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**HOUSE BILL 479**

**45TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2001**

**INTRODUCED BY**

**Terry T. Marquardt**

**AN ACT**

**RELATING TO FINANCING OF HIGHWAY PROJECTS; PHASING IN THE  
DISTRIBUTION OF MOTOR VEHICLE EXCISE TAX REVENUES TO THE STATE  
ROAD FUND; AUTHORIZING THE ISSUANCE OF STATE HIGHWAY BONDS FOR  
VARIOUS HIGHWAY PROJECTS THROUGHOUT THE STATE; AMENDING AND  
ENACTING SECTIONS OF THE NMSA 1978; MAKING APPROPRIATIONS.**

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

**Section 1. Section 7-14-10 NMSA 1978 (being Laws 1988,  
Chapter 73, Section 20, as amended) is amended to read:**

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

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1 follows:

2 A. for the period prior to July 1, 2002, one  
3 hundred percent to the general fund;

4 B. from July 1, 2002 through June 30, 2003, eighty  
5 percent to the general fund and twenty percent to the state  
6 road fund;

7 C. from July 1, 2003 through June 30, 2004, sixty  
8 percent to the general fund and forty percent to the state  
9 road fund;

10 D. from July 1, 2004 through June 30, 2005, forty  
11 percent to the general fund and sixty percent to the state  
12 road fund;

13 E. from July 1, 2005 through June 30, 2006, twenty  
14 percent to the general fund and eighty percent to the state  
15 road fund; and

16 F. after June 30, 2006, one hundred percent to the  
17 state road fund. "

18 Section 2. Section 67-3-59.1 NMSA 1978 (being Laws 1989,  
19 Chapter 157, Section 1, as amended) is amended to read:

20 "67-3-59.1. STATE HIGHWAY DEBENTURES--ISSUANCE--  
21 LIMITS--APPROVAL--COUPONS.--

22 A. In order to provide funds to finance state  
23 highway projects, including state highway projects that are  
24 required for the waste isolation pilot project and are  
25 eligible for federal reimbursement or payment as authorized by

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

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

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

25 (2) the total aggregate outstanding principal

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1 amount of bonds issued for state highway projects other than  
2 state highway projects that are required for the waste  
3 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 by  
14 law to be paid into the highway infrastructure fund, as  
15 follows:

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

23 (2) an aggregate outstanding principal amount  
24 of bonds, not to exceed one hundred million dollars  
25 (\$100,000,000), for state highway projects that are required

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1 for the waste isolation pilot project and are eligible for  
2 federal reimbursement; and

3 (3) an aggregate outstanding principal amount  
4 of bonds, not to exceed [~~four hundred million dollars~~  
5 ~~(\$400,000,000)~~] one billion seven hundred nine million eight  
6 hundred ninety thousand dollars (\$1,709,890,000), for other  
7 state highway projects.

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

12 (1) ~~three hundred million dollars~~  
13 ~~(\$300,000,000) prior to July 1, 1999;~~

14 (2) ~~six hundred million dollars~~  
15 ~~(\$600,000,000) from July 1, 1999 through June 30, 2000;~~

16 (3) ~~nine hundred million dollars~~  
17 ~~(\$900,000,000) from July 1, 2000 through June 30, 2001; and~~

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

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

23 [~~F.]~~ E. Each series of bonds shall have a maturity  
24 of no more than twenty-five years from the date of issuance.

25 The state highway commission shall determine all other terms,

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1 covenants and conditions of the bonds; provided that the bonds  
2 shall not be issued pursuant to this section unless the state  
3 board of finance approves the issuance of the bonds and the  
4 principal amount of and interest rate or ~~maximum~~ net effective  
5 interest rate on the bonds.

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

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

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

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1 process. If sold at public sale, a notice of the time and  
2 place of sale shall be published in a newspaper of general  
3 circulation in the state, and in any other newspaper  
4 determined in the resolution authorizing the issuance of the  
5 bonds, once each week for two consecutive weeks prior to the  
6 date of sale. The bonds may be purchased by the state  
7 treasurer or state investment officer.

8 [~~J.~~] I. This section is full authority for the  
9 issuance and sale of the bonds, and the bonds shall not be  
10 invalid for any irregularity or defect in the proceedings for  
11 their issuance and sale and shall be incontestable in the  
12 hands of bona fide purchasers or holders of the bond for  
13 value.

14 [~~K.~~] J. The bonds shall be legal investments for  
15 any person or board charged with the investment of public  
16 funds and may be accepted as security for any deposit of  
17 public money and, with the interest thereon, are exempt from  
18 taxation by the state and any political subdivision or agency  
19 of the state.

20 [~~L.~~] K. Any law authorizing the imposition or  
21 distribution of taxes or fees paid into the state road fund or  
22 the highway infrastructure fund or that affects those taxes  
23 and fees shall not be amended or repealed or otherwise  
24 directly or indirectly modified so as to impair any  
25 outstanding bonds secured by a pledge of revenues from those

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1 taxes and fees paid into the state road fund or the highway  
2 infrastructure fund, unless the bonds have been discharged in  
3 full or provisions have been made for a full discharge. In  
4 addition, while any bonds issued by the state highway  
5 commission pursuant to the provisions of this section remain  
6 outstanding, the powers or duties of the commission shall not  
7 be diminished or impaired in any manner that will affect  
8 adversely the interests and rights of the holder of such  
9 bonds.

10 [M-] L. In contracting for state highway projects  
11 to be paid in whole or in part with proceeds of bonds  
12 authorized by this section, the department shall require that  
13 any sand, gravel, caliche or similar material needed for the  
14 project shall, if practicable, be mined from state lands.  
15 Each contract shall provide that the contractor notify the  
16 commissioner of public lands of the need for the material and  
17 that, through lease or purchase, the material shall be mined  
18 from state lands if:

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

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

24 (3) the cost to the contractor for the  
25 material, including the costs of transportation, is

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1 competitive with other available material from non-state  
2 lands.

3 [N-] M Bonds issued pursuant to this section  
4 shall be paid solely from federal funds not otherwise  
5 obligated and taxes and fees deposited into the state road  
6 fund and, as applicable, the highway infrastructure fund, and  
7 shall not constitute a general obligation of the state."

8 Section 3. STATE HIGHWAY BONDS--PURPOSE FOR WHICH  
9 ISSUED--APPROPRIATION OF PROCEEDS.--

10 A. The state highway commission may issue and sell  
11 state highway bonds in compliance with the provisions of  
12 Section 67-3-59.1 NMSA 1978 in an amount not to exceed the  
13 total of the amounts authorized for purposes specified in this  
14 section when the commission determines the need for the  
15 issuance of the bonds. The state highway commission shall  
16 schedule the issuance and sale of the bonds in the most  
17 expeditious and economic manner possible upon a finding by the  
18 commission that the project has been developed sufficiently to  
19 justify the issuance and that the project can proceed to  
20 contract within a reasonable time. The proceeds from the sale  
21 of the bonds are appropriated to the state highway and  
22 transportation department in the following amounts for the  
23 following purposes:

24 (1) seventy-two million dollars (\$72,000,000)  
25 for the four-lane construction of United States highway 180

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1 from Silver City to Deming;

2 (2) fifty-three million five hundred sixty  
3 thousand dollars (\$53,560,000) for the six-lane construction  
4 of interstate 10 from the interstate 25 interchange to the  
5 Texas state line;

6 (3) thirty-one million two hundred thousand  
7 dollars (\$31,200,000) for the six-lane construction of  
8 interstate 25 from the tramway interchange to the United  
9 States highway 550 interchange;

10 (4) seventy-four million six hundred ninety  
11 thousand dollars (\$74,690,000) for the four-lane construction  
12 of United States highway 666 from Sheep Springs to the  
13 Colorado state line;

14 (5) one hundred eighty-five million three  
15 hundred seventy thousand dollars (\$185,370,000) for the four-  
16 lane construction of United States highways 64 and 87 from  
17 Raton to Clayton;

18 (6) eighty-eight million six hundred ten  
19 thousand dollars (\$88,610,000) for construction of a new four-  
20 lane northwest loop highway from New Mexico 550 to interstate  
21 40 near the rio puerco;

22 (7) seventy-nine million one hundred seventy  
23 thousand dollars (\$79,170,000) for the four-lane construction  
24 of United States highway 285 from Clines Corners to Lamy;

25 (8) three hundred twenty-nine million ten

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1 thousand dollars (\$329,010,000) for the four-lane construction  
2 of United States highway 54 from Tularosa to Santa Rosa;

3 (9) eighty-five million dollars (\$85,000,000)  
4 for the four-lane construction of United States highway 54  
5 from Tucumcari to the Texas state line;

6 (10) fifteen million two hundred forty  
7 thousand dollars (\$15,240,000) for construction of New Mexico  
8 404 from interstate 10 to United States highway 54;

9 (11) seventy-five million two hundred ten  
10 thousand dollars (\$75,210,000) for the four-lane construction  
11 of United States highways 62 and 180 from Carlsbad to the  
12 Texas state line;

13 (12) forty-five million dollars (\$45,000,000)  
14 for the four-lane construction of United States highway 285  
15 from Carlsbad to the Texas state line;

16 (13) eleven million two hundred twenty  
17 thousand dollars (\$11,220,000) for the four-lane construction  
18 of New Mexico 18 from Jal to the Texas state line;

19 (14) eighteen million dollars (\$18,000,000)  
20 for a new east loop Espanola relief route;

21 (15) ninety-four million two hundred thousand  
22 dollars (\$94,200,000) for the four-lane construction of United  
23 States highway 82 from Artesia to Lovington;

24 (16) twenty-five million four hundred  
25 thousand dollars (\$25,400,000) for the six-lane construction

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1 of interstate 25 from New Mexico 47 to Cesar Chavez boulevard;

2 (17) twelve million ten thousand dollars  
3 (\$12,010,000) for a new bypass route in Deming off interstate  
4 10; and

5 (18) fifteen million dollars (\$15,000,000)  
6 for a new Richards avenue interchange on interstate 25 in  
7 Santa Fe county.

8 B. The appropriations of state highway bond  
9 proceeds in Subsection A of this section are in addition to  
10 the amounts of bonds authorized in Laws 1998, Chapter 84,  
11 Section 1 and Laws 1998, Chapter 85, Section 1.

12 C. For the purposes of this section,  
13 "construction" includes planning, design, engineering,  
14 construction and acquisition of rights of way.

15 Section 4. EFFECTIVE DATE. -- The effective date of the  
16 provisions of this act is July 1, 2001.