

HOUSE TAXATION AND REVENUE COMMITTEE SUBSTITUTE FOR
HOUSE BILL 6

49TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SPECIAL SESSION, 2010

AN ACT

RELATING TO PUBLIC FINANCE; PROVIDING AN ADDITIONAL PURPOSE FOR
SUPPLEMENTAL SEVERANCE TAX BONDS; AUTHORIZING THE ISSUANCE OF
SEVERANCE TAX BONDS AND SUPPLEMENTAL SEVERANCE TAX BONDS;
RECONCILING CONFLICTING AMENDMENTS TO THE SAME SECTION OF LAW
IN LAWS 2001 BY REPEALING LAWS 2001, CHAPTER 37, SECTION 1;
MAKING APPROPRIATIONS, INCLUDING AN APPROPRIATION TO THE STATE
EQUALIZATION GUARANTEE DISTRIBUTION AND A CONTINGENT
APPROPRIATION FOR MEDICAID EXPENDITURES; DECLARING AN
EMERGENCY.

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

Section 1. Section 7-27-12 NMSA 1978 (being Laws 1961,
Chapter 5, Section 10, as amended by Laws 2001, Chapter 37,
Section 1 and by Laws 2001, Chapter 338, Section 1) is amended
to read:

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1 "7-27-12. WHEN SEVERANCE TAX BONDS TO BE ISSUED.--

2 A. The state board of finance shall issue and sell
3 all severance tax bonds when authorized to do so by any law
4 that sets out the amount of the issue and the recipient of the
5 money.

6 B. The state board of finance shall also issue and
7 sell severance tax bonds authorized by Sections 72-14-36
8 through 72-14-42 NMSA 1978, and such authority as has been
9 given to the interstate stream commission to issue and sell
10 such bonds is transferred to the state board of finance. The
11 state board of finance shall issue and sell all severance tax
12 bonds only when so instructed by resolution of the governing
13 body or by written direction from an authorized officer of the
14 recipient of the bond money.

15 C. Except as provided in Subsection D or E of this
16 section, proceeds from supplemental severance tax bonds shall
17 be used only for public school capital outlay projects pursuant
18 to the Public School Capital Outlay Act or the Public School
19 Capital Improvements Act.

20 D. Proceeds from supplemental severance tax bonds
21 issued pursuant to Paragraph (2) of Subsection A of Section 19
22 of Chapter 6 of Laws 1999 (1st S.S.) shall be used for the
23 purposes specified in that paragraph.

24 E. Proceeds from supplemental severance tax bonds
25 issued pursuant to Section 2 of this 2010 act shall be used for

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1 the purposes specified in that section.

2 ~~[E-]~~ F. Except as provided in Subsection ~~[F]~~ G or H
 3 of this section, the state board of finance shall issue and
 4 sell all supplemental severance tax bonds when so instructed by
 5 resolution of the public school capital outlay council pursuant
 6 to Section 7-27-12.2 NMSA 1978.

7 ~~[F-]~~ G. The state board of finance shall issue and
 8 sell supplemental severance tax bonds authorized by Paragraph
 9 (2) of Subsection A of Section 19 of Chapter 6 of Laws 1999
 10 (1st S.S.) when so instructed by resolution of the ~~[commission~~
 11 ~~on]~~ higher education department.

12 H. The state board of finance shall issue and sell
 13 the supplemental severance tax bonds authorized in Section 2 of
 14 this 2010 act upon the certification of the secretary of public
 15 education or the secretary of finance and administration as
 16 applicable."

17 Section 2. [NEW MATERIAL] SHORT-TERM SEVERANCE TAX
 18 BONDS--SHORT-TERM SUPPLEMENTAL SEVERANCE TAX BONDS--
 19 AUTHORIZATIONS--APPROPRIATION OF PROCEEDS.--

20 A. As used in this section:

21 (1) "general fund consensus revenue forecast"
 22 means the revenue estimates prepared by the career economists
 23 of the department of finance and administration, taxation and
 24 revenue department, department of transportation and
 25 legislative finance committee; and

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1 (2) "reserves" means the total balances in the
2 funds designated as the reserve funds of the state as a
3 percentage of current-year recurring appropriations as shown in
4 the general fund financial summary released by the department
5 of finance and administration in conjunction with the general
6 fund consensus revenue forecast.

7 B. In fiscal year 2011, the state board of finance
8 may issue and sell severance tax bonds with a term that does
9 not extend beyond the end of the fiscal year or supplemental
10 severance tax bonds with a term that does not extend beyond the
11 end of the fiscal year, or a combination of severance tax bonds
12 and supplemental severance tax bonds, in compliance with the
13 Severance Tax Bonding Act, in an aggregate amount not to exceed
14 one hundred ten million three hundred thousand dollars
15 (\$110,300,000) when the secretary of finance and administration
16 or, with respect to Paragraph (1) of this subsection, the
17 secretary of public education, certifies that the bonds are
18 needed because:

19 (1) the general fund portion of the state
20 equalization guarantee distribution in fiscal year 2011 is
21 lower than the general fund portion of the state equalization
22 guarantee distribution in fiscal year 2009; provided that the
23 maximum amount that can be certified pursuant to this paragraph
24 is twenty-five million dollars (\$25,000,000);

25 (2) a general fund consensus revenue forecast

1 released during fiscal year 2011 projects revenue that will
2 result in reserves of less than five percent at the end of
3 fiscal year 2011, provided that:

4 (a) the maximum amount that can be
5 certified for pursuant to this paragraph is the amount needed
6 to bring projected reserves to five percent; and

7 (b) the secretary of finance and
8 administration may make multiple certifications pursuant to
9 this paragraph as general fund consensus revenue forecasts are
10 released during fiscal year 2011; or

11 (3) federal legislation has not been enacted
12 prior to January 1, 2011 that extends, through June 30, 2011,
13 the increase to the federal medical assistance percentage
14 provided in Subsection (a), (b) or (c) of Section 5001 of the
15 federal American Recovery and Reinvestment Act of 2009,
16 provided that the maximum amount that can be certified for
17 pursuant to this paragraph is the difference between:

18 (a) the amount of federal medicaid funds
19 the state is estimated to have received in fiscal year 2011 had
20 the increase to the federal medical assistance percentage been
21 extended through June 30, 2011; and

22 (b) the amount of federal medicaid funds
23 the state is estimated to actually receive in fiscal year 2011
24 without the extended increase.

25 C. The state board of finance shall schedule the

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1 issuance and sale of the bonds in the most expeditious and
2 economical manner possible. The state board of finance shall
3 further take the appropriate steps necessary to comply with the
4 Internal Revenue Code of 1986, as amended. Proceeds from the
5 sale of the bonds are appropriated to the general fund. The
6 board of finance division of the department of finance and
7 administration shall transfer the proceeds to the general fund
8 for use by the department of finance and administration in
9 fiscal year 2011 to restore the allotments made from the
10 general fund for capital project general fund appropriations
11 that were enacted in prior sessions of the legislature and that
12 had an expenditure period ending on or after June 30, 2010.

13 Section 3. [NEW MATERIAL] FISCAL YEAR 2011 GENERAL FUND
14 APPROPRIATIONS FOR THE STATE EQUALIZATION GUARANTEE
15 DISTRIBUTION AND MEDICAID.--

16 A. In the event the secretary of public education
17 certifies the need for the bonds pursuant to Paragraph (1) of
18 Subsection B of Section 2 of this 2010 act, twenty-five million
19 dollars (\$25,000,000) is appropriated from the general fund for
20 expenditure during fiscal year 2011 to the state equalization
21 guarantee distribution.

22 B. In the event the secretary of finance and
23 administration certifies the need for the bonds pursuant to
24 Paragraph (3) of Subsection B of Section 2 of this 2010 act,
25 the following amounts are appropriated from the general fund

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1 for expenditure during fiscal year 2011 to the following
2 agencies for the following purposes:

3 (1) up to seventy-six million two hundred
4 thousand dollars (\$76,200,000) is appropriated to the medical
5 assistance program of the human services department for
6 medicaid; provided that the amount of the appropriation, up to
7 the maximum, shall equal the difference, as calculated by the
8 secretary of finance and administration in consultation with
9 the director of the legislative finance committee, between:

10 (a) the amount of federal medicaid funds
11 the medical assistance program is estimated to have received in
12 fiscal year 2011 had the increase to the federal medical
13 assistance percentage provided in Subsection (a), (b) or (c) of
14 Section 5001 of the federal American Recovery and Reinvestment
15 Act of 2009 been extended through June 30, 2011 by federal
16 legislation enacted prior to January 1, 2011; and

17 (b) the amount of federal medicaid funds
18 the medical assistance program is estimated to actually receive
19 in fiscal year 2011 without the extended increase; and

20 (2) up to nine million one hundred thousand
21 dollars (\$9,100,000) is appropriated to the developmental
22 disabilities support program of the department of health for
23 medicaid waiver programs; provided that the amount of the
24 appropriation, up to the maximum, shall equal the difference,
25 as calculated by the secretary of finance and administration in

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1 consultation with the director of the legislative finance
2 committee, between:

3 (a) the amount of federal medicaid funds
4 the developmental disabilities support program is estimated to
5 have received in fiscal year 2011 had the increase to the
6 federal medical assistance percentage provided in Subsection
7 (a), (b) or (c) of Section 5001 of the federal American
8 Recovery and Reinvestment Act of 2009 been extended through
9 June 30, 2011 by federal legislation enacted prior to January
10 1, 2011; and

11 (b) the amount of federal medicaid funds
12 the developmental disabilities support program is estimated to
13 actually receive in fiscal year 2011 without the extended
14 increase.

15 C. Any unexpended balances of the appropriations
16 made in Subsection A or B of this section at the end of fiscal
17 year 2011 shall revert to the general fund by October 1, 2011.

18 Section 4. [NEW MATERIAL] SHORT-TERM SEVERANCE TAX BONDS
19 ISSUED IN FISCAL YEAR 2011 FOR PUBLIC SCHOOL CAPITAL OUTLAY
20 PROJECTS.--In addition to the bonds issued pursuant to Section
21 7-27-14 NMSA 1978 and notwithstanding the limitations of that
22 section, in compliance with the Severance Tax Bonding Act, in
23 fiscal year 2011 the state board of finance may issue and sell
24 severance tax bonds with a term that does not extend beyond the
25 fiscal year in which they are issued when the public school

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1 capital outlay council certifies by resolution that proceeds of
2 the bonds are needed for expenditures relating to public school
3 capital outlay projects pursuant to the Public School Capital
4 Outlay Act. The resolution shall specify the total amount
5 needed. The proceeds from the sale of the bonds are
6 appropriated to the public school capital outlay fund to carry
7 out the provisions of the Public School Capital Outlay Act;
8 provided that:

9 A. the amount of bonds issued pursuant to this
10 section shall not exceed the lesser of:

11 (1) the amount of supplemental severance tax
12 bonds issued pursuant to Section 2 of this 2010 act;

13 (2) the amount specified in the resolution of
14 the public school capital outlay council; or

15 (3) the maximum amount of bonds that can be
16 issued after satisfying the criteria of Subsections B and C of
17 this section;

18 B. no severance tax bonds shall be issued pursuant
19 to this section until all other severance tax bonds and
20 supplemental severance tax bonds to be issued in fiscal year
21 2011 have been issued; and

22 C. no severance tax bonds shall be issued pursuant
23 to this section unless the balance in the severance tax bonding
24 fund as of the date that the bonds are issued is greater than
25 the sum of:

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1 (1) the debt service on the severance tax
2 bonds to be issued pursuant to this section;

3 (2) the debt service scheduled to be paid
4 during the remainder of the fiscal year on all outstanding
5 severance tax bonds and supplemental severance tax bonds; and

6 (3) the amount necessary to meet all principal
7 and interest payments on outstanding bonds payable from the
8 severance tax bonding fund on the next two ensuing semiannual
9 payment dates.

10 Section 5. REPEAL.--Laws 2001, Chapter 37, Section 1 is
11 repealed.

12 Section 6. EMERGENCY.--It is necessary for the public
13 peace, health and safety that this act take effect immediately.