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

ORIGINAL DATE 1/26/15
SPONSOR SFC **LAST UPDATED** 3/20/15 **HB**

SHORT TITLE Severance Tax Bond Projects **SB** 159/SFCS/aHWMC

ANALYST Kehoe/Snyder

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY15	FY16		
$212,300.0		Nonrecurring	Severance Tax Bond Fund
$8,700.0		Nonrecurring	General Fund
$8,705.0		Nonrecurring	Public School Capital Outlay Fund
$1,300.0		Nonrecurring	Public Project Revolving Fund
$4,420.0		Nonrecurring	Water Project Fund
$2,018.0		Nonrecurring	Colonias Infrastructure Fund
$3,416.0		Nonrecurring	State Road Fund
$700.0		Nonrecurring	Game and Fish Bond Retirement Fund
$8,300.0		Nonrecurring	Game Protection Fund
$200.0		Nonrecurring	Trail Safety Fund
$2,000.0		Nonrecurring	Tribal Infrastructure Fund
$630.0		Nonrecurring	State Lands Maintenance Fund
$2,450.0		Nonrecurring	Miners’ Trust Fund
$1,000.0		Nonrecurring	Fire Protection Grant Fund
$1,000.0		Nonrecurring	Fire Protection Fund
$4,400.0		Nonrecurring	Capitol Building Repair Fund
$2,500.00		Nonrecurring	Art in Public Places

(Parenthesis ( ) Indicate Expenditure Decreases)

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY15	**FY16**	**FY17**		
$45,000.0			Nonrecurring	State Road Fund
$1,300.0			Nonrecurring	Wastewater Facility Construction Loan Fund
$12,700.0			Nonrecurring	Indian Water Rights Settlement Fund

(Parenthesis ( ) Indicate Revenue Decreases)

SOURCES OF INFORMATION
LFC Files

Responses Received From
Children, Youth & Families Department (CYFD)
Department of Cultural Affairs (DCA)
Department of Finance And Administration (DFA)
Department of Health (DOH)
Department of Information Technology (DoIT)
Department of Public Safety (DPS)
Energy, Minerals And Natural Resources Department (EMNRD)
General Services Department, Facilities Management Division (FMD)
Higher Education Department (HED)
New Mexico Corrections Department (NMCD)
New Mexico Finance Authority (NMFA)

SUMMARY

Synopsis of HWMC Amendment

The House Ways and Means Committee amends the Senate Finance Committee Substitue for Senate Bill 159 includes $22.2 million for House member local projects, authorizes $45 million for roads statewide from severance tax bond rather than from the general fund, reduces senior citizen projects totaling $8.5 million, reduces higher education projects by $17.6 million and reduces or deletes various state agency capital projects. The reductions provide severance tax capacity to provide funding for the following priorities requested by the executive:

- $12.5 for Local Economic Development Act (LEDA)
- $8 million for Santa Teresa road improvements
- $4.5 millio for Allison Gallup Interchange
- $4 million for a Spaceport hangar

Synopsis of SFCS

The Senate Finance Committee Substitute for Senate Bill 159 authorizes approximately $275.2 million, $190.1 million from severance tax bond capacity and $85.1 million from other state funds. The “other state funds” includes $45 million from the general fund to the state road fund for road repairs statewide. Of the total, $213.4 million is authorized for state-owned and –operated facilities, and $61.8 million is authorized for local projects sponsored by 42 members of the Senate and 33 members of the House. Of the $212.3 million severance tax bond capacity, $22.2 million remains unexpended.

The bill contains an emergency clause. A chart of the projects proposed for funding within this bill is attached.

Synopsis of Original Bill

Senate Bill 159 authorizes nearly $170.3 million, $128.8 million from severance tax bond capacity and approximately $41.5 million from other state funds, for the purpose of funding 170 state-owned and –operated capital outlay projects statewide. The bill contains an emergency clause. A listing of the projects proposed for funding within this bill is attached.

FISCAL IMPLICATIONS

The estimated severance tax bond (STB) net capacity in fiscal year 2015 is $212.3 million after deductions from the estimated $296.8 million senior STB gross capacity. Deductions from gross capacity include: $25.2 million for authorized but unissued bonds; 10 percent of capacity equal to $29.7 million for deposit into the water project fund; 5 percent of capacity equal to $14.8 million for deposit into the tribal infrastructure project fund; and 5 percent of capacity equal to $14.8 million for deposit into the colonias infrastructure project fund. Supplemental severance tax bond capacity dedicated for public school construction is approximately $179.5 million for deposit into the public school capital outlay fund.

The appropriations and authorization to expend funds in this bill are nonrecurring expenses to STB capacity and other state funds (OSF). Any unexpended or unencumbered balance shall revert to the originating fund. The public school capital outlay fund is a non-reverting fund. The balance of appropriations 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.

Except for appropriations to the capital program fund and public school capital outlay fund, money from STB proceeds and any other state funds contained in this bill may not be used to pay indirect project costs.

For the purposes in Sections 2 and 3 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. If an agency has not certified the readiness for STB issuance by the end of fiscal year 2017, the authorization is void.

In compliance with the Severance Tax Bonding Act, the State Board of Finance (BOF) is authorized to issue and sell STB 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.

Based on the certification of project readiness by grantees, the BOF 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.

SIGNIFICANT ISSUES

As in past years, infrastructure requests for state and local needs are far greater than available bonding capacity. State agencies, higher education institutions, and special and tribal schools requested $431.4 million for capital projects. This bill contains the “framework” developed by LFC staff for consideration by the full Legislature. The proposed projects and funding are based on criteria, site visits, review of infrastructure capital improvement plans, monthly meetings with major departments, and testimony at hearings held in the interim. The projects reflect the most critical projects impacting public health and safety and ongoing projects requiring additional funds to complete. The failure to pass a capital outlay bill during the 2011 session, combined with little or no funding for state-owned facilities in 2014 such at hospitals, veterans’ home, adult and juvenile facilities, and cultural facilities amplifies the need to fund state facilities or risk unsafe conditions for citizens that are housed and under the protection of the state at these facilities. A lack of resources to address fire and environmental codes and possible violations, Americans with Disabilities Act regulations, and other licensing and certification requirements could mean significant additional costs to the state, including a loss of federal funds. Addressing the most critical infrastructure projects listed in the bill will significantly reduce operating expenses.

ADMINISTRATIVE IMPLICATIONS

While facility repairs are a major concern, the ratio of project management compared with the number of major projects are not adequate to address the needs in a timely manner.

TECHNICAL ISSUES

As requested by several state agencies and institutions of higher education, language changes were incorporated in the bill. The proposed changes were reviewed by staff of the LFC and DFA and were determined to be of technical nature rather than substantive.

OTHER SUBSTANTIVE ISSUES

Volume I of the LFC Budget Document (Investments in Infrastructure) includes a short description of some of the most critical needs requested by the larger state agencies.

LMK:SS/bb