

1 SENATE BILL 98

2 **51ST LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2013**

3 INTRODUCED BY

4 Carlos R. Cisneros

5
6
7
8 ENDORSED BY THE LEGISLATIVE FINANCE COMMITTEE

9
10 AN ACT

11 RELATING TO CAPITAL EXPENDITURES; AMENDING THE SEVERANCE TAX
12 BONDING ACT TO TEMPORARILY ALLOW THE STATE BOARD OF FINANCE TO
13 ISSUE SUPPLEMENTAL ROAD SEVERANCE TAX BONDS AND SUPPLEMENTAL
14 HIGHER EDUCATION SEVERANCE TAX BONDS; CLARIFYING THE TYPES OF
15 SUPPLEMENTAL SEVERANCE TAX BONDS; RECONCILING CONFLICTING
16 AMENDMENTS TO THE SAME SECTION OF LAW BY REPEALING LAWS 2001,
17 CHAPTER 37, SECTION 1; MAKING AN APPROPRIATION.

18
19 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

20 SECTION 1. Section 7-27-9 NMSA 1978 (being Laws 1961,
21 Chapter 5, Section 7, as amended) is amended to read:

22 "7-27-9. BONDS--~~[TO BE KNOWN AS]~~ SEVERANCE TAX BONDS AND
23 SUPPLEMENTAL SEVERANCE TAX BONDS.--

24 A. Prior to July 1, 1999, all bonds issued wherein
25 the money in the severance tax bonding fund is pledged for

.191083.2

underscored material = new
[bracketed material] = delete

underscored material = new
[bracketed material] = delete

1 their retirement shall be known as "New Mexico severance tax
2 bonds".

3 B. After July 1, 1999, there shall be two
4 categories of bonds issued by the state board of finance
5 wherein the money in the severance tax bonding fund is pledged
6 for their retirement. Those bonds shall be known as "New
7 Mexico severance tax bonds" and as "New Mexico supplemental
8 severance tax bonds".

9 C. From July 1, 2014 through June 30, 2017, New
10 Mexico supplemental severance tax bonds shall include:

11 (1) supplemental public school severance tax
12 bonds used for public school capital outlay projects, as
13 provided in Subsection A of Section 7-27-12.2 NMSA 1978;

14 (2) supplemental road severance tax bonds,
15 used for construction, maintenance and improvements of state
16 transportation projects as provided in Subsection D of Section
17 7-27-12.2 NMSA 1978; and

18 (3) supplemental higher education severance
19 tax bonds, used for construction, maintenance and improvements
20 of state higher education infrastructure projects as provided
21 in Subsection G of Section 7-27-12.2 NMSA 1978.

22 D. On and after July 1, 2017, New Mexico
23 supplemental severance tax bonds shall be used for public
24 school capital outlay projects, as provided in Subsection A of
25 Section 7-27-12.2 NMSA 1978."

.191083.2

underscored material = new
[bracketed material] = delete

1 SECTION 2. Section 7-27-12 NMSA 1978 (being Laws 1961,
2 Chapter 5, Section 10, as amended by Laws 2001, Chapter 37,
3 Section 1 and by Laws 2001, Chapter 338, Section 1) is amended
4 to read:

5 "7-27-12. WHEN SEVERANCE TAX BONDS TO BE ISSUED--USE OF
6 PROCEEDS.--

7 A. The state board of finance shall issue and sell
8 all severance tax bonds when authorized to do so by any law
9 that sets out the amount of the issue and the recipient of the
10 money.

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

20 C. [~~Except as provided in Subsection D of this~~
21 ~~section~~] Proceeds from supplemental severance tax bonds shall
22 be used [~~only for public school capital outlay projects~~
23 ~~pursuant to the Public School Capital Outlay Act or the Public~~
24 ~~School Capital Improvements Act~~] as follows:

25 (1) proceeds from supplemental public school

.191083.2

underscored material = new
[bracketed material] = delete

1 severance tax bonds issued pursuant to Subsection A of Section
2 7-27-12.2 NMSA 1978 shall be used for the purposes specified in
3 that subsection;

4 ~~[D.]~~ (2) proceeds from supplemental severance
5 tax bonds issued pursuant to Paragraph (2) of Subsection A of
6 Section 19 of Chapter 6 of Laws 1999 (1st S.S.) shall be used
7 for the purposes specified in that paragraph;

8 ~~[E. Except as provided in Subsection F of this~~
9 ~~section]~~

10 (3) proceeds from supplemental road severance
11 tax bonds issued pursuant to Subsection D of Section 7-27-12.2
12 NMSA 1978 shall be used for the purposes specified in that
13 subsection; and

14 (4) proceeds from supplemental higher
15 education severance tax bonds issued pursuant to Subsection G
16 of Section 7-27-12.2 NMSA 1978 shall be used for the purposes
17 specified in that subsection.

18 D. The state board of finance shall:

19 (1) issue and sell all supplemental public
20 school severance tax bonds when so instructed by resolution of
21 the public school capital outlay council pursuant to Section
22 7-27-12.2 NMSA 1978;

23 (2) issue and sell all supplemental road
24 severance tax bonds when so instructed by resolution of the
25 state transportation commission pursuant to Section 7-27-12.2

.191083.2

underscored material = new
[bracketed material] = delete

1 NMSA 1978; and

2 (3) issue and sell all supplemental higher
3 education severance tax bonds when so instructed by resolution
4 of the higher education department pursuant to Section
5 7-27-12.2 NMSA 1978.

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

11 **SECTION 3.** Section 7-27-12.2 NMSA 1978 (being Laws 2001,
12 Chapter 338, Section 2, as amended) is amended to read:

13 "7-27-12.2. SUPPLEMENTAL PUBLIC SCHOOL SEVERANCE TAX
14 BONDS--PUBLIC SCHOOL CAPITAL OUTLAY PROJECTS--~~SUPPLEMENTAL ROAD~~
15 AND HIGHER EDUCATION SEVERANCE TAX BONDS.--

16 A. The public school capital outlay council is
17 authorized to certify by resolution that proceeds of
18 supplemental public school severance tax bonds are needed for
19 expenditures relating to public school capital outlay projects
20 pursuant to the Public School Capital Outlay Act or for the
21 state distribution for public school capital improvements
22 pursuant to the Public School Capital Improvements Act. The
23 resolution shall specify the total amount needed.

24 B. The state board of finance may issue and sell
25 supplemental public school severance tax bonds in compliance

.191083.2

underscored material = new
[bracketed material] = delete

1 with the Severance Tax Bonding Act when the public school
2 capital outlay council certifies by resolution the need for the
3 issuance of the bonds. The amount of the bonds sold at each
4 sale shall not exceed the lesser of the amount certified by the
5 council or the amount that may be issued pursuant to the
6 restrictions of Section 7-27-14 NMSA 1978.

7 ~~[G. The state board of finance shall schedule the~~
8 ~~issuance and sale of the bonds in the most expeditious and~~
9 ~~economical manner possible.~~

10 ~~D.]~~ C. The proceeds from the sale of the
11 supplemental public school severance tax bonds are appropriated
12 as follows:

13 (1) the amount certified by the secretary of
14 public education as necessary to make the distribution pursuant
15 to Section 22-25-9 NMSA 1978 is appropriated to the public
16 school capital improvements fund for the purpose of carrying
17 out the provisions of the Public School Capital Improvements
18 Act; and

19 (2) the remainder of the proceeds is
20 appropriated to the public school capital outlay fund for the
21 purpose of carrying out the provisions of the Public School
22 Capital Outlay Act.

23 D. The state transportation commission is
24 authorized to certify by resolution that proceeds of
25 supplemental road severance tax bonds are needed for eligible

.191083.2

underscored material = new
[bracketed material] = delete

1 projects related to construction, maintenance and improvements
2 of state transportation infrastructure. The resolution shall
3 specify the total amount needed.

4 E. The state board of finance may issue and sell
5 supplemental road severance tax bonds in compliance with the
6 Severance Tax Bonding Act when the state transportation
7 commission certifies by resolution the need for the issuance of
8 the bonds. The amount of the bonds sold at each sale shall not
9 exceed the lesser of the amount certified by the commission or
10 the amount that may be issued pursuant to the restrictions
11 provided in Section 7-27-14 NMSA 1978.

12 F. The proceeds from the sale of the supplemental
13 road severance tax bonds are appropriated to the state road
14 fund for eligible projects as provided in Subsection D of this
15 section.

16 G. The higher education department is authorized to
17 certify by resolution that proceeds of supplemental higher
18 education severance tax bonds are needed for eligible projects
19 related to construction, maintenance and improvements of higher
20 education infrastructure. The resolution shall specify the
21 total amount needed.

22 H. The state board of finance may issue and sell
23 supplemental higher education severance tax bonds in compliance
24 with the Severance Tax Bonding Act when the higher education
25 department certifies by resolution the need for the issuance of

.191083.2

underscored material = new
[bracketed material] = delete

1 the bonds. The amount of the bonds sold at each sale shall not
2 exceed the lesser of the amount certified by the department or
3 the amount that may be issued pursuant to the restrictions
4 provided in Section 7-27-14 NMSA 1978.

5 I. The proceeds from the sale of the supplemental
6 higher education severance tax bonds are appropriated to the
7 higher education department for eligible projects as provided
8 in Subsection G of this section.

9 J. For the purpose of this section, "eligible
10 project" means a project that is ready to begin expending funds
11 within twelve months of issuance of bonds and that has been
12 specifically authorized by law.

13 K. The state board of finance shall schedule the
14 issuance and sale of supplemental severance tax bonds in the
15 most expeditious and economical manner possible."

16 **SECTION 4.** Section 7-27-14 NMSA 1978 (being Laws 1961,
17 Chapter 5, Section 11, as amended) is amended to read:

18 "7-27-14. AMOUNT OF TAX--SECURITY FOR BONDS.--

19 A. The legislature shall provide for the continued
20 assessment, levy, collection and deposit into the severance tax
21 bonding fund of the tax or taxes upon natural resource products
22 severed and saved from the soil of the state that, together
23 with such other income as may be deposited to the fund, will be
24 sufficient to produce an amount that is at least the amount
25 necessary to meet annual debt service charges on all

.191083.2

underscored material = new
[bracketed material] = delete

1 outstanding severance tax bonds and supplemental severance tax
2 bonds.

3 B. Except as otherwise specifically provided by
4 law, the state board of finance shall not issue [~~ne~~] severance
5 tax bonds unless the aggregate amount of severance tax bonds
6 outstanding, and including the issue proposed, can be serviced
7 with not more than fifty percent of the annual deposits into
8 the severance tax bonding fund, as determined by the deposits
9 during the preceding fiscal year.

10 C. The state board of finance shall not issue [~~ne~~]
11 supplemental public school severance tax bonds with a term that
12 extends beyond the fiscal year in which the bonds are issued
13 unless the aggregate amount of severance tax bonds and
14 supplemental severance tax bonds outstanding, and including the
15 issue proposed, can be serviced with not more than sixty-two
16 and one-half percent of the annual deposits into the severance
17 tax bonding fund, as determined by the deposits during the
18 preceding fiscal year.

19 D. Except as otherwise specifically provided by
20 law, the state board of finance may issue supplemental road
21 severance tax bonds with a term that does not extend beyond the
22 fiscal year in which they are issued if:

23 (1) the debt service on such supplemental road
24 severance tax bonds when added to the debt service previously
25 paid or scheduled to be paid during that fiscal year on

.191083.2

underscored material = new
[bracketed material] = delete

1 severance tax bonds does not exceed sixty-seven percent of the
2 deposits into the severance tax bonding fund during the
3 preceding fiscal year; and

4 (2) the debt service for supplemental road
5 severance tax bonds does not exceed four and one-half percent
6 of the deposits into the severance tax bonding fund during the
7 preceding fiscal year.

8 E. Except as otherwise specifically provided by
9 law, the state board of finance may issue supplemental higher
10 education severance tax bonds with a term that does not extend
11 beyond the fiscal year in which they are issued if:

12 (1) the debt service on such supplemental
13 higher education severance tax bonds when added to the debt
14 service previously paid or scheduled to be paid during that
15 fiscal year on severance tax bonds and supplemental road
16 severance tax bonds does not exceed seventy-one and one-half
17 percent of the deposits into the severance tax bonding fund
18 during the preceding fiscal year; and

19 (2) the debt service for supplemental higher
20 education severance tax bonds does not exceed four and one-half
21 percent of the deposits into the severance tax bonding fund
22 during the preceding fiscal year.

23 [~~D.~~] F. Except as otherwise specifically provided
24 by law, the state board of finance may issue supplemental
25 public school severance tax bonds with a term that does not

underscored material = new
[bracketed material] = delete

1 extend beyond the fiscal year in which they are issued if the
2 debt service on such supplemental public school severance tax
3 bonds when added to the debt service previously paid or
4 scheduled to be paid during that fiscal year on severance tax
5 bonds, [~~and~~] supplemental public school severance tax bonds,
6 supplemental road severance tax bonds and supplemental higher
7 education severance tax bonds does not exceed ninety-five
8 percent of the deposits into the severance tax bonding fund
9 during the preceding fiscal year.

10 [~~E.~~] G. The provisions of this section shall not be
11 modified by the terms of any severance tax bonds or
12 supplemental severance tax bonds hereafter issued."

13 **SECTION 5.** Section 7-27-12 NMSA 1978 (being Laws 1961,
14 Chapter 5, Section 10, as amended by Section 2 of this act) is
15 repealed and a new Section 7-27-12 NMSA 1978 is enacted to
16 read:

17 "7-27-12. [NEW MATERIAL] WHEN SEVERANCE TAX BONDS TO BE
18 ISSUED.--

19 A. The state board of finance shall issue and sell
20 all severance tax bonds when authorized to do so by any law
21 that sets out the amount of the issue and the recipient of the
22 money.

23 B. The state board of finance shall also issue and
24 sell severance tax bonds authorized by Sections 72-14-36
25 through 72-14-42 NMSA 1978, and such authority as has been

.191083.2

underscoring material = new
~~[bracketed material] = delete~~

1 given to the interstate stream commission to issue and sell
2 such bonds is transferred to the state board of finance. The
3 state board of finance shall issue and sell all severance tax
4 bonds only when so instructed by resolution of the governing
5 body or by written direction from an authorized officer of the
6 recipient of the bond money.

7 C. Except as provided in Subsection D of this
8 section, proceeds from supplemental severance tax bonds shall
9 be used only for public school capital outlay projects pursuant
10 to the Public School Capital Outlay Act or the Public School
11 Capital Improvements Act.

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

16 E. Except as provided in Subsection F of this
17 section, the state board of finance shall issue and sell all
18 supplemental severance tax bonds when so instructed by
19 resolution of the public school capital outlay council pursuant
20 to Section 7-27-12.2 NMSA 1978.

21 F. The state board of finance shall issue and sell
22 supplemental severance tax bonds authorized by Paragraph (2) of
23 Subsection A of Section 19 of Chapter 6 of Laws 1999 (1st S.S.)
24 when so instructed by resolution of the higher education
25 department."

.191083.2

underscoring material = new
~~[bracketed material] = delete~~

1 SECTION 6. Section 7-27-12.2 NMSA 1978 (being Laws 2001,
2 Chapter 338, Section 2, as amended by Section 3 of this act) is
3 repealed and a new Section 7-27-12.2 NMSA 1978 is enacted to
4 read:

5 "7-27-12.2. [NEW MATERIAL] SUPPLEMENTAL SEVERANCE TAX
6 BONDS--PUBLIC SCHOOL CAPITAL OUTLAY PROJECTS.--

7 A. The public school capital outlay council is
8 authorized to certify by resolution that proceeds of
9 supplemental severance tax bonds are needed for expenditures
10 relating to public school capital outlay projects pursuant to
11 the Public School Capital Outlay Act or for the state
12 distribution for public school capital improvements pursuant to
13 the Public School Capital Improvements Act. The resolution
14 shall specify the total amount needed.

15 B. The state board of finance may issue and sell
16 supplemental severance tax bonds in compliance with the
17 Severance Tax Bonding Act when the public school capital outlay
18 council certifies by resolution the need for the issuance of
19 the bonds. The amount of the bonds sold at each sale shall not
20 exceed the lesser of the amount certified by the council or the
21 amount that may be issued pursuant to the restrictions of
22 Section 7-27-14 NMSA 1978.

23 C. The state board of finance shall schedule the
24 issuance and sale of the bonds in the most expeditious and
25 economical manner possible.

.191083.2

underscored material = new
~~[bracketed material] = delete~~

1 D. The proceeds from the sale of the bonds are
2 appropriated as follows:

3 (1) the amount certified by the secretary of
4 public education as necessary to make the distribution pursuant
5 to Section 22-25-9 NMSA 1978 is appropriated to the public
6 school capital improvements fund for the purpose of carrying
7 out the provisions of the Public School Capital Improvements
8 Act; and

9 (2) the remainder of the proceeds is
10 appropriated to the public school capital outlay fund for the
11 purpose of carrying out the provisions of the Public School
12 Capital Outlay Act."

13 **SECTION 7.** Section 7-27-14 NMSA 1978 (being Laws 1961,
14 Chapter 5, Section 11, as amended by Section 4 of this act) is
15 repealed and a new Section 7-27-14 NMSA 1978 is enacted to
16 read:

17 "7-27-14. [NEW MATERIAL] AMOUNT OF TAX--SECURITY FOR
18 BONDS.--

19 A. The legislature shall provide for the continued
20 assessment, levy, collection and deposit into the severance tax
21 bonding fund of the tax or taxes upon natural resource products
22 severed and saved from the soil of the state that, together
23 with such other income as may be deposited to the fund, will be
24 sufficient to produce an amount that is at least the amount
25 necessary to meet annual debt service charges on all

.191083.2

underscoring material = new
~~[bracketed material] = delete~~

1 outstanding severance tax bonds and supplemental severance tax
2 bonds.

3 B. Except as otherwise specifically provided by
4 law, the state board of finance shall issue no severance tax
5 bonds unless the aggregate amount of severance tax bonds
6 outstanding, and including the issue proposed, can be serviced
7 with not more than fifty percent of the annual deposits into
8 the severance tax bonding fund, as determined by the deposits
9 during the preceding fiscal year.

10 C. The state board of finance shall issue no
11 supplemental severance tax bonds with a term that extends
12 beyond the fiscal year in which the bonds are issued unless the
13 aggregate amount of severance tax bonds and supplemental
14 severance tax bonds outstanding, and including the issue
15 proposed, can be serviced with not more than sixty-two and
16 one-half percent of the annual deposits into the severance tax
17 bonding fund, as determined by the deposits during the
18 preceding fiscal year.

19 D. Except as otherwise specifically provided by
20 law, the state board of finance may issue supplemental
21 severance tax bonds with a term that does not extend beyond the
22 fiscal year in which they are issued if the debt service on
23 such supplemental severance tax bonds when added to the debt
24 service previously paid or scheduled to be paid during that
25 fiscal year on severance tax bonds and supplemental severance

.191083.2

underscoring material = new
~~[bracketed material] = delete~~

1 tax bonds does not exceed ninety-five percent of the deposits
2 into the severance tax bonding fund during the preceding fiscal
3 year.

4 E. The provisions of this section shall not be
5 modified by the terms of any severance tax bonds or
6 supplemental severance tax bonds hereafter issued."

7 SECTION 8. REPEAL.--Laws 2001, Chapter 37, Section 1 is
8 repealed.

9 SECTION 9. EFFECTIVE DATE.--

10 A. The effective date of the provisions of Sections
11 1 through 4 and 8 of this act is July 1, 2014.

12 B. The effective date of the provisions of Sections
13 5 through 7 of this act is July 1, 2017.

14 - 16 -
15
16
17
18
19
20
21
22
23
24
25