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SENATE BILL 215

42ND LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 1996

INTRODUCED BY

JOSEPH J. CARRARO

AN ACT

RELATING TO TRANSPORTATION; ABOLISHING THE STATE TRANSPORTATION
AUTHORITY; TRANSFERRING PERSONNEL, ASSETS AND OBLIGATIONS;
REPEALING THE RESOURCE TRANSPORTATION AND PASSENGER
TRANSPORTATION DEVELOPMENT ACT; AUTHORIZING THE STATE HIGHWAY
COMMISSION TO ISSUE REVENUE BONDS AND REFUNDING BONDS; PROVIDING
THE STATE HIGHWAY COMMISSION WITH THE POWER OF EMINENT DOMAIN;
REPEALING AND ENACTING SECTIONS OF THE NMSA 1978.

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

Section 1. A new section of Chapter 67, Article 3 NMSA
1978 is enacted to read:

" [NEW MATERIAL] STATE HIGHWAY COMMISSION-- POWERS OF
EMINENT DOMAIN. - -

A. The state highway commission shall have the power
to acquire property by purchase, lease, gift or devise for the

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1 purposes of construction of transportation systems by a private
2 entity.

3 B. The power to acquire property shall be construed
4 broadly and shall include the power to acquire property for the
5 construction and maintenance of communication and transportation
6 structures and other facilities necessary for the operation of
7 transportation systems.

8 C. The state highway commission shall have the
9 authority to negotiate for the acquisition of property from any
10 person, governmental entity or Indian tribe or pueblo for the
11 purpose of promoting the development of transportation and
12 passenger transportation facilities. "

13 Section 2. A new section of Chapter 67, Article 3 NMSA
14 1978 is enacted to read:

15 "[NEW MATERIAL] TRANSPORTATION BONDS. --

16 A. Whenever the state highway commission by
17 resolution determines that interest or necessity demands the
18 issuance of revenue bonds to finance the development and
19 construction of transportation systems, it may, by resolution,
20 make and issue state revenue bonds which shall be known as
21 "transportation bonds". Such bonds shall be payable solely out
22 of the net income to be derived from the operation of the
23 project and shall pledge, irrevocably, such income to the
24 payment of those bonds. The state board of finance may require
25 such other guarantees as it deems necessary. The bonds shall

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1 never become a general obligation of the state or any political
2 subdivision.

3 B. The proceeds from the sale of transportation
4 bonds shall be used solely for the purposes specified in the
5 resolution and for which they were issued. "

6 Section 3. A new section of Chapter 67, Article 3 NMSA
7 1978 is enacted to read:

8 "[NEW MATERIAL] TRANSPORTATION BONDS--TERMS. --

9 Transportation bonds issued by the state highway commission:

10 A. shall bear interest which at the time of
11 commitment shall be equal to the market return on comparable
12 investments but shall not be less than the average rate of
13 interest or return on all the investments of the severance tax
14 permanent fund for the immediately preceding fiscal year minus
15 two percentage points previous to their issue;

16 B. shall be payable at such times as the commission
17 may provide and shall be fully registered as to principal and
18 interest;

19 C. may be subject to prior redemption at the
20 commission's option at such time and upon such terms and
21 conditions, with or without payment of premiums, as may be
22 provided in the resolution of the commission;

23 D. may mature at any time not exceeding fifty years
24 after the date of issuance;

25 E. may be serial in form and maturity and may

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1 consist of one bond payable at one time or in installments;

2 F. shall be sold for cash at, above or below par and
3 at the effective interest rate permitted in this section; and

4 G. may be sold at a public or private sale."

5 Section 4. A new section of Chapter 67, Article 3 NMSA
6 1978 is enacted to read:

7 "[NEW MATERIAL] REFUNDING BONDS. --

8 A. Transportation bonds issued pursuant to the
9 provisions of Chapter 67, Article 3 NMSA 1978 that are
10 outstanding may at any time and from time to time be refunded by
11 the state highway commission upon the adoption of a resolution
12 providing for such issuance and by the issuance of refunding
13 bonds in such amount as the commission determines to refund the
14 principal of the transportation bonds, all unpaid accrued and
15 unaccrued interest thereon to the normal maturity date of such
16 bonds or to selected prior redemption dates thereof, any
17 redemption premiums, any commission and all estimated costs
18 incidental to the issuance of such bonds and to such refunding
19 as may be determined by the commission.

20 B. The principal amount of any such refunding bonds
21 may be equal to, less than or greater than the principal amount
22 of the bonds so refunded.

23 C. Any refunding may be effected, whether the bonds
24 to be refunded have then matured or thereafter mature, either by
25 sale of the refunding bonds and the application of the proceeds

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1 thereof for the payment of the bonds to be refunded or by
2 exchange of the refunding bonds for the bonds to be refunded;
3 provided that the bonds to be refunded shall not be canceled
4 without the consent of the holders to surrender their bonds for
5 payment or exchange prior to the date on which they are payable
6 or if they are called for redemption prior to the date on which
7 they are by their terms subject to redemption.

8 D. Any refunding bonds issued pursuant to this
9 section shall be payable solely from the revenues out of which
10 transportation bonds may be payable or solely from those amounts
11 derived from an escrow as provided in this section, including
12 amounts derived from the investment of refunding bond proceeds
13 and other legally available amounts also provided in this
14 section or from any combination of those sources.

15 E. Proceeds of refunding bonds shall either be
16 applied immediately to the retirement of the bonds being
17 refunded or be placed in escrow in a commercial bank or trust
18 company that possesses and is exercising trust powers.
19 Notwithstanding any statute to the contrary, such escrowed
20 proceeds may be invested in short-term securities, long-term
21 securities or both."

22 Section 5. A new section of Chapter 67, Article 3 NMSA
23 1978 is enacted to read:

24 "[NEW MATERIAL] TRANSPORTATION BONDS ELIGIBLE FOR
25 INVESTMENT. --Transportation bonds issued by the state highway

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1 commission are hereby made securities in which all public
2 officers and public bodies of this state and its political
3 subdivisions and all insurance companies, trust companies,
4 banking associations, investment companies, executors,
5 administrators, trustees and other fiduciaries may properly and
6 legally invest funds, including capital in their control or
7 belonging to them. Such bonds are securities which may properly
8 and legally be deposited with and be received by any state or
9 political subdivision officer for which the deposit of bonds or
10 obligations of the state is authorized by law. The bonds may be
11 deemed by the state highway commission, with the approval of the
12 state board of finance, certificates of deposit for purposes of
13 the investment of state money, in which case the commission
14 shall be deemed a New Mexico savings and loan association for
15 these purposes only; provided that the state board of finance
16 may waive all collateralization and other requirements as long
17 as it finds the bonds to be comparable in safety to other
18 investments of state funds. No bonds issued by the state
19 highway commission shall be eligible for investment or deposit
20 by or with the state or any of its political subdivisions unless
21 they have been rated AA or higher by an independent nationally
22 recognized bond rating service based solely on the security of
23 the bonds as investments without resort to any collateral
24 guarantees. No bonds shall be eligible for investment or
25 deposit by or with the state or any of its political

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1 subdivisions unless the state highway commission has filed with
2 the legislative finance committee its decision to issue the
3 bonds and all of its findings and reasons in support of the
4 decision and one complete regular session of the legislature has
5 intervened since the filing. "

6 Section 6. A new section to Chapter 67, Article 3 NMSA
7 1978 is enacted to read:

8 "[NEW MATERIAL] TRANSPORTATION BONDS--EXEMPTION FROM
9 TAXATION.--The construction, operation and maintenance of any
10 transportation project by the state highway commission will
11 constitute the performance of an essential governmental
12 function. As such, any transportation bonds issued pursuant to
13 Chapter 67, Article 3 NMSA 1978, their transfer and the income
14 therefrom, including any profit made on the sale thereof, shall
15 at all times be free from taxation by the state and by its
16 political subdivisions. "

17 Section 7. TEMPORARY PROVISION--TRANSFER OF PERSONNEL,
18 ASSETS AND OBLIGATIONS.--On July 1, 1996:

19 A. all personnel, appropriations, money, records,
20 property, equipment and supplies of the state transportation
21 authority shall be transferred to the state highway and
22 transportation department; and

23 B. all contracts, agreements and obligations of the
24 state transportation authority shall be binding and effective on
25 the state highway and transportation department.

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Section 8. REPEAL. -- Sections 73-23-1 through 73-23-13 NMSA 1978 (being Laws 1985 (1st. S.S.), Chapter 14, Sections 1 through 13, as amended) are repealed.

Section 9. EFFECTIVE DATE. -- The effective date of the provisions of this act is July 1, 1996.

1 FORTY- SECOND LEGI SLATURE
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5 JANUARY 24, 1996

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7 Mr. Presi dent:

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9 Your COMMI TTEES' COMMI TTEE, to whom has been referred

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11 SENATE BILL 215

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13 has had it under consideration and finds same to be GERMANE, PURSUANT
14 TO CONSTITUTIONAL PROVISIONS, and thence referred to the
15 CORPORATIONS AND TRANSPORTATI ON COMMI TTEE.

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17 Respectfully submi tted,

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23 SENATOR MANNY M. ARAGON, Chai rman
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