

HOUSE FLOOR SUBSTITUTE FOR
SENATE BILL 2

57TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2026

AN ACT

RELATING TO THE FINANCING OF HIGHWAY PROJECTS; PROVIDING
ADDITIONAL BONDING AUTHORITY TO THE STATE TRANSPORTATION
COMMISSION FOR STATE HIGHWAY PROJECTS IDENTIFIED IN THE
STATEWIDE TRANSPORTATION IMPROVEMENT PROGRAM; REQUIRING THE
DEPARTMENT OF TRANSPORTATION TO INCLUDE A REPORT ON HIGHWAY
PROJECT SELECTION AND PRIORITIES FINANCED BY BONDS IN ITS
ANNUAL BUDGET REQUEST; REDUCING THE DISTRIBUTION OF MOTOR
VEHICLE EXCISE TAX REVENUE TO THE GENERAL FUND AND INCREASING
THE DISTRIBUTION TO THE STATE ROAD FUND.

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

SECTION 1. Section 7-14-10 NMSA 1978 (being Laws 1988,
Chapter 73, Section 20, as amended) is amended to read:

"7-14-10. DISTRIBUTION OF PROCEEDS.--The receipts from
the tax and any associated interest and penalties shall be

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1 deposited in the "motor vehicle suspense fund", hereby created
2 in the state treasury. As of the end of each month, the net
3 receipts attributable to the tax and associated penalties and
4 interest shall be distributed as follows:

5 A. [~~fifty-nine and thirty-nine hundredths~~] thirty-
6 six percent to the general fund;

7 B. [~~twenty-one and eighty-six~~] forty-five and
8 twenty-five hundredths percent to the state road fund; and

9 C. eighteen and seventy-five hundredths percent to
10 the transportation project fund."

11 SECTION 2. Section 67-3-59.1 NMSA 1978 (being Laws 1989,
12 Chapter 157, Section 1, as amended) is amended to read:

13 "67-3-59.1. STATE HIGHWAY DEBENTURES--ISSUANCE--LIMITS--
14 APPROVAL--COUPONS.--

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

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1 debentures.

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

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

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

24 C. Upon specific authorization and appropriation by
 25 the legislature, and subject to the limitations of Subsection D

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1 of this section, an additional amount of bonds may be issued
2 pursuant to this section for state highway projects, to be
3 secured by or payable from taxes or fees required by law to be
4 paid into the state road fund and federal funds not otherwise
5 obligated that are paid into the state road fund, and, as
6 applicable, taxes or fees required by law to be paid into the
7 highway infrastructure fund, as follows:

8 (1) an aggregate outstanding principal amount
9 of bonds, not to exceed six hundred twenty-four million dollars
10 (\$624,000,000), for major highway infrastructure projects for
11 which the department has, prior to January 1, 1998, submitted
12 or initiated the process of submitting a plan to the federal
13 highway administration for innovative financing pursuant to 23
14 USCA Sections 122 and 307;

15 (2) an aggregate outstanding principal amount
16 of bonds, not to exceed one hundred million dollars
17 (\$100,000,000), for state highway projects that are required
18 for the waste isolation pilot project and are eligible for
19 federal reimbursement; and

20 (3) an aggregate outstanding principal amount
21 of bonds, not to exceed four hundred million dollars
22 (\$400,000,000), for other state highway projects.

23 D. The total amount of bonds that may be issued by
24 the state transportation commission for state highway projects
25 pursuant to Subsection C of this section shall not exceed a

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1 total aggregate outstanding principal amount of:

2 (1) three hundred million dollars
3 (\$300,000,000) prior to July 1, 1999;

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

6 (3) nine hundred million dollars
7 (\$900,000,000) from July 1, 2000 through June 30, 2001; and

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

10 E. An additional one billion five hundred million
11 dollars (\$1,500,000,000) of total bond proceeds may be issued
12 pursuant to this section for state highway projects identified
13 in the statewide transportation improvement program to be
14 secured by or payable from federal funds or from taxes or fees
15 not otherwise obligated and required by law to be paid into the
16 state road fund; provided that in calendar year 2026, the
17 projects are identified in the statewide transportation
18 improvement program; and further provided that the issuance of
19 the bonds shall not cause the aggregate outstanding principal
20 amount of bonds issued by the state transportation commission
21 to exceed one billion one hundred twenty-four million dollars
22 (\$1,124,000,000). Bond proceeds issued pursuant to this
23 subsection shall not be used, directly or indirectly, to
24 redeem, refund, defease or otherwise retire any previously
25 issued bonds or other debt obligations of the state

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1 transportation commission. The commission shall not issue
2 bonds pursuant to this subsection if the average issuance in
3 every fiscal year for which the bonds may be issued exceeds two
4 hundred ninety million dollars (\$290,000,000), including a
5 fiscal year in which no bonds are issued; provided that the
6 commission may issue bonds in an amount up to two hundred
7 twenty million dollars (\$220,000,000) for fiscal year 2026 to
8 secure associated federal grant funding for projects; and
9 provided further that bonds issued by the commission shall not
10 exceed a total of one hundred thirty million dollars
11 (\$130,000,000) during the December 2026 bond sale.

12 F. Beginning on January 1, 2027, for bonds issued
13 pursuant to Subsection E of this section, the department shall
14 provide the legislature with a list of the proposed bond sales
15 for that calendar year no later than the first day of the
16 regular session for that year. The list shall include:

17 (1) for each project, the cost, readiness and
18 funding secured to date; and

19 (2) up to three contingency projects
20 identified pursuant to Subsection E of this section that could
21 replace a proposed project in the event of an unforeseen
22 circumstance that would delay the bond sale on that project.

23 The department shall report to the legislature, or to the
24 legislative finance committee if the legislature is not in
25 session, within two weeks of determining that a contingency

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1 project will replace the proposed project.

2 [E.] G. The state transportation commission may
3 issue bonds to refund other bonds issued pursuant to this
4 section by exchange or current or advance refunding.

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

13 [G.] I. The bonds shall be executed with the manual
14 or facsimile signature of the [~~chairman~~] chair of the state
15 transportation commission, countersigned by the state treasurer
16 and attested to by the secretary of the state transportation
17 commission, with the seal of the state transportation
18 commission imprinted or otherwise affixed to the bonds.

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

25 [I.] K. The bonds may be sold at a public or

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

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

19 [~~K.~~] M. The bonds shall be legal investments for a
20 person or board charged with the investment of public funds and
21 may be accepted as security for a deposit of public money and,
22 with the interest thereon, are exempt from taxation by the
23 state and a political subdivision or agency of the state.

24 [~~L.~~] N. Any law authorizing the imposition or
25 distribution of taxes or fees paid into the state road fund or

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

13 ~~[M.]~~ O. In contracting for state highway projects
 14 to be paid in whole or in part with proceeds of bonds
 15 authorized by this section, the department shall require that
 16 any sand, gravel, caliche or similar material needed for the
 17 project shall, if practicable, be mined from state lands. Each
 18 contract shall provide that the contractor notify the
 19 commissioner of public lands of the need for the material and
 20 that, through lease or purchase, the material shall be mined
 21 from state lands if:

22 (1) the material needed is available from
 23 state lands in the vicinity of the project;

24 (2) the commissioner determines that the lease
 25 or purchase is in the best interest of the state land trust

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1 beneficiaries; and

2 (3) the cost to the contractor for the
3 material, including the costs of transportation, is competitive
4 with other available material from non-state lands.

5 [~~N-~~] P. Bonds issued pursuant to this section shall
6 be paid solely from federal funds not otherwise obligated and
7 taxes and fees deposited into the state road fund and, as
8 applicable, the highway infrastructure fund, and shall not
9 constitute a general obligation of the state.

10 Q. In the budget form submitted pursuant to Section
11 6-3-18 NMSA 1978, the department shall include a report on
12 highway projects to be financed pursuant to this section. The
13 report shall include:

14 (1) justification for the selection and
15 priority ranking of each project, including:

16 (a) traffic counts, accident rates and
17 the expected improvements to traffic flow and health and
18 safety;

19 (b) the ranking of the pavement and
20 substructure conditions;

21 (c) an assessment of economic
22 development impacts; and

23 (d) other information deemed significant
24 by the department;

25 (2) the expected life of the proposed project;

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1 (3) the amount of revenue required to pay the
2 principal and interest of outstanding and proposed bonds based
3 on a five- and twenty-year forecast of the state road fund; and

4 (4) the effect of the bond program on the
5 department's construction and maintenance program."

6 SECTION 3. EFFECTIVE DATE.--The effective date of the
7 provisions of this act is June 1, 2026.

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