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SENATE BILL 362

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

INTRODUCED BY

Rod Adair

AN ACT

RELATING TO FINANCING OF HIGHWAY PROJECTS; DISTRIBUTING A PORTION OF MOTOR VEHICLE EXCISE TAX REVENUES TO THE STATE ROAD FUND FOR PAYMENT OF STATE HIGHWAY BONDS NECESSARY TO COMPLETE FOUR-LANE CONSTRUCTION OF UNITED STATES HIGHWAY 70 FROM RUIDOSO TO ROSWELL.

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

Section 1. STATE HIGHWAY BONDS-- UNITED STATES HIGHWAY 70-- APPROPRIATION OF PROCEEDS.-- Upon enactment into law of Section 2 of this act providing for distribution of motor vehicle excise tax revenues into the state road fund, the state highway commission may issue and sell state highway bonds in compliance with the provisions of Section 67-3-59.1 NMSA 1978 in an amount not exceeding seventy million dollars (\$70,000,000) when the commission determines the need for the issuance of the bonds. The state highway commission shall schedule the issuance and sale of the bonds in the most

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1 expeditious and economic manner possible upon a finding by the
2 commission that the project has developed sufficiently to
3 justify the issuance and that the project can proceed to
4 contract within a reasonable time. The proceeds from the sale
5 of the bonds are appropriated to the state highway and
6 transportation department for the acquisition of rights of way
7 for and the planning, design, engineering and four-lane
8 construction of United States highway 70 between Ruidoso and
9 Roswell.

10 Section 2. Section 7-14-10 NMSA 1978 (being Laws 1988,
11 Chapter 73, Section 20, as amended) is amended to read:

12 "7-14-10. DISTRIBUTION OF PROCEEDS. --The receipts from
13 the tax and any associated interest and penalties shall be
14 deposited in the "motor vehicle suspense fund", hereby created
15 in the state treasury. As of the end of each month, the net
16 receipts attributable to the tax and associated penalties and
17 interest shall be distributed [~~to the general fund~~] as
18 follows:

- 19 A. prior to July 1, 2001, to the general fund; and
- 20 B. after June 30, 2001, one-twelfth to the state
21 road fund and eleven-twelfths to the general fund. "

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

24 "67-3-59.1. STATE HIGHWAY DEBENTURES--ISSUANCE--
25 LIMITS--APPROVAL--COUPONS. --

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

13 B. Except as provided in Subsections C and D of
14 this section, the total aggregate outstanding principal amount
15 of bonds issued from time to time pursuant to this section,
16 secured by or payable from federal funds not otherwise
17 obligated that are paid into the state road fund and the
18 proceeds from the collection of taxes and fees required by law
19 to be paid into the state road fund, shall not, without
20 additional authorization of the state legislature, exceed one
21 hundred fifty million dollars (\$150,000,000) at any given
22 time, subject to the following provisions:

23 (1) the total aggregate outstanding principal
24 amount of bonds issued for state highway projects that are
25 required for the waste isolation pilot project and are

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1 eligible for federal reimbursement or payment as authorized by
2 federal legislation shall not exceed one hundred million
3 dollars (\$100,000,000); and

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

10 C. Upon specific authorization and appropriation
11 by the legislature, and subject to the limitations of
12 Subsection D of this section, an additional amount of bonds
13 may be issued pursuant to this section for state highway
14 projects, to be secured by or payable from taxes or fees
15 required by law to be paid into the state road fund and
16 federal funds not otherwise obligated that are paid into the
17 state road fund, as follows:

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

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1 (2) an aggregate outstanding principal amount
2 of bonds, not to exceed one hundred million dollars
3 (\$100,000,000), for state highway projects that are required
4 for the waste isolation pilot project and are eligible for
5 federal reimbursement; and

6 (3) an aggregate outstanding principal amount
7 of bonds, not to exceed [~~four hundred million dollars~~
8 ~~(\$400,000,000)] four hundred seventy million dollars
9 (\$470,000,000), for other state highway projects.~~

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

14 (1) three hundred million dollars
15 (\$300,000,000) prior to July 1, 1999;

16 (2) six hundred million dollars
17 (\$600,000,000) from July 1, 1999 through June 30, 2000;

18 (3) nine hundred million dollars
19 (\$900,000,000) from July 1, 2000 through June 30, 2001; and

20 (4) [~~one billion one hundred twenty-four~~
21 ~~million dollars (\$1,124,000,000)] one billion one hundred
22 ninety-four million dollars (\$1,194,000,000) after June 30,
23 2001.~~

24 E. The state highway commission may issue bonds to
25 refund other bonds issued pursuant to this section by exchange

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1 or current or advance refunding.

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

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

16 H. 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 I. The bonds may be sold at a public or negotiated
23 sale at, above or below par or through the New Mexico finance
24 authority. Any negotiated sale shall be made with one or more
25 investment banker whose services are obtained through a

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

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

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

22 L. Any law authorizing the imposition or
23 distribution of taxes or fees paid into the state road fund or
24 that affects those taxes and fees shall not be amended or
25 repealed or otherwise directly or indirectly modified so as to

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1 impair any outstanding bonds secured by a pledge of revenues
2 from those taxes and fees paid into the state road fund,
3 unless the bonds have been discharged in full or provisions
4 have been made for a full discharge. In addition, while any
5 bonds issued by the state highway commission pursuant to the
6 provisions of this section remain outstanding, the powers or
7 duties of the commission shall not be diminished or impaired
8 in any manner that will affect adversely the interests and
9 rights of the holder of such bonds.

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

1 FORTY-FOURTH LEGISLATURE

2 FIRST SESSION, 1999

3
4
5 February 9, 1999

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7 Mr. President:

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

12
13 SENATE BILL 362

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15 has had it under consideration and reports same with
16 recommendation that it DO PASS, and thence referred to the
17 WAYS & MEANS COMMITTEE.

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19 Respectfully submitted,
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Roman M. Maes, Chairman

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Adopted _____ Not

Adopted _____

(Chief Clerk)

(Chief Clerk)

Date _____

The roll call vote was 6 For 0 Against

Yes: 6

No: 0

Excused: Aragon, Kysar, Macias, Robinson

Absent: None

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