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HOUSE BILL 293

45TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2002

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; 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, 2003, one
3 hundred percent to the general fund;

4 B. from July 1, 2003 through June 30, 2004, eighty
5 percent to the general fund and twenty percent to the state
6 road fund;

7 C. from July 1, 2004 through June 30, 2005, sixty
8 percent to the general fund and forty percent to the state
9 road fund;

10 D. from July 1, 2005 through June 30, 2006, forty
11 percent to the general fund and sixty percent to the state
12 road fund;

13 E. from July 1, 2006 through June 30, 2007, twenty
14 percent to the general fund and eighty percent to the state
15 road fund; and

16 F. after June 30, 2007, 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 and
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 in Bernalillo county;

3 (17) twelve million ten thousand dollars
4 (\$12,010,000) for a new bypass route in Deming off interstate
5 10; and

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

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

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

16 Section 4. EFFECTIVE DATE. -- The effective date of the
17 provisions of this act is July 1, 2002.