

1 AN ACT

2 RELATING TO PUBLIC FINANCE; AUTHORIZING A CERTAIN AMOUNT OF  
3 SEVERANCE TAX BONDS THAT MAY BE ISSUED IN FISCAL YEAR 2024;  
4 REQUIRING CERTAIN ESTIMATES OF BONDING CAPACITY AVAILABLE FOR  
5 SEVERANCE TAX BONDS; AUTHORIZING SEVERANCE TAX BONDS FOR  
6 PROJECTS FUNDED BY DISTRIBUTIONS FROM A NEW CAPITAL  
7 DEVELOPMENT AND RESERVE FUND TO A NEW CAPITAL DEVELOPMENT  
8 PROGRAM FUND; MAKING AN APPROPRIATION.

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

11 SECTION 1. Section 7-27-10 NMSA 1978 (being Laws 1961,  
12 Chapter 5, Section 8, as amended) is amended to read:

13 "7-27-10. STATE BOARD OF FINANCE SHALL ISSUE BONDS.--

14 A. The state board of finance is authorized to  
15 issue and sell severance tax bonds within the provisions of  
16 the Severance Tax Bonding Act, and no other agency of the  
17 state is authorized to issue or sell severance tax bonds.

18 B. For fiscal year 2024, the state board of  
19 finance is authorized to issue and sell up to five hundred  
20 million dollars (\$500,000,000) of severance tax bonds or  
21 notes in addition to all other authorized issuances. The  
22 actual amount shall be determined by the state board of  
23 finance after all other authorized issuances are made.

24 Proceeds from the sale of these bonds or notes shall be  
25 deposited in the capital development and reserve fund.

1           C. The state board of finance may issue and sell  
2 supplemental severance tax bonds within the provisions of the  
3 Severance Tax Bonding Act, and no other agency of the state  
4 is authorized to issue or sell supplemental severance tax  
5 bonds."

6           **SECTION 2.** Section 7-27-10.1 NMSA 1978 (being Laws  
7 2003, Chapter 134, Section 1, as amended) is amended to read:

8           "7-27-10.1. TRANSFER TO SEVERANCE TAX PERMANENT FUND  
9 BEFORE DETERMINING BONDING CAPACITY--AUTHORIZATION FOR  
10 SEVERANCE TAX BONDS--PRIORITY FOR WATER PROJECTS AND TRIBAL  
11 INFRASTRUCTURE PROJECTS.--

12           A. On December 31 of each year from 2019 through  
13 2028, the division shall transfer twenty-three million six  
14 hundred ninety thousand dollars (\$23,690,000) from the  
15 severance tax bonding fund to the severance tax permanent  
16 fund, unless the state board of finance determines that a  
17 lesser transfer amount is necessary pursuant to Section  
18 7-27-8 NMSA 1978 to avoid a potential shortfall in debt  
19 service obligations.

20           B. By January 15 of each year, the division shall  
21 estimate the amount of bonding capacity available for  
22 severance tax bonds to be authorized by the legislature based  
23 on the lesser of the following estimates:

24           (1) an estimate that provides for equal  
25 annual issuances over the expected term of bonds with terms

1 greater than one year anticipated to be issued by the state  
2 board of finance in the fiscal year in compliance with the  
3 requirements of Section 7-27-14 NMSA 1978; and

4 (2) an estimate that provides that issuances  
5 for each year of that term shall be projected to result in  
6 stable levels of state tax supported debt relative to the  
7 median state debt ratios published by the national municipal  
8 bond rating agencies.

9 C. The division shall allocate nine percent of the  
10 estimated bonding capacity each year for water projects, and  
11 the legislature authorizes the state board of finance to  
12 issue severance tax bonds in the annually allocated amount  
13 for use by the water trust board to fund water projects  
14 statewide. The water trust board shall certify to the state  
15 board of finance the need for issuance of bonds for water  
16 projects. The state board of finance may issue and sell the  
17 bonds in the same manner as other severance tax bonds in an  
18 amount not to exceed the authorized amount provided for in  
19 this subsection. If necessary, the state board of finance  
20 shall take the appropriate steps to comply with the federal  
21 Internal Revenue Code of 1986, as amended. Proceeds from the  
22 sale of the bonds are appropriated to the water project fund  
23 in the New Mexico finance authority for the purposes  
24 certified by the water trust board to the state board of  
25 finance.

1           D. The division shall allocate four and one-half  
2 percent of the estimated bonding capacity for tribal  
3 infrastructure projects.

4           E. The legislature authorizes the state board of  
5 finance to issue severance tax bonds in the amount provided  
6 for in this section for use by the tribal infrastructure  
7 board to fund tribal infrastructure projects. The tribal  
8 infrastructure board shall certify to the state board of  
9 finance the need for issuance of bonds for tribal  
10 infrastructure projects. The state board of finance may  
11 issue and sell the bonds in the same manner as other  
12 severance tax bonds in an amount not to exceed the authorized  
13 amount provided for in this section. If necessary, the state  
14 board of finance shall take the appropriate steps to comply  
15 with the federal Internal Revenue Code of 1986, as amended.  
16 Proceeds from the sale of the bonds are appropriated to the  
17 tribal infrastructure project fund for the purposes certified  
18 by the tribal infrastructure board to the state board of  
19 finance.

20           F. Money from the severance tax bonds provided for  
21 in this section shall not be used to pay indirect project  
22 costs. Any unexpended balance from proceeds of severance tax  
23 bonds issued for a water project or a tribal infrastructure  
24 project shall revert to the severance tax bonding fund within  
25 six months of completion of the project. The New Mexico

1 finance authority shall monitor and ensure proper reversions  
2 of the bond proceeds appropriated for water projects, and the  
3 department of finance and administration shall monitor and  
4 ensure proper reversions of the bond proceeds appropriated  
5 for tribal infrastructure projects.

6 G. As used in this section:

7 (1) "division" means the board of finance  
8 division of the department of finance and administration;

9 (2) "tribal infrastructure project" means a  
10 qualified project under the Tribal Infrastructure Act; and

11 (3) "water project" means a capital outlay  
12 project for:

13 (a) the storage, conveyance or delivery  
14 of water to end users;

15 (b) the implementation of federal  
16 Endangered Species Act of 1973 collaborative programs;

17 (c) the restoration and management of  
18 watersheds;

19 (d) flood prevention; or

20 (e) conservation, recycling, treatment  
21 or reuse of water."

22 SECTION 3. A new section of the Severance Tax Bonding  
23 Act is enacted to read:

24 "CAPITAL DEVELOPMENT AND RESERVE FUND.--

25 A. The "capital development and reserve fund" is

1 created as a nonreverting fund in the state treasury. The  
2 fund consists of distributions, appropriations, gifts, grants  
3 and donations. Income from investment of the fund shall be  
4 credited to the fund. Money in the fund shall be expended  
5 only as provided in Subsections E through F of this section.  
6 Money in the fund shall not be pledged against any state  
7 debt.

8 B. The state investment officer, subject to the  
9 approval of the council, shall invest money in the fund:

10 (1) in accordance with the prudent investor  
11 rule set forth in the Uniform Prudent Investor Act; and

12 (2) in consultation with the state  
13 treasurer.

14 C. The state investment officer shall report  
15 quarterly to the legislative finance committee and the  
16 council on the investments made pursuant to this section.  
17 Annually, a report shall be submitted no later than October 1  
18 each year to the legislative finance committee, the revenue  
19 stabilization and tax policy committee and any other  
20 appropriate interim committees.

21 D. On January 1 of each year, a distribution shall  
22 be made from the capital development and reserve fund to the  
23 capital development program fund in an amount equal to five  
24 percent of the average of the fiscal year-end market values  
25 of the capital development and reserve fund for the

1 immediately preceding three fiscal years. If, on January 1  
2 of a year, the capital development and reserve fund has been  
3 in effect for less than three fiscal years, the distribution  
4 shall be in an amount equal to five percent of the average of  
5 the fiscal year-end market values of the capital development  
6 and reserve fund for the immediately preceding number of  
7 fiscal years that the fund has been in effect.

8 E. Money in the fund is subject to appropriation  
9 by the legislature for capital projects or for transfer to  
10 the severance tax permanent fund.

11 F. Money in the capital development and reserve  
12 fund may be expended in the event that the balance of the  
13 severance tax bonding fund is insufficient to meet principal  
14 and interest payments on outstanding bonds. In that event,  
15 the balance in the reserve fund shall be transferred to the  
16 severance tax bonding fund only in the amount necessary to  
17 meet the principal and interest payments."

18 SECTION 4. A new section of the Severance Tax Bonding  
19 Act is enacted to read:

20 "CAPITAL DEVELOPMENT PROGRAM FUND.--The "capital  
21 development program fund" is created as a nonreverting fund  
22 as a subaccount of the severance tax bonding fund. The fund  
23 consists of distributions, appropriations, gifts, grants,  
24 donations and income from investment of the fund. The  
25 department of finance and administration shall administer the

1 fund. Money in the fund is subject to appropriation by the  
2 legislature to fund capital projects with a total cost of  
3 less than five million dollars (\$5,000,000) and only the  
4 planning and design of capital projects with a total cost  
5 greater than that amount. Expenditures from the fund shall  
6 be by warrant of the secretary of finance and administration  
7 pursuant to vouchers signed by the secretary of finance and  
8 administration or the secretary's authorized representative.  
9 Any unexpended or unencumbered balance of an appropriation  
10 for a capital project remaining after two years following the  
11 date of the appropriation shall revert to the severance tax  
12 permanent fund."

13 SECTION 5. A new section of the Severance Tax Bonding  
14 Act is enacted to read:

15 "AUTHORIZATION FOR SEVERANCE TAX BONDS--PRIORITY FOR  
16 PROJECTS FUNDED BY THE CAPITAL DEVELOPMENT PROGRAM FUND.--

17 A. After the annual estimate of severance tax  
18 bonding capacity pursuant to Subsection B of Section  
19 7-27-10.1 NMSA 1978, the board of finance division of the  
20 department of finance and administration shall allocate an  
21 amount equal to the difference between the estimated average  
22 annual principal and interest to be repaid from the amount  
23 estimated pursuant to Paragraph (1) of Subsection B of  
24 Section 7-27-10.1 NMSA 1978 for the term of an issuance less  
25 the estimated average annual principal and interest to be



1 repaid from the amount estimated pursuant to Paragraph (2) of  
2 Subsection B of Section 7-27-10.1 NMSA 1978; provided that  
3 the difference is greater than zero. The division shall not  
4 issue debt with a term greater than one year for the  
5 allocated amount.

6 B. The legislature authorizes the state board of  
7 finance to issue severance tax bonds in the amount allocated  
8 pursuant to Subsection A of this section for projects funded  
9 by the capital development program fund. The state board of  
10 finance may issue and sell the bonds in the same manner as  
11 other severance tax bonds in an amount not to exceed the  
12 authorized amount provided for in this subsection. If  
13 necessary, the state board of finance shall take the  
14 appropriate steps to comply with the federal Internal Revenue  
15 Code of 1986, as amended. Proceeds from the sale of the  
16 bonds are appropriated to the capital development and reserve  
17 fund.

18 C. Money from the severance tax bonds provided for  
19 in this section shall not be used to pay indirect project  
20 costs." \_\_\_\_\_

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