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SENATE BILL 237

49TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2010

INTRODUCED BY

Clinton D. Harden

AN ACT

RELATING TO CAPITAL EXPENDITURES; CHANGING THE REVERSION DATE
AND TRANSFERRING UNEXPENDED BALANCES OF APPROPRIATIONS MADE FOR
CERTAIN CAPITAL PROJECTS; REVERTING AND TRANSFERRING UNEXPENDED
BALANCES OF APPROPRIATIONS FOR PROJECTS THAT HAVE BEEN
COMPLETED; REVERTING OR REAUTHORIZING A PORTION OF ALL
APPROPRIATIONS FOR CAPITAL PROJECTS MADE IN CERTAIN ACTS OF THE
LEGISLATURE; REDUCING CERTAIN SEVERANCE TAX BOND AUTHORIZATIONS
BY TEN PERCENT; PROVIDING EXEMPTIONS; DECLARING AN EMERGENCY.

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

Section 1. Laws 2005, Chapter 347, Section 1 is amended
to read:

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

A. The state board of finance may issue and sell

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1 severance tax bonds in compliance with the Severance Tax
2 Bonding Act in an amount not to exceed the total of the amounts
3 authorized for purposes specified in [~~this act~~] Laws 2005,
4 Chapter 347. The state board of finance shall schedule the
5 issuance and sale of the bonds in the most expeditious and
6 economical manner possible upon a finding by the board that the
7 project has been developed sufficiently to justify the issuance
8 and that the project can proceed to contract within a
9 reasonable time. The state board of finance shall further take
10 the appropriate steps necessary to comply with the Internal
11 Revenue Code of 1986, as amended. Proceeds from the sale of
12 the bonds are appropriated for the purposes specified in [~~this~~
13 ~~act~~] Laws 2005, Chapter 347.

14 B. The agencies named in [~~this act~~] Laws 2005,
15 Chapter 347 shall certify to the state board of finance when
16 the money from the proceeds of the severance tax bonds
17 authorized in this section is needed for the purposes specified
18 in the applicable section of [~~this act~~] Laws 2005, Chapter 347.
19 If an agency has not certified the need for the issuance of the
20 bonds for a particular project, including projects that have
21 been reauthorized, by the end of fiscal year 2007, the
22 authorization for that project is void.

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

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

5 (2) spend at least eighty-five percent of the
6 bond proceeds within three years after the applicable bonds
7 have been issued.

8 D. Except as otherwise provided in Subsection E of
9 this section or another section of [~~this act~~] Laws 2005,
10 Chapter 347, the unexpended balance from the proceeds of
11 severance tax bonds issued for a project, including projects
12 that have been reauthorized, shall revert to the severance tax
13 bonding fund as follows:

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

17 (2) for projects for which severance tax bonds
18 were issued to purchase vehicles, heavy equipment, educational
19 technology or other equipment or furniture that is not related
20 to a more inclusive construction or renovation project, at the
21 end of the fiscal year following the fiscal year in which the
22 severance tax bonds were issued for the purchase;

23 (3) for projects for which severance tax bonds
24 were issued to purchase emergency vehicles or other vehicles
25 that require special equipment, at the end of the fiscal year

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1 two years following the fiscal year in which the severance tax
2 bonds were issued for the purchase; and

3 (4) for all other projects for which severance
4 tax bonds were issued, within six months of completion of the
5 project, but no later than the end of fiscal year 2010.

6 E. Notwithstanding the reversion requirements of
7 Subsection D of this section or another section of Laws 2005,
8 Chapter 347, the unexpended or uncommitted balance remaining on
9 the effective date of this 2010 act from severance tax bond
10 proceeds appropriated for a capital project in Laws 2005,
11 Chapter 347, including a project that has been reauthorized in
12 that act, shall not be expended for its original or
13 reauthorized purpose, but shall revert to the severance tax
14 bonding fund on the effective date of this 2010 act and, within
15 thirty days of that effective date, shall be transferred to the
16 severance tax bonding fund by the department of finance and
17 administration, provided that the provisions of this subsection
18 do not apply to an appropriation:

19 (1) for which the statutory reversion date is
20 after June 30, 2010;

21 (2) to a nonreverting fund; or

22 (3) if the secretary of finance and
23 administration determines that:

24 (a) there are available matching
25 federal, state or local funds that, when combined with the

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1 appropriation, are sufficient to fully fund a project; and
2 (b) all or part of the matching funds
3 will be lost and the project not completed if the appropriation
4 is subjected to the provisions of this subsection.

5 ~~[E-]~~ F. Except for appropriations to the capital
6 program fund, money from severance tax bond proceeds provided
7 pursuant to ~~[this act]~~ Laws 2005, Chapter 347 shall not be used
8 to pay indirect project costs.

9 ~~[F-]~~ G. For the purpose of this section,
10 "unexpended balance" means the remainder of an appropriation
11 after reserving for unpaid costs and expenses covered by
12 binding written obligations to third parties."

13 Section 2. Laws 2005, Chapter 347, Section 2 is amended
14 to read:

15 "Section 2. GENERAL FUND AND OTHER FUND APPROPRIATIONS--
16 LIMITATIONS--REVERSIONS.--

17 A. Except as otherwise provided in Subsection B of
18 this section or another section of [this act] Laws 2005,
19 Chapter 347, the unexpended balance of an appropriation made in
20 ~~[this act]~~ Laws 2005, Chapter 347 from the general fund or
21 other state fund, including changes to prior appropriations,
22 shall revert to the originating fund as follows:

23 (1) for projects for which appropriations were
24 made to match federal grants, six months after completion of
25 the project;

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1 (2) for projects for which appropriations were
2 made to purchase vehicles, heavy equipment, educational
3 technology or equipment or furniture that is not related to a
4 more inclusive construction or renovation project, at the end
5 of the fiscal year following the fiscal year in which the
6 appropriation was made for the purchase;

7 (3) for projects for which appropriations were
8 made to purchase emergency vehicles or other vehicles that
9 require special equipment, at the end of the fiscal year two
10 years following the fiscal year in which the severance tax
11 bonds were issued for the purchase; and

12 (4) for all other projects for which
13 appropriations were made, within six months of completion of
14 the project, but no later than the end of fiscal year 2010.

15 B. Notwithstanding the reversion requirements of
16 Subsection A of this section or another section of Laws 2005,
17 Chapter 347, the unexpended or uncommitted balance from an
18 appropriation for a capital project in Laws 2005, Chapter 347
19 from the general fund or other state fund, including a change
20 in that act to a prior appropriation, shall revert to the
21 originating fund on the effective date of this 2010 act and,
22 within thirty days of that effective date, shall be transferred
23 to the originating fund by the department of finance and
24 administration, provided that the provisions of this subsection
25 do not apply to an appropriation:

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1 (1) for which the statutory reversion date is
2 after June 30, 2010;

3 (2) to a nonreverting fund; or

4 (3) if the secretary of finance and
5 administration determines that:

6 (a) there are available matching
7 federal, state or local funds that, when combined with the
8 appropriation, are sufficient to fully fund a project; and

9 (b) all or part of the matching funds
10 will be lost and the project not completed if the appropriation
11 is subjected to the provisions of this subsection.

12 [~~B-~~] C. Except for appropriations to the capital
13 program fund, money from appropriations made in [~~this act~~] Laws
14 2005, Chapter 347 shall not be used to pay indirect project
15 costs.

16 [~~E-~~] D. For the purpose of this section,
17 "unexpended balance" means the remainder of an appropriation
18 after reserving for unpaid costs and expenses covered by
19 binding written obligations to third parties."

20 Section 3. Laws 2006, Chapter 107, Section 1 is amended
21 to read:

22 "Section 1. SEVERANCE TAX BONDS--REVERSION OF UNEXPENDED
23 PROCEEDS.--

24 A. Except as otherwise provided in Subsection B of
25 this section or another section of [~~this act~~] Laws 2006,

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1 Chapter 107, the unexpended balance from the proceeds of
2 severance tax bonds issued for a project that has been
3 reauthorized in [~~this act~~] Laws 2006, Chapter 107 shall revert
4 to the severance tax bonding fund as follows:

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

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

16 (3) for all other projects for which severance
17 tax bonds were issued, within six months of completion of the
18 project, but no later than the end of fiscal year 2010.

19 B. Notwithstanding the reversion requirements of
20 Subsection A of this section or another section of Laws 2006,
21 Chapter 107, the unexpended or uncommitted balance remaining on
22 the effective date of this 2010 act, from severance tax bond
23 proceeds appropriated for a capital project that has been
24 reauthorized in Laws 2006, Chapter 107, shall not be expended
25 for its original or reauthorized purpose, but shall revert to

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1 the severance tax bonding fund on the effective date of this
2 2010 act and, within thirty days of that effective date, shall
3 be transferred to the severance tax bonding fund by the
4 department of finance and administration, provided that the
5 provisions of this subsection do not apply to an appropriation:

6 (1) for which the statutory reversion date is
7 after June 30, 2010;

8 (2) to a nonreverting fund; or

9 (3) if the secretary of finance and
10 administration determines that:

11 (a) there are available matching
12 federal, state or local funds that, when combined with the
13 appropriation, are sufficient to fully fund a project; and

14 (b) all or part of the matching funds
15 will be lost and the project not completed if the appropriation
16 is subjected to the provisions of this subsection.

17 ~~[B-]~~ C. For the purpose of this section,
18 "unexpended balance" means the remainder of an appropriation
19 after reserving for unpaid costs and expenses covered by
20 binding written obligations to third parties."

21 Section 4. Laws 2006, Chapter 111, Section 1 is amended
22 to read:

23 "Section 1. SEVERANCE TAX BONDS--AUTHORIZATIONS--
24 APPROPRIATION OF PROCEEDS.--

25 A. The state board of finance may issue and sell

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1 severance tax bonds in compliance with the Severance Tax
2 Bonding Act in an amount not to exceed the total of the amounts
3 authorized for purposes specified in [~~this act~~] Laws 2006,
4 Chapter 111. The state board of finance shall schedule the
5 issuance and sale of the bonds in the most expeditious and
6 economical manner possible upon a finding by the board that the
7 project has been developed sufficiently to justify the issuance
8 and that the project can proceed to contract within a
9 reasonable time. The state board of finance shall further take
10 the appropriate steps necessary to comply with the Internal
11 Revenue Code of 1986, as amended. Proceeds from the sale of
12 the bonds are appropriated for the purposes specified in [~~this~~
13 ~~act~~] Laws 2006, Chapter 111.

14 B. The agencies named in [~~this act~~] Laws 2006,
15 Chapter 111 shall certify to the state board of finance when
16 the money from the proceeds of the severance tax bonds
17 authorized in this section is needed for the purposes specified
18 in the applicable section of [~~this act~~] Laws 2006, Chapter 111.
19 If an agency has not certified the need for the issuance of the
20 bonds for a particular project, including projects that have
21 been reauthorized, by the end of fiscal year 2008, the
22 authorization for that project is void.

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

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

5 (2) spend at least eighty-five percent of the
6 bond proceeds within three years after the applicable bonds
7 have been issued.

8 D. Except as otherwise provided in Subsection E of
9 this section or another section of [~~this act~~] Laws 2006,
10 Chapter 111, the unexpended balance from the proceeds of
11 severance tax bonds issued for a project, including projects
12 that have been reauthorized, shall revert to the severance tax
13 bonding fund as follows:

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

17 (2) for projects for which severance tax bonds
18 were issued to purchase vehicles, emergency vehicles or other
19 vehicles that require special equipment, heavy equipment,
20 educational technology or other equipment or furniture that is
21 not related to a more inclusive construction or renovation
22 project, at the end of the fiscal year two years following the
23 fiscal year in which the severance tax bonds were issued for
24 the purchase; and

25 (3) for all other projects for which severance

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1 tax bonds were issued, within six months of completion of the
2 project, but no later than the end of fiscal year 2010.

3 E. Notwithstanding the reversion requirements of
4 Subsection D of this section or another section of Laws 2006,
5 Chapter 111, the unexpended or uncommitted balance remaining on
6 the effective date of this 2010 act from severance tax bond
7 proceeds appropriated for a capital project in Laws 2006,
8 Chapter 111, including a project that has been reauthorized in
9 that act, shall not be expended for its original or
10 reauthorized purpose, but shall revert to the severance tax
11 bonding fund on the effective date of this 2010 act and, within
12 thirty days of that effective date, shall be transferred to the
13 severance tax bonding fund by the department of finance and
14 administration, provided that the provisions of this subsection
15 do not apply to an appropriation:

16 (1) for which the statutory reversion date is
17 after June 30, 2010;

18 (2) to a nonreverting fund; or

19 (3) if the secretary of finance and
20 administration determines that:

21 (a) there are available matching
22 federal, state or local funds that, when combined with the
23 appropriation, are sufficient to fully fund a project; and

24 (b) all or part of the matching funds
25 will be lost and the project not completed if the appropriation

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1 is subjected to the provisions of this subsection.

2 ~~[F.]~~ F. Except for appropriations to the capital
3 program fund, money from severance tax bond proceeds provided
4 pursuant to ~~[this act]~~ Laws 2006, Chapter 111 shall not be used
5 to pay indirect project costs.

6 ~~[F.]~~ G. For the purpose of this section,
7 "unexpended balance" means the remainder of an appropriation
8 after reserving for unpaid costs and expenses covered by
9 binding written obligations to third parties."

10 Section 5. Laws 2006, Chapter 111, Section 2 is amended
11 to read:

12 "Section 2. GENERAL FUND AND OTHER FUND APPROPRIATIONS--
13 LIMITATIONS--REVERSIONS.--

14 A. Except as otherwise provided in Subsection B of
15 this section or another section of ~~[this act]~~ Laws 2006,
16 Chapter 111, the unexpended balance of an appropriation made in
17 ~~[this act]~~ Laws 2006, Chapter 111 from the general fund or
18 other state fund, including changes to prior appropriations,
19 shall revert to the originating fund as follows:

20 (1) for projects for which appropriations were
21 made to match federal grants, six months after completion of
22 the project;

23 (2) for projects for which appropriations were
24 made to purchase vehicles, emergency vehicles or other vehicles
25 that require special equipment, heavy equipment, educational

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1 technology or equipment or furniture that is not related to a
2 more inclusive construction or renovation project, at the end
3 of the fiscal year two years following the fiscal year in which
4 the appropriation was made for the purchase; and

5 (3) for all other projects for which
6 appropriations were made, within six months of completion of
7 the project, but no later than the end of fiscal year 2010.

8 B. Notwithstanding the reversion requirements of
9 Subsection A of this section or another section of Laws 2006,
10 Chapter 111, the unexpended or uncommitted balance from an
11 appropriation for a capital project in Laws 2006, Chapter 111
12 from the general fund or other state fund, including a change
13 in that act to a prior appropriation, shall revert to the
14 originating fund on the effective date of this 2010 act and,
15 within thirty days of that effective date, shall be transferred
16 to the originating fund by the department of finance and
17 administration, provided that the provisions of this subsection
18 do not apply to an appropriation:

19 (1) for which the statutory reversion date is
20 after June 30, 2010;

21 (2) to a nonreverting fund; or

22 (3) if the secretary of finance and
23 administration determines that:

24 (a) there are available matching
25 federal, state or local funds that, when combined with the

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1 appropriation, are sufficient to fully fund a project; and
2 (b) all or part of the matching funds
3 will be lost and the project not completed if the appropriation
4 is subjected to the provisions of this subsection.

5 ~~[B-]~~ C. Upon certification by an agency that money
6 from the general fund is needed for a purpose specified in
7 ~~[this act]~~ Laws 2006, Chapter 111, the secretary of finance and
8 administration shall disburse such amount of the appropriation
9 for that project as is necessary to meet that need.

10 ~~[G-]~~ D. Except for appropriations to the capital
11 program fund, money from appropriations made in ~~[this act]~~ Laws
12 2006, Chapter 111 shall not be used to pay indirect project
13 costs.

14 ~~[D-]~~ E. For the purpose of this section,
15 "unexpended balance" means the remainder of an appropriation
16 after reserving for unpaid costs and expenses covered by
17 binding written obligations to third parties."

18 Section 6. [NEW MATERIAL] COMPLETED PROJECTS--REVERSION
19 OF UNEXPENDED BALANCES.--

20 A. Notwithstanding the reversion requirements of
21 any other law, on the effective date of this act the unexpended
22 balance of an appropriation from the general fund or other
23 state fund in a law specified in Section 8 of this act,
24 including a change in that law to a prior appropriation, shall
25 revert to the originating fund if the project has been

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1 completed. Within thirty days of the effective date of this
2 act, the unexpended balance shall be transferred to the
3 originating fund by the department of finance and
4 administration.

5 B. Notwithstanding the reversion requirements of
6 any other law, on the effective date of this act the unexpended
7 balance of an appropriation of severance tax bonds proceeds in
8 a law specified in Section 8 of this act, including a
9 reauthorization in that law of a prior appropriation, shall
10 revert to the severance tax bonding fund if the project has
11 been completed. Within thirty days of the effective date of
12 this act, the unexpended balance shall be transferred to the
13 severance tax bonding fund by the department of finance and
14 administration.

15 Section 7. [NEW MATERIAL] ACTIVE PROJECTS--PARTIAL
16 REVERSION OF BALANCES--EXEMPTIONS.--

17 A. Notwithstanding the reversion requirements of
18 any other law, and except as provided in Subsection C of this
19 section, on the effective date of this act, one hundred percent
20 of the unexpended or uncommitted balance of an appropriation
21 from the general fund or other state fund in a law specified in
22 Section 8 of this act, including a change in that law to a
23 prior appropriation, or ten percent of the amount of the
24 appropriation, whichever is less, shall revert to the
25 originating fund if the project has not been completed,

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1 provided that, if the appropriation is in an act amended by
2 Section 2 or 5 of this act, the reversion required by this
3 subsection shall apply only to appropriations not affected by
4 an amendment made in Section 2 or 5 of this act. Within thirty
5 days of the effective date of this act, the reversion required
6 by this subsection shall be transferred to the originating fund
7 by the department of finance and administration.

8 B. Notwithstanding the reversion requirements of
9 any other law, and except as provided in Subsection C of this
10 section, on the effective date of this act, one hundred percent
11 of the unexpended or uncommitted balance of an appropriation of
12 severance tax bonds proceeds in a law specified in Section 8 of
13 this act, including a reauthorization in that law of a prior
14 appropriation, or ten percent of the amount of the
15 appropriation, whichever is less, shall revert to the severance
16 tax bonding fund if the project has not been completed,
17 provided that, if the appropriation is in an act amended by
18 Section 1, 3 or 4 of this act, the reversion required by this
19 subsection shall apply only to appropriations not affected by
20 an amendment made in Section 1, 3 or 4 of this act, and
21 provided further that, if the authorized severance tax bonds
22 have not been issued for a project listed in a law specified in
23 Section 8 of this act, then the amount of bonds authorized for
24 that project shall be reduced by ten percent. Within thirty
25 days of the effective date of this act, the unexpended balance

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1 shall be transferred to the severance tax bonding fund by the
2 department of finance and administration.

3 C. The provisions of Subsections A and B of this
4 section do not apply to an appropriation for a project if,
5 within thirty days of the effective date of this act:

6 (1) the secretary of finance and
7 administration determines that:

8 (a) there are available matching
9 federal, local or other state funds, including funds available
10 through the New Mexico finance authority, that, when combined
11 with the appropriation, are sufficient to fully fund the
12 project; and

13 (b) the project is likely to be
14 completed by December 31, 2010; or

15 (2) the secretary of finance and
16 administration determines that the project is likely to be
17 completed by June 30, 2010.

18 Section 8. [NEW MATERIAL] APPLICABILITY.--The provisions
19 of Sections 6 and 7 of this act apply to all appropriations in
20 Laws 2004, Chapter 126; Laws 2005, Chapter 347; Laws 2006,
21 Chapter 107; Laws 2006, Chapter 111; Laws 2007, Chapter 2; Laws
22 2007, Chapter 42; Laws 2007, Chapter 334; Laws 2007, Chapter
23 341; Laws 2007 (1st S.S.), Chapter 3; Laws 2008, Chapter 83;
24 Laws 2008, Chapter 92; Laws 2009, Chapter 125; and Laws 2009,
25 Chapter 128.

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