

AN ACT

RELATING TO THE FINANCING OF HIGHWAY PROJECTS; INCREASING THE BONDING AUTHORITY OF THE STATE HIGHWAY COMMISSION FOR CERTAIN HIGHWAY PROJECTS; AUTHORIZING THE PLEDGING OF TAXES, FEES AND FEDERAL FUNDS IN THE STATE ROAD FUND TO THE PAYMENT OF BONDS; AMENDING A SECTION OF THE NMSA 1978.

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

Section 1. Section 67-3-59.1 NMSA 1978 (being Laws 1989, Chapter 157, Section 1, as amended) is amended to read:

"67-3-59.1. STATE HIGHWAY DEBENTURES--ISSUANCE--LIMITS--APPROVAL--COUPONS.--

A. In order to provide funds to finance state highway projects, including state highway projects that are required for the waste isolation pilot project and are eligible for federal reimbursement or payment as authorized by federal legislation, the state highway commission is authorized, subject to the limitations of this section, to issue bonds from time to time, payable from federal funds not otherwise obligated that are paid into the state road fund, the proceeds of the collection of taxes and fees that are required by law to be paid into the state road fund and not otherwise pledged solely to the payment of outstanding bonds and debentures.

B. Except as provided in Subsections C and D of

this section, the total aggregate outstanding principal amount of bonds issued from time to time pursuant to this section, secured by or payable from federal funds not otherwise obligated that are paid into the state road fund and the proceeds from the collection of taxes and fees required by law to be paid into the state road fund, shall not, without additional authorization of the state legislature, exceed one hundred fifty million dollars (\$150,000,000) at any given time, subject to the following provisions:

(1) the total aggregate outstanding principal amount of bonds issued for state highway projects that are required for the waste isolation pilot project and are eligible for federal reimbursement or payment as authorized by federal legislation shall not exceed one hundred million dollars (\$100,000,000); and

(2) the total aggregate outstanding principal amount of bonds issued for state highway projects other than state highway projects that are required for the waste isolation pilot project and are eligible for federal reimbursement or payment as authorized by federal legislation shall not exceed fifty million dollars (\$50,000,000).

C. Upon specific authorization and appropriation by the legislature, and subject to the limitations of Subsection D of this section, an additional amount of bonds

may be issued pursuant to this section for state highway projects, to be secured by or payable from taxes or fees required by law to be paid into the state road fund and federal funds not otherwise obligated that are paid into the state road fund, as follows:

(1) an aggregate outstanding principal amount of bonds, not to exceed six hundred twenty-four million dollars (\$624,000,000), for major highway infrastructure projects for which the state highway and transportation department has, prior to January 1, 1998, submitted or initiated the process of submitting a plan to the federal highway administration for innovative financing pursuant to 23 USCA Sections 122 and 307;

(2) an aggregate outstanding principal amount of bonds, not to exceed one hundred million dollars (\$100,000,000), for state highway projects that are required for the waste isolation pilot project and are eligible for federal reimbursement; and

(3) an aggregate outstanding principal amount of bonds, not to exceed four hundred million dollars (\$400,000,000), for other state highway projects.

D. The total amount of bonds that may be issued by the state highway commission for state highway projects pursuant to Subsection C of this section shall not exceed a total aggregate outstanding principal amount of:

- (1) three hundred million dollars (\$300,000,000) prior to July 1, 1999;
- (2) six hundred million dollars (\$600,000,000) from July 1, 1999 through June 30, 2000;
- (3) nine hundred million dollars (\$900,000,000) from July 1, 2000 through June 30, 2001; and
- (4) one billion one hundred twenty-four million dollars (\$1,124,000,000) after June 30, 2001.

E. The state highway commission may issue bonds to refund other bonds issued pursuant to this section by exchange or current or advance refunding.

F. Each series of bonds shall have a maturity of no more than twenty-five years from the date of issuance. The state highway commission shall determine all other terms, covenants and conditions of the bonds; provided that the bonds shall not be issued pursuant to this section unless the state board of finance approves the issuance of the bonds and the principal amount of and interest rate or maximum net effective interest rate on the bonds.

G. The bonds shall be executed with the manual or facsimile signature of the chairman of the state highway commission, countersigned by the state treasurer and attested to by the secretary of the state highway commission, with the seal of the state highway commission imprinted or otherwise affixed to the bonds.

H. Proceeds of the bonds may be used to pay expenses incurred in the preparation, issuance and sale of the bonds and, together with the earnings on the proceeds of the bonds, may be used to pay rebate, penalty, interest and other obligations relating to the bonds and the proceeds of the bonds under the Internal Revenue Code of 1986, as amended.

I. The bonds may be sold at a public or negotiated sale at, above or below par or through the New Mexico finance authority. Any negotiated sale shall be made with one or more investment banker whose services are obtained through a competitive proposal process. For any sale, the state highway commission or the New Mexico finance authority shall also procure the services of any financial advisor or bond counsel through a competitive proposal process. If sold at public sale, a notice of the time and place of sale shall be published in a newspaper of general circulation in the state, and in any other newspaper determined in the resolution authorizing the issuance of the bonds, once each week for two consecutive weeks prior to the date of sale. The bonds may be purchased by the state treasurer or state investment officer.

J. This section is full authority for the issuance and sale of the bonds, and the bonds shall not be invalid for any irregularity or defect in the proceedings for

their issuance and sale and shall be incontestable in the hands of bona fide purchasers or holders of the bond for value.

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

L. Any law authorizing the imposition or distribution of taxes or fees paid into the state road fund or that affects those taxes and fees shall not be amended or repealed or otherwise directly or indirectly modified so as to impair any outstanding bonds secured by a pledge of revenues from those taxes and fees paid into the state road fund, unless the bonds have been discharged in full or provisions have been made for a full discharge. In addition, while any bonds issued by the state highway commission pursuant to the provisions of this section remain outstanding, the powers or duties of the commission shall not be diminished or impaired in any manner that will affect adversely the interests and rights of the holder of such bonds.

M Bonds issued pursuant to this section shall be paid solely from federal funds not otherwise obligated and

taxes and fees deposited into the state road fund and shall
not constitute a general obligation of the state."