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HOUSE BILL 477

43RD LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 1998

INTRODUCED BY

JERRY W. SANDEL

AN ACT

RELATING TO THE FINANCING OF HIGHWAY PROJECTS; INCREASING THE
BONDING AUTHORITY OF THE STATE HIGHWAY COMMISSION AND
AUTHORIZING CONSTRUCTION OF 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

. 122596. 2

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1 eligible for federal reimbursement or payment as authorized by
2 federal legislation, the state highway commission is
3 authorized to issue bonds from time to time, payable from
4 federal funds not otherwise obligated that are paid into the
5 state road fund, the proceeds of the collection of [~~gasoline~~
6 ~~excise~~] taxes and [~~motor vehicle registration~~] fees that are
7 required by law to be paid into the state road fund and not
8 otherwise pledged solely to the payment of outstanding bonds
9 and debentures.

10 B. The total aggregate outstanding principal
11 amount of bonds issued from time to time pursuant to this
12 section, secured by or payable from [~~the gasoline excise taxes~~
13 ~~and motor vehicle registration fees~~] federal funds not
14 otherwise obligated that are paid into the state road fund and
15 the proceeds from the collection of taxes and fees required by
16 law to be paid into the state road fund shall not, without
17 additional authorization of the state legislature, exceed [~~one~~
18 ~~hundred fifty million dollars (\$150,000,000)~~] at any given
19 time, subject to the [~~following~~] provisions of Subsection C of
20 this section, the following amounts:

- 21 (1) prior to July 1, 1998, one hundred fifty
22 million dollars (\$150,000,000);
- 23 (2) from July 1, 1998 through June 30, 1999,
24 four hundred fifty million dollars (\$450,000,000);
- 25 (3) from July 1, 1999 through June 30, 2000,

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1 seven hundred fifty million dollars (\$750,000,000); and
2 (4) after June 30, 2000, one billion dollars
3 (\$1,000,000,000).

4 C. The total aggregate outstanding principal
5 amount of bonds authorized pursuant to Subsection B of this
6 section shall be subject to the following provisions:

7 (1) the total aggregate outstanding principal
8 amount of bonds issued for state highway projects that are
9 required for the waste isolation pilot project and are
10 eligible for federal reimbursement or payment as authorized by
11 federal legislation shall not exceed [~~one hundred million~~
12 ~~dollars (\$100,000,000); and~~ two hundred million dollars
13 (\$200,000,000);

14 (2) the total aggregate outstanding principal
15 amount of bonds issued for state highway projects other than
16 state highway projects that are required for the waste
17 isolation pilot project and are eligible for federal
18 reimbursement or payment as authorized by federal legislation
19 shall not exceed:

20 (a) prior to July 1, 1998, fifty
21 million dollars (\$50,000,000);

22 (b) from July 1, 1998 through June 30,
23 1999, two hundred fifty million dollars (\$250,000,000);

24 (c) from July 1, 1999 through June 30,
25 2000, five hundred fifty million dollars (\$550,000,000); and

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1 Subparagraphs (b) through (e) of Paragraph (3) of Subsection C
2 of this section shall have a maturity of no more than ten
3 years from the date of issuance. The state highway commission
4 shall determine all other terms, covenants and conditions of
5 the bonds; provided that the bonds shall not be issued
6 pursuant to this section unless the state board of finance
7 approves the issuance of the bonds and the principal amount of
8 and interest rate or ~~maximum~~ net effective interest rate on
9 the bonds.

10 [E-] F. The bonds shall be executed with the
11 manual or facsimile [~~signatures~~] signature of the chairman of
12 the state highway commission, countersigned by the state
13 treasurer and attested to by the secretary of the state
14 highway commission, with the seal of the state highway
15 commission imprinted or otherwise affixed to the bonds.

16 [F-] G. Proceeds of the bonds may be used to pay
17 expenses incurred in the preparation, issuance and sale of the
18 bonds and, together with the earnings on the proceeds of the
19 bonds, may be used to pay rebate, penalty, interest and other
20 obligations relating to the bonds and the proceeds of the
21 bonds under the Internal Revenue Code of 1986, as amended.

22 [G-] H. The bonds may be sold at public or private
23 sale or through the New Mexico finance authority. If sold at
24 public sale, a notice of the time and place of sale shall be
25 published in a newspaper of general circulation in the state,

Underscored material = new
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1 and in any other newspaper determined in the resolution
2 authorizing the issuance of the bonds, once each week for two
3 consecutive weeks prior to the date of sale. The bonds may be
4 purchased by the state treasurer or state investment officer.

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

11 ~~[I.]~~ J. The bonds shall be legal investments for
12 any person or board charged with the investment of public
13 funds and may be accepted as security for any deposit of
14 public money and, with the interest thereon, are exempt from
15 taxation by the state and any political subdivision or agency
16 of the state.

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

. 122596. 2

1 provisions of this section remain outstanding, the powers or
2 duties of the commission shall not be diminished or impaired
3 in any manner that will affect adversely the interests and
4 rights of the holder of such bonds.

5 L. Bonds issued pursuant to this section shall be
6 paid solely from federal funds not otherwise obligated, and
7 taxes and fees deposited into the state road fund and shall
8 not constitute a general obligation of the state. "

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1 FORTY-THIRD LEGISLATURE

2 SECOND SESSION, 1998

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4
5
6 February 12, 1998

7
8 Mr. Speaker:

9
10 Your TRANSPORTATION COMMITTEE, to whom has been
11 referred

12
13 HOUSE BILL 477

14
15 has had it under consideration and reports same with
16 recommendation that it DO NOT PASS, but that

17 HOUSE TRANSPORTATION COMMITTEE SUBSTITUTE FOR HOUSE
18 BILL 477

19
20 DO PASS, and thence referred to the TAXATION AND
21 REVENUE COMMITTEE.

FORTY-THIRD LEGISLATURE
SECOND SESSION, 1998

HTC/HB 477

Page 9

Respectfully submitted,

Daniel P. Silva, Chairman

Adopted _____

Not Adopted _____

(Chief Clerk)

(Chief Clerk)

Date _____

The roll call vote was 9 For 0 Against

Yes: 9

Excused: Larranaga, Watchman

Absent: Russell

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HOUSE TRANSPORTATION COMMITTEE SUBSTITUTE FOR
HOUSE BILL 477

43RD LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 1998

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

. 123292. 3

Underscored material = new
[bracketed material] = delete

1 otherwise obligated that are paid into the state road fund,
2 the proceeds of the collection of [~~gasoline excise~~] taxes and
3 [~~motor vehicle registration~~] fees that are required by law to
4 be paid into the state road fund and not otherwise pledged
5 solely to the payment of outstanding bonds and debentures.

6 B. Except as provided in Subsections C and D of
7 this section, the total aggregate outstanding principal amount
8 of bonds issued from time to time pursuant to this section,
9 secured by or payable from [~~the gasoline excise taxes and~~
10 ~~motor vehicle registration fees~~] federal funds not otherwise
11 obligated that are paid into the state road fund and the
12 proceeds from the collection of taxes and fees required by law
13 to be paid into the state road fund, shall not, without
14 additional authorization of the state legislature, exceed one
15 hundred fifty million dollars (\$150,000,000) at any given
16 time, subject to the following provisions:

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

23 (2) the total aggregate outstanding principal
24 amount of bonds issued for state highway projects other than
25 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).

26 C. Upon specific authorization and appropriation
27 by the legislature, and subject to the limitations of
28 Subsection D of this section, an additional amount of bonds
29 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)

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1 from July 1, 2000 through June 30, 2001; and

2 (4) one billion one hundred twenty-four million
 3 dollars (\$1,124,000,000) after June 30, 2001.

4 ~~[C.]~~ E. The state highway commission may issue bonds
 5 to refund other bonds issued pursuant to this section by exchange
 6 or current or advance refunding.

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

15 ~~[E.]~~ G. The bonds shall be executed with the manual
 16 or facsimile ~~[signatures]~~ signature of the chairman of the state
 17 highway commission, countersigned by the state treasurer and
 18 attested to by the secretary of the state highway commission,
 19 with the seal of the state highway commission imprinted or
 20 otherwise affixed to the bonds.

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

~~[G.]~~ I. The bonds may be sold at a public or
~~[private]~~ negotiated sale at, above or below par or through the

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

12 [~~H.~~] J. This section is full authority for the
 13 issuance and sale of the bonds, and the bonds shall not be
 14 invalid for any irregularity or defect in the proceedings for
 15 their issuance and sale and shall be incontestable in the hands
 of bona fide purchasers or holders of the bond for value.

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

20 L. Any law authorizing the imposition or distribution
 21 of taxes or fees paid into the state road fund or that affects
 22 those taxes and fees shall not be amended or repealed or
 23 otherwise directly or indirectly modified so as to impair any
 24 outstanding bonds secured by a pledge of revenues from those
 25 taxes and fees paid into the state road fund, unless the bonds

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1 have been discharged in full or provisions have been made for a
2 full discharge. In addition, while any bonds issued by the state
3 highway commission pursuant to the provisions of this section
4 remain outstanding, the powers or duties of the commission shall
5 not be diminished or impaired in any manner that will affect
6 adversely the interests and rights of the holder of such bonds.

7 M Bonds issued pursuant to this section shall be
8 paid solely from federal funds not otherwise obligated and taxes
9 and fees deposited into the state road fund and shall not
10 constitute a general obligation of the state. "

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HTC/HB 477

**FORTY-THIRD LEGISLATURE
SECOND SESSION, 1998**

February 14, 1998

Mr. Speaker:

Your APPROPRIATIONS AND FINANCE COMMITTEE, to whom
has been referred

HOUSE TRANSPORTATION COMMITTEE SUBSTITUTE FOR HOUSE
BILL 477

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

Respectfully submitted,

Max Coll, Chairman

1 FORTY-THIRD LEGISLATURE
2 SECOND SESSION, 1998

3 Page 17

4 Adopted _____ Not Adopted _____
5 (Chief Clerk) (Chief Clerk)

6
7 Date _____

8
9 The roll call vote was 14 For 0 Against

10 Yes: 14

11 Excused: Bird, Heaton, Marquardt, Salazar

12 Absent: None

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FORTY-THIRD LEGISLATURE
SECOND SESSION, 1998

HTC/HB 477

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FORTY-THIRD LEGISLATURE
SECOND SESSION, 1998

February 16, 1998

Mr. President:

Your FINANCE COMMITTEE, to whom has been referred

HOUSE TRANSPORTATION COMMITTEE SUBSTITUTE FOR
HOUSE BILL 477

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

Respectfully submitted,

Ben D. Altamirano, Chairman

FORTY-THIRD LEGISLATURE
SECOND SESSION, 1998

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Adopted _____ Not Adopted _____
(Chief Clerk) (Chief Clerk)

Date _____

The roll call vote was 6 For 0 Against

Yes: 6

No: None

Excused: Carraro, Eisenstadt, Ingle, Lyons, McKibben

Absent: None

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