F I S C A L   I M P A C T   R E P O R T

SPONSOR HTRC **ORIGINAL DATE** 2/9/08 **LAST UPDATED** 2/10/08 **HB** 43/HTRCS

SHORT TITLE Severance Tax Bond Projects **SB**

ANALYST Kehoe, L.

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Non-Rec	Fund Affected
FY08	FY09		
$129,329.3		Non-Recurring	General Fund
$216,190.7		Non-Recurring	Severance Tax Bond Capacity
$600.0		Non-Recurring	State Road Fund
$600.0		Non-Recurring	Miners' Trust Fund
$1,500.0		Non-Recurring	Public Employees Retirement Fund

(Parenthesis ( ) Indicate Expenditure Decreases)

SOURCES OF INFORMATION
LFC Files

SUMMARY

Synopsis of Bill

The House Taxation & Revenue Committee Substitute for House Bill 43, as amended, appropriates approximately $129.3 million from the general fund, authorizes approximately $216.2 million from severance tax bond capacity, and authorizes $2.7 million from other state funds for various capital outlay projects statewide. The amendments revise projects to address errors in certain projects in the original bill. The amendments do not have a fiscal impact.

FISCAL IMPLICATIONS

The appropriations and authorizations contained in this bill are a non-recurring expense to the general fund, severance tax bond capacity, and other state funds (state road fund, miners' trust fund, and public employees retirement fund). Except for appropriations to the capital program fund, money from severance tax bond proceeds, the general fund, and any other fund contained in this bill may not be used to pay indirect project costs. The balance of an appropriation made from the general fund or other state fund to the Indian Affairs Department or the Aging and

Long-Term Services Department for a project located on lands of an Indian nation, tribe or pueblo shall revert to the tribal infrastructure project fund within the time-frames set forth in this bill. For the purpose of the sections 1 and 2 of this bill, "unexpended balance" means the remainder of an appropriation after reserving for unpaid costs and expenses covered by binding written obligations to third parties.

Unless otherwise specified, the unexpended balance from severance tax bond proceeds shall revert to the severance tax bonding fund no later than the following dates: 1) for a project for which severance tax bonds were issued to match federal grants, six months after completion of the project; 2) for a project issued to purchase vehicles, including emergency vehicles and other vehicles that require special equipment, heavy equipment, books, educational technology, or other equipment or furniture not related to a more inclusive construction or renovation project, at the end of the fiscal year two years following the fiscal year in which the severance tax bonds were issued for the purchase; and 3) any other projects for which severance tax bonds were issued, within six months of completion of the project, but no later than the end of fiscal year 2012. All remaining balances from the proceeds of severance tax bonds issued for projects in this bill shall revert to the severance tax bond fund three months after the latest reversion date specified in this bill, whether or not any of the remaining balances are subject to a contractual obligation to third parties.

In compliance with the Severance Tax Bonding Act, the State Board of Finance (BOF) is authorized to issue and sell severance tax bonds in an amount not to exceed the total of the amounts appropriated in this bill. The BOF must also comply with the Internal Revenue Code of 1986, as amended. The agencies named in this bill shall certify to the BOF when the money from the proceeds of the severance tax bonds authorized in the bill is needed for the purposes specified in the applicable section of the bill. Before an agency certifies for issuance of the bonds, the project must be developed sufficiently so that the agency reasonably expects to: 1) incur within six months after the applicable bonds have been issued a substantial binding obligation to a third party to expend at least five percent of the bond proceeds for the project; and 2) spend at least eighty-five percent of the bond proceeds within three years after the applicable bonds have been issued.

Except as otherwise provided in this bill, the unexpended balance of appropriations from the general fund or other state fund shall revert no later than the following dates: 1) for an appropriation to match federal grants, six months after completion of the project; 2) for appropriations to purchase vehicles, including emergency vehicles and other vehicles requiring special equipment, heavy equipment, books, educational technology, or other equipment or furniture not related to a more inclusive construction or renovation project, at the end of the fiscal year two years following the fiscal year in which the appropriation was made for the purchase; and 3) for all other projects, within six months of completion of the project, but no later than the end of fiscal year 2012. All remaining balances from the proceeds from the general fund in this bill shall revert to the general fund three months after the latest reversion date specified in this bill, whether or not any of the remaining balances are subject to a contractual obligation to third parties.

SIGNIFICANT ISSUES

Policymakers have taken advantage of the influx of energy-related revenues in recent years to make meaningful investments in properly planned and managed state and local assets. However, given the expectation of limited and volatile funding in future years, legislators and the executive continue to scrutinize the vast amounts of money and large number of projects that remain unexpended and inactive. A lack of planning, a piece-meal approach to funding projects, and escalating construction costs continue to be the main reasons for delays in successfully completing projects.

Between 1997 and 2007, the Legislature authorized over $3.7 billion for over 17,000 capital projects. As of December 2007, of the amount appropriated, over $2.1 billion remains unexpended for over 8,500 projects, including $721.6 million for nearly 3,000 projects authorized in 2007. Of particular concern is the $590 million for 2,960 projects appropriated between 2002 and 2006 with little or no progress.

Projects funded by severance tax bonds (STB) are of particular concern. Based on the certification of project readiness by grantees, the Board of Finance authorizes the sale of bonds. The issuance of tax-exempt bonds for projects not ready to commence leaves the state open to noncompliance with the Internal Revenue Service Code. Failure to spend STB proceeds in a timely manner causes the state, under IRS regulations, to have to rebate interest earnings the state could otherwise use to reduce the cost of a project or to reduce debt service costs.

OTHER SUBSTANTIVE ISSUES

Despite the considerable capital outlay of recent years, the state has not added significantly to its long-term debt obligation. Long-term debt service is expected to be $180 million by FY2013, up from $93 million in FY2007. Most of the severance tax bonds for capital outlay have been issued as short- term notes that use up the capacity but do not add to long-term debt. However, use of short-term notes prevents significant transfers to the permanent fund.

According to the U.S. Census Survey of Government Finance, the combined long-term state and local debt per capita for New Mexico was $5,343 in FY05. The average for all states was much higher at $6,903 — an indication New Mexico has not over-leveraged its residents.

LMK/bb:nt