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SENATE BILL 238

44TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 1999

INTRODUCED BY

Cynthia Nava

FOR THE LEGISLATIVE EDUCATION STUDY COMMITTEE

AN ACT

RELATING TO FINANCE; AMENDING THE SEVERANCE TAX BONDING ACT TO
ALLOW ISSUANCE OF SUPPLEMENTAL SEVERANCE TAX BONDS BY THE NEW
MEXICO FINANCE AUTHORITY.

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

Section 1. Section 7-27-6 NMSA 1978 (being Laws 1961,
Chapter 5, Section 4) is amended to read:

"7-27-6. SEVERANCE TAX BONDING FUND PLEDGED. -- ~~[The money
in the severance tax bonding fund is first pledged for the
payment of principal and interest on all bonds which have been
issued and are outstanding at the time of the enactment of
this Severance Tax Bonding Act, and for which the money
derived from the severance tax levied by Sections 72-18-1
through 72-18-27 and Sections 72-19-1 through 72-19-25, New
Mexico Statutes Annotated, 1953 Compilation has been pledged~~

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1 ~~by previous legislative action.]~~

2 A. The money in the severance tax bonding fund is
3 [~~further~~] first pledged for the payment of principal and
4 interest on all severance tax bonds issued after the enactment
5 of [~~this~~] the Severance Tax Bonding Act.

6 B. The money in the severance tax bonding fund is
7 second pledged for the payment of principal and interest on
8 all supplemental severance tax bonds issued after the
9 enactment of the Severance Tax Bonding Act. "

10 Section 2. Section 7-27-7 NMSA 1978 (being Laws 1961,
11 Chapter 5, Section 5) is amended to read:

12 "7-27-7. SPECIAL INCOME TO RETIRE BONDS. -- When a law
13 authorizing a severance tax bond issue or supplemental
14 severance tax bond issue contemplates the income of money for
15 the retirement of the bond issue other than or in addition to
16 the money in the severance tax bonding fund, then the money
17 derived from such income shall be paid to the state [~~board of~~
18 ~~finance~~] treasurer and be credited to the specific bond issue
19 account and deposited in the severance tax bonding fund. "

20 Section 3. Section 7-27-9 NMSA 1978 (being Laws 1961,
21 Chapter 5, Section 7) is amended to read:

22 "7-27-9. BONDS TO BE KNOWN AS SEVERANCE TAX BONDS AND
23 NEW MEXICO SUPPLEMENTAL SEVERANCE TAX BONDS. --

24 A. Prior to July 1, 1999, all bonds [~~hereafter~~]
25 issued wherein the money in the severance tax bonding fund is

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1 pledged for their retirement shall be known as "New Mexico
2 severance tax bonds".

3 B. After July 1, 1999, there shall be two
4 categories of bonds issued wherein the money in the severance
5 tax bonding fund is pledged for their retirement. Those bonds
6 issued by the state board of finance shall be known as "New
7 Mexico severance tax bonds" and those issued by the New Mexico
8 finance authority shall be known as "New Mexico supplemental
9 severance tax bonds". "

10 Section 4. Section 7-27-10 NMSA 1978 (being Laws 1961,
11 Chapter 5, Section 8) is amended to read:

12 "7-27-10. STATE BOARD OF FINANCE AND NEW MEXICO FINANCE
13 AUTHORITY SHALL ISSUE BONDS. --

14 A. The state board of finance [is authorized to]
15 may issue and sell severance tax bonds within the provisions
16 of [~~this~~] the Severance Tax Bonding Act, and no other agency
17 of the state is authorized to issue or sell severance tax
18 bonds.

19 B. The New Mexico finance authority may issue and
20 sell supplemental severance tax bonds within the provisions of
21 the Severance Tax Bonding Act, and no other agency of the
22 state is authorized to issue or sell supplemental severance
23 tax bonds. "

24 Section 5. Section 7-27-11 NMSA 1978 (being Laws 1961,
25 Chapter 5, Section 9, as amended) is amended to read:

1 "7-27-11. AUTHORITY TO REFUND BONDS. --

2 A. The state board of finance may issue and sell
3 at public or private sale severance tax bonds to refund
4 outstanding severance tax bonds [~~and other bonds payable from~~
5 ~~the severance tax bonding fund~~] by exchange, immediate or
6 prospective redemption, cancellation or escrow, including the
7 escrow of debt service funds accumulated for payment of
8 outstanding bonds, or any combination thereof when, in its
9 opinion, such action will be beneficial to the state.

10 B. In performing an advanced refunding, the state
11 board of finance shall use the level savings method of advance
12 refunding to the greatest extent possible.

13 C. No bonds shall be issued to refund outstanding
14 severance tax bonds [~~or other bonds payable from the severance~~
15 ~~tax bonding fund~~] if any of the refunding bonds have maturity
16 dates after the latest maturity date of a bond to be refunded.

17 D. The New Mexico finance authority may issue and
18 sell at public or private sale supplemental severance tax
19 bonds to refund outstanding supplemental severance tax bonds
20 by exchange, immediate or prospective redemption, cancellation
21 or escrow, including the escrow of debt service funds
22 accumulated for payment of outstanding supplemental severance
23 tax bonds, or any combination thereof when, in its opinion,
24 such action will be beneficial to the state. "

25 Section 6. Section 7-27-12 NMSA 1978 (being Laws 1961,

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1 Chapter 5, Section 10, as amended) is amended to read:

2 "7-27-12. WHEN SEVERANCE TAX BONDS TO BE ISSUED. --

3 A. The state board of finance shall issue and sell
4 all severance tax bonds when authorized to do so by any law
5 [~~which~~] that sets out the amount of the issue and the
6 recipient [~~or recipients~~] of the money.

7 B. The state board of finance shall also issue and
8 sell severance tax bonds authorized by Sections 72-14-36
9 through 72-14-42 NMSA 1978, and such authority as has been
10 given to the interstate [~~streams~~] stream commission to issue
11 and sell such bonds is transferred to the state board of
12 finance. The state board of finance shall issue and sell all
13 severance tax bonds [~~when and~~] only when so instructed by
14 resolution of the governing body or executive head of the
15 recipient of the bond money.

16 C. The New Mexico finance authority shall issue
17 and sell all supplemental severance tax bonds when authorized
18 to do so by any law that sets out the amount of the issue and
19 names the public school capital outlay council as the
20 recipient of the money. The New Mexico finance authority
21 shall issue and sell all supplemental severance tax bonds only
22 when so instructed by resolution of the public school capital
23 outlay council. "

24 Section 7. Section 7-27-14 NMSA 1978 (being Laws 1961,
25 Chapter 5, Section 11) is amended to read:

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1 "7-27-14. AMOUNT OF TAX--SECURITY FOR BONDS. --

2 A. The legislature shall provide for the continued
3 assessment, levy, collection and deposit into the severance
4 tax bonding fund of the tax or taxes upon natural resource
5 products severed and saved from the soil of the state [~~which~~
6 that, together with such other income as may be deposited to
7 the fund, will be sufficient to produce an amount [~~which~~ that
8 is at least the amount necessary to meet annual debt service
9 charges on all outstanding severance tax bonds.

10 B. The state board of finance shall issue no
11 severance tax bonds unless the aggregate amount of severance
12 tax bonds outstanding, including any severance tax bonds
13 authorized prior to the enactment of [~~this~~] the Severance Tax
14 Bonding Act, but not yet issued, and including the issue
15 proposed, can be serviced with not more than fifty percent of
16 the annual deposits into the severance tax bonding fund, as
17 determined by the deposits during the preceding fiscal year.

18 C. The New Mexico finance authority shall issue no
19 supplemental severance tax bonds unless the aggregate amount
20 of severance tax bonds and supplemental severance tax bonds
21 outstanding, including any severance tax bonds and
22 supplemental severance tax bonds authorized prior to the date
23 of the proposed supplemental severance tax bond issue, but not
24 yet issued, and including the supplemental severance tax bond
25 issue proposed, can be serviced with not more than seventy-

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1 five percent of the annual deposits into the severance tax
2 bonding fund, as determined by the deposits during the
3 preceding fiscal year.

4 D. The aggregate total principal amount of
5 supplemental severance tax bonds issued by the New Mexico
6 finance authority in any fiscal year shall not exceed forty
7 million dollars (\$40,000,000).

8 [~~E.~~] E. Provisions of this section shall not be
9 modified by the terms of any severance tax bonds or
10 supplemental severance tax bonds hereafter issued. "

11 Section 8. Section 7-27-15 NMSA 1978 (being Laws 1961,
12 Chapter 5, Section 12) is amended to read:

13 "7-27-15. MAJORITY APPROVAL NECESSARY FOR BOARD
14 ACTION. --

15 A. Any action taken hereunder by the state board
16 of finance [~~must~~] shall be approved by a majority of its
17 members.

18 B. Any action taken hereunder by the New Mexico
19 finance authority shall be approved by a majority of its
20 members. "

21 Section 9. Section 7-27-16 NMSA 1978 (being Laws 1961,
22 Chapter 5, Section 13, as amended) is amended to read:

23 "7-27-16. FORM OF BONDS. --

24 A. The state board of finance, except as otherwise
25 specifically provided in the Severance Tax Bonding Act, shall

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1 determine at its discretion the terms, covenants and
2 conditions of severance tax bonds, including but not limited
3 to: date of issue, denominations, maturities, rate or rates
4 of interest, call features, call premiums, registration,
5 refundability and other covenants covering the general and
6 technical aspects of the issuance of the bonds.

7 B. The bonds shall be in such form as the state
8 board of finance may determine, and successive issues shall be
9 identified by alphabetical, numerical or other proper series
10 designation.

11 C. The New Mexico finance authority, except as
12 otherwise specifically provided in the Severance Tax Bonding
13 Act and in the law authorizing issuance of specific
14 supplemental severance tax bonds, shall determine at its
15 discretion the terms, covenants and conditions of supplemental
16 severance tax bonds, including but not limited to: date of
17 issue, denominations, maturities, rate or rates of interest,
18 call features, call premiums, registration, refundability and
19 other covenants covering the general and technical aspects of
20 the issuance of supplemental severance tax bonds.

21 D. The supplemental severance tax bonds shall be
22 in such form as the New Mexico finance authority may
23 determine, and successive supplemental severance tax bond
24 issues shall be identified by alphabetical, numerical or other
25 proper series designation. "

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1 Section 10. Section 7-27-17 NMSA 1978 (being Laws 1961,
2 Chapter 5, Section 14, as amended) is amended to read:

3 "7-27-17. EXECUTION OF BONDS. --

4 A. Severance tax bonds shall be signed and
5 attested by the state treasurer and shall be executed with the
6 facsimile signature of the governor and the facsimile seal of
7 the state, except for bonds issued in book entry or similar
8 form without the delivery of physical securities. Any
9 interest coupons attached to the bonds shall bear the
10 facsimile signature of the state treasurer, which officer, by
11 the execution of the bonds, shall adopt as his own signature
12 the facsimile thereof appearing on the coupons. Except for
13 bonds issued in book entry or similar form without the
14 delivery of physical securities, the Uniform Facsimile
15 Signature of Public Officials Act shall apply, and the state
16 board of finance shall determine the manual signature to be
17 affixed on the bonds.

18 B. Supplemental severance tax bonds shall be
19 signed and attested by the treasurer of the New Mexico finance
20 authority and shall be executed with the facsimile signature
21 of the chairman of the New Mexico finance authority and the
22 facsimile seal of the New Mexico finance authority except for
23 bonds issued in book entry or similar form without the
24 delivery of physical securities. Any interest coupons
25 attached to the bonds shall bear the facsimile signature of

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1 the treasurer of the New Mexico finance authority, which
2 officer, by the execution of the bonds, shall adopt as his own
3 signature the facsimile thereof appearing on the coupons.
4 Except for bonds issued in book entry or similar form without
5 the delivery of physical securities, the Uniform Facsimile
6 Signature of Public Officials Act shall apply, and the New
7 Mexico finance authority shall determine the manual signature
8 to be affixed on the bonds. "

9 Section 11. Section 7-27-18 NMSA 1978 (being Laws 1961,
10 Chapter 5, Section 15) is amended to read:

11 "7-27-18. PROCEDURE FOR SALE OF BONDS. --

12 A. Severance tax bonds shall be sold by the state
13 board of finance at such times and in such manner as [~~said~~]
14 the board may elect, consistent with the need of the board,
15 commission or agency [~~which~~] that is the recipient [~~or~~
16 ~~recipients~~] of the bond money, to the highest bidder for cash
17 at not less than par and accrued interest.

18 B. The state board of finance shall publish a
19 notice of the time and place of sale in a newspaper of general
20 circulation in the state and also in a recognized financial
21 journal outside the state. Such publication shall be made
22 once each week for two consecutive weeks prior to the date
23 fixed for such sale, the last publication [~~thereof~~] to be at
24 least ten days prior to the date of sale. Such notice shall
25 specify the amount, denomination, maturity and description of

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1 the bonds to be offered for sale and the place, day and hour
2 at which sealed bids therefor shall be received. All bids,
3 except that of the state, shall be accompanied by a deposit of
4 five percent of the bid price. Deposits of unsuccessful
5 bidders shall be returned upon rejection of the bid.

6 C. At the time and place specified in such notice,
7 the state board of finance shall open the bids in public and
8 shall award the bonds, or any part thereof, to the bidder or
9 bidders offering the best price therefor. Before delivering
10 any bonds sold, the state treasurer shall detach therefrom and
11 cancel all interest coupons which may have matured prior to
12 the date of delivery. The state board of finance may reject
13 any or all bids and readvertise. The state board of finance
14 may sell a severance tax bond issue, or any part thereof, to
15 the state at private sale.

16 D. Supplemental severance tax bonds shall be sold
17 by the New Mexico finance authority at such times and in such
18 manner as the authority may elect, consistent with the needs
19 of the public school capital outlay council, in accordance
20 with the terms and provisions of the New Mexico Finance
21 Authority Act. "

22 Section 12. Section 7-27-19 NMSA 1978 (being Laws 1961,
23 Chapter 5, Section 16) is amended to read:

24 "7-27-19. SEVERANCE TAX BONDS AND SUPPLEMENTAL SEVERANCE
25 TAX BONDS LEGAL INVESTMENTS. --Severance tax bonds and

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1 supplemental severance tax bonds are legal investments for any
2 person or board charged with the investment of any public
3 funds and are acceptable as security for any deposit of public
4 money. "

5 Section 13. Section 7-27-20 NMSA 1978 (being Laws 1961,
6 Chapter 5, Section 17) is amended to read:

7 "7-27-20. EXPENSES PAID FROM SEVERANCE TAX BONDING
8 FUND.--The expense incurred in the issuance of severance tax
9 bonds and supplemental severance tax bonds shall be paid from
10 the severance tax bonding fund. "

11 Section 14. Section 7-27-21 NMSA 1978 (being Laws 1961,
12 Chapter 5, Section 18) is amended to read:

13 "7-27-21. TREASURER TO MAKE BOND PAYMENTS AND KEEP
14 RECORDS. --

15 A. Severance tax bonds payable from the severance
16 tax bonding fund shall be paid first by the state treasurer
17 who shall keep a complete bond register showing severance tax
18 bonds and coupons paid and outstanding and such other records
19 as the state board of finance shall require.

20 B. Supplemental severance tax bonds payable from
21 the severance tax bonding fund shall be paid second, after
22 payment of outstanding severance tax bonds, by the state
23 treasurer who shall keep a complete bond register showing
24 supplemental severance tax bonds and coupons paid and
25 outstanding and such other records as the New Mexico finance

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1 authority shall require. "

2 Section 15. Section 7-27-22 NMSA 1978 (being Laws 1961,
3 Chapter 79, Section 2, as amended) is amended to read:

4 "7-27-22. SEVERANCE TAX BONDING ACT TO BE FULL AUTHORITY
5 FOR ISSUANCE OF BONDS. --The Severance Tax Bonding Act and the
6 New Mexico Finance Authority Act shall, without reference to
7 any other act of the legislature, be full authority for the
8 issuance and sale of severance tax bonds and supplemental
9 severance tax bonds, respectively, which bonds and the coupons
10 attached thereto shall have all the qualities of investment
11 securities under the Uniform Commercial Code and shall not be
12 invalid for any irregularity or defect or be contestable in
13 the hands of bona fide purchasers or holders thereof for
14 value. "

15 Section 16. Section 7-27-23 NMSA 1978 (being Laws 1961,
16 Chapter 5, Section 20) is amended to read:

17 "7-27-23. SUIT MAY BE BROUGHT TO COMPEL PERFORMANCE OF
18 OFFICERS. --Any holder of severance tax bonds or supplemental
19 severance tax bonds or any person or officer being a party in
20 interest may sue to enforce and compel the performance of the
21 provisions of [~~this~~] the Severance Tax Bonding Act. "

22 Section 17. Section 7-27-24 NMSA 1978 (being Laws 1961,
23 Chapter 5, Section 21) is amended to read:

24 "7-27-24. BONDS TAX FREE. --All severance tax bonds and
25 supplemental severance tax bonds shall be exempt from taxation

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1 by the state or any of its political subdivisions. "

2 Section 18. Section 7-27-27 NMSA 1978 (being Laws 1961,
3 Chapter 5, Section 27, as amended) is amended to read:

4 "7-27-27. PURPOSE AND INTENT. --The purpose of the
5 Severance Tax Bonding Act is to establish the authority who
6 shall issue and sell all severance tax bonds and supplemental
7 severance tax bonds for financing specific projects authorized
8 by the legislature and to guarantee redemption of such bonds
9 by revenue derived from the receipts from taxes levied upon
10 natural resource products severed and saved from the soil and
11 such other money as the legislature may from time to time
12 determine. It is intended that projects to be financed from
13 the fund shall include but not be limited to the construction
14 of buildings for state institutions and water resource
15 projects; and it is further intended that the income from
16 water resource projects in excess of the amount required for
17 operation and maintenance of the project shall be used to
18 repay the severance tax bonding fund. "

19 Section 19. EFFECTIVE DATE. --The effective date of the
20 provisions of this act is July 1, 1999.

1 FORTY-FOURTH LEGISLATURE

2 FIRST SESSION, 1999

3
4
5 February 2, 1999

6
7 Mr. President:

8
9 Your EDUCATION COMMITTEE, to whom has been referred

10
11 SENATE BILL 238

12
13 has had it under consideration and reports same with
14 recommendation that it DO PASS, and thence referred to the
15 WAYS & MEANS COMMITTEE.
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18 Respectfully submitted,

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1 Adopted _____ Not

2 Adopted _____

3 (Chief Clerk)

(Chief Clerk)

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6 Date _____

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9 The roll call vote was 6 For 0 Against

10 Yes: 6

11 No: 0

12 Excused: Adair, Duran, Gorham, Pinto

13 Absent: 0

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1 FORTY-FOURTH LEGISLATURE

2 FIRST SESSION, 1999

3
4
5 February 15, 1999

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7 Mr. President:

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9 Your WAYS & MEANS COMMITTEE, to whom has been referred

10
11 SENATE BILL 238

12
13 has had it under consideration and reports same with
14 recommendation that it DO PASS, and thence referred to the
15 FINANCE COMMITTEE.
16

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18 Respectfully submitted,

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24 Carlos R. Cisneros, Chairman

25 . 125942. 1

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1 Adopted _____ Not

2 Adopted _____

3 (Chief Clerk)

(Chief Clerk)

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6 Date _____

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9 The roll call vote was 6 For 1 Against

10 Yes: 6

11 No: Rawson

12 Excused: Carraro, Jennings

13 Absent: None

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