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HOUSE BILL 935

48TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2007

INTRODUCED BY

Roberto "Bobby" J. Gonzales

AN ACT

RELATING TO CAPITAL EXPENDITURES; AUTHORIZING THE ISSUANCE OF SEVERANCE TAX BONDS; AUTHORIZING EXPENDITURES FROM CERTAIN FUNDS AND BALANCES; CLARIFYING CONDITIONS FOR THE ISSUANCE OF BONDS; ESTABLISHING CONDITIONS FOR THE EXPENDITURE OF SEVERANCE TAX BOND PROCEEDS; ESTABLISHING CONDITIONS FOR THE REVERSION OF UNEXPENDED BALANCES; MAKING APPROPRIATIONS; DECLARING AN EMERGENCY.

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

Section 1. SEVERANCE TAX BONDS--AUTHORIZATIONS--
APPROPRIATION OF PROCEEDS.--

A. The state board of finance may issue and sell severance tax bonds in compliance with the Severance Tax Bonding Act in an amount not to exceed the total of the amounts authorized for purposes specified in this act. The state board

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1 of finance shall schedule the issuance and sale of the bonds in
2 the most expeditious and economical manner possible upon a
3 finding by the board that the project has been developed
4 sufficiently to justify the issuance and that the project can
5 proceed to contract within a reasonable time. The state board
6 of finance shall further take the appropriate steps necessary
7 to comply with the Internal Revenue Code of 1986, as amended.
8 Proceeds from the sale of the bonds are appropriated for the
9 purposes specified in this act.

10 B. The agencies named in this act shall certify to
11 the state board of finance when the money from the proceeds of
12 the severance tax bonds authorized in this section is needed
13 for the purposes specified in the applicable section of this
14 act. If an agency has not certified the need for the issuance
15 of the bonds for a particular project, including projects that
16 have been reauthorized, by the end of fiscal year 2009, the
17 authorization for that project is void.

18 C. Before an agency may certify for the issuance of
19 severance tax bonds, the project must be developed sufficiently
20 so that the agency reasonably expects to:

21 (1) incur within six months after the
22 applicable bonds have been issued a substantial binding
23 obligation to a third party to expend at least five percent of
24 the bond proceeds for the project; and

25 (2) spend at least eighty-five percent of the

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1 bond proceeds within three years after the applicable bonds
2 have been issued.

3 D. Except as otherwise provided in this section or
4 another section of this act, the unexpended balance from the
5 proceeds of severance tax bonds issued for a project, including
6 projects that have been reauthorized, shall revert to the
7 severance tax bonding fund as follows:

8 (1) for projects for which severance tax bonds
9 were issued to match federal grants, six months after
10 completion of the project;

11 (2) for projects for which severance tax bonds
12 were issued to purchase vehicles, heavy equipment, educational
13 technology or other equipment or furniture that is not related
14 to a more inclusive construction or renovation project, at the
15 end of the fiscal year two years following the fiscal year in
16 which the severance tax bonds were issued for the purchase;

17 (3) for projects for which severance tax bonds
18 were issued to purchase emergency vehicles or other vehicles
19 that require special equipment, at the end of the fiscal year
20 two years following the fiscal year in which the severance tax
21 bonds were issued for the purchase; and

22 (4) for all other projects for which severance
23 tax bonds were issued, within six months of completion of the
24 project, but no later than the end of fiscal year 2011.

25 E. Except for appropriations to the capital program

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1 fund, money from severance tax bond proceeds provided pursuant
2 to this act shall not be used to pay indirect project costs.

3 F. For the purpose of this section, "unexpended
4 balance" means the remainder of an appropriation after
5 reserving for unpaid costs and expenses covered by binding
6 written obligations to third parties.

7 Section 2. GENERAL FUND AND OTHER FUND APPROPRIATIONS--
8 LIMITATIONS--REVERSIONS.--

9 A. Except as otherwise provided in this section or
10 another section of this act, the unexpended balance of an
11 appropriation made in this act from the general fund or other
12 state fund, including changes to prior appropriations, shall
13 revert to the originating fund as follows:

14 (1) for projects for which appropriations were
15 made to match federal grants, six months after completion of
16 the project;

17 (2) for projects for which appropriations were
18 made to purchase vehicles, heavy equipment, educational
19 technology or equipment or furniture that is not related to a
20 more inclusive construction or renovation project, at the end
21 of the fiscal year two years following the fiscal year in which
22 the appropriation was made for the purchase;

23 (3) for projects for which appropriations were
24 made to purchase emergency vehicles or other vehicles that
25 require special equipment, at the end of the fiscal year two

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1 years following the fiscal year in which the appropriation was
2 made for the purchase; and

3 (4) for all other projects for which
4 appropriations were made, within six months of completion of
5 the project, but no later than the end of fiscal year 2011.

6 B. Upon certification by an agency that money from
7 the general fund is needed for a purpose specified in this act,
8 the secretary of finance and administration shall disburse such
9 amount of the appropriation for that project as is necessary to
10 meet that need.

11 C. Except for appropriations to the capital program
12 fund, money from appropriations made in this act shall not be
13 used to pay indirect project costs.

14 D. The unexpended balance of an appropriation made
15 from the general fund or other state fund, including changes to
16 prior appropriations, to the Indian affairs department or the
17 aging and long-term services department for projects located on
18 lands of an Indian nation, tribe or pueblo, including projects
19 that have been reauthorized, shall revert in a time frame set
20 forth in Subsection A of this section to the tribal
21 infrastructure project fund.

22 E. For the purpose of this section, "unexpended
23 balance" means the remainder of an appropriation after
24 reserving for unpaid costs and expenses covered by binding
25 written obligations to third parties.

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1 Section 3. CULTURAL AFFAIRS DEPARTMENT PROJECTS--
2 SEVERANCE TAX BONDS.--Pursuant to the provisions of Section 1
3 of this act, upon certification by the cultural affairs
4 department that the need exists for the issuance of the bonds,
5 the following amounts are appropriated to the cultural affairs
6 department for the following purposes:

7 1. one million eight hundred thousand dollars
8 (\$1,800,000) to construct, equip and furnish phase 1 of the New
9 Mexico archaeology center in Santa Fe in Santa Fe county; and

10 2. one million three hundred thousand dollars
11 (\$1,300,000) for the educational complex project at the
12 national Hispanic cultural center in Albuquerque in Bernalillo
13 county.

14 Section 4. STATE BUILDING PROJECTS--PROPERTY CONTROL
15 DIVISION--SEVERANCE TAX BONDS.--Pursuant to the provisions of
16 Section 1 of this act, upon certification by the property
17 control division of the general services department that the
18 need exists for the issuance of the bonds, the following
19 amounts are appropriated to the capital program fund for the
20 following purposes:

21 1. six million dollars (\$6,000,000) for security
22 upgrades at correctional facilities statewide;

23 2. five million dollars (\$5,000,000) for upgrades
24 to heating, ventilation and air conditioning systems and roofs
25 at correctional facilities statewide;

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1 3. four million dollars (\$4,000,000) for
2 infrastructure upgrades at department of health facilities
3 statewide; and

4 4. one million dollars (\$1,000,000) to plan and
5 design a facility at the Lordsburg port of entry in Hidalgo
6 county.

7 Section 5. AGING PROJECT--AGING AND LONG-TERM SERVICES
8 DEPARTMENT--GENERAL FUND.--Eight million two hundred thousand
9 dollars (\$8,200,000) is appropriated from the general fund to
10 the aging and long-term services department for expenditure in
11 fiscal years 2007 through 2011 to make improvements and
12 renovations, purchase vehicles and purchase and install meals
13 and other equipment at senior centers statewide.

14 Section 6. INSTITUTIONS OF HIGHER LEARNING AND
15 CONSTITUTIONAL SPECIAL SCHOOLS PROJECT--HIGHER EDUCATION
16 DEPARTMENT--GENERAL FUND.--Forty million dollars (\$40,000,000)
17 is appropriated from the general fund to the higher education
18 department for expenditure in fiscal years 2007 through 2011
19 for infrastructure renovation, expansion and deferred
20 maintenance at institutions of higher learning and
21 constitutional special schools statewide.

22 Section 7. WATER AND NATURAL RESOURCES PROJECTS--OFFICE
23 OF THE STATE ENGINEER--GENERAL FUND.--The following amounts are
24 appropriated from the general fund to the office of the state
25 engineer for expenditure in fiscal years 2007 through 2011 for

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1 the following purposes:

2 1. three million dollars (\$3,000,000) for
3 purchasing water rights and land and making related
4 infrastructure improvements to implement the long-term strategy
5 for the state's permanent compliance with the Pecos River
6 Compact and the United States supreme court amended decree in
7 *Texas v. New Mexico*, No. 65 original; and

8 2. six million six hundred thousand dollars
9 (\$6,600,000) to conduct surface and ground water measurements
10 and dam repairs statewide.

11 Section 8. PROJECT SCOPE--EXPENDITURES.--If an
12 appropriation for a project authorized in this act is not
13 sufficient to complete all the purposes specified, the
14 appropriation may be expended for any portion of the purposes
15 specified in the appropriation. Expenditures shall not be made
16 for purposes other than those specified in the appropriation.

17 Section 9. ART IN PUBLIC PLACES.--Pursuant to Section
18 13-4A-4 NMSA 1978 and where applicable, the appropriations
19 authorized in this act include one percent for the art in
20 public places fund.

21 Section 10. EMERGENCY.--It is necessary for the public
22 peace, health and safety that this act take effect immediately.