



The Legislature of the State of New Mexico

48th Legislature, 2nd Special Session

LAWS 2008

CHAPTER 9

HOUSE BILL 10

with emergency clause

EMERGENCY CLAUSE

Introduced by

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REPRESENTATIVE RHONDA S. KING AND REPRESENTATIVE JOHN A. HEATON
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ANDREW J. BARRERAS, JANICE E. ARNOLD-JONES, DONA G. IRWIN,
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GLORIA C. VAUGHN, WILLIAM "BILL" R. REHM, W. KEN MARTINEZ,
RICHARD D. VIGIL, RAY BEGAYE, THOMAS A. GARCIA,
ANTONIO "MOE" MAESTAS, THOMAS C. TAYLOR, DON L. TRIPP,
ANDY NUÑEZ, KEITH J. GARDNER AND RICHARD J. BERRY



CHAPTER 9

AN ACT

1
2 PROVIDING FUNDING TO THE DEPARTMENT OF TRANSPORTATION FOR
3 CERTAIN ROAD PROJECTS ENUMERATED IN LAWS 2003 (S.S.), CHAPTER
4 3, SECTION 27; AUTHORIZING THE ISSUANCE OF SEVERANCE TAX
5 BONDS; MAKING APPROPRIATIONS; DECLARING AN EMERGENCY.
6

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

8 Section 1. SEVERANCE TAX BONDS--AUTHORIZATIONS--
9 LIMITATIONS--REVERSIONS--APPROPRIATION OF PROCEEDS.--

10 A. In addition to any authority provided to the
11 state board of finance to issue and sell severance tax bonds
12 in fiscal year 2009 provided in Laws 2007 (1st S.S.), Chapter
13 3, Section 1, the state board of finance may issue and sell
14 severance tax bonds in fiscal years 2009 through 2011 in
15 compliance with the Severance Tax Bonding Act in an amount not
16 to exceed one hundred fifty million dollars (\$150,000,000);
17 provided that no more than seventy-five million dollars
18 (\$75,000,000) shall be issued in any single fiscal year
19 pursuant to this section. The state board of finance shall
20 schedule the issuance and sale of the bonds in the most
21 expeditious and economical manner possible upon a finding by
22 the board that the projects to be included in the sale have
23 been developed sufficiently to justify the issuance and that
24 the projects can proceed to contract within a reasonable time.
25 The state board of finance shall further take the appropriate

1 steps necessary to comply with the Internal Revenue Code of
2 1986, as amended. Proceeds from the sale of the bonds are
3 appropriated to the department of transportation for projects
4 authorized in Paragraphs (1) and (3) through (37) of
5 Subsection A of Section 27 of Chapter 3 of Laws 2003 (S.S.);
6 provided that the department of transportation shall comply
7 with the requirements of Subsections C through E of Section
8 67-3-59.4 NMSA 1978.

9 B. The department of transportation shall certify
10 to the state board of finance when the money from the proceeds
11 of the severance tax bonds authorized in this section is
12 needed for the purposes specified in Paragraphs (1) and (3)
13 through (37) of Subsection A of Section 27 of Chapter 3 of
14 Laws 2003 (S.S.). If the department of transportation has not
15 certified the need for the issuance of the bonds provided for
16 in this section by the end of fiscal year 2011, the
17 authorization for the bonds provided in this section is void.

18 C. Before the department of transportation may
19 certify for the issuance of severance tax bonds, the projects
20 to be included in the sale must be developed sufficiently so
21 that the department reasonably expects to:

22 (1) incur within six months after the
23 applicable bonds have been issued substantial binding
24 obligations to third parties to expend at least five percent
25 of the bond proceeds for the projects; and

1 (2) spend at least eighty-five percent of
2 the bond proceeds within three years after the applicable
3 bonds have been issued.

4 D. The unexpended balance from the proceeds of
5 severance tax bonds issued pursuant to this section shall
6 revert to the severance tax bonding fund no later than six
7 months after completion of the projects authorized in
8 Paragraphs (1) and (3) through (37) of Subsection A of Section
9 27 of Chapter 3 of Laws 2003 (S.S.), but no later than the end
10 of fiscal year 2013.

11 E. All remaining balances from the proceeds of
12 severance tax bonds issued pursuant to this section shall
13 revert to the severance tax bonding fund three months after
14 the reversion date established in Subsection D of this
15 section, whether or not any of the remaining balances are
16 subject to contractual obligations to third parties.

17 F. Money from severance tax bond proceeds provided
18 pursuant to this section shall not be used to pay indirect
19 project costs.

20 G. As used in this section, "unexpended balance"
21 means the remainder of an appropriation after reserving for
22 unpaid costs and expenses covered by binding written
23 obligations to third parties.

24 Section 2. GENERAL FUND APPROPRIATIONS--LIMITATIONS--
25 REVERSIONS.--

1 A. As used in this section:

2 (1) "general fund consensus revenue
3 forecast" means the revenue estimates prepared by the career
4 economists of the department of finance and administration,
5 taxation and revenue department, department of transportation
6 and legislative finance committee;

7 (2) "reserves" means "reserves as a
8 percentage of current-year recurring appropriations"
9 established in the general fund financial summary released by
10 the department of finance and administration in conjunction
11 with the general fund consensus revenue forecast; and

12 (3) "unexpended balance" means the remainder
13 of an appropriation after reserving for unpaid costs and
14 expenses covered by binding written obligations to third
15 parties.

16 B. The following amounts are appropriated from the
17 general fund to the department of transportation for the
18 following purposes subject to the identified conditions
19 precedent:

20 (1) twenty-five million dollars
21 (\$25,000,000) for expenditure in fiscal years 2009 through
22 2013 for projects authorized in Paragraphs (1) and (3) through
23 (37) of Subsection A of Section 27 of Chapter 3 of Laws 2003
24 (S.S.); provided that the department of transportation shall
25 comply with the requirements of Subsections C through E of

1 Section 67-3-59.4 NMSA 1978; and provided further that this
2 appropriation is contingent on either:

3 (a) the general fund consensus revenue
4 forecast released in December 2008 projecting sufficient
5 fiscal year 2009 revenue to create reserves at the end of
6 fiscal year 2009 of at least ten percent plus eighty-six
7 million five hundred thousand dollars (\$86,500,000); or

8 (b) the general fund consensus revenue
9 forecast released in July 2009 projecting sufficient fiscal
10 year 2010 revenue to create reserves at the end of fiscal year
11 2010 of at least ten percent plus twenty-five million dollars
12 (\$25,000,000); and

13 (2) twenty-five million dollars
14 (\$25,000,000) for expenditure in fiscal years 2010 through
15 2013 for projects authorized in Paragraphs (1) and (3) through
16 (37) of Subsection A of Section 27 of Chapter 3 of Laws 2003
17 (S.S.); provided that the department of transportation shall
18 comply with the requirements of Subsections C through E of
19 Section 67-3-59.4 NMSA 1978; and provided further that this
20 appropriation is contingent on the general fund consensus
21 revenue forecast released in July 2009 projecting sufficient
22 fiscal year 2010 revenue to create reserves at the end of
23 fiscal year 2010 of at least ten percent plus:

24 (a) twenty-five million dollars
25 (\$25,000,000) if the contingency in the appropriation in

1 Paragraph (1) of this subsection was met based on the December
2 2008 general fund consensus revenue forecast; or

3 (b) fifty million dollars (\$50,000,000)
4 if the contingency in the appropriation in Paragraph (1) of
5 this subsection was not met based on the December 2008 general
6 fund consensus revenue forecast.

7 C. The unexpended balance of an appropriation made
8 in this section from the general fund shall revert within six
9 months of completion of the projects authorized in Paragraphs
10 (1) and (3) through (37) of Subsection A of Section 27 of
11 Chapter 3 of Laws 2003 (S.S.), but no later than the end of
12 fiscal year 2013.

13 D. All remaining balances from a general fund
14 appropriation made in this section shall revert three months
15 after the reversion date established in Subsection C of this
16 section, whether or not any of the remaining balances are
17 subject to contractual obligations to third parties.

18 E. Upon satisfaction of any conditions and
19 certification by the department of transportation that money
20 from a general fund appropriation made in this section is
21 needed for a purpose specified in the appropriation, the
22 secretary of finance and administration shall disburse that
23 amount of the appropriation for that purpose as necessary to
24 meet that need.

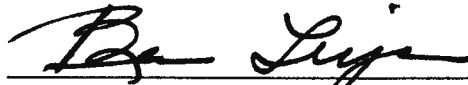
25 F. Money from appropriations made in this section

1 shall not be used to pay indirect project costs.

2 Section 3. EMERGENCY.--It is necessary for the public
3 peace, health and safety that this act take effect
4 immediately.

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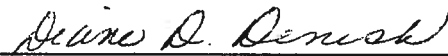
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BEN LUJAN, SPEAKER
HOUSE OF REPRESENTATIVES



STEPHEN R. ARIAS, CHIEF CLERK
HOUSE OF REPRESENTATIVES



DIANE D. DENISH, PRESIDENT
SENATE



LENORE M. NARANJO, CHIEF CLERK
SENATE

Approved by me this 2nd day of September, 2008



BILL RICHARDSON, GOVERNOR
STATE OF NEW MEXICO