

HOUSE BILL 253

56TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2024

INTRODUCED BY

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This document may incorporate amendments proposed by a committee, but not yet adopted, as well as amendments that have been adopted during the current legislative session. The document is a tool to show amendments in context and cannot be used for the purpose of adding amendments to legislation.

AN ACT

RELATING TO PUBLIC FINANCE; ~~HAF~~**C**→**AUTHORIZING A CERTAIN AMOUNT OF SEVERANCE TAX BONDS THAT MAY BE ISSUED IN FISCAL YEAR 2024;**←~~HAF~~**C** REQUIRING CERTAIN ESTIMATES OF BONDING CAPACITY AVAILABLE FOR SEVERANCE TAX BONDS; AUTHORIZING SEVERANCE TAX BONDS FOR PROJECTS FUNDED BY DISTRIBUTIONS FROM A NEW CAPITAL DEVELOPMENT AND RESERVE FUND TO A NEW CAPITAL DEVELOPMENT PROGRAM FUND; MAKING AN APPROPRIATION.

.226805.7AIC February 5, 2024 (8:45pm)

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

H AFC → SECTION 1. Section 7-27-10 NMSA 1978 (being Laws 1961, Chapter 5, Section 8, as amended) is amended to read:

"7-27-10. STATE BOARD OF FINANCE SHALL ISSUE BONDS.--

A. The state board of finance is authorized to issue and sell severance tax bonds within the provisions of the Severance Tax Bonding Act, and no other agency of the state is authorized to issue or sell severance tax bonds.

B. For fiscal year 2024, the state board of finance is authorized to issue and sell up to five hundred million dollars (\$500,000,000) of severance tax bonds or notes in addition to all other authorized issuances. The actual amount shall be determined by the state board of finance after all other authorized issuances are made. Proceeds from the sale of these bonds or notes shall be deposited in the capital development and reserve fund.

~~[B.]~~ C. The state board of finance may issue and sell supplemental severance tax bonds within the provisions of the Severance Tax Bonding Act, and no other agency of the state is authorized to issue or sell supplemental severance tax bonds. ~~[As a temporary measure for fiscal year 2023, the state board of finance shall not issue and sell more than six hundred eighty-two million two hundred thousand dollars (\$682,200,000) of supplemental severance tax bonds or notes.]~~" ← H AFC

SECTION H AFC → 1. ← H AFC H AFC → 2. ← H AFC Section 7-27-10.1

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NMSA 1978 (being Laws 2003, Chapter 134, Section 1, as amended)
is amended to read:

"7-27-10.1. TRANSFER TO SEVERANCE TAX PERMANENT FUND
BEFORE DETERMINING BONDING CAPACITY--AUTHORIZATION FOR
SEVERANCE TAX BONDS--PRIORITY FOR WATER PROJECTS AND TRIBAL
INFRASTRUCTURE PROJECTS.--

A. On December 31 of each year from 2019 through
2028, the division shall transfer twenty-three million six
hundred ninety thousand dollars (\$23,690,000) from the
severance tax bonding fund to the severance tax permanent fund,
unless the state board of finance determines that a lesser
transfer amount is necessary pursuant to Section 7-27-8 NMSA
1978 to avoid a potential shortfall in debt service
obligations.

B. By January 15 of each year, the division shall
estimate the amount of bonding capacity available for severance
tax bonds to be authorized by the legislature based on the
lesser of the following estimates:

(1) an estimate that provides for equal annual
issuances over the expected term of bonds with terms greater
than one year anticipated to be issued by the state board of
finance in the fiscal year in compliance with the requirements
of Section 7-27-14 NMSA 1978; and

(2) an estimate that provides that issuances
for each year of that term shall be projected to result in

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stable levels of state tax supported debt relative to the median state debt ratios published by the national municipal bond rating agencies.

C. [~~For each year except 2017~~] The division shall allocate nine percent of the estimated bonding capacity each year for water projects, and the legislature authorizes the state board of finance to issue severance tax bonds in the annually allocated amount for use by the water trust board to fund water projects statewide. The water trust board shall certify to the state board of finance the need for issuance of bonds for water projects. The state board of finance may issue and sell the bonds in the same manner as other severance tax bonds in an amount not to exceed the authorized amount provided for in this subsection. If necessary, the state board of finance shall take the appropriate steps to comply with the federal Internal Revenue Code of 1986, as amended. Proceeds from the sale of the bonds are appropriated to the water project fund in the New Mexico finance authority for the purposes certified by the water trust board to the state board of finance.

D. The division shall allocate [~~the following percentage~~] four and one-half percent of the estimated bonding capacity for tribal infrastructure projects.

[~~(1) in 2016, six and one-half percent; and~~

~~(2) in 2017 and each subsequent year, four and~~

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~~one-half percent]~~

E. The legislature authorizes the state board of finance to issue severance tax bonds in the amount provided for in this section for use by the tribal infrastructure board to fund tribal infrastructure projects. The tribal infrastructure board shall certify to the state board of finance the need for issuance of bonds for tribal infrastructure projects. The state board of finance may issue and sell the bonds in the same manner as other severance tax bonds in an amount not to exceed the authorized amount provided for in this section. If necessary, the state board of finance shall take the appropriate steps to comply with the federal Internal Revenue Code of 1986, as amended. Proceeds from the sale of the bonds are appropriated to the tribal infrastructure project fund for the purposes certified by the tribal infrastructure board to the state board of finance.

F. Money from the severance tax bonds provided for in this section shall not be used to pay indirect project costs. Any unexpended balance from proceeds of severance tax bonds issued for a water project or a tribal infrastructure project shall revert to the severance tax bonding fund within six months of completion of the project. The New Mexico finance authority shall monitor and ensure proper reversions of the bond proceeds appropriated for water projects, and the department of finance and administration shall monitor and

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ensure proper reversions of the bond proceeds appropriated for tribal infrastructure projects.

G. As used in this section:

- (1) "division" means the board of finance division of the department of finance and administration;
- (2) "tribal infrastructure project" means a qualified project under the Tribal Infrastructure Act; and
- (3) "water project" means a capital outlay project for:
 - (a) the storage, conveyance or delivery of water to end users;
 - (b) the implementation of federal Endangered Species Act of 1973 collaborative programs;
 - (c) the restoration and management of watersheds;
 - (d) flood prevention; or
 - (e) conservation, recycling, treatment or reuse of water."

SECTION H AFC → 2. ← H AFC H AFC → 3. ← H AFC A new section of the Severance Tax Bonding Act is enacted to read:

"[NEW MATERIAL] CAPITAL DEVELOPMENT AND RESERVE FUND.--

A. The "capital development and reserve fund" is created as a nonreverting fund in the state treasury. The fund consists of distributions, appropriations, gifts, grants and donations. Income from investment of the fund shall be

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credited to the fund. Money in the fund shall be expended only as provided in HAFCA→Subsections E through F of←HAFCA this section. Money in the fund shall not be pledged against any state debt.

B. The state investment officer, subject to the approval of the council, shall invest money in the fund:

(1) in accordance with the prudent investor rule set forth in the Uniform Prudent Investor Act; and

(2) in consultation with the state treasurer.

C. The state investment officer shall report quarterly to the legislative finance committee and the council on the investments made pursuant to this section. Annually, a report shall be submitted no later than October 1 each year to the legislative finance committee, the revenue stabilization and tax policy committee and any other appropriate interim committees.

D. On HAFCA→July←HAFCA HAFCA→January←HAFCA 1 of each year, a distribution shall be made from the capital development and reserve fund to the capital development program fund in an amount equal to five percent of the average of the HAFCA→fiscal←HAFCA year-end market values of the capital development and reserve fund for the immediately preceding three HAFCA→calendar←HAFCA HAFCA→fiscal←HAFCA years. If, on HAFCA→July←HAFCA HAFCA→January←HAFCA 1 of a year, the capital development and reserve fund has been in effect for less than

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three H AFC → calendar ← H AFC H AFC → fiscal ← H AFC years, the distribution shall be in an amount equal to five percent of the average of the H AFC → fiscal ← H AFC year-end market values of the capital development and reserve fund for the immediately preceding number of H AFC → calendar ← H AFC H AFC → fiscal ← H AFC years that the fund has been in effect.

E. H AFC → ~~In addition to the distribution pursuant to Subsection D of this section, money~~ ← H AFC H AFC → Money in the fund is subject to appropriation by the legislature for capital projects or for transfer to the severance tax permanent fund.

F. Money ← H AFC in the capital development and reserve fund may be expended in the event that the balance of the severance tax bonding fund is insufficient to meet principal and interest payments on outstanding bonds. In that event, the balance in the reserve fund shall be transferred to the severance tax bonding fund only in the amount necessary to meet the principal and interest payments."

SECTION H AFC → 3. ← H AFC H AFC → 4. ← H AFC A new section of the Severance Tax Bonding Act is enacted to read:

"[NEW MATERIAL] CAPITAL DEVELOPMENT PROGRAM FUND.--The "capital development program fund" is created as a nonreverting fund H AFC → ~~in the state treasury~~ ← H AFC H AFC → as a subaccount of the severance tax bonding fund ← H AFC . The fund consists of distributions, appropriations, gifts, grants, donations and income from investment of the fund. The department of finance

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and administration shall administer the fund. Money in the fund is subject to appropriation by the legislature to fund capital projects with a total cost of less than five million dollars (\$5,000,000) and only the planning and design of capital projects with a total cost greater than that amount. Expenditures from the fund shall be by warrant of the secretary of finance and administration pursuant to vouchers signed by the secretary of finance and administration or the secretary's authorized representative. HAFC→Any unexpended or unencumbered balance of an appropriation for a capital project remaining after two years following the date of the appropriation shall revert to the severance tax permanent fund.←HAFC "

SECTION HAFC→4.←HAFC HAFC→5.←HAFC A new section of the Severance Tax Bonding Act is enacted to read:

"[NEW MATERIAL] AUTHORIZATION FOR SEVERANCE TAX BONDS-- PRIORITY FOR PROJECTS FUNDED BY THE CAPITAL DEVELOPMENT PROGRAM FUND.--

A. After the annual estimate of severance tax bonding capacity pursuant to Subsection B of Section 7-27-10.1 NMSA 1978, the board of finance division of the department of finance and administration shall allocate an amount equal to the difference between the estimated average annual principal and interest to be repaid from the amount estimated pursuant to Paragraph (1) of Subsection B of Section 7-27-10.1 NMSA 1978 for the term of an issuance less the estimated average annual

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principal and interest to be repaid from the amount estimated pursuant to Paragraph (2) of Subsection B of Section 7-27-10.1 NMSA 1978; provided that the difference is greater than zero. The division shall not issue debt with a term greater than one year for the allocated amount.

B. The legislature authorizes the state board of finance to issue severance tax bonds in the amount allocated pursuant to Subsection A of this section for projects funded by the capital development program fund. The state board of finance may issue and sell the bonds in the same manner as other severance tax bonds in an amount not to exceed the authorized amount provided for in this subsection. If necessary, the state board of finance shall take the appropriate steps to comply with the federal Internal Revenue Code of 1986, as amended. Proceeds from the sale of the bonds are appropriated to the capital development and reserve fund.

C. Money from the severance tax bonds provided for in this section shall not be used to pay indirect project costs."