

HOUSE BILL 253

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

INTRODUCED BY

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AN ACT

RELATING TO PUBLIC FINANCE; 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.

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

SECTION 1. Section 7-27-10.1 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 .226805.7

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1 hundred ninety thousand dollars (\$23,690,000) from the
2 severance tax bonding fund to the severance tax permanent fund,
3 unless the state board of finance determines that a lesser
4 transfer amount is necessary pursuant to Section 7-27-8 NMSA
5 1978 to avoid a potential shortfall in debt service
6 obligations.

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

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

16 (2) an estimate that provides that issuances
17 for each year of that term shall be projected to result in
18 stable levels of state tax supported debt relative to the
19 median state debt ratios published by the national municipal
20 bond rating agencies.

21 C. [~~For each year except 2017~~] The division shall
22 allocate nine percent of the estimated bonding capacity each
23 year for water projects, and the legislature authorizes the
24 state board of finance to issue severance tax bonds in the
25 annually allocated amount for use by the water trust board to

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1 fund water projects statewide. The water trust board shall
2 certify to the state board of finance the need for issuance of
3 bonds for water projects. The state board of finance may issue
4 and sell the bonds in the same manner as other severance tax
5 bonds in an amount not to exceed the authorized amount provided
6 for in this subsection. If necessary, the state board of
7 finance shall take the appropriate steps to comply with the
8 federal Internal Revenue Code of 1986, as amended. Proceeds
9 from the sale of the bonds are appropriated to the water
10 project fund in the New Mexico finance authority for the
11 purposes certified by the water trust board to the state board
12 of finance.

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

16 ~~[(1) in 2016, six and one-half percent; and~~
17 ~~(2) in 2017 and each subsequent year, four and~~
18 ~~one-half percent]~~

19 E. The legislature authorizes the state board of
20 finance to issue severance tax bonds in the amount provided for
21 in this section for use by the tribal infrastructure board to
22 fund tribal infrastructure projects. The tribal infrastructure
23 board shall certify to the state board of finance the need for
24 issuance of bonds for tribal infrastructure projects. The
25 state board of finance may issue and sell the bonds in the same

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1 manner as other severance tax bonds in an amount not to exceed
2 the authorized amount provided for in this section. If
3 necessary, the state board of finance shall take the
4 appropriate steps to comply with the federal Internal Revenue
5 Code of 1986, as amended. Proceeds from the sale of the bonds
6 are appropriated to the tribal infrastructure project fund for
7 the purposes certified by the tribal infrastructure board to
8 the state board of finance.

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

20 G. As used in this section:

21 (1) "division" means the board of finance
22 division of the department of finance and administration;

23 (2) "tribal infrastructure project" means a
24 qualified project under the Tribal Infrastructure Act; and

25 (3) "water project" means a capital outlay

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1 project for:

2 (a) the storage, conveyance or delivery
3 of water to end users;

4 (b) the implementation of federal
5 Endangered Species Act of 1973 collaborative programs;

6 (c) the restoration and management of
7 watersheds;

8 (d) flood prevention; or

9 (e) conservation, recycling, treatment
10 or reuse of water."

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

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

14 A. The "capital development and reserve fund" is
15 created as a nonreverting fund in the state treasury. The fund
16 consists of distributions, appropriations, gifts, grants and
17 donations. Income from investment of the fund shall be
18 credited to the fund. Money in the fund shall be expended only
19 as provided in this section. Money in the fund shall not be
20 pledged against any state debt.

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

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

25 (2) in consultation with the state treasurer.

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

8 D. On July 1 of each year, a distribution shall be
9 made from the capital development and reserve fund to the
10 capital development program fund in an amount equal to five
11 percent of the average of the year-end market values of the
12 capital development and reserve fund for the immediately
13 preceding three calendar years. If, on July 1 of a year, the
14 capital development and reserve fund has been in effect for
15 less than three calendar years, the distribution shall be in an
16 amount equal to five percent of the average of the year-end
17 market values of the capital development and reserve fund for
18 the immediately preceding number of calendar years that the
19 fund has been in effect.

20 E. In addition to the distribution pursuant to
21 Subsection D of this section, money in the capital development
22 and reserve fund may be expended in the event that the balance
23 of the severance tax bonding fund is insufficient to meet
24 principal and interest payments on outstanding bonds. In that
25 event, the balance in the reserve fund shall be transferred to

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1 the severance tax bonding fund only in the amount necessary to
2 meet the principal and interest payments."

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

5 "[NEW MATERIAL] CAPITAL DEVELOPMENT PROGRAM FUND.--The
6 "capital development program fund" is created as a nonreverting
7 fund in the state treasury. The fund consists of
8 distributions, appropriations, gifts, grants, donations and
9 income from investment of the fund. The department of finance
10 and administration shall administer the fund. Money in the
11 fund is subject to appropriation by the legislature to fund
12 capital projects with a total cost of less than five million
13 dollars (\$5,000,000) and only the planning and design of
14 capital projects with a total cost greater than that amount.
15 Expenditures from the fund shall be by warrant of the secretary
16 of finance and administration pursuant to vouchers signed by
17 the secretary of finance and administration or the secretary's
18 authorized representative."

19 SECTION 4. A new section of the Severance Tax Bonding Act
20 is enacted to read:

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

24 A. After the annual estimate of severance tax
25 bonding capacity pursuant to Subsection B of Section 7-27-10.1

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1 NMSA 1978, the board of finance division of the department of
2 finance and administration shall allocate an amount equal to
3 the difference between the estimated average annual principal
4 and interest to be repaid from the amount estimated pursuant to
5 Paragraph (1) of Subsection B of Section 7-27-10.1 NMSA 1978
6 for the term of an issuance less the estimated average annual
7 principal and interest to be repaid from the amount estimated
8 pursuant to Paragraph (2) of Subsection B of Section 7-27-10.1
9 NMSA 1978; provided that the difference is greater than zero.
10 The division shall not issue debt with a term greater than one
11 year for the allocated amount.

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

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

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