AN ACT

RELATING TO PUBLIC FINANCE; PROVIDING FOR THE ISSUANCE AND
USE OF STATE TRANSPORTATION PROJECT BONDS FOR CERTAIN
TRANSPORTATION PROJECTS; DECLARING AN EMERGENCY.

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

SECTION 1. AUTHORIZED TRANSPORTATION PROJECTS.--The
department of transportation may use the net proceeds of
state transportation project bonds issued by the New Mexico
finance authority pursuant to Section 67-3-59.2 NMSA 1978 and
Section 5 of this 2021 act for the following transportation
projects:

A. for state highway construction, reconstruction
and improvement projects specifically authorized by the
legislature during the first session of the fifty-fifth
legislature;

B. for keeping projects in the state
transportation improvement program on schedule due to reduced
revenues from the coronavirus disease 2019 pandemic; and

C. other state highway projects identified in the
state transportation improvement program.

SECTION 2. Section 67-3-59.2 NMSA 1978 (being Laws 1999
(1st S.S.), Chapter 9, Section 3, as amended) is amended to
read:

"67-3-59.2. HIGHWAY INFRASTRUCTURE FUND CREATED--
PURPOSE.--

   A. The "highway infrastructure fund" is created in the state treasury and shall be administered by the department. The fund shall consist of money from various fees and taxes distributed to the fund. Earnings on investment of the fund shall be credited to the fund. Balances in the fund at the end of any fiscal year shall not revert and shall remain in the fund for the purposes authorized in this section.

   B. Money in the fund shall be used solely for acquisition of rights of way or planning, design, engineering, construction or improvement of state highway projects authorized pursuant to the provisions of Laws 1998, Chapter 84, Subsections C through H of Section 1 of Chapter 85 of Laws 1998, Laws 2003 (1st S.S.), Chapter 3, Sections 27 and 28, Laws 2020 (1st S.S.), Chapter 3, Section 8 and Section 1 of this 2021 act and is appropriated to the department for expenditure for those purposes.

   C. The taxes and fees required by law to be distributed to the highway infrastructure fund may be pledged for the payment of bonds issued pursuant to Sections 67-3-59.1, 67-3-59.3 and 67-3-59.4 NMSA 1978, Laws 2020 (1st S.S.), Chapter 3, Section 8 and Section 1 of this 2021 act for the highway projects authorized in the laws specified in Subsection B of this section."
SECTION 3. Section 67-3-59.3 NMSA 1978 (being Laws 2003 (1st S.S.), Chapter 3, Section 24, as amended) is amended to read:

"67-3-59.3. STATE TRANSPORTATION PROJECT BONDS--ISSUANCE--PROCEDURES--APPROVAL.--

A. In order to provide funds to finance state transportation projects, the New Mexico finance authority, when directed by the state transportation commission, is authorized, subject to the limitations of this section, Section 67-3-59.4 NMSA 1978, Laws 2020 (1st S.S.), Chapter 3, Section 8 and Section 5 of this 2021 act, to issue state transportation project bonds from time to time, payable from:

(1) federal funds not otherwise obligated that are paid into the state road fund;

(2) proceeds of the collection of taxes and fees that are required to be paid into the state road fund and not otherwise pledged exclusively to the payment of outstanding bonds and debentures; and

(3) taxes and fees required by law to be paid into the highway infrastructure fund.

B. The New Mexico finance authority, when directed by the state transportation commission, may issue bonds to refund other bonds issued by or at the direction of the state transportation commission pursuant to this section or Section 67-3-59.1 NMSA 1978 by exchange or current or advance
refunding.

C. In consultation with the state transportation commission, the New Mexico finance authority shall determine all terms, covenants and conditions of the bonds; provided that the project design life of a project meets or exceeds the life of the bond issued for that project, and each series of bonds shall be sold, executed and delivered in accordance with the provisions of the New Mexico Finance Authority Act. The New Mexico finance authority may enter into interest rate exchange agreements, interest rate swap contracts, insurance agreements, remarketing agreements and any other agreements deemed necessary in connection with the issuance of the bonds.

D. Proceeds of the bonds and amounts on deposit in the state road fund and the highway infrastructure fund may be used to pay expenses incurred in the preparation, administration, issuance and sale of the bonds and, together with the earnings on the proceeds of the bonds, may be used to pay rebate, penalty, interest and other obligations relating to the bonds and the proceeds of the bonds under the Internal Revenue Code of 1986, as amended.

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

F. The bonds shall be legal investments for a person or board charged with the investment of public funds and may be accepted as security for a deposit of public money and, with the interest thereon, are exempt from taxation by the state and a political subdivision or agency of the state.

G. Any law authorizing the imposition or distribution of taxes or fees paid into the state road fund or the highway infrastructure fund or that affects those taxes and fees shall not be amended or repealed or otherwise directly or indirectly modified so as to impair outstanding bonds secured by a pledge of revenues from those taxes and fees paid into the state road fund or the highway infrastructure fund, unless the bonds have been discharged in full or provisions have been made for a full discharge. In addition, while any bonds issued by the New Mexico finance authority pursuant to the provisions of this section remain outstanding, the powers or duties of the state transportation commission or the authority shall not be diminished or impaired in any manner that will affect adversely the interests and rights of the holder of such bonds.

H. In contracting for state transportation projects to be paid in whole or in part with proceeds of bonds authorized by this section, the department shall require that any sand, gravel, caliche or similar material
needed for the project shall, if practicable, be mined from state lands. Each contract shall provide that the contractor notify the commissioner of public lands of the need for the material and that, through lease or purchase, the material shall be mined from state lands if:

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

(2) the commissioner determines that the lease or purchase is in the best interest of the state land trust beneficiaries; and

(3) the cost to the contractor for the material, including the costs of transportation, is competitive with other available material from nonstate lands.

I. Bonds issued pursuant to this section shall be paid solely from federal funds not otherwise obligated and taxes and fees deposited into the state road fund and the highway infrastructure fund and shall not constitute a general obligation of the state.

J. For purposes of this section, "state transportation project bonds" includes only those bonds issued pursuant to this section and excludes transportation bonds as defined in Section 67-3-72 NMSA 1978."

SECTION 4. Section 67-3-59.4 NMSA 1978 (being Laws 2003 (1st S.S.), Chapter 3, Section 26, as amended) is amended to
read:

"67-3-59.4. STATE TRANSPORTATION PROJECT BONDS--AUTHORIZATION AND APPROPRIATION--PRIORITIES--CRITERIA--REPORTS.--

A. It is the intent of the legislature to authorize the New Mexico finance authority to issue state transportation project bonds pursuant to Section 67-3-59.3 NMSA 1978 for projects specified in Laws 2003 (1st S.S.), Chapter 3, Sections 27 and 28, Laws 2020 (1st S.S.), Chapter 3, Section 8 and Section 1 of this 2021 act in the total aggregate principal amount of one billion five hundred eighty-five million dollars ($1,585,000,000).

B. The state transportation commission may authorize the New Mexico finance authority to issue and sell state transportation project bonds. The proceeds of the bonds are appropriated to the department of transportation for projects listed in Laws 2003 (1st S.S.), Chapter 3, Sections 27 and 28, Laws 2020 (1st S.S.), Chapter 3, Section 8 and Section 1 of this 2021 act.

C. The department of transportation shall provide to the legislature and the governor a report on transportation priorities and progress. The report shall include:

   (1) justification of priority ranking of projects, including the following for each highway project
enumerated in Laws 2003 (1st S.S.), Chapter 3, Sections 27 and 28:

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

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

(c) an assessment of economic development impacts; and

(d) other information deemed significant by the department;

(2) the expected life of the proposed improvement;

(3) sufficiency of revenue to pay the principal and interest of all outstanding and proposed bonds based on a five- and twenty-year financial forecast for the state road fund and the effect of the bond program on the department's construction and maintenance program;

(4) status report of ongoing major construction;

(5) the relationship between the requested projects and the statewide transportation improvement program; and

(6) any other information requested by the legislature or the executive.
D. The department of transportation shall provide quarterly progress reports to the department of finance and administration and the legislative finance committee.

E. The department of transportation shall adopt and enforce rules with the goal that no less than seventy percent of the work force of an exclusively state-funded project authorized in Laws 2003 (1st S.S.), Chapter 3, Sections 27 and 28 shall be residents of New Mexico.

SECTION 5. Laws 2020 (1st S.S.), Chapter 3, Section 8 is amended to read:

"SECTION 8. DEPARTMENT OF TRANSPORTATION PROJECTS--AUTHORIZATION TO ISSUE STATE TRANSPORTATION PROJECT BONDS.--

A. Of the aggregate principal amount of one billion five hundred eighty-five million dollars ($1,585,000,000) for state transportation project bonds that the New Mexico finance authority is authorized to issue pursuant to Sections 67-3-59.3 and 67-3-59.4 NMSA 1978, the New Mexico finance authority may, on or after July 1, 2021, issue and sell state transportation project bonds in a principal amount not to exceed two hundred thirty-four million six hundred thousand dollars ($234,600,000) for acquisition of rights of way, planning, design and construction and to match federal and other state funds for projects for which general fund appropriations were made pursuant to Laws 2019, Chapter 271, Section 9 and projects in
Section 1 of this 2021 act.

B. The department of transportation may use the net proceeds of state transportation project bonds issued by the New Mexico finance authority pursuant to Subsection A of this section for the projects for which general fund appropriations were made pursuant to Laws 2019, Chapter 271, Section 9 and projects in Section 1 of this 2021 act.

C. Any unexpended or unencumbered balance after the completion of the projects authorized in this section and in Section 1 of this 2021 act shall revert to the state road fund."

SECTION 6. EMERGENCY.--It is necessary for the public peace, health and safety that this act take effect immediately.