

AN ACT

RELATING TO SEVERANCE TAX BONDS; AMENDING THE SEVERANCE TAX BONDING ACT TO CHANGE CERTAIN PROVISIONS PERTAINING TO SUPPLEMENTAL SEVERANCE TAX BONDS; AUTHORIZING THE ISSUANCE OF ADDITIONAL SUPPLEMENTAL SEVERANCE TAX BONDS FOR PUBLIC SCHOOL CAPITAL OUTLAY PURPOSES; MAKING AN APPROPRIATION; DECLARING AN EMERGENCY.

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

Section 1. FINDINGS AND PURPOSE.--

A. The legislature finds that:

(1) the constitution of New Mexico guarantees a uniform system of free public schools for all children;

(2) a state district court has found that the ability of a school district to fund capital improvements is largely based upon the value of taxable real property located within the district;

(3) the court further found that the ability of school districts to raise the money for capital improvements differs among school districts because of the nontaxable nature of certain lands within school districts and the differing taxable values of lands within school districts;

(4) the court concluded that the

current system of funding capital improvements for New Mexico's public school districts violates the constitutional provision; and

(5) there is an urgent need for additional funds for public school capital outlay projects.

B. The purpose of this act is to address that urgent need by expanding the amount of supplemental severance tax bonds that may be issued and by further authorizing the issuance of additional supplemental severance tax bonds solely for public school capital outlay projects.

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

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

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

supplemental severance tax bonds.

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

C. The state board of finance shall issue no supplemental severance tax bonds with a term that extends beyond the fiscal year in which the bonds are issued unless the aggregate amount of severance tax bonds and supplemental severance tax bonds outstanding, and including the issue proposed, can be serviced with not more than sixty-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.

D. The state board of finance may issue supplemental severance tax bonds with a term that does not extend beyond the fiscal year in which they are issued if the debt service on such supplemental severance tax bonds when added to the debt service previously paid or scheduled to be paid during that fiscal year on severance tax bonds and supplemental

severance tax bonds does not exceed eighty-seven and one-half percent of the deposits into the severance tax bonding fund during the preceding fiscal year.

E. The provisions of this section shall not be modified by the terms of any severance tax bonds or supplemental severance tax bonds hereafter issued."

Section 3. SUPPLEMENTAL SEVERANCE TAX BONDS--
PURPOSE FOR WHICH ISSUED--APPROPRIATION OF PROCEEDS.--

A. The state board of finance may issue and sell supplemental severance tax bonds in compliance with the Severance Tax Bonding Act in an amount not exceeding four hundred million dollars (\$400,000,000) when the public school capital outlay council certifies by resolution the need for the issuance of the bonds for public school critical capital outlay projects pursuant to the Public School Capital Outlay Act.

B. The state board of finance shall schedule the issuance and sale of the bonds in the most expeditious and economic manner possible upon a finding by the board that the projects have been developed sufficiently to justify the issuance and that the projects can proceed to contract within a reasonable time. The state board of finance shall further take the appropriate steps necessary to comply

with the Internal Revenue Code of 1986, as amended.

C. The proceeds from the sale of the bonds are appropriated in the public school capital outlay fund to carry out the provisions of the Public School Capital Outlay Act. If the public school capital outlay council has not certified the need for the issuance of the bonds by the end of fiscal year 2010, authorization provided in this section shall expire. Any unexpended or unencumbered balance remaining from the proceeds of bonds issued pursuant to this section at the end of fiscal year 2011 shall revert to the severance tax bonding fund.

Section 4. EMERGENCY.--It is necessary for the public peace, health and safety that this act take effect immediately. _____
