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HOUSE BILL 10

**48TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SPECIAL SESSION, 2008**

INTRODUCED BY

Daniel P. Silva

AN ACT

PROVIDING FUNDING TO THE DEPARTMENT OF TRANSPORTATION FOR  
CERTAIN ROAD PROJECTS ENUMERATED IN LAWS 2003 (S.S.), CHAPTER  
3, SECTION 27; AUTHORIZING THE ISSUANCE OF SEVERANCE TAX BONDS;  
MAKING APPROPRIATIONS; DECLARING AN EMERGENCY.

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

Section 1. SEVERANCE TAX BONDS--AUTHORIZATIONS--  
LIMITATIONS--REVERSIONS--APPROPRIATION OF PROCEEDS.--

A. In addition to any authority provided to the  
state board of finance to issue and sell severance tax bonds in  
fiscal year 2009 provided in Laws 2007 (1st S.S.), Chapter 3,  
Section 1, the state board of finance may issue and sell  
severance tax bonds in fiscal years 2009 through 2011 in  
compliance with the Severance Tax Bonding Act in an amount not  
to exceed one hundred fifty million dollars (\$150,000,000);

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1 provided that no more than seventy-five million dollars  
2 (\$75,000,000) shall be issued in any single fiscal year  
3 pursuant to this section. The state board of finance shall  
4 schedule the issuance and sale of the bonds in the most  
5 expeditious and economical manner possible upon a finding by  
6 the board that the projects to be included in the sale have  
7 been developed sufficiently to justify the issuance and that  
8 the projects can proceed to contract within a reasonable time.  
9 The state board of finance shall further take the appropriate  
10 steps necessary to comply with the Internal Revenue Code of  
11 1986, as amended. Proceeds from the sale of the bonds are  
12 appropriated to the department of transportation for projects  
13 authorized in Paragraphs (1) and (3) through (37) of Subsection  
14 A of Section 27 of Chapter 3 of Laws 2003 (S.S.); provided that  
15 the department of transportation shall comply with the  
16 requirements of Subsections C through E of Section 67-3-59.4  
17 NMSA 1978.

18 B. The department of transportation shall certify  
19 to the state board of finance when the money from the proceeds  
20 of the severance tax bonds authorized in this section is needed  
21 for the purposes specified in Paragraphs (1) and (3) through  
22 (37) of Subsection A of Section 27 of Chapter 3 of Laws 2003  
23 (S.S.). If the department of transportation has not certified  
24 the need for the issuance of the bonds provided for in this  
25 section by the end of fiscal year 2011, the authorization for

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1 the bonds provided in this section is void.

2 C. Before the department of transportation may  
3 certify for the issuance of severance tax bonds, the projects  
4 to be included in the sale must be developed sufficiently so  
5 that the department reasonably expects to:

6 (1) incur within six months after the  
7 applicable bonds have been issued substantial binding  
8 obligations to third parties to expend at least five percent of  
9 the bond proceeds for the projects; and

10 (2) spend at least eighty-five percent of the  
11 bond proceeds within three years after the applicable bonds  
12 have been issued.

13 D. The unexpended balance from the proceeds of  
14 severance tax bonds issued pursuant to this section shall  
15 revert to the severance tax bonding fund no later than six  
16 months after completion of the projects authorized in  
17 Paragraphs (1) and (3) through (37) of Subsection A of Section  
18 27 of Chapter 3 of Laws 2003 (S.S.), but no later than the end  
19 of fiscal year 2013.

20 E. All remaining balances from the proceeds of  
21 severance tax bonds issued pursuant to this section shall  
22 revert to the severance tax bonding fund three months after the  
23 reversion date established in Subsection D of this section,  
24 whether or not any of the remaining balances are subject to  
25 contractual obligations to third parties.

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1 F. Money from severance tax bond proceeds provided  
2 pursuant to this section shall not be used to pay indirect  
3 project costs.

4 G. As used in this section, "unexpended balance"  
5 means the remainder of an appropriation after reserving for  
6 unpaid costs and expenses covered by binding written  
7 obligations to third parties.

8 Section 2. GENERAL FUND APPROPRIATIONS--LIMITATIONS--  
9 REVERSIONS.--

10 A. As used in this section:

11 (1) "general fund consensus revenue forecast"  
12 means the revenue estimates prepared by the career economists  
13 of the department of finance and administration, taxation and  
14 revenue department, department of transportation and  
15 legislative finance committee;

16 (2) "reserves" means "reserves as a percentage  
17 of current-year recurring appropriations" established in the  
18 general fund financial summary released by the department of  
19 finance and administration in conjunction with the general fund  
20 consensus revenue forecast; and

21 (3) "unexpended balance" means the remainder  
22 of an appropriation after reserving for unpaid costs and  
23 expenses covered by binding written obligations to third  
24 parties.

25 B. The following amounts are appropriated from the

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1 general fund to the department of transportation for the  
2 following purposes subject to the identified conditions  
3 precedent:

4 (1) twenty-five million dollars (\$25,000,000)  
5 for expenditure in fiscal years 2009 through 2013 for projects  
6 authorized in Paragraphs (1) and (3) through (37) of Subsection  
7 A of Section 27 of Chapter 3 of Laws 2003 (S.S.); provided that  
8 the department of transportation shall comply with the  
9 requirements of Subsections C through E of Section 67-3-59.4  
10 NMSA 1978; and provided further that this appropriation is  
11 contingent on either:

12 (a) the general fund consensus revenue  
13 forecast released in December 2008 projecting sufficient fiscal  
14 year 2009 revenue to create reserves at the end of fiscal year  
15 2009 of at least ten percent plus eighty-six million five  
16 hundred thousand dollars (\$86,500,000); or

17 (b) the general fund consensus revenue  
18 forecast released in July 2009 projecting sufficient fiscal  
19 year 2010 revenue to create reserves at the end of fiscal year  
20 2010 of at least ten percent plus twenty-five million dollars  
21 (\$25,000,000); and

22 (2) twenty-five million dollars (\$25,000,000)  
23 for expenditure in fiscal years 2010 through 2013 for projects  
24 authorized in Paragraphs (1) and (3) through (37) of Subsection  
25 A of Section 27 of Chapter 3 of Laws 2003 (S.S.); provided that

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1 the department of transportation shall comply with the  
2 requirements of Subsections C through E of Section 67-3-59.4  
3 NMSA 1978; and provided further that this appropriation is  
4 contingent on the general fund consensus revenue forecast  
5 released in July 2009 projecting sufficient fiscal year 2010  
6 revenue to create reserves at the end of fiscal year 2010 of at  
7 least ten percent plus:

8 (a) twenty-five million dollars  
9 (\$25,000,000) if the contingency in the appropriation in  
10 Paragraph (1) of this subsection was met based on the December  
11 2008 general fund consensus revenue forecast; or

12 (b) fifty million dollars (\$50,000,000)  
13 if the contingency in the appropriation in Paragraph (1) of  
14 this subsection was not met based on the December 2008 general  
15 fund consensus revenue forecast.

16 C. The unexpended balance of an appropriation made  
17 in this section from the general fund shall revert within six  
18 months of completion of the projects authorized in Paragraphs  
19 (1) and (3) through (37) of Subsection A of Section 27 of  
20 Chapter 3 of Laws 2003 (S.S.), but no later than the end of  
21 fiscal year 2013.

22 D. All remaining balances from a general fund  
23 appropriation made in this section shall revert three months  
24 after the reversion date established in Subsection C of this  
25 section, whether or not any of the remaining balances are

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1 subject to contractual obligations to third parties.

2 E. Upon satisfaction of any conditions and  
3 certification by the department of transportation that money  
4 from a general fund appropriation made in this section is  
5 needed for a purpose specified in the appropriation, the  
6 secretary of finance and administration shall disburse that  
7 amount of the appropriation for that purpose as necessary to  
8 meet that need.

9 F. Money from appropriations made in this section  
10 shall not be used to pay indirect project costs.

11 Section 3. EMERGENCY.--It is necessary for the public  
12 peace, health and safety that this act take effect immediately.