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HOUSE BILL 295

42ND LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 1996

INTRODUCED BY

ROBERTO "BOBBY" J. GONZALES

FOR THE NEW MEXICO FINANCE AUTHORITY OVERSIGHT COMMITTEE

AN ACT

RELATING TO PUBLIC FINANCE; AUTHORIZING THE NEW MEXICO FINANCE
AUTHORITY AND CERTAIN GOVERNMENTAL UNITS TO UNDERTAKE SPECIFIC
ACTIVITIES RELATED TO PROJECT FINANCING; PROVIDING POWERS AND
DUTIES; AMENDING CERTAIN SECTIONS OF THE NMSA 1978; DECLARING AN
EMERGENCY.

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

Section 1. Section 6-21-6 NMSA 1978 (being Laws 1992,
Chapter 61, Section 6, as amended) is amended to read:

"6-21-6. PUBLIC PROJECT REVOLVING FUND--PURPOSE--
ADMINISTRATION. --

A. The "public project revolving fund" is created
within the authority. The fund shall be administered by the
authority as a separate account, but may consist of such
subaccounts as the authority deems necessary to carry out the

Underscored material = new
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1 purposes of the fund. The authority is authorized to establish
2 procedures and adopt regulations as required to administer the
3 fund in accordance with the New Mexico Finance Authority Act.

4 B. Except as otherwise provided in the New Mexico
5 Finance Authority Act, money from payments of principal of and
6 interest on loans and payments of principal of and interest on
7 securities held by the authority for public projects authorized
8 specifically by law shall be deposited in the public project
9 revolving fund. The fund shall also consist of any other money
10 appropriated, distributed or otherwise allocated to the fund for
11 the purpose of financing public projects authorized specifically
12 by law.

13 C. Money appropriated to pay administrative costs,
14 money available for administrative costs from other sources and
15 money from payments of interest on loans or securities held by
16 the authority, including [~~but not limited to~~] payments of
17 interest on loans and securities held by the authority for
18 public projects authorized specifically by law, that represents
19 payments for administrative costs shall not be deposited in the
20 public project revolving fund and shall be deposited in a
21 separate account of the authority and may be used by the
22 authority to meet administrative costs of the authority.

23 D. Except as otherwise provided in the New Mexico
24 Finance Authority Act, money in the public project revolving
25 fund is appropriated to the authority to make loans or grants

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1 and to purchase or sell securities to assist qualified entities
2 in financing public projects in accordance with the New Mexico
3 Finance Authority Act and pursuant to specific authorization by
4 law for each project.

5 E. Money in the public project revolving fund not
6 needed for immediate disbursement, including any funds held in
7 reserve, may be deposited with the state treasurer for
8 short-term investment pursuant to Section 6-10-10.1 NMSA 1978 or
9 may be invested in direct and general obligations of or
10 obligations fully and unconditionally guaranteed by the United
11 States, obligations issued by agencies of the United States,
12 obligations of this state or any political subdivision of the
13 state, interest-bearing time deposits, commercial paper issued
14 by corporations organized and operating in the United States and
15 rated "prime" quality by a national rating service, [~~prime~~
16 ~~bankers' acceptances issued by money center banks~~] other
17 investments permitted by Section 6-10-10 NMSA 1978 or as
18 otherwise provided by the trust indenture or bond resolution, if
19 funds are pledged for or secure payment of bonds issued by the
20 authority.

21 F. The authority shall establish fiscal controls and
22 accounting procedures that are sufficient to assure proper
23 accounting for public project revolving fund payments,
24 disbursements and balances.

25 G. Money on deposit in the public project revolving

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1 fund may be used to make interim loans for a term not exceeding
2 one year to qualified entities for the purpose of providing
3 interim financing for any project approved or funded by the
4 legislature.

5 H. Money on deposit in the public project revolving
6 fund may be used to acquire securities or to make loans to
7 qualified entities in connection with the equipment program. As
8 used in this subsection, "equipment program" means the program
9 of the authority designed to finance the acquisition of
10 equipment for fire protection; law enforcement and protection;
11 computer and data processing; street and road construction and
12 maintenance; emergency medical services; solid waste collection,
13 transfer and disposal; radio and telecommunications; and utility
14 system purposes; and to finance the acquisition, construction
15 and improvement of fire stations. The amount of securities
16 acquired from or the loan made to a qualified entity at any one
17 time pursuant to this subsection shall not exceed five hundred
18 thousand dollars (\$500,000). The authority shall issue bonds
19 within one year of the date the securities are acquired or
20 within one year of the date on which the loans are made and use
21 the bond proceeds to reimburse the public project revolving fund
22 for the amounts temporarily used to acquire securities or to
23 make loans. The temporarily funded projects under the equipment
24 program are not required to obtain specific authorization by law
25 required of projects permanently funded from the public project

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Underscored material = new
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1 revolving fund, as provided in this section and Section 6-21-8
2 NMSA 1978.

3 [H-] I. Money on deposit in the public project
4 revolving fund may be designated as reserve funds for any bonds
5 issued by the authority, including [~~but not limited to~~] bonds
6 payable from sources other than the public project revolving
7 fund, and the authority may covenant in any bond resolution or
8 trust indenture to maintain and replenish the reserve funds from
9 money deposited in the public project revolving fund after
10 issuance of bonds by the authority."

11 Section 2. Section 6-21-21 NMSA 1978 (being Laws 1992,
12 Chapter 61, Section 21, as amended) is amended to read:

13 "6-21-21. MONEY OF THE AUTHORITY--EXPENSES--AUDIT--
14 ANNUAL REPORT.--

15 A. All money of the authority, except as otherwise
16 authorized or provided in the New Mexico Finance Authority Act
17 or in a bond resolution, trust indenture or other instrument
18 under which bonds are issued, shall be deposited as soon as
19 practical in a separate account or accounts in banks or trust
20 companies organized under the laws of this state. All deposits
21 of money shall be secured, if required by the authority, in such
22 a manner as the authority determines to be prudent. Banks or
23 trust companies are authorized to give security for deposits of
24 the authority.

25 B. Subject to the provisions of any contract with

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1 bondholders, the authority shall prescribe a system of accounts.

2 C. Money held by the authority that is not needed
3 for immediate disbursement, including any funds held in reserve,
4 may be deposited with the state treasurer for short-term
5 investment pursuant to Section 6-10-10.1 NMSA 1978 or may be
6 invested in direct and general obligations of or obligations
7 fully and unconditionally guaranteed by the United States,
8 obligations issued by agencies of the United States, obligations
9 of this state or any political subdivision of the state,
10 interest-bearing time deposits, commercial paper issued by
11 corporations organized and operating within the United States
12 and rated "prime" quality by a national rating service, [~~prime~~
13 ~~bankers' acceptances issued by money center~~] other investments
14 permitted by Section 6-10-10 NMSA 1978 or as otherwise provided
15 by the trust indenture or bond resolution, if the funds are
16 pledged for or secure payment of bonds issued by the authority.

17 D. The authority shall have an audit of its books
18 and accounts made at least once each year by the state auditor
19 or by a certified public accounting firm whose proposal has been
20 reviewed and approved by the state auditor. The cost of the
21 audit shall be an expense of the authority. Copies of the audit
22 shall be submitted to the governor and the New Mexico finance
23 authority oversight committee and made available to the public.

24 E. The authority shall submit a report of its
25 activities to the governor and to the legislature not later than

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1 December 1 of each year. Each report shall set forth a complete
2 operating and financial statement covering its operations for
3 that year. "

4 Section 3. Section 7-1-6.15 NMSA 1978 (being Laws 1983,
5 Chapter 211, Section 20, as amended) is amended to read:

6 "7-1-6.15. ADJUSTMENTS OF DISTRIBUTIONS OR TRANSFERS TO
7 MUNICIPALITIES OR COUNTIES. --

8 A. The provisions of this section apply to:

9 (1) any distribution to a municipality of gross
10 receipts taxes pursuant to Section 7-1-6.4 NMSA 1978 or of
11 interstate telecommunications gross receipts tax pursuant to
12 Section 7-1-6.36 NMSA 1978;

13 (2) any transfer to a municipality with respect
14 to any local option gross receipts tax imposed by that
15 municipality;

16 (3) any transfer to a county with respect to
17 any local option gross receipts tax imposed by that county;

18 (4) any distribution to a county pursuant to
19 Section 7-1-6.16 NMSA 1978;

20 (5) any distribution to a municipality or a
21 county of gasoline taxes pursuant to Section 7-1-6.9 NMSA 1978;

22 (6) any transfer to a county with respect to
23 any tax imposed in accordance with the Local Liquor Excise Tax
24 Act;

25 (7) any distribution to a municipality or a

Underscored material = new
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1 county of cigarette taxes pursuant to Sections 7-1-6.11, 7-12-15
2 and 7-12-16 NMSA 1978;

3 (8) any distribution to a county from the
4 county government road fund pursuant to Section 7-1-6.26 NMSA
5 1978; and

6 (9) any distribution to a municipality of
7 gasoline taxes pursuant to Section 7-1-6.27 NMSA 1978.

8 B. If the secretary determines that any prior
9 distribution or transfer to a municipality or county was
10 erroneous, the secretary shall increase or decrease the next
11 distribution or transfer amount for that municipality or county
12 after the determination, except as provided in Subsection C, D
13 or E of this section, by the amount necessary to correct the
14 error. Subject to the provisions of Subsection E of this
15 section, the secretary shall notify the municipality or county
16 of the amount of each increase or decrease.

17 C. No decrease shall be made to current or future
18 distributions or transfers to a municipality or a county for any
19 excess distribution or transfer made to that municipality or
20 county more than one year prior to the calendar year in which
21 the determination of the secretary was made.

22 D. The secretary, in lieu of recovery from the next
23 distribution or transfer amount, may recover an excess
24 distribution or transfer of one hundred dollars (\$100) or more
25 to the municipality or county in installments from current and

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1 future distributions or transfers to that municipality or county
2 pursuant to an agreement with the officials of the municipality
3 or county whenever the amount of the distribution or transfer
4 decrease for the municipality or county exceeds ten percent of
5 the average distribution or transfer amount for that
6 municipality or county for the twelve months preceding the month
7 in which the secretary's determination is made; provided that
8 for the purposes of this subsection, the "average distribution
9 or transfer amount" shall be the arithmetic mean of the
10 distribution or transfer amounts within the twelve months
11 immediately preceding the month in which the determination is
12 made.

13 E. Except for the provisions of this section, if the
14 amount by which a distribution or transfer would be adjusted
15 pursuant to Subsection B of this section is one hundred dollars
16 (\$100) or less, no adjustment or notice need be made.

17 F. The secretary is authorized to decrease a
18 distribution to a municipality or county upon being directed to
19 do so by the secretary of finance and administration pursuant to
20 the State Aid Intercept Act or to redirect a distribution to the
21 New Mexico finance authority pursuant to an ordinance or a
22 resolution passed by the county or municipality and a written
23 agreement of the municipality or county and the New Mexico
24 finance authority. Upon direction to decrease a distribution or
25 notice to redirect a distribution to a municipality or county,

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1 the secretary shall decrease or redirect the next designated
2 distribution, and succeeding distributions as necessary, by the
3 amount of the state distributions intercept authorized by the
4 secretary of finance and administration pursuant to the State
5 Aid Intercept Act or by the amount of the state distribution
6 intercept authorized pursuant to an ordinance or a resolution
7 passed by the county or municipality and a written agreement
8 with the New Mexico finance authority. The secretary shall
9 transfer the state distributions intercept amount to the
10 municipal or county treasurer or other person designated by the
11 secretary of finance and administration or to the New Mexico
12 finance authority pursuant to written agreement to pay the debt
13 service to avoid default on qualified local revenue bonds or
14 meet other local revenue bond, loan or other debt obligations of
15 the municipality or county to the New Mexico finance authority. "

16 Section 4. Section 29-13-6 NMSA 1978 (being Laws 1983,
17 Chapter 289, Section 6, as amended) is amended to read:

18 "29-13-6. DISTRIBUTION OF LAW ENFORCEMENT PROTECTION
19 FUND. --

20 A. Annually on or before July 31, the state
21 treasurer shall distribute from the fund the amounts certified
22 by the division to be distributed to municipalities and
23 counties. Payments shall be made to the treasurer of the
24 appropriate governmental entity.

25 B. The state treasurer is authorized to redirect a

Underscored material = new
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1 distribution to the New Mexico finance authority in an amount
2 certified by the division, pursuant to an ordinance or a
3 resolution passed by the municipality or county and a written
4 agreement of the municipality or county and the New Mexico
5 finance authority.

6 C. Annually on or before July 31, the state
7 treasurer shall distribute from the excess money remaining in
8 the fund after distributions pursuant to Subsection A of this
9 section are made, money certified by the division to be
10 distributed to tribes and pueblos. Payment shall be made to the
11 chief financial officer of the tribe or pueblo. If necessary,
12 the fund may be decreased below the level of one hundred
13 thousand dollars (\$100,000) to enable payment to the tribes and
14 pueblos. If insufficient money remains in the fund to fully
15 compensate the tribes and pueblos, a report shall be made to the
16 New Mexico office of Indian affairs and to an appropriate
17 interim committee of the legislature that reviews issues having
18 impact on tribes and pueblos in New Mexico by September 1 of the
19 year of the shortfall."

20 Section 5. Section 59A-53-7 NMSA 1978 (being Laws 1984,
21 Chapter 127, Section 978, as amended) is amended to read:

22 "59A-53-7. DISTRIBUTION OF FIRE PROTECTION FUND. --

23 A. Annually on or before the last day of July, the
24 state treasurer shall distribute from the money in the fire
25 protection fund, to each incorporated municipality and to each

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1 county fire district, the amount as the marshal or the state
2 fire board, as the case may be, shall have certified to him
3 Payment shall be made to the treasurer of any incorporated
4 municipality and to the county treasurer of the county in which
5 any county fire district is located for credit to the county
6 fire district.

7 B. The state treasurer is authorized to redirect a
8 distribution to the New Mexico finance authority in the amount
9 as the marshal or the state fire board, as the case may be,
10 shall have certified to him pursuant to an ordinance or a
11 resolution passed by the municipality or county and a written
12 agreement of the municipality or county in which any county fire
13 district is located and the New Mexico finance authority. "

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

State of New Mexico House of Representatives

FORTY- SECOND LEGISLATURE

SECOND SESSION, 1996

February 2, 1996

Mr. Speaker:

Your RULES AND ORDER OF BUSINESS COMMITTEE, to
whom has been referred

HOUSE BILL 295

has had it under consideration and finds same to be
GERMANE in accordance with constitutional provisions.

Respectfully submitted,

Barbara A. Perea Casey,

Chairperson

Adopted _____

Not Adopted _____

(Chief Clerk)

(Chief Clerk)

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Date _____

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4 The roll call vote was 8 For 0 Against

5 Yes: 8

6 Excused: Nicely, Olguin, Pederson, Picraux, Rodella,

7 J. G. Taylor, Wallach

8 Absent: None

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State of New Mexico House of Representatives

FORTY- SECOND LEGISLATURE

SECOND SESSION, 1996

February 9, 1996

Mr. Speaker:

**Your TAXATION AND REVENUE COMMITTEE, to whom has
been referred**

HOUSE BILL 295

**has had it under consideration and reports same with
recommendation that it DO PASS.**

Respectfully submitted,

Jerry W. Sandel, Chairman

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FORTY-SECOND LEGISLATURE
SECOND SESSION, 1996

HTRC/HB 295

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Adopted _____ Not Adopted _____

(Chief Clerk) (Chief Clerk)

Date _____

The roll call vote was 13 For 0 Against

Yes: 13

Excused: None

Absent: None

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FORTY-SECOND LEGISLATURE
SECOND SESSION, 1996

1 HTRC/HB 295

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FORTY-SECOND LEGISLATURE
SECOND SESSION, 1996

February 13, 1996

Mr. President:

Your WAYS AND MEANS COMMITTEE, to whom has been referred

HOUSEBILL 295

has had it under consideration and reports same with recommendation that it DO PASS.

Respectfully submitted,

TITO D. CHAVEZ, Chairman

Adopted _____ Not Adopted _____

Underscored material = new
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FORTY- SECOND LEGISLATURE
SECOND SESSION, 1996

1 HTRC/HB 295

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(Chief Clerk)

(Chief Clerk)

Date _____

The roll call vote was 5 For 0 Against

Yes: 5

No: 0

Excused: Campos, Rhodes, Jennings

Absent: None

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Underscored material = new
[bracketed material] = delete