

HOUSE BILL 191

**44TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION,  
2000**

INTRODUCED BY

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AN ACT

RELATING TO FINANCING OF HIGHWAY PROJECTS; DISTRIBUTING A  
PORTION OF MOTOR VEHICLE EXCISE TAX REVENUES TO THE HIGHWAY  
INRASTRUCTURE FUND FOR PAYMENT OF STATE HIGHWAY BONDS  
NECESSARY TO COMPLETE FOUR-LANE CONSTRUCTION OF UNITED STATES  
HIGHWAY 54 FROM THE NEW MEXICO-TEXAS STATE LINE TO TUCUMCARI;  
MAKING AN APPROPRIATION.

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

Section 1. STATE HIGHWAY BONDS--UNITED STATES HIGHWAY  
54--APPROPRIATION OF PROCEEDS.--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 expeditious and economic manner

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1 possible upon a finding by the commission that the project  
2 has developed sufficiently to justify the issuance and that  
3 the project can proceed to contract within a reasonable time.  
4 The proceeds from the sale of the bonds are appropriated to  
5 the state highway and transportation department for the  
6 acquisition of rights of way for and the planning, design,  
7 engineering and four-lane construction of United States  
8 highway 54 from the New Mexico-Texas state line to Tucumcari.

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

11 "7-14-10. DISTRIBUTION OF PROCEEDS.--The receipts from  
12 the tax and any associated interest and penalties shall be  
13 deposited in the "motor vehicle suspense fund", hereby  
14 created in the state treasury. As of the end of each month,  
15 the net receipts attributable to the tax and associated  
16 penalties and interest shall be distributed ~~[to the general~~  
17 ~~fund]~~ as follows:

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

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

23 "67-3-59.1. STATE HIGHWAY DEBENTURES--ISSUANCE--  
24 LIMITS--APPROVAL--COUPONS.--

25 A. In order to provide funds to finance state  
highway projects, including state highway projects that are  
required for the waste isolation pilot project and are

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

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

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

(2) the total aggregate outstanding

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

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

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

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

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1 federal reimbursement; and

2 (3) an aggregate outstanding principal  
3 amount of bonds, not to exceed [~~four hundred million dollars~~  
4 ~~(\$400,000,000)~~] four hundred seventy million dollars  
5 (\$470,000,000), for other state highway projects.

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

10 (1) three hundred million dollars  
11 (\$300,000,000) prior to July 1, 1999;

12 (2) six hundred million dollars  
13 (\$600,000,000) from July 1, 1999 through June 30, 2000;

14 (3) nine hundred million dollars  
15 (\$900,000,000) from July 1, 2000 through June 30, 2001; and

16 (4) [~~one billion one hundred twenty-four~~  
17 ~~million dollars (\$1,124,000,000)~~] one billion one hundred  
18 ninety-four million dollars (\$1,194,000,000) after June 30,  
19 2001.

20 E. The state highway commission may issue bonds to  
21 refund other bonds issued pursuant to this section by  
22 exchange or current or advance refunding.

23 F. Each series of bonds shall have a maturity of  
24 no more than twenty-five years from the date of issuance.  
25 The state highway commission shall determine all other terms,  
covenants and conditions of the bonds; provided that the  
bonds shall not be issued pursuant to this section unless the

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1 state board of finance approves the issuance of the bonds and  
2 the principal amount of and interest rate or maximum net  
3 effective interest rate on the bonds.

4 G. The bonds shall be executed with the manual or  
5 facsimile signature of the chairman of the state highway  
6 commission, countersigned by the state treasurer and attested  
7 to by the secretary of the state highway commission, with the  
8 seal of the state highway commission imprinted or otherwise  
9 affixed to the bonds.

10 H. Proceeds of the bonds may be used to pay  
11 expenses incurred in the preparation, issuance and sale of  
12 the bonds and, together with the earnings on the proceeds of  
13 the bonds, may be used to pay rebate, penalty, interest and  
14 other obligations relating to the bonds and the proceeds of  
15 the bonds under the Internal Revenue Code of 1986, as  
16 amended.

17 I. The bonds may be sold at a public or negotiated  
18 sale at, above or below par or through the New Mexico finance  
19 authority. Any negotiated sale shall be made with one or  
20 more investment ~~[banker]~~ bankers whose services are obtained  
21 through a competitive proposal process. For any sale, the  
22 state highway commission or the New Mexico finance authority  
23 shall also procure the services of any financial advisor or  
24 bond counsel through a competitive proposal process. If sold  
25 at public sale, a notice of the time and place of sale shall  
be published in a newspaper of general circulation in the  
state, and in any other newspaper determined in the

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1 resolution authorizing the issuance of the bonds, once each  
2 week for two consecutive weeks prior to the date of sale.  
3 The bonds may be purchased by the state treasurer or state  
4 investment officer.

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

10 K. The bonds shall be legal investments for any  
11 person or board charged with the investment of public funds  
12 and may be accepted as security for any deposit of public  
13 money and, with the interest thereon, are exempt from  
14 taxation by the state and any political subdivision or agency  
15 of the state.

16 L. Any law authorizing the imposition or  
17 distribution of taxes or fees paid into the state road fund  
18 or the highway infrastructure fund or that affects those  
19 taxes and fees shall not be amended or repealed or otherwise  
20 directly or indirectly modified so as to impair any  
21 outstanding bonds secured by a pledge of revenues from those  
22 taxes and fees paid into the state road fund or the highway  
23 infrastructure fund, unless the bonds have been discharged in  
24 full or provisions have been made for a full discharge. In  
25 addition, while any bonds issued by the state highway  
commission pursuant to the provisions of this section remain  
outstanding, the powers or duties of the commission shall not

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1 be diminished or impaired in any manner that will affect  
2 adversely the interests and rights of the holder of such  
3 bonds.

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

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

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

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

22 N. Bonds issued pursuant to this section shall be  
23 paid solely from federal funds not otherwise obligated and  
24 taxes and fees deposited into the state road fund and, as  
25 applicable, the highway infrastructure fund, and shall not  
constitute a general obligation of the state."