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HOUSE BILL 317

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

INTRODUCED BY

R. David Pederson

AN ACT

RELATING TO PUBLIC SCHOOL CAPITAL OUTLAY; PROVIDING FOR
ADDITIONAL SEVERANCE TAX BONDS AND SUPPLEMENTAL SEVERANCE TAX
BONDS TO BE USED FOR PUBLIC SCHOOL CAPITAL OUTLAY; AMENDING
THE SEVERANCE TAX BONDING ACT AND THE PUBLIC SCHOOL CAPITAL
OUTLAY ACT; MAKING AN APPROPRIATION.

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

Section 1. Section 7-27-12 NMSA 1978 (being Laws 1961,
Chapter 5, Section 10, as amended) is amended to read:

"7-27-12. WHEN SEVERANCE TAX BONDS TO BE ISSUED.--

A. The state board of finance shall issue and sell
[all] severance tax bonds when authorized to do so by any law
that sets out the amount of the issue and the recipient of
the money.

B. The state board of finance shall also issue and
sell severance tax bonds authorized by Sections 72-14-36

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1 through 72-14-42 NMSA 1978, and such authority as has been
2 given to the interstate stream commission to issue and sell
3 such bonds is transferred to the state board of finance. The
4 state board of finance shall issue and sell all severance tax
5 bonds only when so instructed by resolution of the governing
6 body or executive head of the recipient of the bond money.

7 C. The state board of finance shall also issue and
8 sell severance tax bonds when requested to do so by
9 resolution of the public school capital outlay council
10 pursuant to Section 22-24-5.1 NMSA 1978.

11 ~~[E.] D.~~ Proceeds from supplemental severance tax
12 bonds shall be used only for public school critical capital
13 outlay projects pursuant to the Public School Capital Outlay
14 Act. ~~[or for infrastructure renovation and expansion at the~~
15 ~~state's public post-secondary educational institutions and~~
16 ~~other institutions confirmed as state educational~~
17 ~~institutions in Article 12, Section 11 of the constitution of~~
18 ~~New Mexico pursuant to a plan developed and approved by the~~
19 ~~commission on higher education to fund the highest priority~~
20 ~~significant needs identified by the commission~~

21 ~~D.] E.~~ The state board of finance shall issue and
22 sell all supplemental severance tax bonds when authorized to
23 do so by any law that sets out the amount of the issue and
24 names the public school capital outlay council ~~[or the~~
25 ~~commission on higher education]~~ as the recipient of the
money. The state board of finance shall issue and sell
supplemental severance tax bonds only when so instructed by

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1 resolution of the public school capital outlay council [~~or by~~
2 ~~resolution of the commission on higher education pursuant to~~
3 ~~certification by the governing bodies of the appropriate~~
4 ~~educational institutions~~]."

5 Section 2. Section 7-27-14 NMSA 1978 (being Laws 1961,
6 Chapter 5, Section 11, as amended) is amended to read:

7 "7-27-14. AMOUNT OF TAX--SECURITY FOR BONDS.--

8 A. The legislature shall provide for the continued
9 assessment, levy, collection and deposit into the severance
10 tax bonding fund of the tax or taxes upon natural resource
11 products severed and saved from the soil of the state that,
12 together with such other income as may be deposited to the
13 fund, will be sufficient to produce an amount that is at
14 least the amount necessary to meet annual debt service
15 charges on all outstanding severance tax bonds and
16 supplemental severance tax bonds.

17 [~~B. The state board of finance shall issue no~~
18 ~~severance tax bonds unless the aggregate amount of severance~~
19 ~~tax bonds outstanding, and including the issue proposed, can~~
20 ~~be serviced with not more than fifty percent of the annual~~
21 ~~deposits into the severance tax bonding fund, as determined~~
22 ~~by the deposits during the preceding fiscal year.]~~

23 B. The state board of finance shall issue no
24 severance tax bonds pursuant to Subsection A or B of Section
25 7-27-12 NMSA 1978 unless the aggregate amount outstanding for
bonds issued after July 1, 2000 pursuant to those
subsections, including the issue proposed, can be serviced

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1 with not more than one-half of the difference between:

2 (1) fifty percent of the annual deposits
3 into the severance tax bonding fund, as determined by the
4 deposits during the preceding fiscal year; and

5 (2) the amount needed during the current
6 fiscal year for any debt service remaining on those severance
7 tax bonds outstanding on July 1, 2000.

8 C. The state board of finance shall issue no
9 severance tax bonds pursuant to Subsection C of Section
10 7-27-12 NMSA 1978 unless the aggregate amount outstanding for
11 bonds issued after July 1, 2000 pursuant to that subsection,
12 including the issue proposed, can be serviced with not more
13 than one-half of the difference between:

14 (1) fifty percent of the annual deposits
15 into the severance tax bonding fund, as determined by the
16 deposits during the preceding fiscal year; and

17 (2) the amount needed during the current
18 fiscal year for any debt service remaining on those severance
19 tax bonds outstanding on July 1, 2000.

20 ~~[E.]~~ D. The state board of finance shall issue no
21 supplemental severance tax bonds with a term of one year or
22 more unless the aggregate amount of severance tax bonds and
23 supplemental severance tax bonds outstanding, and including
24 the issue proposed, can be serviced with not more than sixty-
25 two and one-half percent of the annual deposits into the
severance tax bonding fund, as determined by the deposits
during the preceding fiscal year.

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1 E. The state board of finance may issue
2 supplemental severance tax bonds with a term of less than one
3 year if the aggregate amount of severance tax bonds and
4 supplemental severance tax bonds outstanding, and including
5 the issue proposed, can be serviced with not more than one
6 hundred percent of the annual deposits into the severance tax
7 bonding fund, as determined by the deposits during the
8 preceding fiscal year.

9 ~~[D.]~~ F. The provisions of this section shall not
10 be modified by the terms of any severance tax bonds or
11 supplemental severance tax bonds hereafter issued."

12 Section 3. Section 22-24-5 NMSA 1978 (being Laws 1975,
13 Chapter 235, Section 5, as amended) is amended to read:

14 "22-24-5. [~~FUND — DISTRIBUTION~~] APPLICATIONS FOR
15 ASSISTANCE.--

16 A. The council shall approve an application for
17 grant assistance [~~from the fund~~] when the council determines
18 that:

- 19 (1) a critical need exists requiring action;
- 20 (2) the residents of the school district
21 have provided available resources to the school district to
22 meet its capital outlay requirements;
- 23 (3) the school district has used its
24 resources in a prudent manner;
- 25 (4) the school district is in a county or
counties [~~which~~] that have participated in a reappraisal
program and the reappraised values are on the tax rolls or

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1 will be used for the tax year 1979 as certified by the
2 property tax division of the taxation and revenue department;

3 (5) the school district has provided
4 insurance for buildings of the school district in accordance
5 with the provisions of Section 13-5-3 NMSA 1978;

6 (6) the school district is either indebted
7 at not less than seventy-five percent of the total debt
8 authorized by law or is indebted at less than seventy-five
9 percent of the total debt authorized by law but has a
10 critical need that requires action before the next bond
11 election cycle; and

12 (7) the school district has submitted a
13 five-year facilities plan that includes enrollment
14 projections.

15 B. The council shall consider all applications for
16 assistance [~~from the fund~~] and, after a public hearing, shall
17 either approve or deny the application. Applications for
18 grant assistance shall only be accepted by the council after
19 a district has complied with the provisions of this section.
20 The council shall list all applications in order of priority,
21 and all allocations shall be made on a priority basis;
22 provided, however, except in the case of an emergency, that
23 the order of priority shall first reflect those projects
24 [~~which~~] that have been previously funded but are not as yet
25 completed, excluding expansion of those projects and
contingent upon maintenance of the required local support.
After estimating the amount of severance tax bonds that may

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1 be issued pursuant to Subsection C of Section 7-27-12 NMSA
2 1978, the council shall allocate the applications, in the
3 prioritized order, between those to be funded by severance
4 tax bond proceeds and those to be funded by grants from the
5 fund.

6 C. Money in the fund shall be disbursed by warrant
7 of the department of finance and administration on vouchers
8 signed by the secretary of finance and administration
9 following certification by the council that the application
10 has been approved."

11 Section 4. A new section of the Public School Capital
12 Outlay Act, Section 22-24-5.1 NMSA 1978, is enacted to read:

13 "22-24-5.1. [NEW MATERIAL] SEVERANCE TAX BONDS--
14 APPROPRIATION OF PROCEEDS.--

15 A. When the council determines that those public
16 school capital outlay projects to be funded by severance tax
17 bond proceeds have been developed sufficiently to justify the
18 issuance and that the projects can proceed to contract within
19 a reasonable time, the council shall, by resolution, request
20 severance tax bonds to be issued in the amount necessary to
21 fund the capital projects.

22 B. The state board of finance shall issue and sell
23 severance tax bonds in compliance with the Severance Tax
24 Bonding Act in the amount requested by the council. The
25 state board of finance shall schedule the issuance and sale
of the bonds in the most expeditious and economical manner
possible. The state board of finance shall further take the

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1 appropriate steps necessary to comply with the Internal
2 Revenue Code of 1986, as amended.

3 C. Proceeds of the sale of the bonds are
4 appropriated to the state department of public education for
5 the purpose of funding the public school capital outlay
6 projects for which the bonds were issued. Any unexpended or
7 unencumbered balance remaining after six months following the
8 completion of a project shall revert to the severance tax
9 bonding fund."

10 Section 5. TEMPORARY PROVISION--APPLICABILITY.--

11 A. The provisions of Subsections D and E of
12 Section 7-27-12 NMSA 1978, as amended by Section 1 of this
13 act, apply to supplemental severance tax bonds authorized
14 after the effective date of this act. The provisions of
15 those subsections, as they existed before the effective date
16 of this act, apply to supplemental severance tax bonds
17 authorized, but not issued, before the effective date of this
18 act.

19 B. All severance tax bonds authorized, but not
20 issued, before the effective date of this act shall be issued
21 pursuant to Subsection A of Section 7-27-12 NMSA 1978.

22 Section 6. EFFECTIVE DATE.--The effective date of the
23 provisions of this act is July 1, 2000.