

Cross references. — For deposit of receipts from taxes in severance tax bonding fund, see 7-27-2 NMSA 1978.

Law reviews. — For comment, "Constitutional Limitations On State Severance Taxes," see 20 Nat. Resources J. 887 (1980).

For comment, "An Outline For Development of Cost-Based State Severance Taxes," see 20 Nat. Resources J. 913 (1980).

7-26-9. Repealed.

ANNOTATIONS

Repeals. — Laws 1989, ch. 261, § 2 repealed 7-26-9 NMSA 1978, as enacted by Laws 1977, ch. 102, § 14, relating to severance tax surtax, effective July 1, 1989.

7-26-10. Repealed.

ANNOTATIONS

Repeals. — Laws 1995, ch. 70, § 23 repealed 7-26-10 NMSA 1978, as enacted by Laws 1977, ch. 102, § 1, relating to the purpose of the act, effective July 1, 1995. For provisions of former section, see the 1994 NMSA 1978 on *NMOneSource.com*.

7-26-11. Repealed.

ANNOTATIONS

Repeals. — Laws 1995, ch. 70, § 23 repealed 7-26-11 NMSA 1978, as enacted by Laws 1980, ch. 62, § 12, relating to prohibition of double taxation, effective July 1, 1995. For provisions of former sections, see the 1994 NMSA 1978 on *NMOneSource.com*.

ARTICLE 27

Severance Tax Bonding Act

7-27-1. Short title.

Sections 7-27-1 through 7-27-27 NMSA 1978 may be cited as the "Severance Tax Bonding Act".

History: 1953 Comp., § 72-18-29, enacted by Laws 1961, ch. 5, § 2; 2000, ch. 97, § 1.

ANNOTATIONS

The 2000 amendment, effective May 17, 2000, substituted "Sections 7-27-1 through 7-27-27 NMSA 1978" for "This act".

Law reviews. — For article, "New Mexico's Effort at Rational Taxation of Hard-Minerals Extraction," see 10 Nat. Resources J. 415 (1970).

For article, "New Mexico Taxes: Taking Another Look," see 32 N.M.L. Rev. 351 (2002).

7-27-2. Severance tax bonding fund created.

There is created the "severance tax bonding fund" into which shall be distributed, in accordance with the Tax Administration Act [Chapter 7, Article 1 NMSA 1978], the net receipts from taxes levied upon natural resource products severed and saved from the soil in accordance with the provisions of the Severance Tax Act [7-26-1 to 7-26-8 NMSA 1978] and the Oil and Gas Severance Tax Act [Chapter 7, Article 29 NMSA 1978] and into which shall be deposited such other money as the legislature may from time to time determine.

History: 1953 Comp., § 72-18-30, enacted by Laws 1961, ch. 5, § 3; 1973, ch. 294, § 1; 1985, ch. 65, § 26.

ANNOTATIONS

Cross references. — For transfers from severance tax bonding fund to severance tax permanent fund, see 7-27-8 NMSA 1978.

Reappropriation of unexpended severance tax bond proceeds. — The legislature can reappropriate the balance of unexpended severance tax bond proceeds for purposes other than the purpose specified in the legislation originally authorizing the issuance and sale of the bonds, but only if the proceeds have not reverted to the severance tax bond fund and it is determined by bond counsel that the bondholders are not adversely affected by the reappropriation. 1991 Op. Att'y Gen. No. 91-01.

7-27-3. Severance tax permanent fund created.

There is created in the state treasury the "severance tax permanent fund".

History: 1953 Comp., § 72-18-30.1, enacted by Laws 1973, ch. 294, § 2; 1996, ch. 3, § 1.

ANNOTATIONS

The 1996 amendment, effective upon certification by the secretary of state that the proposed amendments to art. 8, § 10 and art. 12, §§ 2, 4, and 7 of the New Mexico Constitution have passed, substituted "fund created" for "and income funds" in the section heading, substituted "is" for "are" preceding "created in", and deleted "and the

'severance tax income fund'" from the end of the section. Those constitutional amendments, proposed by S.J.R. No. 2 (Laws 1996), were adopted at the general election held November 5, 1996, by a vote of 307,442 for and 153,021 against.

7-27-3.1. Transfer of investment powers.

The functions, powers and duties vested by law relating to the investment or reinvestment of money and the purchase, sale or exchange of investments or securities of the severance tax permanent fund are transferred to the council. The state treasurer shall maintain custody of the severance tax permanent fund but shall at all times render the fund or any part of it available for investment in accordance with the provisions of Sections 7-27-1 through 7-27-48 NMSA 1978.

History: 1978 Comp., § 7-27-3.1, enacted by Laws 1983, ch. 306, § 5.

ANNOTATIONS

Effective dates. — Laws 1983, ch. 306, § 14 made Laws 1983, ch. 306, § 5 effective July 1, 1983.

7-27-3.2. Definition.

As used in Sections 7-27-1 through 7-27-48 NMSA 1978, "council" means the state investment council.

History: 1978 Comp., § 7-27-3.2, enacted by Laws 1983, ch. 306, § 6.

ANNOTATIONS

Effective dates. — Laws 1983, ch. 306, § 14 made Laws 1983, ch. 306, § 6 effective July 1, 1983.

7-27-3.3. Severance tax permanent fund; annual distributions.

The secretary of finance and administration shall make annual distributions from the severance tax permanent fund in the amount authorized by and calculated pursuant to the provisions of Article 8, Section 10 of the constitution of New Mexico. One-twelfth of the amount authorized to be distributed in a fiscal year shall be distributed each month to the general fund.

History: Laws 1999, ch. 88, § 1.

ANNOTATIONS

Emergency clauses. — Laws 1999, ch. 88, § 3 contained an emergency clause and was approved March 19, 1999.

7-27-4. Repealed.

ANNOTATIONS

Repeals. — Laws 1996, ch. 3, § 3, repealed 7-27-4 NMSA 1978, as enacted by Laws 1973, ch. 294, § 4, relating to disposition of income from the severance tax permanent fund, effective upon certification by the secretary of state that the proposed amendments to art. 8, § 10 and art. 12, §§ 2, 4, and 7 of the New Mexico Constitution have passed. Those constitutional amendments, proposed by S.J.R. No. 2 (Laws 1996), were adopted at the general election held November 5, 1996, by a vote of 307,442 for and 153,021 against. For provisions of former section, see the 1995 NMSA 1978 on *NMOneSource.com*.

7-27-5. Investment of severance tax permanent fund.

A. The severance tax permanent fund shall be invested in separate differential rate and market rate investment classes. "Differential rate investments" are permitted in Sections 7-27-5.3 through 7-27-5.5, 7-27-5.13 through 7-27-5.17, 7-27-5.22, 7-27-5.24 and 7-27-5.26 NMSA 1978 and are intended to stimulate the economy of New Mexico and to provide income to the severance tax permanent fund. "Market rate investments" are investments that are not differential rate investments and are intended to provide income to the severance tax permanent fund. All market rate investments and differential rate investments shall be invested in accordance with the Uniform Prudent Investor Act [45-7-601 to 45-7-612 NMSA 1978] and shall be accounted for in accordance with generally accepted accounting principles.

B. In addition to the investment classes described in Subsection A of this section, the severance tax permanent fund shall be invested in loans to provide emergency economic relief to local governments as provided by Section 8 [7-27-5.27 NMSA 1978] of this 2020 act.

History: 1978 Comp., § 7-27-5, enacted by Laws 1983, ch. 306, § 7; 1987, ch. 219, § 1; 1988, ch. 133, § 2; 1988, ch. 134, § 6; 1989, ch. 265, § 2; 1990, ch. 126, § 2; 1990, ch. 127, § 9; 1990 (2nd S.S.), ch. 3, § 1; 1991, ch. 83, § 2; 1995, ch. 215, § 1; 1997, ch. 178, § 2; 2000, ch. 5, § 3; 2000 (2nd S.S.), ch. 6, § 1; 2005, ch. 240, § 3; 2020 (1st S.S.), ch. 6, § 9.

ANNOTATIONS

Cross references. — For investment of state funds generally, see 6-8-1 to 6-8-18, 6-10-10 NMSA 1978.

The 2020 (1st S.S.) amendment, effective July 7, 2020, provided for the investment of the severance tax permanent fund in loans to provide emergency economic relief to local governments; in Subsection A, after "7-27-5.24", deleted "through" and added "and"; and added Subsection B.

The 2005 amendment, effective July 1, 2005, provided that the fund shall be invested in separate differential rate and market rate investment classes; defined "differential rate investments" by reference to the statutory sections listed prior to the amendment; provided that differential rate investments are intended to provide income to the severance tax permanent fund; defined "market rate investments"; deleted the former statement of the purposes of the severance tax permanent fund and intent of market rate investments and the provision that the prudent man rule be applied to market rate investments.

The 2000 (2nd S.S.) amendment, effective July 3, 2000, substituted "and 7-27-5.24 through 7-27-5.26" for "7-27-5.24 and 7-27-5.25" in the third sentence.

The 2000 amendment, effective February 15, 2000, inserted "and 7-27-5.25" in the third sentence.

The 1997 amendment, effective on June 20, 1997, in the third sentence, deleted "7-27-5.7" following "7-27-5.5" and substituted "7-27-5.22 and 7-27-5.24 NMSA 1978" for "and 7-27-5.21 NMSA 1978" at the end.

The 1995 amendment, effective June 16, 1995, substituted "Sections 7-27-5.3 through 7-27-5.5, 7-27-5.7, 7-27-5.13 through 7-27-5.17 and 7-27-5.21 NMSA 1978" for "Sections 7-27-5.2 through 7-27-5.5, 7-27-5.7 and 7-27-5.13 through 7-27-5.17 NMSA 1978" in the second sentence.

The 1991 amendment, effective July 1, 1991, substituted the final sentence of the section for a sentence which read "The full cost pass-through accounting method shall be used to account for exchanges of fixed-income securities".

The 1990 (2nd S.S.) amendment, effective January 1, 1991, substituted "through 7-27-5.17 NMSA 1978" for "and 7-27-5.14 NMSA 1978" in the third sentence.

The 1990 amendment, effective March 30, 1990, inserted the reference to 7-27-5.14 NMSA 1978 in the third sentence.

The 1989 amendment, effective April 5, 1989, added "7-27-5.13" in the third sentence.

7-27-5.1. Repealed.

History: Laws 1983, ch. 306, § 8; 1987, ch. 306, § 1; 1988, ch. 132, § 1; 1988, ch. 133, § 1; 1989, ch. 98, § 3; 1990, ch. 91, § 2; 1992, ch. 101, § 1; 1994, ch. 121, § 1; 1996, ch. 31, § 3; 1997, ch. 45, § 1; 1998, ch. 19, § 2; 2001, ch. 252, § 7; 2004, ch. 14, § 1; repealed Laws 2005, ch. 240, § 7.

ANNOTATIONS

Repeals. — Laws 2005, ch. 240, § 7 repealed 7-27-5.1 NMSA 1978, as enacted by Laws 1983, ch. 306, § 8, relating to market rate investments, effective July 1, 2005. For provisions of former section, see the 2004 NMSA 1978 on *NMOneSource.com*.

7-27-5.2. Repealed.

History: Laws 1983, ch. 306, § 9; 1991, ch. 83, § 2; repealed by Laws 1993, ch. 267, § 5.

ANNOTATIONS

Repeals. — Laws 1993, ch. 267, § 5 repealed 7-27-5.2 NMSA 1978, as enacted by Laws 1983, ch. 306, § 9, concerning investment of the severance tax permanent fund, effective July 1, 1993. For provisions of former section, see the 1992 NMSA 1978 on *NMOneSource.com*.

7-27-5.3. Conventional mortgage pass-through securities.

A. The severance tax permanent fund may be invested in conventional mortgage pass-through securities secured by real estate situated in New Mexico. In the initial twelve-month period, the aggregate face amount of such securities shall not exceed one hundred million dollars (\$100,000,000), and in no succeeding fiscal year shall the face amount of pass-through securities authorized by the council in that fiscal year exceed one hundred million dollars (\$100,000,000).

B. The council shall establish the yield on investments in conventional mortgage pass-through securities, which yield shall be in effect from the effective date of this act until July 1, 1986. After that date, the yield shall not be less than one-half of one percent of the investment below, and shall be determined by reference to, the yield on comparable term and type government national mortgage association securities. Such yield shall not be less than one-half of one percent of the investment below, and shall be determined by reference to, the yield on comparable term and type government national mortgage association securities.

C. The council may purchase conventional mortgage pass-through securities created and issued by a mortgage pooling corporation which has purchased eligible mortgages from mortgage lenders authorized to originate mortgages in New Mexico and which maintains a permanent manned office within New Mexico; provided, however, the council may, in its discretion, purchase such conventional mortgage pass-through securities directly from such qualified mortgage lenders.

D. Conventional mortgage pass-through securities eligible for purchase by the council shall be limited to such securities issued by the federal national mortgage association or issued by a governmental agency, representing an undivided ownership interest in a pool of mortgage loans.

E. The mortgage pooling corporation and the qualified mortgage lender shall be subject to such regulations as the council may promulgate and shall enter into written agreements specifying the powers and duties of the respective parties. The council shall further establish guidelines for mortgage loans eligible for inclusion in the pass-through security, provided such guidelines do not contradict the eligibility requirements set forth in Subsection F of this section.

F. To be eligible for inclusion in a conventional mortgage pass-through security, the mortgage loan shall:

- (1) be originated by a qualified mortgage lender;
- (2) be secured by a single-family dwelling to be occupied by the owner;
- (3) be a conventional mortgage, deed of trust or other security instrument creating a first lien against the fee simple in real estate situated in New Mexico upon which there is constructed a permanent structure;
- (4) have a maximum original term not to exceed thirty years;
- (5) be made to a person domiciled in New Mexico who is eighteen years of age or older;
- (6) contain no prepayment penalties; and
- (7) not exceed the dollar limit for federal national mortgage association approved mortgages.

G. To be eligible for purchase by the council, the securities shall be based on mortgage loans on new construction for at least sixty percent of the dollar amount of the securities.

History: 1978 Comp., § 7-27-5.3, enacted by Laws 1983, ch. 306, § 10; 1984, ch. 131, § 2; 1985, ch. 222, § 1; 1987, ch. 229, § 1.

ANNOTATIONS

Cross references. — For the severance tax permanent fund, see 7-27-3 NMSA 1978.

7-27-5.4. New Mexico business investments.

No more than twenty percent of the book value of the severance tax permanent fund may be invested in the following investments and in the following amounts:

A. no more than ten percent of the book value of the severance tax permanent fund may be invested in notes or obligations securing loans to New Mexico businesses made

by farm credit entities, banks and savings and loan associations and mortgages approved by the department of housing and urban development pursuant to the act of congress of July 30, 1953 known as the Small Business Act of 1953, as amended, and notes or obligations pursuant to the act of congress of August 14, 1946 known as the Farmers' Home Administration Act of 1946, as amended, only to the extent that both principal and interest are guaranteed by the United States government. The effective yield of these loans shall be a market rate not less than the yield available on the planned amortized class tranche of collateralized mortgage obligations guaranteed by the federal national mortgage association or the federal home loan mortgage corporation with an average life comparable to the maturity of the loan. The state investment officer may enter into conventional agreements for the servicing of the loans and the administration of the receipts therefrom. Any servicing agreement may contain reasonable and customary provisions, including servicing fees not to exceed one hundred fifty basis points, as may be agreed upon; provided, in no event shall the rate paid by the borrower on the loan, together with servicing fees, exceed the maximum rate permitted by the applicable federal guarantee program; and

B. no more than ten percent of the book value of the fund may be invested in bonds, notes, debentures or other evidence of indebtedness, excluding commercial paper rated not less than Baa or BBB or the equivalent by a national rating service of any corporation organized and operating within the United States, excluding regulated public utility corporations, which as a condition of receiving the proceeds of such evidence of indebtedness will use such proceeds to establish or expand business outlets or ventures in New Mexico, provided that:

(1) the investment in the bonds, notes or debentures or other evidence of indebtedness of any one corporation shall not exceed one hundred percent of the cost of the expansion venture or new outlet or twenty million dollars (\$20,000,000), whichever is less;

(2) the rate of interest to be paid on the bonds, notes or debentures or other evidence of indebtedness shall be established by the council, but shall not be less than the equivalent yield available on United States treasury issues of a comparable maturity plus one hundred basis points;

(3) the indebtedness shall be approved prior to purchase by the council; and

(4) the guidelines for initiation of the purchase by the council of the bonds, notes, debentures or other evidence of indebtedness and the terms thereof shall be established by the council.

History: 1978 Comp., § 7-27-5.4, enacted by Laws 1983, ch. 306, § 11; 1984, ch. 131, § 3; 1987, ch. 306, § 2; 1988, ch. 132, § 2; 1989, ch. 271, § 1; 1990, ch. 68, § 1; 1994, ch. 78, § 1; 1999, ch. 88, § 2.

ANNOTATIONS

Compiler's notes. — The Farmers Home Administration Act of 1946 was the popular name of the amendments of 7 U.S.C. § 1001 et seq. and 12 U.S.C. § 371 by P.L. 79-731. Most of the provisions of 7 U.S.C. § 1001 et seq. have been repealed. See 7 U.S.C. § 1921 et seq.

Cross references. — For creation of severance tax permanent fund, see 7-27-3 NMSA 1978.

For the Small Business Act of 1953, see 15 U.S.C. § 631 et seq.

The 1999 amendment, effective March 19, 1999, in Subsection B, deleted "or guaranteed by an irrevocable letter of credit to the state of New Mexico issued by a financial institution or corporation rated a or A or the equivalent" following "or the equivalent" in the introductory language, in Paragraph (2), inserted "established by the council, but shall not be less than the" and deleted "fifty to" following "maturity plus", and made minor stylistic changes.

The 1994 amendment, effective March 7, 1994, in Subsection A, substituted the language following "loans shall be" in the second sentence for "equivalent to the yield available on United States treasury issues of comparable maturity", inserted "including servicing fees not to exceed one hundred basis points" in the third sentence, and added the language following "agreed upon" at the end of the section.

The 1990 amendment, effective May 16, 1990, inserted "farm credit entities" in the first sentence of Subsection A.

The 1989 amendment, effective June 16, 1989, inserted "or guaranteed by an irrevocable letter of credit to the state of New Mexico issued by a financial institution or corporation rated a or A or the equivalent" in Subsection B.

7-27-5.5. Educational loan notes.

The severance tax permanent fund may be invested in educational loan notes issued pursuant to the Educational Assistance Act [Chapter 21, Article 21A NMSA 1978]; provided that in no event shall the principal amount of such notes purchased in any twelve-month period exceed ten million dollars (\$10,000,000), and in no event shall the total amount of such notes held by the severance tax permanent fund exceed ten percent of the book value of the severance tax permanent fund. If any educational loan note is sold by the severance tax permanent fund, the sale shall be without recourse to the fund or the state.

History: 1978 Comp., § 7-27-5.5, enacted by Laws 1983, ch. 306, § 12.

ANNOTATIONS

Effective dates. — Laws 1983, ch. 306, § 14 made Laws 1983, ch. 306, § 12 effective July 1, 1983.

7-27-5.6. Repealed.

History: Laws 1987, ch. 219, § 2; 1990, ch. 126, § 3; 1997, ch. 45, § 2; 2001, ch. 252, § 8; repealed Laws 2005, ch. 240, § 7.

ANNOTATIONS

Repeals. — Laws 2005, ch. 240, § 7 repealed 7-27-5.6 NMSA 1978, as enacted by Laws 1987, ch. 219, § 2, relating to private equity investments, effective July 1, 2005. For provisions of former section, see the 2004 NMSA 1978 on *NMOneSource.com*.

7-27-5.7. Repealed.

ANNOTATIONS

Repeals. — Laws 1988, ch. 134, § 7F, repealed 7-27-5.7 NMSA 1978, as enacted by Laws 1988, ch. 134, § 7, relating to oil and gas production investments, effective July 1, 1991. For provisions of former section, see the 1990 NMSA 1978 on *NMOneSource.com*.

7-27-5.8. Repealed.

ANNOTATIONS

Repeals. — Laws 1999, ch. 57, § 1 repealed 7-27-5.8 NMSA 1978, as enacted by Laws 1988, ch. 134, § 1, relating to finding and purpose, effective June 18, 1999. For provisions of former section, see the 1998 NMSA 1978 on *NMOneSource.com*.

7-27-5.9. Repealed.

ANNOTATIONS

Repeals. — Laws 1999, ch. 57, § 1 repealed 7-27-5.9 NMSA 1978, as enacted by Laws 1988, ch. 134, § 2, relating to creation and purpose of oil and gas production assistance council, effective June 18, 1999. For provisions of former section, see the 1998 NMSA 1978 on *NMOneSource.com*.

7-27-5.10. Repealed.

ANNOTATIONS

Repeals. — Laws 1999, ch. 57, § 1 repealed 7-27-5.10 NMSA 1978, as enacted by Laws 1988, ch. 134, § 3, relating to composition of oil and gas production assistance council, effective June 18, 1999. For provisions of former section, see the 1998 NMSA 1978 on *NMOneSource.com*.

7-27-5.11. Repealed.

ANNOTATIONS

Repeals. — Laws 1999, ch. 57, § 1 repealed 7-27-5.11 NMSA 1978, as enacted by Laws 1988, ch. 134, § 4, relating to meetings and compensation of oil and gas production assistance council, effective June 18, 1999. For provisions of former section, see the 1998 NMSA 1978 on *NMOneSource.com*.

7-27-5.12. Repealed.

ANNOTATIONS

Repeals. — Laws 1999, ch. 57, § 1 repealed 7-27-5.12 NMSA 1978, as enacted by Laws 1988, ch. 134, § 5, relating to powers and duties of oil and gas production assistance council, effective June 18, 1999. For provisions of former section, see the 1998 NMSA 1978 on *NMOneSource.com*.

7-27-5.13. Educational institution research and development facilities revenue bonds.

No more than ten percent of the book value of the severance tax permanent fund may be invested in educational institution revenue bonds described in this section.

A. The revenue bonds shall have been issued by one of the following educational institutions:

- (1) the university of New Mexico;
- (2) the New Mexico state university;
- (3) the New Mexico highlands university;
- (4) the western New Mexico university;
- (5) the eastern New Mexico university; and
- (6) the New Mexico institute of mining and technology.

B. The revenue bonds shall have been issued under the authority of Chapter 6, Article 17 NMSA 1978.

C. The revenue bonds shall have been issued to provide funds for the construction, furnishing and equipping of a research or development facility, including any infrastructure improvements necessary to the construction of the facility. The facility shall be one that will:

(1) provide space for operations of an already funded research or development project;

(2) be income-producing when completed and occupied; and

(3) provide both the local community in which it is located and the state generally with economic benefits including, but not limited to, employment for students of post-secondary educational institutions.

History: 1978 Comp., § 7-27-5.13, enacted by Laws 1989, ch. 265, § 3.

ANNOTATIONS

Emergency clauses. — Laws 1989, ch. 265, § 4 contained an emergency clause and was approved April 5, 1989.

7-27-5.14. Findings and purpose.

The legislature finds that the health of the New Mexico economy is heavily dependent on the establishment and expansion of small businesses and that the lack of available private equity is an impediment to the start-up and growth of businesses in the state. The legislature further finds that the commercialization of technology conceived in the universities and the federal scientific and engineering laboratories and test facilities in the state is likely to occur elsewhere unless sources of local private equity are developed. The purpose of Section 7-27-5.15 NMSA 1978 is to provide a mechanism whereby the establishment of private equity funds, whose investment policies are supportive of the economic welfare of New Mexico, will be stimulated.

History: 1978 Comp., § 7-27-5.14, enacted by Laws 1990, ch. 126, § 4; 2001, ch. 252, § 9; 2016, ch. 48, § 1.

ANNOTATIONS

The 2016 amendment, effective May 18, 2016, after "whereby the establishment of", deleted "locally managed".

The 2001 amendment, effective June 15, 2001, substituted "private equity" for "venture capital" throughout the section; and substituted "Section 7-27-5.15 NMSA 1978" for "this act".

7-27-5.15. New Mexico private equity funds and New Mexico business investments.

A. In addition to the investments required by Subsections F and G of this section, no more than eleven percent of the market value of the severance tax permanent fund may be invested in New Mexico private equity funds or New Mexico businesses under this section.

B. In making investments pursuant to Subsection A of this section, the council shall make investments in New Mexico private equity funds or New Mexico businesses whose investments or enterprises enhance the economic development objectives of the state.

C. The state investment officer shall make investments pursuant to Subsection A of this section only upon approval of the council and within guidelines and policies established by the council.

D. As used in this section:

(1) "New Mexico business" means, in the case of a corporation or limited liability company, a business with its principal office and a majority of its full-time employees located in New Mexico or, in the case of a limited partnership, a business with its principal place of business and eighty percent of its assets located in New Mexico; and

(2) "New Mexico private equity fund" means an entity that makes, manages or sources potential investments in New Mexico businesses and that:

(a) has as its primary business activity the investment of funds in return for equity in or debt of businesses for the purpose of providing capital for start-up, expansion, product or market development, recapitalization or similar business purposes;

(b) holds out the prospects for capital appreciation from such investments;

(c) has at least one full-time manager with at least three years of professional experience in assessing the growth prospects of businesses or evaluating business plans;

(d) is committed to investing or helps secure investing by others, in an amount at least equal to the total investment made by the state investment officer in that fund pursuant to this section, in businesses with a principal place of business in New

Mexico and that hold promise for attracting additional capital from individual or institutional investors nationwide for businesses in New Mexico; and

(e) accepts investments only from accredited investors as that term is defined in Section 2 of the federal Securities Act of 1933, as amended (15 USCA Section 77(b)), and rules and regulations promulgated pursuant to that section, or federally recognized Indian tribes, nations and pueblos with at least five million dollars (\$5,000,000) in overall investment assets.

E. The state investment officer is authorized to make investments in New Mexico businesses to create new job opportunities and to support new, emerging or expanding businesses in a manner consistent with the constitution of New Mexico if:

(1) the investments are made:

(a) in conjunction with cooperative investment agreements with parties that have demonstrated abilities and relationships in making investments in new, emerging or expanding businesses;

(b) in a New Mexico aerospace business that has received an award from the United States government or one of its agencies or instrumentalities: 1) in an amount, not less than one hundred million dollars (\$100,000,000), that is equal to at least ten times the investment from the severance tax permanent fund; and 2) for the purpose of stimulating commercial enterprises; or

(c) in a New Mexico business that: 1) is established to perform technology transfer, research and development, research commercialization, manufacturing, training, marketing or public relations in any field of science or technology, including but not limited to energy, security, defense, aerospace, automobiles, electronics, telecommunications, computer and information science, environmental science, biomedical science, life science, physical science, materials science or nanoscience, using research developed in whole or in part by a state institution of higher education or a prime contractor designated as a national laboratory by an act of congress that is operating a facility in the state, or an affiliated entity; and 2) has an agreement to operate the business on state lands;

(2) an investment in any one business does not exceed ten percent of the amount available for investment pursuant to this section; and

(3) the investments represent no more than fifty-one percent of the total investment capital in a business; provided, however, that nothing in this subsection prohibits the ownership of more than fifty-one percent of the total investment capital in a New Mexico business if the additional ownership interest:

(a) is due to foreclosure or other action by the state investment officer pursuant to agreements with the business or other investors in that business;

(b) is necessary to protect the investment; and

(c) does not require an additional investment of the severance tax permanent fund.

F. In addition to the investments required by Subsections A and G of this section, the state investment officer shall make a commitment to the small business investment corporation pursuant to the Small Business Investment Act [Chapter 6, Article 32 NMSA 1978] to invest two percent of the market value of the severance tax permanent fund to create new job opportunities by providing capital for land, buildings or infrastructure for facilities to support new or expanding businesses and to otherwise make investments to create new job opportunities to support new or expanding businesses in a manner consistent with the constitution of New Mexico. On July 1 of each year, the state investment officer shall determine whether the invested capital in the small business investment corporation is less than two percent of the market value of the severance tax permanent fund. If the invested capital in the small business investment corporation equals less than two percent of the market value of the severance tax permanent fund, further commitments shall be made until the invested capital is equal to two percent of the market value of the fund.

G. In addition to the investments provided for in Subsections A and F of this section, the state investment officer shall make a commitment to the New Mexico finance authority to invest five hundred million dollars (\$500,000,000) of the severance tax permanent fund in investments made pursuant to the Small Business Recovery and Stimulus Act; provided that:

(1) investments made pursuant to and in compliance with the Small Business Recovery and Stimulus Act shall be deemed to be in compliance with the prudent investor rule set forth in the Uniform Prudent Investor Act [45-7-601 to 45-7-612 NMSA 1978]; and

(2) the New Mexico finance authority shall not be held liable for investments made pursuant to this subsection that do not provide a return on investment that is comparable to other differential rate investments made pursuant to the Severance Tax Bonding Act.

H. The state investment officer shall report semiannually on the investments made pursuant to this section. Annually, a report shall be submitted to the legislature prior to the beginning of each regular legislative session and a second report no later than October 1 each year to the legislative finance committee, the revenue stabilization and tax policy committee and any other appropriate interim committee. Each report shall provide the amounts invested in each New Mexico private equity fund, as well as information about the objectives of the funds, the companies in which each private equity fund is invested and how each private equity investment enhances the economic development objectives of the state. Each report also shall provide the amounts invested in each New Mexico business.

History: 1978 Comp., § 7-27-5.15, enacted by Laws 1990, ch. 126, § 5; 1997, ch. 70, § 1; 2000, ch. 76, § 1; 2000, ch. 97, § 2; 2001, ch. 238, § 1; 2001, ch. 252, § 10; 2003, ch. 399, § 2; 2003, ch. 401, § 1; 2003, ch. 406, § 1; 2004, ch. 57, § 1; 2005, ch. 63, § 1; 2006, ch. 10, § 1; 2007, ch. 355, § 1; 2007, ch. 359, § 1; 2007, ch. 360, § 1; 2013, ch. 181, § 1; 2015, ch. 95, § 9; 2016, ch. 48, § 2; 2019, ch. 46, § 1; 2020, ch. 75, § 1; 2020 (1st S.S.), ch. 6, § 10; 2021, ch. 5, § 7.

ANNOTATIONS

Repeals. — Laws 2020 (1st S.S.), ch. 6, § 12, effective July 7, 2020, repealed Laws 2020, ch. 75, § 1, which would have become effective July 1, 2020. For provisions of Laws 2020, ch. 75, § 1, see the 2020 Session Laws on *NMOneSource.com*.

The 2021 amendment, effective March 3, 2021, increased the amount of the severance tax permanent fund that the New Mexico finance authority is authorized to invest pursuant to the Small Business Recovery and Stimulus Act; changed "Small Business Recovery Act of 2020" to "Small Business Recovery and Stimulus Act" throughout; and in Subsection G, after "authority to invest", changed "the lesser of four hundred million dollars (\$400,000,000) or ten percent of the market value" to "five hundred million dollars (\$500,000,000)".

The 2020 (1st S.S.) amendment, effective July 7, 2020, allowed for an increase in the investment of severance tax permanent fund in New Mexico private equity funds or New Mexico businesses, and required the state investment officer to invest a certain amount of the severance tax permanent fund in loans made pursuant to the Small Business Recovery Act of 2020; in Subsection A, added "In addition to the investments required by Subsections F and G of this section", and after "no more than", deleted "nine" and added "eleven"; in Subsection F, added "In addition to the investments required by Subsections A and G of this section"; and added a new Subsection G and redesignated the succeeding subsection accordingly.

The 2019 amendment, effective June 14, 2019, increased the amount of Severance Tax Permanent Fund capital dedicated for investment through the Small Business Investment Corporation pursuant to the Small Business Investment Act from one percent of the severance tax permanent fund to two percent; and in Subsection F, substituted "two" for "one" throughout the subsection.

The 2016 amendment, effective May 18, 2016, amended the definition of "private equity fund"; in the catchline, added "New Mexico"; in Subsection D, Paragraph (2), after "equity fund means", deleted "a limited partnership, limited liability company or corporation organized and operating in the United States and maintaining an office staffed by a full-time investment officer in New Mexico" and added "an entity that makes, manages or sources potential investments in New Mexico businesses and", in Subparagraph D(2)(c), after "business plans", deleted "and who has established permanent residency in the state", in Subparagraph D(2)(d), after each occurrence of "business in", deleted "the state" and added "New Mexico"; in Subsection G, after

"semiannually on the", deleted "New Mexico private equity", after "in which each", added "private equity", after "invested and how each", added "private equity", and after "Each report", added "also".

The 2015 amendment, effective June 19, 2015, eliminated the private equity investment advisory committee; and in Subsection C, after "approval of the council", deleted "upon review of the recommendation of the private equity investment advisory committee".

The 2013 amendment, effective June 14, 2013, permitted the state investment council to invest in New Mexico businesses that perform technology transfer, research and development, research commercialization, manufacturing, training, marketing or public relations in fields of science and technology on state land; and added Subparagraph (c) of Paragraph (1) of Subsection E.

The 2007 amendment, effective June 15, 2007, increased investments of the severance tax permanent fund in private equity funds from six to nine percent.

The 2006 amendment, effective May 17, 2006, added Subparagraph (b) of Paragraph (1) of Subsection E to authorize the state investment officer to make investments in New Mexico aerospace businesses.

The 2005 amendment, effective June 17, 2005, increased the percentage of the severance tax permanent fund invested in the small business investment corporation to three-fourths percent of the market value of the fund.

The 2004 amendment, effective May 19, 2004, amended Subsection F to change "one-fourth" to "one-half" percent of the market value of the severance tax fund in three places.

The 2003 amendment, effective June 20, 2003, deleted "small" preceding "business" in the section heading; substituted "six percent" for "three percent" near the beginning of Subsection A; deleted former Subsection B, relating to limitations on investments in private equity funds; and added Subsections E and G.

7-27-5.16. Repealed.

History: Laws 1990, ch. 127, § 10; repealed by Laws 2005, ch. 240, § 7.

ANNOTATIONS

Repeals. — Laws 2005, ch. 240, § 7, repealed 7-27-5.16 NMSA 1978, as enacted by Laws 1990, ch. 127, § 10, relating to ONGARD system revenue bonds, effective July 1, 2005. For provisions of former section, see the 2004 NMSA 1978 on the *NMOneSource.com*.

7-27-5.17. Employers mutual company revenue bonds.

The severance tax permanent fund may be invested in revenue bonds issued by the employers mutual company under the authority of the Employers Mutual Company Act [52-9-1 to 52-9-24 NMSA 1978], provided that the amount invested shall not exceed ten million dollars (\$10,000,000) and provided further that the bonds shall bear interest at a market rate not less than the existing rate of return for ten-year United States treasury bonds on the date of the bond sale.

History: 1978 Comp., § 7-27-5.17, enacted by Laws 1990 (2nd S.S.), ch. 3, § 2.

ANNOTATIONS

Effective dates. — Laws 1990 (2nd S.S.), ch. 3, § 10 made Laws 1990 (2nd S.S.), ch. 3, § 2 effective January 1, 1991.

7-27-5.18. Purpose.

It is the purpose of this act to encourage economic development in New Mexico by linking deposit of the severance tax permanent fund in New Mexico financial institutions to an increase in loans to New Mexico businesses and investment in New Mexico government entities and to encourage financial institutions to make the type of loans that meet business needs not addressed by conventional loans and loans guaranteed by federal, state or local agencies.

History: Laws 1993, ch. 267, § 1.

ANNOTATIONS

Effective dates. — Laws 1993, ch. 267, § 6 made Laws 1993, ch. 267, § 1 effective July 1, 1993.

7-27-5.19. Deposits in New Mexico financial institutions; limitations.

A. No more than twenty percent of the book value of the severance tax permanent fund may be invested in deposits in New Mexico financial institutions under terms and conditions set by the council in accordance with the provisions of this section.

B. To be eligible for deposits under this section, a financial institution's loans and investments shall equal in the aggregate at least one hundred thousand dollars (\$100,000). If eligible, a financial institution may qualify for deposits as follows:

(1) a financial institution may qualify for deposits in an amount equal to new loans and investments made by that financial institution after July 1, 1993;

(2) the financial institution shall provide the state investment officer with the necessary documentation and information for each new loan or investment and the state investment officer shall verify that each such loan or investment meets the requirements of this section and the regulations, guidelines and investment policies adopted pursuant to this section; and

(3) in any calendar year, the state investment officer may increase the deposits in any financial institution only to the extent new loans and investments made by the financial institution have increased over the same period of the prior year.

C. Notwithstanding any other collateral, interest rate or other provisions of law to the contrary governing deposit of public money in Chapter 6, Article 10 NMSA 1978, deposits of the severance tax permanent fund made pursuant to this section shall be governed by the regulations, guidelines and investment policies established by the council and shall not be made until such regulations, guidelines and policies are adopted. Those policies shall provide:

(1) the terms and conditions for pledging of collateral security and the amount and kind of collateral security to be pledged; provided:

(a) no collateral shall be required for deposits of financial institutions rated "A" by the council pursuant to its risk assessment analysis, unless the council in its sole discretion deems it necessary to protect the severance tax permanent fund;

(b) financial institutions not rated "A" by the council shall secure each severance tax permanent fund deposit with security having an aggregate value equal to seventy-five percent of the amount of money deposited by that institution or any greater percentage determined by the council in its sole discretion to be necessary to protect the severance tax permanent fund;

(c) secured deposits shall be secured by: 1) securities of the United States or its agencies or instrumentalities, the state or its agencies or instrumentalities or political subdivisions of the state; 2) securities guaranteed by agencies or instrumentalities of the United States; or 3) New Mexico residential mortgages;

(d) to be rated "A" by the council, a bank shall at a minimum have: 1) primary capital at least equal to six percent of assets; 2) net income after taxes at least equal to sixty-one hundredths of one percent of the average assets of the bank for the current quarter and for each of the three previous quarters; and 3) an aggregate amount of nonperforming loans, defined as loans that are at least ninety days past due, that does not exceed thirty-four and nine-tenths percent of primary capital; provided the council in its sole discretion may increase any of the requirements of this paragraph to protect the severance tax permanent fund; and

(e) to be rated "A" by the council, a savings and loan association shall have a regulatory net worth equal to at least three percent of total assets and net income after

taxes equal to at least thirty hundredths of one percent of average assets for the current quarter and for each of the previous three quarters; provided the council may increase these requirements or add additional criteria for nonperforming loans as a percentage of primary capital or net worth that are similar to the criteria for banks, as necessary to conform to changing applicable federal regulatory requirements or to protect the severance tax permanent fund;

(2) the rate at which severance tax permanent fund deposits shall bear interest, payable monthly, which shall be at a fixed market rate determined by the council, but in no event shall the rate of interest paid be less than the yield available on comparable maturities of obligations of the United States government, its agencies or instrumentalities or obligations guaranteed by the United States government, its agencies or instrumentalities, whichever is higher;

(3) the terms of maturity, renewal or withdrawal; provided that in no event shall the maturity exceed eight years and the council may withdraw any deposit before maturity without penalty if more than seventy-five percent collateral is required by the rules and regulations adopted by the council; and

(4) such other terms, including the financial condition of the financial institution, as the council deems prudent to protect the severance tax permanent fund and to implement efficiently and effectively the deposit program.

D. In making deposits in New Mexico financial institutions pursuant to this section, the state investment officer shall not deposit from the severance tax permanent fund an amount that exceeds two hundred percent of the total equity capital in the case of banks or two hundred percent of the net worth in the case of savings and loan associations or ten percent of the total of that bank's or the savings and loan association's deposits, whichever is less. These limits shall be based on the most recently published statement of financial condition required by federal or state financial authorities as certified by an authorized officer of the financial institution unless the council has more current reliable information from the financial institution. In the event a financial institution exceeds the limitations set forth in this subsection, the state investment officer may withdraw without penalty the deposits that exceed that limitation. The maximum funds on deposit or the deposit limit in this subsection shall not apply to the state fiscal agent bank as to the funds held by the fiscal agent bank or demand deposits held by a state checking depository bank approved by the state board of finance in accordance with the provisions of Section 6-10-35 NMSA 1978.

E. As used in this section:

(1) "financial institution" means a New Mexico bank, a branch of a bank doing business in New Mexico or a savings and loan association that is qualified as an insured public depository;

(2) "investment" means a New Mexico municipal bond or a New Mexico industrial revenue bond; and

(3) "loan" means a loan of any term that is secured or unsecured and is made for business purposes. "Loan" does not include a loan that is a renewal or restructuring of a loan existing on or before July 1, 1993, a loan of more than three million dollars (\$3,000,000) to one borrower, a student loan, a consumer loan or a loan to purchase or provide permanent financing on a personal residence, but does include a loan that is made to "persons of low or moderate income" as that term is defined in the Mortgage Finance Authority Act [Chapter 58, Article 18 NMSA 1978], is secured by real estate and is held and serviced by the original lending financial institution in New Mexico. For purposes of this paragraph, "business" includes but is not limited to manufacturing; construction; transportation; communications; publishing; wholesale or retail business; restaurants; entertainment; architectural, engineering and other professional services; medical and health services; food processing; farming or ranching; mining and natural resource exploration and development; and research and technology development.

History: Laws 1993, ch. 267, § 2; 1997, ch. 220, § 1.

ANNOTATIONS

The 1997 amendment, effective June 20, 1997, inserted "a branch of a bank doing business in New Mexico" in Paragraph E(1), and made minor stylistic changes throughout the section.

7-27-5.20. Deposits in New Mexico credit unions.

The severance tax permanent fund may be invested in deposits in New Mexico credit unions, provided each deposit is insured by an agency of the United States and the credit union offers interest on such deposits at least equal to that offered to its members for similar deposits. Such deposits may be invested for a term of maturity of eight years or less at an interest rate to be set by the council. Such deposits shall be made and administered by the council and state investment officer in accordance with the law governing deposits of public money, including, but not limited to, Sections 6-10-10, 6-10-16, 6-10-24.1 and 6-10-29 NMSA 1978. As used in this section, "deposit" includes share, share certificate and share draft.

History: Laws 1993, ch. 267, § 3.

ANNOTATIONS

Effective dates. — Laws 1993, ch. 267, § 6 made Laws 1993, ch. 267, § 3 effective July 1, 1993.

7-27-5.21. New Mexico lottery revenue bonds.

The severance tax permanent fund may be invested in revenue bonds issued by the New Mexico lottery authority pursuant to the provisions of the New Mexico Lottery Act [Chapter 6, Article 24 NMSA 1978]. The amount invested shall not exceed three million dollars (\$3,000,000).

History: Laws 1995, ch. 155, § 36.

ANNOTATIONS

Effective dates. — Laws 1995, ch. 155, § 39 made Laws 1995, ch. 155, § 36 effective July 1, 1995.

Cross references. — For authorization to issue revenue bonds, see 6-24-26 NMSA 1978.

7-27-5.22. Severance tax permanent fund; investment in obligations issued under Section 33-1-19 NMSA 1978 for corrections facilities.

Subject to the approval of the state investment council, the severance tax permanent fund may be invested in bonds, certificates of participation or other obligations issued pursuant to Section 33-1-19 NMSA 1978 for corrections related facilities.

History: 1978 Comp., § 7-27-5.22, enacted by Laws 1995, ch. 215, § 2.

ANNOTATIONS

Effective dates. — Laws 1995, ch. 215 contained no effective date provision, but, pursuant to N.M. Const., art. IV, § 23, was effective June 16, 1995, 90 days after the adjournment of the legislature.

7-27-5.23. Repealed.

History: Laws 1997, ch. 45, § 3; 2001, ch. 252, § 11; repealed Laws 2005, ch. 240, § 7.

ANNOTATIONS

Repeals. — Laws 2005, ch. 240, § 7 repealed 7-27-5.23 NMSA 1978, as enacted by Laws 1997, ch. 45, § 3, relating to short-term investments, effective July 1, 2005. For provisions of former section, see the 2004 NMSA 1978 on *NMOneSource.com*.

7-27-5.24. Severance tax permanent fund; investment in obligations issued for state capitol buildings and renovations.

Subject to the approval of the state investment council, the severance tax permanent fund may be invested in revenue bonds issued by the New Mexico finance authority for

state capitol buildings and relocation-associated renovations in the state capitol. The amount invested shall not exceed ten million one hundred fifty-five thousand dollars (\$10,155,000).

History: 1978 Comp., § 7-27-5.24, enacted by Laws 1997, ch. 178, § 3.

ANNOTATIONS

Effective dates. — Laws 1997, ch. 178 contained no effective date provision, but, pursuant to N.M. Const., art. IV, § 23, was effective June 20, 1997, 90 days after the adjournment of the legislature.

7-27-5.25. Repealed.

History: Laws 2000, ch. 5, § 4; repealed by Laws 2005, ch. 240, § 7.

ANNOTATIONS

Repeals. — Laws 2005, ch. 240, § 7 repealed 7-27-5.25 NMSA 1978, as enacted by Laws 2000, ch. 5, § 4, relating to revenue bonds issued for parking facility, effective July 1, 2005. For provisions of former section, see the 2004 NMSA 1978 on *NMOneSource.com*.

7-27-5.26. Investment in films to be produced in New Mexico.

A. No more than six percent of the market value of the severance tax permanent fund may be invested in New Mexico film private equity funds or a New Mexico film project under this section.

B. If an investment is made under this section, not more than fifteen million dollars (\$15,000,000) of the amount authorized for investment pursuant to Subsection A of this section shall be invested in any one New Mexico film private equity fund or any one New Mexico film project.

C. The state investment officer shall make investments pursuant to this section only upon approval of the council after a review by the New Mexico film division of the economic development department. The state investment officer may make debt or equity investments pursuant to this section only in New Mexico film projects or New Mexico film private equity funds that invest only in film projects that:

- (1) are filmed wholly or substantially in New Mexico;
- (2) have shown to the satisfaction of the New Mexico film division that a distribution contract is in place with a reputable distribution company;

(3) have agreed that, while filming in New Mexico, a majority of the production crew will be New Mexico residents;

(4) have posted a completion bond that has been approved by the New Mexico film division; provided that a completion bond shall not be required if the fund or project is guaranteed pursuant to Paragraph (5) of this subsection; and

(5) have obtained a full, unconditional and irrevocable guarantee of repayment of the invested amount in favor of the severance tax permanent fund:

(a) from an entity that has a credit rating of not less than Baa or BBB by a national rating agency;

(b) from a substantial subsidiary of an entity that has a credit rating of not less than Baa or BBB by a national rating agency;

(c) by providing a full, unconditional and irrevocable letter of credit from a United States incorporated bank with a credit rating of not less than A by a national rating agency; or

(d) from a substantial and solvent entity as determined by the council in accordance with its standards and practices; or

(6) if not guaranteed pursuant to Paragraph (5) of this subsection, have obtained no less than one-third of the estimated total production costs from other sources as approved by the state investment officer.

D. The state investment officer may loan at a market rate of interest, with respect to an eligible New Mexico film project, up to eighty percent of an expected and estimated film production tax credit available to a film production company pursuant to the provisions of Section 7-2F-1 NMSA 1978; provided that the film production company agrees to name the state investment officer as its agent for the purpose of filing an application for the film production tax credit to which the company is entitled if the company does not apply for the film production tax credit. The New Mexico film division of the economic development department shall determine the estimated amount of a film production tax credit. The council shall establish guidelines for the state investment officer's initiation of a loan and the terms of the loan.

E. As used in this section:

(1) "film project" means a single media or multimedia program, including advertising messages, fixed on film, videotape, computer disc, laser disc or other similar delivery medium from which the program can be viewed or reproduced and that is intended to be exhibited in theaters; licensed for exhibition by individual television stations, groups of stations, networks, cable television stations or other means or licensed for the home viewing market; and

(2) "New Mexico film private equity fund" means any limited partnership, limited liability company or corporation organized and operating in the United States that

(a) has as its primary business activity the investment of funds in return for equity in film projects produced wholly or partly in New Mexico;

(b) holds out the prospects for capital appreciation from such investments;
and

(c) accepts investments only from accredited investors as that term is defined in Section 2 of the federal Securities Act of 1933, as amended, and rules promulgated pursuant to that section.

History: 1978 Comp., § 7-27-5.26, enacted by Laws 2000 (2nd S.S.), ch. 6, § 2; 2001, ch. 252, § 12; 2002, ch. 60, § 1; 2003, ch. 56, § 1; 2005, ch. 101, § 2; 2005, ch. 106, § 1; 2007, ch. 340, § 1; 2015, ch. 95, § 10.

ANNOTATIONS

Cross references. — For Section 2 of the federal Securities Act of 1933, see 15 U.S.C. § 77b.

The 2015 amendment, effective June 19, 2015, eliminated the private equity investment advisory committee; in the introductory paragraph of Subsection C, after "upon approval of the", deleted "state investment", and after "a review by", deleted "the private equity investment advisory committee"; in Subsection C, Paragraph (5)(d), after "determined by the", deleted "state investment"; and in Subsection D, in the third sentence, after "The", deleted "state investment".

The 2007 amendment, effective June 15, 2007, increased the percentage of the severance tax permanent fund that may be invested in film private equity funds to six percent.

The 2005 amendment, effective June 17, 2005, increased in Subsections A and B the percentage of the severance tax permanent fund that may be invested in the New Mexico film private equity funds or a New Mexico film project from 2½ percent to 5 percent and the maximum amount that may be invested from \$7,500,000 to \$15,000,000.

The 2003 amendment, effective June 20, 2003, substituted "two and on-half" for "one-half of one" near the beginning of Subsection A; added present Subsection D and redesignated former Subsection D as Subsection E.

The 2002 amendment, effective March 4, 2002, inserted "or a New Mexico film project" in Subsection A; inserted "or any one New Mexico film project" in Subsection B; in Subsection C, in the introductory matter, substituted "debt or equity investments" for "an

investment" and inserted "New Mexico film projects or", deleted former Paragraph (2), which read: "have obtained no less than one-third of the estimated total production costs from other sources", and redesignated the remaining paragraphs accordingly, added the proviso in Paragraph (4), and added Paragraphs (5) and (6).

The 2001 amendment, effective June 15, 2001, substituted "private equity" for "venture capital" throughout the section.

7-27-5.27. Local government emergency economic relief.

A. Within thirty days of the effective date of this 2020 act, the state investment officer shall make a commitment to the authority to invest one percent of the average of the year-end market values of the severance tax permanent fund for the immediately preceding five calendar years for the purpose of making loans to local governments pursuant to this section; provided that investments made pursuant to this section are in compliance with the prudent investor rule set forth in the Uniform Prudent Investor Act [45-7-601 to 45-7-612 NMSA 1978]. The authority may expend no more than one percent of the funding made available to it pursuant to this section for administering the provisions of this section.

B. The authority shall receive and review applications for loans from the amount committed pursuant to Subsection A of this section to a local government that can demonstrate that the local government experienced at least a ten percent decline in local option gross receipts tax revenue for the last quarter of fiscal year 2020 due to the economic impacts of the coronavirus disease 2019 pandemic. The authority shall adopt rules to govern the application procedures and requirements for disbursing the loans.

C. The authority shall make loans from the amount committed pursuant to Subsection A of this section in accordance with the following:

(1) an application for a loan shall be received by the authority no later than December 31, 2020;

(2) the authority shall determine the proper amount for a loan in consultation with the local government division of the department of finance and administration and the local government; provided that:

(a) the authority shall take into consideration the local government's actual decline of local gross receipts tax revenue in the determination of a loan amount; and

(b) a loan shall not exceed fifty percent of the local government's actual decline of local gross receipts tax revenue; and

(3) terms of the loan shall include that:

(a) a local government may use loan proceeds for general operating expenses and revenue replacement;

(b) a local government shall dedicate future local option gross receipts tax revenue to secure the loan at a lien level as determined by the authority;

(c) a loan shall bear an annual interest rate equal to two percent;

(d) a loan shall be structured as an interest-only loan for a period of three years, at which time the local government shall begin making monthly payments on the principal and interest of any balance of the loan;

(e) interest on a loan shall not compound until twelve months following the date the loan proceeds are made available to the local government; and

(f) a loan shall be made for a period of no more than five years.

D. Receipts from the repayment of loans made pursuant to this section shall be transferred to the severance tax permanent fund.

E. No provision in a loan or the evidence of indebtedness of a loan shall include a penalty or premium for prepayment of the balance of the indebtedness.

F. On or before October 1 of a year that a loan made pursuant to this section is outstanding, the authority shall audit the loan program and submit a report of the findings to the New Mexico finance authority oversight committee, the legislative finance committee and the office of the governor. The report shall provide details regarding the loans made pursuant to this section, including:

(1) the name of each local government that received a loan, the loan amount, the balance owed and if the loan is in a delinquent status or default; and

(2) the number of jobs saved that can be attributed to receiving the loan, with evidence of how the loan saved each job.

G. The authority may exercise any power provided to the authority in the New Mexico Finance Authority Act [Chapter 6, Article 21 NMSA 1978] to assist in the administration of section; provided that the power is consistent with the provisions of this section.

H. As used in this section:

(1) "authority" means the New Mexico finance authority;

(2) "local government" means a municipality or county; and

(3) "local option gross receipts tax revenue" means:

(a) for a municipality, revenue distributed to the municipality pursuant to Section 7-1-6.4 NMSA 1978 and transferred to the municipality pursuant to Section 7-1-6.12 NMSA 1978; and

(b) for a county, revenue transferred to the county pursuant to Section 7-1-6.13 NMSA 1978.

History: Laws 2020 (1st S.S.), ch. 6, § 8.

ANNOTATIONS

Emergency clauses. — Laws 2020 (1st S.S.), ch. 6, § 13 contained an emergency clause and was approved July 7, 2020.

7-27-6. Severance tax bonding fund pledged.

A. The money in the severance tax bonding fund is first pledged for the payment of principal and interest on all severance tax bonds issued after the enactment of the Severance Tax Bonding Act.

B. The money in the severance tax bonding fund is second pledged, on a basis subordinate to any severance tax bonds then or thereafter outstanding, for the payment of principal and interest on all supplemental severance tax bonds issued after the enactment of the Severance Tax Bonding Act.

History: 1953 Comp., § 72-18-31, enacted by Laws 1961, ch. 5, § 4; 1999 (1st S.S.), ch. 6, § 1.

ANNOTATIONS

The 1999 amendment, effective July 1, 1999, deleted the former first sentence, relating to the first pledging of the severance tax bonding fund moneys, added the Subsection A designation, substituted "first" for "further" and made a minor stylistic change, and added Subsection B.

7-27-7. Special income to retire bonds.

When a law authorizing a severance tax bond issue or supplemental severance tax bond issue contemplates the income of money for the retirement of the bond issue other than or in addition to the money in the severance tax bonding fund, then the money derived from such income shall be paid to the state treasurer and be credited to the specific bond issue account and deposited in the severance tax bonding fund.

History: 1953 Comp., § 72-18-32, enacted by Laws 1961, ch. 5, § 5; 1999 (1st S.S.), ch. 6, § 2.

ANNOTATIONS

Cross references. — For laws authorizing severance tax bond issues, see appendix to this article.

The 1999 amendment, effective July 1, 1999, inserted "or supplemental severance tax bond issue" and substituted "state treasurer" for "state board of finance".

7-27-8. Transfer of money to severance tax permanent fund.

On each December 31 and each June 30 the state treasurer shall transfer to the severance tax permanent fund all money in the severance tax bonding fund except the amount necessary to meet all principal and interest payments on bonds payable from the severance tax bonding fund on the next two ensuing semiannual payment dates.

History: 1953 Comp., § 72-18-33, enacted by Laws 1961, ch. 5, § 6; 1973, ch. 294, § 3.

7-27-9. Bonds to be known as severance tax bonds and supplemental severance tax bonds.

A. Prior to July 1, 1999, all bonds issued wherein the money in the severance tax bonding fund is pledged for their retirement shall be known as "New Mexico severance tax bonds".

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

History: 1953 Comp., § 72-18-34, enacted by Laws 1961, ch. 5, § 7; 1999 (1st S.S.), ch. 6, § 3.

ANNOTATIONS

The 1999 amendment, effective July 1, 1999, added "and supplemental severance tax bonds" to the catchline; added the Subsection A designation, added "Prior to July 1, 1999" to the beginning, and made a stylistic change; and added Subsection B.

7-27-10. State board of finance shall issue bonds.

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

B. The state board of finance may issue and sell supplemental severance tax bonds within the provisions of the Severance Tax Bonding Act, and no other agency of the state is authorized to issue or sell supplemental severance tax bonds. As a temporary measure for fiscal year 2023, the state board of finance shall not issue and sell more than six hundred eighty-two million two hundred thousand dollars (\$682,200,000) of supplemental severance tax bonds or notes.

History: 1953 Comp., § 72-18-35, enacted by Laws 1961, ch. 5, § 8; 1999 (1st S.S.), ch. 6, § 4; 2019, ch. 273, § 1; 2023, ch. 124, § 1.

ANNOTATIONS

The 2023 amendment, effective June 16, 2023, limited the amount of supplemental severance tax bonds or notes issued in 2023; and in Subsection B, after "fiscal year", changed "2019" to "2023", and after "sell more than", deleted "one hundred eighty-one million eight hundred thousand dollars (\$181,800,000)" and added "six hundred eighty-two million two hundred thousand dollars (\$682,200,000)".

The 2019 amendment, effective June 14, 2019, provided that for fiscal year 2019, the state board of finance shall not issue and sell more than one hundred eighty-one million eight hundred thousand dollars of supplemental severance tax bonds or notes; and in Subsection B, added "As a temporary measure for fiscal year 2019, the state board of finance shall not issue and sell more than one hundred eighty-one million eight hundred thousand dollars (\$181,800,000) of supplemental severance tax bonds or notes".

The 1999 amendment, effective July 1, 1999, added the Subsection A designation, added Subsection B, and made a minor stylistic change.

7-27-10.1. Transfer to severance tax permanent fund before determining bonding capacity; authorization for severance tax bonds; priority for water projects and tribal infrastructure projects.

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

B. By January 15 of each year, the division shall estimate the amount of bonding capacity available for severance tax bonds to be authorized by the legislature.

C. For each year except 2017, the division shall allocate nine percent of the estimated bonding capacity each year for water projects, and the legislature authorizes the state board of finance to issue severance tax bonds in the annually allocated amount for use by the water trust board to fund water projects statewide. The water trust board shall certify to the state board of finance the need for issuance of bonds for water projects. The state board of finance may issue and sell the bonds in the same manner as other severance tax bonds in an amount not to exceed the authorized amount provided for in this subsection. If necessary, the state board of finance shall take the appropriate steps to comply with the federal Internal Revenue Code of 1986, as amended. Proceeds from the sale of the bonds are appropriated to the water project fund in the New Mexico finance authority for the purposes certified by the water trust board to the state board of finance.

D. The division shall allocate the following percentage of the estimated bonding capacity for tribal infrastructure projects:

- (1) in 2016, six and one-half percent; and
- (2) in 2017 and each subsequent year, four and one-half percent.

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

F. Money from the severance tax bonds provided for in this section shall not be used to pay indirect project costs. Any unexpended balance from proceeds of severance tax bonds issued for a water project or a tribal infrastructure project shall revert to the severance tax bonding fund within six months of completion of the project. The New Mexico finance authority shall monitor and ensure proper reversions of the bond proceeds appropriated for water projects, and the department of finance and administration shall monitor and ensure proper reversions of the bond proceeds appropriated for tribal infrastructure projects.

G. As used in this section:

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

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

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

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

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

(c) the restoration and management of watersheds;

(d) flood prevention; or

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

History: Laws 2003, ch. 134, § 1; 2009, ch. 22, § 1; 2010, ch. 37, § 1; 2015, ch. 63, § 1; 2016 (2nd S.S.), ch. 5, § 9; 2017 (1st S.S.), ch. 1, § 4; 2019, ch. 273, § 2.

ANNOTATIONS

Cross references. — For the federal Internal Revenue Code of 1986, see 26 U.S.C. § 1 et seq.

For the federal Endangered Species Act of 1973, see 16 U.S.C.S. § 1531 et seq.

The 2019 amendment, effective June 14, 2019, provided for a distribution from the severance tax bonding fund to the severance tax permanent fund every year for ten years; and added a new Subsection A and redesignated former Subsections A through F as Subsections B through G.

The 2017 (1st S.S.) amendment, effective May 26, 2017, suspended the severance tax bonding capacity allocation for water projects for the year 2017; in Subsection B, added "For each year except 2017"; in Subsection C, in the introductory clause, changed "percentages" to "percentage"; and in Subsection D, after "in the amount", deleted "allocated pursuant to" and added "provided for in", and after "provided for in this", deleted "subsection" and added "section".

The 2016 (2nd S.S.) amendment, effective October 21, 2016, reduced the percentages of estimated severance tax bonding capacity allocated to water and tribal infrastructure projects; in Subsection B, after "water projects statewide", deleted "except for projects authorized in Subsection F of this section"; in Subsection C(2), after "subsequent year", deleted "five and one-half" and added "four and one-half"; and deleted Subsection F and redesignated former Subsection G as Subsection F.

Severability. — Laws 2016 (2nd S.S.), ch. 5, § 12, provided that if a specific reversion, a voided authorization, a change in the use of severance tax bond proceeds or an authorization to expend severance tax bond proceeds is held invalid or otherwise cannot be effectuated, the remainder of Laws 2016 (2nd S.S.), ch. 5 and any other reversion, voided authorization, change in the use of severance tax bond proceeds or authorization to expend severance tax bond proceeds shall not be affected.

The 2015 amendment, effective July 1, 2015, adjusted the percentages of severance tax bonding capacity allocated for tribal infrastructure projects; in Subsection A, after "each year, the", deleted "board of finance", and after "division", deleted "of the department of finance and administration"; in Subsection C, after "The", deleted "board of finance", after "allocate", deleted "five percent" and added "the following percentages", after "capacity", deleted "each year", and after the first occurrence of "tribal infrastructure projects", deleted "and" and added Paragraphs (1) and (2) of Subsection C; designated the remainder of Subsection C as a new Subsection D and redesignated the succeeding subsections accordingly; in Subsection D, after "severance tax bonds in the", deleted "annually allocated", and after "amount", added "allocated pursuant to this section"; in Subsection F, after "The", deleted "board of finance", and after "division", deleted "of the department of finance and administration"; and added new Paragraph (1) of Subsection G and redesignated the succeeding subsections accordingly.

The 2010 amendment, effective July 1, 2011, in the catchline, after "priority", deleted "water projects" and added "for water projects and tribal infrastructure projects"; in Subsection B, in the first sentence, after "The division shall", deleted "authorize" and added "allocate"; after "bonding capacity each year", added "for water projects"; and after "tax bonds in the annually", deleted "deducted" and added "allocated"; and after "Section", changed "D" to "E"; and in the third sentence, after "authorized amount provided for in", deleted "Subsection A of this section" and added "this subsection"; added Subsection C; in Subsection D, in the second sentence, after "bonds issued for a water project", added "or a tribal infrastructure project" and after "six months of completion of the", deleted "water"; and in the third sentence, after "ensure proper reversions", added the remainder of the sentence; and added Paragraph (1) of Subsection F.

Applicability. — Laws 2010, ch. 37, § 2 provided that the allocation of severance tax bonding capacity and the authorization of severance tax bonds for tribal infrastructure projects shall commence with the severance tax bonding capacity estimated on January 15, 2012 for authorization by the second session of the fiftieth legislature.

The 2009 amendment, effective March 20, 2009, in Subsection A, added the exception at the end of the subsection and added Subsection D.

7-27-10.2. Transfer to severance tax permanent fund before determining bonding capacity.

On December 31 of each year from 2023 through 2033, the board of finance division of the department of finance and administration shall transfer ninety-two million dollars (\$92,000,000) from the severance tax bonding fund to the severance tax permanent fund, unless the state board of finance determines that a lesser transfer amount is necessary pursuant to Section 7-27-8 NMSA 1978 to avoid a potential shortfall in debt service obligations.

History: 1978 Comp., § 7-27-10.2, enacted by Laws 2023, ch. 124, § 2.

ANNOTATIONS

Effective dates. — Laws 2023, ch. 124 contained no effective date provision, but, pursuant to N.M. Const., art. IV, § 23, was effective June 16, 2023, 90 days after adjournment of the legislature.

7-27-11. Authority to refund bonds.

A. The state board of finance may issue and sell at public or private sale severance tax bonds to refund outstanding severance tax bonds by exchange, immediate or prospective redemption, cancellation or escrow, including the escrow of debt service funds accumulated for payment of outstanding bonds, or any combination thereof when, in its opinion, such action will be beneficial to the state.

B. The state board of finance may issue and sell at public or private sale supplemental severance tax bonds to refund outstanding supplemental severance tax bonds by exchange, immediate or prospective redemption, cancellation or escrow, including the escrow of debt service funds accumulated for payment of outstanding supplemental severance tax bonds, or any combination thereof when, in its opinion, such action will be beneficial to the state.

History: 1953 Comp., § 72-18-36, enacted by Laws 1961, ch. 5, § 9; 1985 (1st S.S.), ch. 15, § 13; 1999 (1st S.S.), ch. 6, § 5.

ANNOTATIONS

Cross references. — For the state board of finance, see 6-1-1 NMSA 1978.

The 1999 amendment, effective July 1, 1999, deleted "and other bonds payable from the severance tax bonding fund" preceding "by exchange" near the middle of Subsection A; deleted former Subsections B and C, relating to use of the level savings method of advance refunding and prohibiting issuance of certain bonds to refund outstanding severance tax bonds; and added present Subsection B.

7-27-11.1. Repealed.

ANNOTATIONS

Repeals. — Laws 1999 (1st S.S.), ch. 6, § 20 repealed 7-27-11.1 NMSA 1978, as enacted by Laws 1985 (1st S.S.), ch. 15, § 15, relating to declaration of legislative intent in enacting 7-27-11 NMSA 1978, effective July 1, 1999. For provisions of former section, see the 1998 NMSA 1978 on *NMOneSource.com*.

7-27-12. When severance tax bonds to be issued.

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

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

C. Except as provided in Subsection D of this section, proceeds from supplemental severance tax bonds shall be used only for public school capital outlay projects pursuant to the Public School Capital Outlay Act [Chapter 22, Article 24 NMSA 1978] or the Public School Capital Improvements Act [Chapter 22, Article 25 NMSA 1978].

D. Proceeds from supplemental severance tax bonds issued pursuant to Paragraph (2) of Subsection A of Section 19 of Chapter 6 of Laws 1999 (1st S.S.) and Section 1 of this 2017 act shall be used for the purposes specified in those provisions.

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

F. The state board of finance shall issue and sell the supplemental severance tax bonds authorized by:

(1) Paragraph (2) of Subsection A of Section 19 of Chapter 6 of Laws 1999 (1st S.S.) when so instructed by resolution of the commission on higher education; and

(2) Section 1 of this 2017 act upon certification by the secretary of finance and administration of the need to use proceeds from those bonds as outlined in that section.

History: 1953 Comp., § 72-18-37, enacted by Laws 1961, ch. 5, § 10; 1984, ch. 4, § 2; 1999 (1st S.S.), ch. 6, § 6; 2001, ch. 37, § 1; 2001, ch. 338, § 1; 2017 (1st S.S.), ch. 1, § 5.

ANNOTATIONS

Cross references. — For laws authorizing severance tax bond issues, see the appendix to this article.

For state board of finance, see 6-1-1 NMSA 1978.

For commission on higher education, see 21-1-26 NMSA 1978.

For public school capital outlay council, see 22-24-6 NMSA 1978.

For interstate stream commission, see 72-14-1 NMSA 1978.

The 2017 (1st S.S.) amendment, effective May 26, 2017, authorized the board of finance division of the department of finance and administration to transfer proceeds from supplemental severance tax bonds to the general fund for use by the department in fiscal year 2017 to restore certain allotments from the general fund; in Subsection D, after "(1st S.S.)", added "and Section 1 of this 2017 act", and after "specified in", deleted "that paragraph" and added "those provisions"; and in Subsection F, after "authorized by", added paragraph designation "(1)", and at the end of Paragraph (1), added "and", and added Paragraph (2).

2001 Amendments. — Laws 2001, ch. 338, § 1, effective April 5, 2001, substituted "by written direction from an authorized officer" for "executive head" at the end of Subsection B; in Subsection C, inserted the exception to the beginning of the subsection, deleted "critical" preceding "capital outlay", substituted "the Public School Capital Improvements Act" for language concerning post-secondary infrastructure renovation and expansion needs; deleted former Subsection D; and added current Subsections D, E and F.

Laws 2001, ch. 37, § 1, effective June 15, 2001, in Subsection B, deleted "executive head" and added "by written direction from an authorized officer"; and in Subsection D, after the second occurrence of "commission higher education", deleted "pursuant to certification by the governing bodies of the appropriate educational institutions".

The 1999 amendment, effective July 1, 1999, added the Subsection A and B designations and added Subsection C; inserted "or executive head" in the second sentence in Subsection B; and made minor stylistic changes.

7-27-12.1. Severance tax bonds; purpose for which issued; appropriation of proceeds.

The state board of finance may issue and sell severance tax bonds in fiscal years 2001 through 2010 in compliance with the Severance Tax Bonding Act in an amount not exceeding a total of twenty million dollars (\$20,000,000) when the local government division of the department of finance and administration certifies the need for the

issuance of the bonds; provided that no more than four million dollars (\$4,000,000) may be issued in fiscal year 2001 and no more than two million dollars (\$2,000,000) may be issued in any one fiscal year thereafter. The state board of finance shall schedule the issuance and sale of the bonds in the most expeditious and economical manner possible upon a finding by the board that the project has been developed sufficiently to justify the issuance and that the project can proceed to contract within a reasonable time. The state board of finance shall further take the appropriate steps necessary to comply with the Internal Revenue Code of 1986, as amended. The proceeds from the sale of the bonds are appropriated to the local government division of the department of finance and administration for the purpose of financing water and sewer distribution and collection systems in the developed and underserved areas of Bernalillo county, including areas in the city of Albuquerque. The certification and issuance of bonds for any fiscal year is contingent upon the secretary of finance and administration receiving certification from the governing body of the city of Albuquerque and the board of county commissioners of Bernalillo county that funding in an amount equal to one and one-half times the amount of bonds issued pursuant to this section, including the amount of bonds proposed to be issued for that fiscal year, has been secured from federal, city and county sources to construct the water and sewer distribution and collection systems. Any funding from federal, city and county sources in excess of the amount required for certification in any fiscal year may be carried forward and credited against the amount required in subsequent fiscal years. Any unexpended or unencumbered balance remaining at the end of fiscal year 2012 shall revert to the severance tax bonding fund. If the local government division of the department of finance and administration has not certified the need for the issuance of the bonds by the end of fiscal year 2010, the authorization provided in this section shall expire.

History: Laws 1999 (1st S.S.), ch. 5, § 1; 2000 (2nd S.S.), ch. 18, § 1; 2002, ch. 66, § 1.

ANNOTATIONS

Cross references. — For the Internal Revenue Code of 1986, see 26 U.S.C. § 1 et seq.

The 2002 amendment, effective May 15, 2002, substituted "one and one-half" for "four and one-half" in the fifth sentence.

The 2000 amendment, effective April 12, 2000, inserted "four million dollars (\$4,000,000) may be issued in fiscal year 2001 and no more than" preceding "two million dollars" and inserted the fifth sentence.

7-27-12.2. Supplemental severance tax bonds; public school capital outlay and other projects.

A. The public school capital outlay council is authorized to certify by resolution that proceeds of supplemental severance tax bonds are needed for expenditures relating to

public school capital outlay projects pursuant to the Public School Capital Outlay Act [Chapter 22, Article 24 NMSA 1978] or for the state distribution for public school capital improvements pursuant to the Public School Capital Improvements Act [Chapter 22, Article 25 NMSA 1978]. The resolution shall specify the total amount needed.

B. The state board of finance may issue and sell supplemental severance tax bonds in compliance with the Severance Tax Bonding Act when the public school capital outlay council certifies by resolution the need for the issuance of the bonds or when the secretary of public education certifies the need for the issuance of the bonds pursuant to Section 22-24-4 NMSA 1978 or Section 3 of this 2016 act. The amount of the bonds sold at each sale shall not exceed the lesser of:

(1) the total of the amounts certified by the council and the secretary of public education; or

(2) the amount that may be issued pursuant to the restrictions of Section 7-27-14 NMSA 1978.

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

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

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

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

History: 1978 Comp., § 7-27-12.2, enacted by Laws 2001, ch. 338, § 2; 2004, ch. 125, § 1; 2016 (2nd S.S.), ch. 2, § 1.

ANNOTATIONS

Compiler's notes. — The reference to "Section 3 of this 2016 act" in Subsection B of this section, refers to Laws 2016 (2nd S.S.), ch. 2, § 3, effective October 7, 2016, which appropriated twelve million five hundred thousand dollars (\$12,500,000) from the public school capital outlay fund to the instructional material fund for expenditure in fiscal year 2017 and subsequent fiscal years for the purchase of instructional material pursuant to the Instructional Material Law; provided that the secretary of public education certifies the need for the issuance of supplemental severance tax bonds to meet that appropriation. Any unexpended or unencumbered balance remaining at the end of a fiscal year shall not revert to the public school capital outlay fund.

Cross references. — For the state board of finance, see 6-1-1 NMSA 1978.

For the secretary of public education, see 9-24-5 NMSA 1978.

For the public school capital outlay council, see 22-24-6 NMSA 1978.

The 2016 (2nd S.S.) amendment, effective October 7, 2016, authorized the state board of finance to issue and sell supplemental severance tax bonds in compliance with the Severance Tax Bonding Act when the secretary of public education certifies the need for the issuance of the bonds pursuant to the Public School Capital Outlay Act; in the catchline, added "and other"; in Subsection B, after "council certifies by resolution the need for the issuance of the bonds", added "or when the secretary of public education certifies the need for the issuance of the bonds pursuant to Section 22-24-4 NMSA 1978 or Section 3 of this 2016 act", and after "shall not exceed the lesser of:", added the paragraph designation "(1)"; in Paragraph C(1), changed "amount" to "total of the amounts", and after "certified by the council", added "and the secretary of public education"; and added the paragraph designation "(2)".

The 2004 amendment, effective May 19, 2004, amended Subsection A to insert "expenditures relating to" before "public school capital outlay", deleted "Section 22-24-5 NMSA 1978" and inserted in its place "the Public School Capital Outlay Act", amended Subsection D to substitute "secretary of public education" for "superintendent of public instruction" in Paragraph (1) and deleted in Paragraph (2) the purpose of the awards language and substitute in its place the purpose of "carrying out the provisions of the Public School Capital Outlay Act".

7-27-12.3. Administration of certain bond proceeds appropriated to the public school capital outlay fund.

Proceeds of severance tax bonds and supplemental severance tax bonds previously or hereafter issued by the state board of finance that are appropriated to the public school capital outlay fund for the purpose of carrying out the provisions of the Public School Capital Outlay Act [Chapter 22, Article 24 NMSA 1978] shall, except to the extent that the proceeds are derived from any bonds the interest on which is excluded from federal income tax, be transferred by the state board of finance immediately upon receipt to the public school capital outlay fund. All money so transferred shall be administered for disbursement purposes by the public school capital outlay council consistent with the requirements of the Public School Capital Outlay Act.

History: Laws 2005, ch. 274, § 1.

ANNOTATIONS

Effective dates. — Laws 2005, ch. 274, § 20 made Laws 2005, ch. 274, § 1 effective April 6, 2005.

7-27-12.4. Authorization for severance tax bonds for severance tax transportation fund; appropriation of proceeds.

A. The state board of finance may issue and sell severance tax bonds in fiscal years 2007 through 2009 in compliance with the Severance Tax Bonding Act in an amount not exceeding a total of one hundred fifty million dollars (\$150,000,000) when the department of transportation certifies the need for the issuance of the bonds; provided that:

(1) in fiscal year 2007, no more than fifty million dollars (\$50,000,000) in bonds shall be issued; and

(2) in each of fiscal years 2008 and 2009, no more than the lesser of fifty million dollars (\$50,000,000) or twelve and one-half percent of severance tax bonding capacity, as determined pursuant to Section 7-27-10.1 NMSA 1978, shall be issued.

B. The state board of finance shall schedule the issuance and sale of the bonds in the most expeditious and economical manner possible upon a finding by the board that, based upon a certification from the department of transportation, the proceeds of the bonds are needed and that the projects can proceed to contract within a reasonable time. The state board of finance shall further take the appropriate steps necessary to comply with the federal Internal Revenue Code of 1986, as amended. The state board of finance may issue and sell the bonds in the same manner as other severance tax bonds in an amount not to exceed the authorized amount provided for in this subsection.

C. The proceeds from the sale of the bonds are appropriated as follows:

(1) proceeds of the bonds issued in fiscal year 2007 are appropriated to the local government transportation fund for distribution as directed by the department of transportation for projects pursuant to Section 6-21-6.12 NMSA 1978;

(2) twenty percent of the proceeds of the bonds issued in fiscal years 2008 and 2009 are appropriated to the department of transportation to perform routine maintenance on state highways;

(3) forty percent of the proceeds of the bonds issued in fiscal years 2008 and 2009 are appropriated to the local government transportation fund for distribution as directed by the department of transportation for projects pursuant to Section 6-21-6.12 NMSA 1978; and

(4) forty percent of the proceeds of the bonds issued in fiscal years 2008 and 2009 are appropriated to the department of transportation for the purpose of completing those projects authorized in Paragraphs (1) and (3) through (38) of Subsection A of Laws 2003 (1st S.S.), Chapter 3, Section 27, provided that the department shall comply with the requirements of Subsections C, D and E of Section 67-3-59.4 NMSA 1978.

D. Money from the severance tax bonds provided for in this section shall not be used to pay indirect costs. If the department of transportation has not certified the need for the issuance of the bonds by July 1, 2009, the authorization provided in this section shall expire.

History: Laws 2007 (1st S.S.), ch. 3, § 1.

ANNOTATIONS

Cross references. — For the Internal Revenue Code, see 26 U.S.C.

Effective dates. — Laws 2007 (1st S.S.), ch. 3 contained no effective date provision, but, pursuant to N.M. Const., art. IV, § 23, was effective June 28, 2007, 90 days after the adjournment of the legislature.

7-27-12.5. Authorization for severance tax bonds; priority for infrastructure projects for colonias.

A. After the annual estimate of severance tax bonding capacity pursuant to Subsection A of Section 7-27-10.1 NMSA 1978, the board of finance division of the department of finance and administration shall allocate the following percentages of the estimated bonding capacity for colonias infrastructure projects:

- (1) in 2016, six and one-half percent; and
- (2) in 2017 and each subsequent year, four and one-half percent.

B. The legislature authorizes the state board of finance to issue severance tax bonds in the amount allocated pursuant to this section for use by the colonias infrastructure board to fund the projects. The colonias infrastructure board shall certify to the state board of finance the need for issuance of bonds for colonias infrastructure projects. The state board of finance may issue and sell the bonds in the same manner as other severance tax bonds in an amount not to exceed the authorized amount provided for in this subsection. If necessary, the state board of finance shall take the appropriate steps to comply with the federal Internal Revenue Code of 1986, as amended. Proceeds from the sale of the bonds are appropriated to the colonias infrastructure project fund for the purposes certified by the colonias infrastructure board to the state board of finance.

C. Money from the severance tax bonds provided for in this section shall not be used to pay indirect project costs. Any unexpended balance from proceeds of severance tax bonds issued for a colonias infrastructure project shall revert to the severance tax bonding fund within six months of completion of the project. The colonias infrastructure board shall monitor and ensure proper reversions of the bond proceeds appropriated for the projects.

D. As used in this section, "colonias infrastructure project" means a qualified project under the Colonias Infrastructure Act [Chapter 6, Article 30 NMSA 1978].

History: Laws 2010, ch. 10 § 9; 2015, ch. 63, § 2; 2016 (2nd S.S.), ch. 5, § 10.

ANNOTATIONS

Cross references. — For the colonias infrastructure board, see 6-30-4 NMSA 1978.

For the Internal Revenue Code of 1986, see 26 U.S.C.

The 2016 (2nd S.S.) amendment, effective October 21, 2016, reduced the percentages of estimated severance tax bonding capacity allocated to colonias infrastructure projects; and in Subsection A(2), after "subsequent year", deleted "five and one-half" and added "four and one-half".

Severability. — Laws 2016 (2nd S.S.), ch. 5, § 12, provided that if a specific reversion, a voided authorization, a change in the use of severance tax bond proceeds or an authorization to expend severance tax bond proceeds is held invalid or otherwise cannot be effectuated, the remainder of Laws 2016 (2nd S.S.), ch. 5 and any other reversion, voided authorization, change in the use of severance tax bond proceeds or authorization to expend severance tax bond proceeds shall not be affected.

The 2015 amendment, effective July 1, 2015, adjusted the percentages of severance tax bonding capacity allocated for colonias infrastructure projects; in the introductory sentence of Subsection A, after "allocate", deleted "five percent" and added "the following percentages", after "capacity", deleted "each year", and after "colonias infrastructure projects", deleted "and", added a colon, and after the colon, added new Paragraphs (1) and (2) of Subsection A; designated the remainder of Subsection A as Subsection B and redesignated the succeeding subsections accordingly; and in Subsection B, after "severance tax bonds in the", deleted "annually allocated", and after "amount", added "allocated pursuant to this section".

7-27-13. Reserved.

7-27-14. Amount of tax; security for bonds.

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

B. Except as otherwise specifically provided by law, the state board of finance shall issue no severance tax bonds unless the aggregate amount of severance tax bonds

outstanding, and including the issue proposed, can be serviced with not more than the following percentages of the annual deposits into the severance tax bonding fund, as determined by the lesser of the deposits during the preceding fiscal year or the deposits during the current fiscal year as estimated by the division:

- (1) for fiscal year 2016, forty-nine and four-tenths percent;
- (2) for fiscal year 2017, forty-eight and eight-tenths percent;
- (3) for fiscal year 2018, forty-eight and two-tenths percent; and
- (4) for fiscal year 2019 and subsequent fiscal years, forty-seven and six-tenths percent.

C. The state board of finance shall issue no supplemental severance tax bonds with a term that extends beyond the fiscal year in which the bonds are issued unless the aggregate amount of severance tax bonds and supplemental severance tax bonds outstanding, and including the issue proposed, can be serviced with not more than the following percentages of the annual deposits into the severance tax bonding fund, as determined by the lesser of the deposits during the preceding fiscal year or the deposits during the current fiscal year as estimated by the division:

- (1) for fiscal year 2016, sixty-one and nine-tenths percent;
- (2) for fiscal year 2017, sixty-one and three-tenths percent;
- (3) for fiscal year 2018, sixty and seven-tenths percent; and
- (4) for fiscal year 2019 and subsequent fiscal years, sixty and one-tenth percent.

D. Except as otherwise specifically provided by law, the state board of finance may issue supplemental severance tax bonds with a term that does not extend beyond the fiscal year in which they are issued if the debt service on such supplemental severance tax bonds when added to the debt service previously paid or scheduled to be paid during that fiscal year on severance tax bonds and supplemental severance tax bonds does not exceed the following percentages of the lesser of the deposits into the severance tax bonding fund during the preceding fiscal year or the deposits into the severance tax bonding fund during the current fiscal year as estimated by the division:

- (1) for fiscal year 2016, ninety-four and four-tenths percent;
- (2) for fiscal year 2017, ninety-three and eight-tenths percent;
- (3) for fiscal year 2018, ninety-three and two-tenths percent;

- (4) for fiscal year 2019, ninety-one percent;
- (5) for fiscal year 2020, eighty-nine and four-tenths percent;
- (6) for fiscal year 2021, eighty-seven and eight-tenths percent; and
- (7) for fiscal year 2022 and subsequent fiscal years, eighty-six and two-tenths percent.

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

F. For the purposes of this section, "division" means the board of finance division of the department of finance and administration.

History: 1953 Comp., § 72-18-38, enacted by Laws 1961, ch. 5, § 11; 1999 (1st S.S.), ch. 6, § 7; 2000, ch. 95, § 1; 2000 (2nd S.S.), ch. 11, § 2; 2003, ch. 238, § 1; 2004, ch. 125, § 2; 2015, ch. 63, § 3.

ANNOTATIONS

The 2015 amendment, effective July 1, 2015, increased distributions to the severance tax permanent fund by phasing in reductions to the severance tax bonding capacity and supplemental severance tax bonding capacity; in Subsection B, after "serviced with not more than", deleted "fifty percent" and added "the following percentages", after "determined by the", added "lesser of the", and after "preceding fiscal year", added "or the deposits during the current fiscal year as estimated by the division:"; added Paragraphs (1), (2), (3) and (4) of Subsection B; in Subsection C, after "not more than", deleted "sixty-two and one-half percent" and added "the following percentages", after "determined by", added "the lesser of", and after "preceding fiscal year", added "or the deposits during the current fiscal year as estimated by the division:"; added Paragraphs (1), (2), (3) and (4) of Subsection C; in Subsection D, after "tax bonds does not exceed", deleted "ninety-five percent" and added "the following percentages", after "of", added "the lesser of", after "preceding fiscal year", added "or the deposits into the severance tax bonding fund during the current fiscal year as estimated by the division:"; added Paragraphs (1), (2), (3), (4), (5), (6) and (7) of Subsection D; and added Subsection F.

The 2004 amendment, effective July 1, 2004, amended Subsection D to substitute "ninety-five" for "eighty-seven and one-half" preceding "percent".

The 2003 amendment, effective June 20, 2003, inserted "Except as otherwise specifically provided by law," at the beginning of Subsections B and D.

The 2000 (2nd S.S.) amendment, effective April 12, 2000, substituted "eighty-seven and one-half percent" for "seventy-five percent" in Subsection D.

The 2000 amendment, effective May 17, 2000, inserted "with a term that extends beyond the fiscal year in which the bonds are issued" preceding "unless" in Subsection C, added present Subsection D, and redesignated former Subsection D as Subsection E.

The 1999 amendment, effective July 1, 1999, added "and supplemental severance tax bonds" at the end of Subsection A; in Subsection B inserted "of severance tax bonds" and deleted "including any severance tax bonds authorized prior to the enactment of this Severance Tax Bonding Act, but not yet issued" preceding "and including"; added present Subsection C; redesignated former Subsection C as Subsection D; and in Subsection D inserted "severance tax" and "or supplemental severance tax bonds".

7-27-15. Majority approval necessary for board action.

Any action taken hereunder by the state board of finance must be approved by a majority of its members.

History: 1953 Comp., § 72-18-39, enacted by Laws 1961, ch. 5, § 12.

ANNOTATIONS

Emergency clauses. — Laws 1961, ch. 5, § 28 contained an emergency clause and was approved February 17, 1961.

7-27-16. Form of bonds.

A. The state board of finance, except as otherwise specifically provided in the Severance Tax Bonding Act, shall determine at its discretion the terms, covenants and conditions of severance tax bonds and supplemental severance tax bonds, including but not limited to: date of issue, denominations, maturities, rate or rates of interest, call features, call premiums, registration, refundability and other covenants covering the general and technical aspects of the issuance of the bonds.

B. The bonds shall be in such form as the state board of finance may determine, and successive issues shall be identified by alphabetical, numerical or other proper series designation.

History: 1953, Comp., § 72-18-40, enacted by Laws 1961, ch. 5, § 13; 1983, ch. 265, § 31; 1999 (1st S.S.), ch. 6, § 8.

ANNOTATIONS

The 1999 amendment, effective July 1, 1999, added the subsection designations and inserted "and supplemental severance tax bonds" near the middle of Subsection A.

7-27-17. Execution of bonds.

Severance tax bonds and supplemental severance tax bonds shall be signed and attested by the state treasurer and shall be executed with the facsimile signature of the governor and the facsimile seal of the state, except for bonds issued in book entry or similar form without the delivery of physical securities. Any interest coupons attached to the bonds shall bear the facsimile signature of the state treasurer, which officer, by the execution of the bonds, shall adopt as his own signature the facsimile thereof appearing on the coupons. Except for bonds issued in book entry or similar form without the delivery of physical securities, the Uniform Facsimile Signature of Public Officials Act [6-9-1 to 6-9-6 NMSA 1978] shall apply, and the state board of finance shall determine the manual signature to be affixed on the bonds.

History: 1953 Comp., § 72-18-41, enacted by Laws 1961, ch. 5, § 14; 1961, ch. 79, § 1; 1969, ch. 63, § 1; 1983, ch. 265, § 32; 1984, ch. 4, § 3; 1999 (1st S.S.), ch. 6, § 9.

ANNOTATIONS

The 1999 amendment, effective July 1, 1999, inserted "and supplemental severance tax bonds" near the beginning of the first sentence.

7-27-18. Procedure for sale of bonds.

A. Severance tax bonds and supplemental severance tax bonds shall be sold by the state board of finance at such times and in such manner as the board may elect, consistent with the need of the board, commission or agency that is the recipient of the bond money, to the highest bidder for cash at not less than par and accrued interest.

B. The state board of finance shall publish a notice of the time and place of sale in a newspaper of general circulation in the state, and also in a recognized financial journal outside the state. Such publication shall be made once at least five business days prior to the date fixed for such sale. Such notice shall specify the amount, denomination, maturity and description of the bonds to be offered for sale and the place, day and hour at which bids therefor shall be received and publicly examined. All bids shall be sealed or sent by facsimile or other electronic transmission to the state board of finance as set forth in the notice. All bids, except that of the state, shall be accompanied by a deposit of two percent of the bid price, either in the form of a financial surety bond or in cash or by cashier's check or treasurer's check of, or by certified check drawn on, a solvent commercial bank or trust company in the United States. The financial surety bond or the long-term debt obligations of the issuer or person guarantying the obligations of the issuer of the financial surety bond shall be rated in one of the top two rating categories of a nationally recognized rating agency, without regard to any modification of the rating, and the financial surety bond shall be issued by an insurance company licensed to issue such a bond in New Mexico. Deposits of unsuccessful bidders shall be returned upon rejection of the bid.

C. At the time and place specified in such notice, bids shall be publicly examined and the bonds, or any part thereof, shall be awarded to the bidder or bidders offering

the best price therefor. Before delivering any bonds sold, the state treasurer shall detach therefrom and cancel all interest coupons that may have matured prior to the date of delivery. The state board of finance may reject any or all bids and readvertise. The state board of finance may sell a severance tax bond or supplemental severance tax bond issue, or any part thereof, to the state at private sale.

History: 1953 Comp., § 72-18-42, enacted by Laws 1961, ch. 5, § 15; 1999 (1st S.S.), ch. 6, § 10; 2001, ch. 37, § 2.

ANNOTATIONS

The 2001 amendment, effective June 15, 2001, in Subsection B, changed the requirement that the publication of notice be made once each week for two consecutive weeks prior to the sale date, the last publication of which to be at least ten days prior to the date of sale, to the publication be made at least five business days prior to the sale date; deleted "sealed" preceding "bids therefor" and inserted "and publicly examined" and the following sentence; inserted the language beginning "either in the form of a financial surety bond" and ending "licensed to issue such a bond in New Mexico"; in Subsection C, substituted "bids shall be publicly examined and" for "the state board of finance shall open the bids in public and shall award" and inserted "shall be awarded" preceding "to the bidder".

The 1999 amendment, effective July 1, 1999, added the subsection designations; inserted "and supplemental severance tax bonds" in Subsection A; substituted "two percent" for "five percent" in the next-to-last sentence in Subsection B; inserted "or supplemental severance tax bond" in the last sentence in Subsection C; and made minor stylistic changes.

7-27-19. Severance tax bonds and supplemental severance tax bonds legal investments.

Severance tax bonds and supplemental severance tax bonds are legal investments for any person or board charged with the investment of any public funds and are acceptable as security for any deposit of public money.

History: 1953 Comp., § 72-18-43, enacted by Laws 1961, ch. 5, § 16; 1999 (1st S.S.), ch. 6, § 11.

ANNOTATIONS

The 1999 amendment, effective July 1, 1999, inserted "and supplemental severance tax bonds" in the catchline and near the beginning of the section.

7-27-20. Expenses paid from severance tax bonding fund.

The expense incurred in the issuance of severance tax bonds and supplemental severance tax bonds shall be paid from the severance tax bonding fund.

History: 1953 Comp., § 72-18-44, enacted by Laws 1961, ch. 5, § 17; 1999 (1st S.S.), ch. 6, § 12.

ANNOTATIONS

The 1999 amendment, effective July 1, 1999, inserted "and supplemental severance tax bonds".

7-27-21. Treasurer to make bond payments and keep records.

Severance tax bonds and supplemental severance tax bonds payable from the severance tax bonding fund shall be paid by the state treasurer who shall keep a complete bond register showing severance tax bonds and supplemental severance tax bonds, coupons paid and outstanding on the bonds and such other records as the state board of finance shall require.

History: 1953 Comp., § 72-18-45, enacted by Laws 1961, ch. 5, § 18; 1999 (1st S.S.), ch. 6, § 13.

ANNOTATIONS

The 1999 amendment, effective July 1, 1999, inserted "severance tax" and "and supplemental severance tax bonds", each in two places, and inserted "on the bonds" near the end.

7-27-22. Severance tax bonding act to be full authority for issuance of bonds.

The Severance Tax Bonding Act shall, without reference to any other act of the legislature, be full authority for the issuance and sale of severance tax bonds and supplemental severance tax bonds, which bonds and the coupons attached thereto shall have all the qualities of investment securities under the Uniform Commercial Code [Chapter 55 NMSA 1978] and shall not be invalid for any irregularity or defect or be contestable in the hands of bona fide purchasers or holders thereof for value.

History: 1953 Comp., § 72-18-46, enacted by Laws 1961, ch. 5, § 19; 1961, ch. 79, § 2; 1984, ch. 4, § 4; 1999 (1st S.S.), ch. 6, § 14.

ANNOTATIONS

Cross references. — For investment securities under the Uniform Commercial Code, see 55-8-1 NMSA 1978 et seq.

The 1999 amendment, effective July 1, 1999, inserted "and supplemental severance tax bonds" near the middle.

7-27-23. Suit may be brought to compel performance of officers.

Any holder of severance tax bonds or supplemental severance tax bonds or any person or officer being a party in interest may sue to enforce and compel the performance of the provisions of the Severance Tax Bonding Act.

History: 1953 Comp., § 72-18-47, enacted by Laws 1961, ch. 5, § 20; 1999 (1st S.S.), ch. 6, § 15.

ANNOTATIONS

The 1999 amendment, effective July 1, 1999, inserted "or supplemental severance tax bonds" and made a minor stylistic change.

7-27-24. Bonds tax free.

All severance tax bonds and supplemental severance tax bonds shall be exempt from taxation by the state or any of its political subdivisions.

History: 1953 Comp., § 72-18-48, enacted by Laws 1961, ch. 5, § 21; 1999 (1st S.S.), ch. 6, § 16.

ANNOTATIONS

The 1999 amendment, effective July 1, 1999, inserted "and supplemental severance tax bonds".

7-27-25. No impairment of obligation of contract.

Nothing in this Severance Tax Bonding Act shall be construed as impairing or authorizing the impairment of the contract between the state and the holders of the outstanding Building and Institution Severance Tax Bonds, Series July 1, 1955.

History: 1953 Comp., § 72-18-49, enacted by Laws 1961, ch. 5, § 25.

ANNOTATIONS

Emergency clauses. — Laws 1961, ch. 5, § 28 contained an emergency clause and was approved February 17, 1961.

7-27-26. Severance tax bonding fund continued.

The severance tax bonding fund created by Laws 1959, Chapter 323 is hereby continued as the severance tax bonding fund created by and referred to in the Severance Tax Bonding Act.

History: 1953 Comp., § 72-18-50, enacted by Laws 1961, ch. 5, § 26; 1986, ch. 20, § 95.

ANNOTATIONS

Compiler's notes. — Laws 1959, ch. 323, §§ 1, 2 and 5 to 21, were repealed by Laws 1961, ch. 5, § 1. Laws 1959, ch. 323, § 3, was repealed by Laws 1971, ch. 65, § 7. Laws 1959, ch. 323, § 4, was repealed by Laws 1985, ch. 65, § 46.

7-27-27. Purpose and intent.

The purpose of the Severance Tax Bonding Act is to establish the authority who shall issue and sell all severance tax bonds for financing specific projects authorized by the legislature and all supplemental severance tax bonds pursuant to Section 7-27-12.2 NMSA 1978 and to guarantee redemption of such bonds by revenue derived from the receipts from taxes levied upon natural resource products severed and saved from the soil and such other money as the legislature may from time to time determine. It is intended that projects to be financed from the fund shall include the construction of public school buildings, other buildings for state institutions and water resource projects; and it is further intended that the income from water resource projects in excess of the amount required for operation and maintenance of the project shall be used to repay the severance tax bonding fund.

History: 1953 Comp., § 72-18-51, enacted by Laws 1961, ch. 5, § 27; 1986, ch. 20, § 96; 1999 (1st S.S.), ch. 6, § 17; 2001, ch. 338, § 3.

ANNOTATIONS

The 2001 amendment, effective April 5, 2001, deleted "and supplemental severance tax bonds" preceding "for financing specific projects authorized by the legislature" and inserted, following that same language, "and all supplemental severance tax bonds pursuant to Section 7-27-12.2 NMSA 1978"; deleted "but not limited to" following "shall include"; and inserted "public school buildings, other" preceding "buildings for state institutions".

The 1999 amendment, effective July 1, 1999, inserted "and supplemental severance tax bonds" in the first sentence.

7-27-28. Repealed.

ANNOTATIONS

Repeals. — Laws 1986, ch. 20, § 136C repealed 7-27-28 NMSA 1978, as enacted by Laws 1981 (1st S.S.), ch. 9, § 1, relating to the short title of the Severance Tax Income Bonding Act, effective May 21, 1986.

7-27-29. Repealed.

ANNOTATIONS

Repeals. — Laws 1986, ch. 20, § 136C repealed 7-27-29 NMSA 1978, as enacted by Laws 1981 (1st S.S.), ch. 9, § 2, relating to the purpose of the Severance Tax Income Bonding Act, effective May 21, 1986.

7-27-30. Repealed.

ANNOTATIONS

Repeals. — Laws 1986, ch. 20, § 136C repealed 7-27-30 NMSA 1978, as enacted by Laws 1981 (1st S.S.), ch. 9, § 3, relating to a transition provision of the Severance Tax Income Bonding Act, effective May 21, 1986.

7-27-31. Severance tax income bond retirement fund created.

There is created the "severance tax income bond retirement fund." Transfers from the severance tax income fund shall be made monthly to the severance tax income bond retirement fund in an amount sufficient, when added to the balance in the fund, to meet all principal and interest payments on bonds payable from the severance tax income bond retirement fund during the next twelve months.

History: Laws 1981 (1st S.S.), ch. 9, § 4.

ANNOTATIONS

Effective dates. — Laws 1981 (1st S.S.), ch 9, § 23 made Laws 1981 (1st S.S.), ch. 9, § 4 effective July 1, 1981.

7-27-32. Severance tax income bond retirement fund pledged.

The money in the severance tax income bond retirement fund is pledged for the principal and interest on all severance tax income bonds issued after the effective date of the Severance Tax Income Bonding Act.

History: Laws 1981 (1st S.S.), ch. 9, § 5.

ANNOTATIONS

Compiler's notes. — Pursuant to Laws 1981 (1st S.S.), ch. 9, § 23, the effective date of the Severance Tax Income Bonding Act was July 1, 1981.

The Severance Tax Income Bonding Act, referred to in this section, is presently compiled as 7-27-31, 7-27-32, 7-27-42 to 7-27-44, 7-27-46, and 7-27-47 NMSA 1978.

7-27-33. Repealed.

ANNOTATIONS

Repeals. — Laws 1986, ch. 20, § 136C repealed 7-27-33 NMSA 1978, as enacted by Laws 1981 (1st S.S.), ch. 9, § 6, relating to special income to retire bonds, effective May 21, 1986.

7-27-34. Repealed.

ANNOTATIONS

Repeals. — Laws 1986, ch. 20, § 136C repealed 7-27-34 NMSA 1978, as enacted by Laws 1981 (1st S.S.), ch. 9, § 7, relating to severance tax income bonds, effective May 21, 1986.

7-27-35. Repealed.

ANNOTATIONS

Repeals. — Laws 1986, ch. 20, § 136C repealed 7-27-35 NMSA 1978, as enacted by Laws 1981 (1st S.S.), ch. 9, § 8, relating to state board of finance issuance of bonds, effective May 21, 1986.

7-27-36. Repealed.

ANNOTATIONS

Repeals. — Laws 1986, ch. 20, § 136C repealed 7-27-36 NMSA 1978, as enacted by Laws 1981 (1st S.S.), ch. 9, § 9, relating to authority to refund bonds, effective May 21, 1986.

7-27-37. Repealed.

ANNOTATIONS

Repeals. — Laws 1986, ch. 20, § 136C repealed 7-27-37 NMSA 1978, as enacted by Laws 1981 (1st S.S.), ch. 9, § 10, relating to security for bonds, effective May 21, 1986.

7-27-38. Repealed.

ANNOTATIONS

Repeals. — Laws 1986, ch. 20, § 136C repealed 7-27-38 NMSA 1978, as enacted by Laws 1981 (1st S.S.), ch. 9, § 11, relating to majority approval necessary for board action, effective May 21, 1986.

7-27-39. Repealed.

ANNOTATIONS

Repeals. — Laws 1986, ch. 20, § 136C repealed 7-27-39 NMSA 1978, as enacted by Laws 1981 (1st S.S.), ch. 9, § 12, relating to form of bonds, effective May 21, 1986.

7-27-40. Repealed.

ANNOTATIONS

Repeals. — Laws 1986, ch. 20, § 136C repealed 7-27-40 NMSA 1978, as enacted by Laws 1981 (1st S.S.), ch. 9, § 13, relating to execution of bonds and coupons, effective May 21, 1986.

7-27-41. Repealed.

ANNOTATIONS

Repeals. — Laws 1986, ch. 20, § 136C repealed 7-27-41 NMSA 1978, as enacted by Laws 1981 (1st S.S.), ch. 9, § 14, relating to procedure for sale of bonds, effective May 21, 1986.

7-27-42. Severance tax income bonds; legal investments.

Severance tax income bonds are legal investments for any person or board charged with the investment of any public funds and are acceptable as security for any deposit of public money.

History: Laws 1981 (1st S.S.), ch. 9, § 15.

7-27-43. Expenses paid from severance tax income bond retirement fund.

The expense incurred in the issuance of severance tax income bonds shall be paid from the severance tax income bond retirement fund.

History: Laws 1981 (1st S.S.), ch. 9, § 16.

7-27-44. Treasurer to make bond payments and keep records.

Bonds payable from the severance tax income bond retirement fund shall be paid by the state treasurer who shall keep a complete bond register showing bonds and coupons paid and outstanding and such other records as the state board of finance requires.

History: Laws 1981 (1st S.S.), ch. 9, § 17; 1986, ch. 20, § 97.

7-27-45. Repealed.

ANNOTATIONS

Repeals. — Laws 1986, ch. 20, § 136C repealed 7-27-45 NMSA 1978, as enacted by Laws 1981 (1st S.S.), ch. 9, § 18, making the Severance Tax Income Bonding Act the full authority for issuance of bonds, effective May 21, 1986.

7-27-46. Suit may be brought to compel performance of officers.

Any holder of severance tax income bonds, or any person or officer being a party in interest, may sue to enforce and compel the performance of the provisions of the Severance Tax Income Bonding Act.

History: Laws 1981 (1st S.S.), ch. 9, § 19.

ANNOTATIONS

Compiler's notes. — The Severance Tax Income Bonding Act, referred to in this section, is presently compiled as 7-27-31, 7-27-32, 7-27-42 to 7-27-44, 7-27-46, and 7-27-47 NMSA 1978.

7-27-47. Bonds tax-free.

Interest earned on all severance tax income bonds shall be exempt from taxation by the state or any of its political subdivisions.

History: Laws 1981 (1st S.S.), ch. 9, § 20.

7-27-48. Temporary provision; no impairment of obligation of contract.

Nothing in this act shall be construed as impairing or authorizing the impairment of the contract between the state and the holders of severance tax bonds authorized or issued, or both, prior to the effective date of this act.

History: Laws 1981 (1st S.S.), ch. 9, § 22.

ANNOTATIONS

Compiler's notes. — The term "this act", referred to in this section, means Laws 1981 (1st S.S.), ch. 9, which is presently compiled as 7-27-31, 7-27-32, 7-27-42 to 7-27-44, 7-27-46, and 7-27-47 NMSA 1978.

Laws 2007, ch. 64, § 5, effective March 29, 2007, authorized the issuance of severance tax bonds for state laboratory facilities.

7-27-49. Authorization for severance tax bonds; New Mexico mortgage finance authority; New Mexico housing trust fund.

A. After the annual estimate of severance tax bonding capacity is made pursuant to Subsection B of Section 7-27-10.1 NMSA 1978, the board of finance division of the department of finance and administration shall allocate two and one-half percent of the estimated bonding capacity for the New Mexico housing trust fund for the purposes of carrying out the provisions of the New Mexico Housing Trust Fund Act [58-18C-1 to 58-18C-9 NMSA 1978].

B. The legislature authorizes the state board of finance to issue severance tax bonds in the amount allocated pursuant to this section for use by the New Mexico mortgage finance authority to fund the New Mexico housing trust fund for the purposes of carrying out the provisions of the New Mexico Housing Trust Fund Act. The New Mexico mortgage finance authority shall certify to the state board of finance the need for issuance of bonds. The state board of finance may issue and sell the bonds in the same manner as other severance tax bonds in an amount not to exceed the authorized amount provided for in this section. If necessary, the state board of finance shall take the appropriate steps to comply with the federal Internal Revenue Code of 1986, as that code may be amended or renumbered. Proceeds from the sale of the bonds are appropriated to the New Mexico housing trust fund for the purposes certified by the New Mexico mortgage finance authority to the state board of finance.

C. Money from the severance tax bonds provided for in this section shall not be used to pay indirect project costs. Any unexpended balance from proceeds of severance tax bonds issued for projects pursuant to the New Mexico Housing Trust Fund Act shall revert to the severance tax bonding fund within one year of completion of the project. Any unencumbered balance from the proceeds of severance tax bonds issued pursuant to this section after three years from the issuance of those bonds shall revert to the severance tax bonding fund. The New Mexico mortgage finance authority

shall monitor and ensure proper reversions of the bond proceeds appropriated for the projects.

History: Laws 2022, ch. 38, § 1.

ANNOTATIONS

Cross references. — For the federal Internal Revenue Code of 1986, see 26 U.S.C. § 1.

Effective dates. — Laws 2022, ch. 38 contained no effective date provision, but, pursuant to N.M. Const., art. IV, § 23, was effective May 18, 2022, 90 days after adjournment of the legislature.

Applicability. — Laws 2023, ch. 9, § 1 provided that the allocation of severance tax bonding capacity and the authorization of severance tax bonds for the New Mexico housing trust fund pursuant to 7-27-49 NMSA 1978 shall commence with the severance tax bonding capacity estimated in January 2023.

Appendix to Article 27

Authorized Severance Tax Bonds

Appx., Art. 27

The New Mexico Legislature has, since 1968, authorized issuance of the following severance tax bonds:

Laws 1993, ch. 367, §§ 1 to 38, as amended by Laws 1996, ch. 14, § 32, and Laws 2003, ch. 429, § 92 various amounts for various capital improvements.

Laws 1994, ch. 148, § 9, as amended by Laws 1996, ch. 24, § 1 and Laws 2003, ch. 429 § 55 \$24,979,270 for various local capital projects.

Laws 1994, ch. 148, § 10, as reauthorized by Laws 1996, ch. 14, § 13, and as amended by Laws 2002, ch. 99, § 58, and Laws 2002, ch. 110, § 62, for a senior center at Tesuque pueblo in Santa Fe county.

Laws 1994, ch. 148, § 13, as amended by Laws 2002, ch. 99, § 8, \$22,762,000 for general services department capital projects, including construction of a multipurpose recreational center at the Sequoyah adolescent treatment center in Bernalillo county, construction of a visitor, control and administrative center and improve security at the New Mexico boys' school in Springer in Colfax county, renovation of the old national guard site in Santa Fe county, continuation of phase two of construction of state library, archives and records center in Santa Fe county, expansion of the New Mexico law enforcement academy in Santa Fe County, and construction of a minimum security unit

and a building to house the corrections industries programs near the southern New Mexico correctional facility in Dona Ana county.

Laws 1994, ch. 148, § 16, as amended by Laws 2003, ch. 429, § 106 \$2,044,564 for New Mexico office of Indian affairs capital projects.

Laws 1995, ch. 214, § 3, \$16,000,000 as reauthorized by Laws 1996, ch. 4, § 23A, amended by Laws 1996 (1st S.S.), ch. 4, § 42; Laws 1998, ch. 7, §§ 46, 50 as further reauthorized by Laws 2000 (2nd S.S.), ch. 23, §§ 89, 101, as amended by Laws 2002, ch. 99, § 77 and Laws 2002, ch. 110, § 83 for various purposes.

Laws 1996 (1st S.S.), ch. 4, § 3, as extended by Laws 1998, ch. 118, § 41, and amended by Laws 2002, ch. 99, § 72, and Laws 2002, ch. 110, § 78, \$290,000 to the office of cultural affairs for the purpose of constructing El Camino Real state monument for the museum of New Mexico located in Socorro county, planning or designing a cultural museum in the city of Santa Fe, and making renovations addressing accessibility concerns at the New Mexico museum of natural history and science in Albuquerque.

Laws 1996 (1st S.S.), ch. 4, § 5, as amended by Laws 2003, ch. 429, § 167 \$11,175,000 to the local government division of the department of finance and administration for various purposes and making some appropriations contingent upon matching funds.

Laws 1996 (1st S.S.), ch. 4, § 7, as amended by Laws 2000 (2nd S.S.), ch. 23, § 109 and Laws 2002, ch. 99, § 15, \$12,312,750 to the property control division of the general services department (and then the capital program fund) for various purposes.

Laws 1998, ch. 7, § 4, as amended by Laws 2002, ch. 99, § 38, \$1,970,000 to the office of cultural affairs for various purposes throughout the state.

Laws 1998, ch. 7, § 8, as amended by Laws 2002, ch. 99, § 59, and Laws 2002, ch. 110, § 63, \$2,540,250 to the department of environment for various improvements and installations of wells, water and wastewater systems and water filtration systems throughout the state.

Laws 1998, ch. 7, § 9, as amended by Laws 1999 (1st S.S.), ch. 2, § 91, Laws 2000 (2nd S.S.), ch. 23, § 116 and Laws 2002, ch. 99, §§ 22, 23, 40, 51, 55, and Laws 2003, ch. 429, §§ 136, 155, 178, \$13,761,800 to the local government division of the department of finance and administration (and the office of Indian affairs) for various purposes throughout the state.

Laws 1998, ch. 7, § 10, as amended by Laws 2002, ch. 99, § 7, \$18,620,700 to the capital program fund for renovations and improvements to various facilities and buildings throughout the state.

Laws 1998, ch. 7, § 12, as amended by Laws 2002, ch. 99, §§ 42, 44, 48, 50, and Laws 2003, ch. 429, § 206 \$1,633,000 to New Mexico office of Indian affairs for various purposes.

Laws 1998, ch. 118, § 2, as amended by Laws 2003, ch. 429, § 118 \$1,647,000 to the state agency on aging to be used by various senior citizen centers throughout the state.

Laws 1998, ch. 118, § 9, as amended by Laws 2002, ch. 99, § 59, and Laws 2003, ch. 429, §§ 129, 130 \$6,103,000 to the department of environment for various water and sewer construction and improvement projects throughout the state, and to carry out the purposes of the Wastewater Facility Construction Loan Act.

Laws 1998, ch. 118, § 11, as amended by Laws 2002, ch. 99, §§ 19, 33, 34, 62, 68, and Laws 2002, ch. 110, §§ 67, 73, and Laws 2003, ch. 429, §§ 84, 85, 154 \$21,595,600 to the local government division of the department of finance and administration for construction of new public service centers and parks, and equipment, improvements and additions to various existing parks, community service centers, and various other community facilities throughout the state.

Laws 1998, ch. 118, § 14, as amended by Laws 2002, ch. 99, § 53, \$10,697,300 to the capital program fund for various purposes.

Laws 1998, ch. 118, § 18, as reauthorized by Laws 1999 (1st S.S.), ch. 2, § 90 and amended by Laws 2002, ch. 99, §§ 41, 43, 56, 76, and Laws 2002, ch. 110, § 82, and Laws 2003, ch. 429, § 104 \$3,408,000 to the New Mexico office of Indian affairs for various purposes.

Laws 1998, ch. 118, § 19, as amended by Laws 2003, ch. 429, § 109, 110 \$13,209,175 to the state department of public education for construction of and various improvements and equipment for schools, including installation of educational technology, throughout the state.

Laws 1999 (1st S.S.), ch. 2, § 5, as amended by Laws 2003, ch. 429, §§ 122, 124, 126, 127, \$6,245,000 to the capital program fund for various purposes.

Laws 1999 (1st S.S.), ch. 2, § 9, as amended by Laws 2002, ch. 99, §§ 10, 11, \$647,500 to the office of the state engineer for various improvements throughout the state.

Laws 1999 (1st S.S.), ch. 2, § 10, as amended by Laws 2002, ch. 99, § 13, and Laws 2003, ch. 429, §§ 48, 134, \$4,953,188 to the department of environment for various water and sewer construction and improvement projects throughout the state.

Laws 1999 (1st S.S.), ch. 2, § 13, as amended by Laws 2002, ch. 99, § 14, and Laws 2003, ch. 429, § 131 \$335,000 to the department of health to purchase equipment and make capital improvements throughout the state.

Laws 1999 (1st S.S.), ch. 2, § 14, as amended by Laws 2002, ch. 99, §§ 61, 71, and Laws 2002, ch. 110, §§ 65, 77 and Laws 2003, ch. 429, § 61 \$5,978,321 to the state highway and transportation department for improvements throughout the state.

Laws 1999 (1st S.S.), ch. 2, § 15, as amended by Laws 2002, ch. 99, §§ 49, 73, and Laws 2003, ch. 429, §§ 88, 89, 91, 95, 96 to 100, 102, 103, 107, 201, 204, 205, \$2,790,901 to New Mexico office of Indian affairs to purchase equipment and make improvements at various sites throughout the state.

Laws 1999 (1st S.S.), ch. 2, § 17, as amended by Laws 2002, ch. 99, §§ 21, 47 and Laws 2003, ch. 429, §§ 66, 74, 75, 80, 82, 101, 108, 147, 151, 163, 174, 176, 179, 181, 182, 185, 186, 187, 197, \$18,920,170 to the local government division for the purchase of equipment, new construction, and to make improvements to various sites throughout the state.

Laws 1999 (1st S.S.), ch. 2, § 19, as amended by Laws 2003, ch. 429, §§ 111, 112, 121, 180, 190 \$12,670,326 to the state department of public education for educational technology and improvements at various schools throughout the state.

Laws 1999 (1st S.S.), ch. 2, § 30, as amended by Laws 2002, ch. 99, § 5 and Laws 2003, ch. 429, § 123 from irrigation works construction fund to capital program fund.

Laws 1999 (1st S.S.), ch. 2, § 31, as amended by Laws 2003, ch. 429, § 125, from the public buildings repair fund to the capital program fund.

Laws 2000 (2nd S.S.), ch. 23, § 4, as amended by Laws 2002, ch. 99, § 69, and Laws 2002, ch. 110, § 75, and Laws 2003, ch. 429, § 119 \$898,500 for the state agency on aging and local government division of the department of finance and administration for various purposes.

Laws 2000 (2nd S.S.), ch. 23, § 6, as amended by Laws 2002, ch. 99, § 26, \$2,310,000 to the office of cultural affairs for various purposes.

Laws 2000 (2nd S.S.), ch. 23, § 8, as amended by Laws 2002, ch. 99 and Laws 2003, ch. 429, § 184, § 12, \$4,514,495 to the department of the environment for various purposes.

Laws 2000 (2nd S.S.), ch. 23, § 12, as amended by Laws 2002, ch. 99, § 16, and Laws 2003, ch. 429, § 59 \$6,965,784 to the state highway and transportation department for various road improvements throughout the state.

Laws 2000 (2nd S.S.), ch. 23, § 13, as amended by Laws 2002, ch. 99, §§ 39, 52, 74, and Laws 2002, ch. 110, § 80, \$3,644,940 to the New Mexico office of Indian affairs for various purposes.

Laws 2000 (2nd S.S.), ch. 23, § 15, as amended by Laws 2002, ch. 99, §§ 9, 20, 23, 25, 28, 29, 30, 32, 35, 57, 63, 64, 66, 70, and Laws 2002, ch. 110, §§ 68, 69, 71, 74, 76, and Laws 2003, ch. 429, §§ 54, 64, 117, 142, 144, 145, 150, 153, 158, 162, 164, 168, 183, 193 \$21,491,665 to the local government division of the department of finance and administration for various purposes.

Laws 2000 (2nd S.S.), ch. 23, § 16, as amended by Laws 2002, ch. 99, § 46, and Laws 2002, ch. 110, § 84, \$10,550,080 to the state department of public education for various school improvements and programs.

Laws 2000 (2nd S.S.), ch. 23, § 19, as amended by Laws 2002, ch. 99, §§ 2 to 4, \$4,000,000 to the public buildings repair fund for various capital projects throughout the state.

Laws 2002, ch. 110, §§ 1 to 38, as amended by Laws 2003, ch. 429 §§ 44 to 47, 49 to 51, 53, 56, 57, 60, 62, 63, 65, 67 to 73, 76, 77, 79, 81, 83, 86, 87, 90, 94, 113 to 116, 128, 132, 133, 135, 137, 140, 143, 146, 148, 152, 156, 157, 159 to 161, 165, 166, 169 to 173, 175, 177, 188, 189, 192, 194 to 196, 198 to 200, 202, 203, 207 to 214, 216, 217 varying amounts for aging projects, armory projects, court projects, district attorney projects, railroad projects, museum and cultural projects, historic preservation projects, statewide e-commerce projects, energy, minerals and natural resources projects, water projects, environment projects, state fair projects, digital technology projects, health facility projects, highway projects, Indian affairs projects, acequia projects, local projects, public education projects, state buildings, tourism projects, higher education projects, dam rehabilitation projects.

Laws 2002, ch. 110, § 56, effective March 6, 2002, appropriates \$6,666,667 from the capital projects fund to the public buildings repair fund and from the public buildings repair fund to the capital program fund for expenditure in fiscal years 2002 through 2007 to make various capital improvements at public buildings throughout the state.

Laws 2003, ch. 429, § 3, effective April 10, 2003, appropriates \$25,000 to the office on African-American affairs for the purchase of artifacts, exhibits and art of the African-American culture and heritage.

Laws 2003, ch. 429, § 4, effective April 10, 2003, appropriates varying amounts for varying projects to the state agency on aging.

Laws 2003, ch. 429, § 5, effective April 10, 2003, appropriates \$270,000 to the state armory board for repair and renovation of state armory and national guard armory facilities.

Laws 2003, ch. 429, § 6, effective April 10, 2003, appropriates varying amounts to the border authority for construction of facilities.

Laws 2003, ch. 429, § 7, effective April 10, 2003, appropriates \$38,000 to the thirteenth judicial district court for purchase of an automobile and electronic equipment.

Laws 2003, ch. 429, § 8, effective April 10, 2003, appropriates \$120,000 to the Cumbres and Toltec scenic railroad commission for federal match to rebuild locomotives.

Laws 2003, ch. 429, § 9, effective April 10, 2003, appropriates varying amounts for varying purposes to the office of cultural affairs.

Laws 2003, ch. 429, § 10, effective April 10, 2003, appropriates \$225,000 to the economic development department for city hall in Las Vegas and a statewide feasibility study.

Laws 2003, ch. 429, § 11, effective April 10, 2003, appropriates varying amounts for the construction and maintenance of parks to the state parks division of the energy, minerals and natural resources department.

Laws 2003, ch. 429, § 12, effective April 10, 2003, appropriates varying amounts for varying purposes to the office of the state engineer.

Laws 2003, ch. 429, § 13, effective April 10, 2003, appropriates varying amounts for varying purposes to the interstate stream commission.

Laws 2003, ch. 429, § 14, effective April 10, 2003, appropriates varying amounts for varying purposes to the department of environment.

Laws 2003, ch. 429, § 15, effective April 10, 2003, appropriates \$3,000,000 for the construction of wastewater facilities to the wastewater facility construction loan fund.

Laws 2003, ch. 429, § 16, effective April 10, 2003, appropriates varying amount for varying projects to the state fair commission.

Laws 2003, ch. 429, § 17, effective April 10, 2003, appropriates \$2,000,000 for the development of digital microwave communications to the general services department.

Laws 2003, ch. 429, § 18, effective April 10, 2003, appropriates varying amounts for varying projects to the state highway and transportation department.

Laws 2003, ch. 429, § 19, effective April 10, 2003, appropriates \$155,000 for hangar construction to the aviation division of the state highway and transportation department.

Laws 2003, ch. 429, § 20, effective April 10, 2003, appropriates \$600,000 for energy-efficient improvements to dwellings of low-income persons to the department of finance and administration.

Laws 2003, ch. 429, § 21, effective April 10, 2003, appropriates varying amount for varying projects to the New Mexico office of Indian affairs.

Laws 2003, ch. 429, § 22, effective April 10, 2003, appropriates varying amounts for varying purposes to the local government division of the department of finance and administration.

Laws 2003, ch. 429, § 23, effective April 10, 2003, appropriates varying amounts for varying purposes to the state department of education.

Laws 2003, ch. 429, § 24, effective April 10, 2003, appropriates varying amount for varying projects to the capital program fund.

Laws 2003, ch. 429, § 25, effective April 10, 2003, appropriates \$8,000,000 for repair of state-owned facilities to the property control division of the general services department and \$8,000,000 for building repair from the public buildings repair fund to the capital program fund.

Laws 2003, ch. 429, § 26, effective April 10, 2003, appropriates varying amounts for varying purposes to agencies of learning.

Laws 2003, ch. 429, § 27, effective April 10, 2003, appropriates \$4,000,000 for the purchase of helicopters for the use of the New Mexico state police to the secretary of public safety and \$5,000,000 for varying purposes to the office of cultural affairs.

Laws 2003, ch. 429, § 28, effective April 10, 2003, appropriates \$28,011,000 from the general fund to the capital projects fund.

Laws 2003, ch. 429, § 29, effective April 10, 2003, appropriates varying amounts for varying purposes from the capital projects fund to the state agency on aging.

Laws 2003, ch. 429, § 30, effective April 10, 2003, appropriates \$210,800 for varying purposes from the capital projects fund to the office of cultural affairs.

Laws 2003, ch. 429, § 31, effective April 10, 2003, appropriates \$550,000 for varying purposes from the capital projects fund to the economic development department.

Laws 2003, ch. 429, § 32, effective April 10, 2003, appropriates varying amounts for varying purposes from the capital projects fund to the department of environment.

Laws 2003, ch. 429, § 33, effective April 10, 2003, appropriates varying amounts for varying purposes from the capital projects fund to the office of the state engineer.

Laws 2003, ch. 429, § 34, effective April 10, 2003, appropriates varying amounts for varying road improvements from the capital projects fund to the state highway and transportation department.

Laws 2003, ch. 429, § 35, effective April 10, 2003, appropriates varying amounts for varying purposes from the capital projects fund to the New Mexico office of Indian affairs.

Laws 2003, ch. 429, § 36, effective April 10, 2003, appropriates \$30,000 for the purchase of sculpture from the capital projects fund to the state land office.

Laws 2003, ch. 429, § 37, effective April 10, 2003, appropriates varying amounts for varying purposes from the capital projects fund to the local government division of the department of finance and administration.

Laws 2003, ch. 429, § 38, effective April 10, 2003, appropriates varying amounts for public education projects from the capital projects fund to the state department of public education.

Laws 2003, ch. 429, § 39, effective April 10, 2003, appropriates varying amounts for varying higher education projects from the capital projects fund to varying agencies of higher learning.

Laws 2003, ch. 429, § 40, effective April 10, 2003, appropriates \$165,000 for various improvements to the state capitol from legislative cash to the legislative council service.

Laws 2003, ch. 429, § 41, effective April 10, 2003, appropriates varying amounts for game and fish projects from the game protection fund to the department of game and fish.

Laws 2003, ch. 429, § 42, effective April 10, 2003, appropriates \$5,000,000 for an addition and renovations to the miners' Colfax medical center from the miners' trust fund to the board of trustees of the Colfax medial center.

Laws 2003, ch. 429, § 43, effective April 10, 2003, appropriates \$4,500,000 for highway projects from the state road fund to the state highway and transportation department.

Laws 2004, ch. 126, § 3, effective March 10, 2004, authorizes the issuance of severance bonds for aging projects.

Laws 2004, ch. 126, § 4, effective March 10, 2004, authorizes the issuance of severance bonds for the third judicial district court.

Laws 2004, ch. 126, § 5, effective March 10, 2004, authorizes the issuance of severance bonds for the twelfth judicial district court.

Laws 2004, ch. 126, § 6, effective March 10, 2004, authorizes the issuance of severance bonds for cultural affairs projects.

Laws 2004, ch. 126, § 7, effective March 10, 2004, authorizes the issuance of severance bonds for economic development projects.

Laws 2004, ch. 126, § 8, effective March 10, 2004, authorizes the issuance of severance bonds for the Tularosa water projects.

Laws 2004, ch. 126, § 9, effective March 10, 2004, authorizes the issuance of severance bonds for environment projects.

Laws 2004, ch. 126, § 10, effective March 10, 2004, authorizes the issuance of severance bonds for state fair projects.

Laws 2004, ch. 126, § 11, effective March 10, 2004, authorizes the issuance of \$10,000,000 in severance bonds for a statewide human resources, accounting and management reporting project.

Laws 2004, ch. 126, § 12, effective March 10, 2004, authorizes the issuance of severance bonds for Indian Affairs projects.

Laws 2004, ch. 126, § 13, effective March 10, 2004, authorizes the issuance of severance bonds for local government projects.

Laws 2004, ch. 126, § 14, effective March 10, 2004, authorizes the issuance of severance bonds for public education projects.

Laws 2004, ch. 126, § 15, effective March 10, 2004, authorizes the issuance of severance bonds for public transportation projects.

Laws 2004, ch. 126, § 16, effective March 10, 2004, authorizes the issuance of severance bonds for Mesilla Valley bosque state park in Dona Ana county.

Laws 2004, ch. 126, § 17, effective March 10, 2004, authorizes the issuance of severance bonds for university projects.

Laws 2004, ch. 126, § 18, effective March 10, 2004, authorizes the issuance of severance bonds for Fort Stanton.

Laws 2004, ch. 126, § 19, effective March 10, 2004, authorizes the issuance of \$127,530,943 severance bonds for capital projects fund projects.

Laws 2004, ch. 126, §§ 49, 51 to 53, 56 to 60, 63, 65 to 69, 71 to 73, 75 to 78, 82 to 93, 95 to 102, 105, 108 to 115, 117 to 120 and 139, effective March 10, 2004, authorize or reauthorize severance tax bond projects.

Laws 2004, ch. 126, § 151, effective March 10, 2004, authorizes the issuance of \$10,000,000 in severance bonds for the statewide human resources, accounting and management project.

Laws 2005, ch. 347, § 3, effective April 8, 2005, authorizes the issuance of severance tax bonds for thirty-one aging projects.

Laws 2005, ch. 347, § 4, effective April 8, 2005, authorizes the issuance of severance tax bonds for national guard armories in Dona Ana and Taos counties.

Laws 2005, ch. 347, § 5, effective April 8, 2005, authorizes the issuance of severance tax bonds for Bernalillo county district court.

Laws 2005, ch. 347, § 6, effective April 8, 2005, authorizes the issuance of \$70,000 of severance tax bonds for two court projects.

Laws 2005, ch. 347, § 7, effective April 8, 2005, authorizes the issuance of severance tax bonds for 9 different cultural affairs projects.

Laws 2005, ch. 347, § 8, effective April 8, 2005, authorizes the issuance of \$150,000 of severance tax bonds for economic development projects.

Laws 2005, ch. 347, § 9, effective April 8, 2005, authorizes the issuance of severance tax bonds for water projects.

Laws 2005, ch. 347, § 10, effective April 8, 2005, authorizes the issuance of \$10,100,000 of severance tax bonds for the Pecos river and two other interstate stream water projects.

Laws 2005, ch. 347, § 11, effective April 8, 2005, authorizes the issuance of \$100,000 of severance tax bonds for Shakespeare Ghost Town state park in Lordsburg.

Laws 2005, ch. 347, § 12, effective April 8, 2005, authorizes the issuance of severance tax bonds for 84 different environment projects statewide.

Laws 2005, ch. 347, § 13, effective April 8, 2005, authorizes the issuance of severance tax bonds for 3 health department projects.

Laws 2005, ch. 347, §§ 14 and 15, effective April 8, 2005, authorize the issuance of severance tax bonds for state fair and Indian affairs projects.

Laws 2005, ch. 347, § 16, effective April 8, 2005, authorizes the issuance of severance tax bonds for 298 local government projects some of which were vetoed by the Governor.

Laws 2005, ch. 347, § 18, effective April 8, 2005, authorizes the issuance of severance tax bonds for to purchase vehicles for the New Mexico youth challenge program in Roswell in Chaves county.

Laws 2005, ch. 347, § 19, effective April 8, 2005, authorizes the issuance of severance tax bonds for 135 different public education projects.

Laws 2005, ch. 347, § 20, effective April 8, 2005, authorizes the issuance of severance tax bonds for 118 transportation projects.

Laws 2005, ch. 347, § 21, effective April 8, 2005, authorizes the issuance of severance tax bonds for higher education projects.

Laws 2005, ch. 347, § 22, effective April 8, 2005, authorizes the issuance of severance tax bonds for state building projects.

Laws 2005, ch. 347, § 23, effective April 8, 2005, authorizes the issuance of severance tax bonds for 193 aging projects.

Laws 2005, ch. 347, § 24, effective April 8, 2005, authorizes the issuance of severance tax bonds for armory projects.

Laws 2005, ch. 347, § 25, effective April 8, 2005, authorizes the issuance of severance tax bonds for children, youth and families projects.

Laws 2005, ch. 347, §§ 64 to 295, effective April 8, 2005, reauthorize and change the purpose of the balances of previously funded capital projects.

Laws 2006, ch. 107, §§ 7 to 10, 16 to 21, 24, 25, 28, 31 to 33, 35, 39 to 43, 45 to 47, 49, 53, 54, 56, 60 to 62, 69, 71, to 74, 77, 82, 88 to 91, 93 to 97, 99 to 106, 108, 110, 111, 114 to 117, 120, 122 to 124, 126, 128, 129, 131, 136, 140, 143, 147, 150, 152, 155, 156, 158, 160 to 161, 166, 169, 177, 178, 179 to 181, effective May 17, 2006, reauthorize or reappropriate balances, expand or change purposes and establish conditions for severance tax bond proceeds for capital outlay projects.

Laws 2007, ch. 42, §§ 1 to 102, effective March 15, 2007, authorize the issuance of severance tax bonds and make appropriations for capital outlay expenditures.

Laws 2008 (2nd S.S.), ch. 9, § 1, effective September 2, 2008, authorized the issuance of \$150,000,000 in severance tax bonds for certain road projects enumerated in Laws 2003 (1st S. S.), ch. 3, § 27.

Laws 2009, ch. 5, § 2, effective February 6, 2009, changed certain severance tax bond authorizations and appropriations.

Laws 2009, ch. 125, §§ 1 and 3 through 40, effective June 19, 2009, authorized the issuance of severance tax bonds and make appropriations for capital outlay expenditures.

Authorized Supplemental Severance Tax Bonds

The New Mexico Legislature has, since 1999, authorized issuance of the following supplemental severance tax bonds:

Laws 2004, ch. 125, § 15, effective May 19, 2004: fifty-seven million dollars (\$57,000,000) for completing projects that have been partially funded by the public school capital outlay council in September 2003 and for making awards of grant assistance for correcting deficiencies pursuant to the Public School Capital Outlay Act.

Laws 2006, ch. 111, § 3, effective March 8, 2006, authorizes the issuance of severance tax bonds for eleven aging projects.

Laws 2006, ch. 111, § 4, effective March 8, 2006, authorizes the issuance of severance tax bonds for the fifth, seventh and eleventh judicial district court.

Laws 2006, ch. 111, § 5, effective March 8, 2006, authorizes the issuance of severance tax bonds for security equipment in the supreme court building.

Laws 2006, ch. 111, § 6, effective March 8, 2006, authorizes the issuance of severance tax bonds for 5 different cultural affairs projects.

Laws 2006, ch. 111, § 7, effective March 8, 2006, authorizes the issuance of \$500,000 of severance tax bonds for a wood harvesting project in San Miguel county.

Laws 2006, ch. 111, § 8, effective March 8, 2006, authorizes the issuance of severance tax bonds for public school specific capital projects throughout the state.

Laws 2006, ch. 111, § 9, effective March 8, 2006, authorizes the issuance of severance tax bonds for the vocational rehabilitation division to purchase vehicles.

Laws 2006, ch. 111, §10, effective March 8, 2006, authorizes the issuance of \$4,000,000 in severance tax bonds to the for wildfire protection.

Laws 2006, ch. 111, § 11, effective March 8, 2006, authorizes the issuance of severance tax bonds for water projects, including a \$9,000,000 for purchasing water rights, land and infrastructure projects as part of the long-term strategy for compliance with the Pecos River Compact and Texas v. New Mexico.

Laws 2006, ch. 111, § 12, effective March 8, 2006, authorizes the issuance of severance tax bonds for acequia projects.

Laws 2006, ch. 111, § 13, effective March 8, 2006, authorizes the issuance of severance tax bonds for the department of environment for statewide water and wastewater projects.

Laws 2006, ch. 111, § 14, effective March 8, 2006, authorizes the issuance of \$1,550,000 for the state fair African-American performing arts project.

Laws 2006, ch. 111, § 15, effective March 8, 2006, authorizes the issuance of \$426,000 for affordable housing, \$5,000,000 for Canon air force base projects and \$5,000,000 for tribal infrastructure projects.

Laws 2006, ch. 111, § 16, effective March 8, 2006, authorizes the issuance of severance tax bonds for Indian affairs department projects.

Laws 2006, ch. 111, § 17, effective March 8, 2006, authorizes the issuance of severance tax bonds for legislative web casting.

Laws 2006, ch. 111, § 18, effective March 8, 2006, authorizes the issuance of severance tax bonds for local government capital projects throughout the state.

Laws 2006, ch. 111, § 19, effective March 8, 2006, authorizes the issuance of severance tax bonds for a civil air patrol hangar at Las Cruces.

Laws 2006, ch. 111, § 20, effective March 8, 2006, authorizes the issuance of severance tax bonds for natural resource department projects, including \$500,000 for the Rio Grande nature center in Albuquerque.

Laws 2006, ch. 111, § 21, effective March 8, 2006, authorizes the issuance of \$500,000 in severance tax bonds for department of public safety communications project for disaster communications.

Laws 2006, ch. 111, § 22, effective March 8, 2006, authorizes the issuance of severance tax bonds for department of transportation projects throughout the state.

Laws 2006, ch. 111, § 23, effective March 8, 2006, authorizes the issuance of severance tax bonds for community college projects.

Laws 2006, ch. 111, § 24, effective March 8, 2006, authorizes the issuance of severance tax bonds for universities, colleges and special constitutional schools

Laws 2006, ch. 111, § 25, effective March 8, 2006, authorizes the issuance of severance tax bonds for property control division projects.

Laws 2006, ch. 111, § 68, effective March 8, 2006, authorizes the issuance of a total of \$100,000,000 in severance tax bonds for a regional spaceport in Sierra county, \$33,000,000 to be issued in fiscal year 2006, and, subject to certain conditions, the