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

		ORIGINAL DATE	02/22/21		
SPONSOR	HTRC	**LAST UPDATED**	03/17/21	**HB**	CS/HB285/aHFl#1/ec
SHORT TITLE	Capital Outlay Projects			**SB**	
				ANALYST	Olson/Kehoe

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY21	**FY22**		
$477,149.7		Nonrecurring	Severance Tax Bond Fund (See Fiscal Implications)
$18,608.1		Nonrecurring	General Fund
$1,500.0		Nonrecurring	Big Game Enhancement Fund
$1,000.0		Nonrecurring	Habitat Management Fund
$2,500.0		Nonrecurring	Sikes Act Account Game Protection Fund
$500.0		Nonrecurring	Game and Fish Bond Retirement Fund
$500.0		Nonrecurring	Fire Protection Fund
$5,000.0		Nonrecurring	Educational Retirement Fund
$3,492.0		Nonrecurring	Volkswagen Settlement Trust Fund
$7,492.0		Nonrecurring	Public School Capital Outlay Fund

(Parenthesis ( ) Indicate Expenditure Decreases)

SOURCES OF INFORMATION
LFC Files

SUMMARY

Synopsis of HFl#1 Amendment

The House Floor #1 amendment to House Taxation and Revenue Committee substitute for House Bill 285 corrects an error in the bill by reducing the amount to plan, design, and construct an Asian American community center in Albuquerque by $325 thousand and increases by the same amount a project to plan, design, construct, purchase, renovate, equip, and furnish a family resource center in the International District in Albuquerque.

Synopsis of Original Bill

The House Taxation and Revenue Committee substitute for House Bill 285 authorizes $517.7 million, including $477.1 million from severance tax bond (STB) capacity, $18.6 million from the general fund, and approximately $22 million from other state funds for the purpose of funding capital outlay projects statewide. *A listing of the projects funded in this bill is attached.*

This bill contains an emergency clause and would become effective immediately upon signature by the governor.

FISCAL IMPLICATIONS

The estimated severance tax bond (STB) net capacity in fiscal year 2021 is $477.1 million after deductions from the estimated $591.8 million senior STB gross capacity. Deductions from gross capacity include: $7.9 million for authorized but unissued bonds; nine percent of capacity equal to $53.3 million for deposit into the water project fund; 4.5 percent of capacity equal to $26.6 million for deposit into the tribal infrastructure project fund; and 4.5 percent of capacity equal to $26.6 million for deposit into the colonias infrastructure project fund. Lastly, the fiscal year 2021 estimated bonding capacity includes supplemental severance tax bonds totaling $232.8 million for public school construction.

The appropriations and authorization to expend funds in this bill are nonrecurring expenses to STB capacity, the general fund, and other state funds. Any unexpended or unencumbered balance shall revert to the originating fund.

Sections 2 and 3, Subsections D, authorize that the balances of appropriations made from the general fund and other state funds to the Indian Affairs Department or the Aging and Long-Term Services Department for projects located on lands of an Indian Nation, tribe, or pueblo shall revert to the tribal infrastructure fund in the time frame set forth in Subsection A.

For the purposes in Sections 1, 2, and 3, "unexpended balance" means the remainder of an appropriation after reserving for unpaid costs and expenses covered by binding written obligations to third parties. It should be noted Sections 1, 2, and 3 of the bill include new language requiring state agency approval before a binding written agreement can be executed. The language conforms with the Department of Finance and Administration's current accounting practices. Further, the bill includes new language reverting general fund appropriations with less than five percent of the project's total appropriation if not encumbered by the end of fiscal year 2022.

Section 1 provides that the unexpended balance from proceeds of STB shall revert to the STB fund no later than the following dates: 1) proceeds to match federal grants, six months after completion of the project; 2) proceeds to purchase vehicles, heavy equipment, books, educational technology, or other equipment or furniture not related to a more inclusive construction or renovations project, at the end of the fiscal year two years following the fiscal year in which the STB proceeds were made available for purchase; and 3) for any other projects, within six months of completion of the project, but no later than the end of fiscal year 2025. If an agency has not certified the readiness for STB issuance by the end of fiscal year 2023, 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. BOF must also comply with the Internal Revenue Code of 1986, as amended. The agencies named in this bill shall certify to 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 a substantial binding obligation to a third party to expend at least five percent of the bond proceeds for the project within six months after the applicable bonds have been issued; 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, 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 (IRS) 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.

Section 2 provides that the unexpended balance from an appropriation made from the general fund shall revert no later than September 30 following: 1) the end of fiscal year 2022 if the project for which an appropriation was made has less than five percent of the project's total appropriation amount subject to a binding written agreement with a third party on that date; 2) at the end of fiscal year 2023 for the purchase of vehicles, including emergency vehicles, including installation of special equipment; heavy equipment; books; educational technology; or other equipment or furniture not related to a more inclusive construction or renovation project; 3) at the end of fiscal year 2025 for a project related to an inclusive construction or renovation project; or 4) within six months of completion of the project, but no later than the end of fiscal year 2025.

SIGNIFICANT ISSUES

The bill includes $215.7 million for state agencies, including $184.2 million in severance tax bonds, $9.5 million in general fund, and $22 million in other state funds. The funding includes $45 million for higher education institutions and special schools, $12.5 million for the Local Economic Development Act (LEDA), $10.3 million for Department of Health projects, $10 million for correctional facilities, $9 million for the Aamodt water rights settlement fund, $8.8 million for judicial projects, $8 million for public safety radio communications, $7 million for broadband, and $3.8 million for senior citizen centers statewide.

Multiple appropriation amounts from the introduced bill were adjusted in collaboration with executive staff to include $30 million for tribal projects ($21 million from severance tax bonds and $9 million from general fund). The adjusted amounts will complete functional phases.

The bill also includes $276 million requested by the executive, House and Senate members for local and tribal capital projects statewide. The major projects include funding for water and wastewater, roads, public health and safety facilities, cultural facilities, recreation facilities, vehicles, and equipment.

OTHER SUBSTANTIVE ISSUES

As in past years, funding requests for state and local infrastructure needs are far greater than available capacity. For 2021, state agency and local priority capital requests total nearly $1.7 billion. The proposed projects and funding for state agency facilities in this bill 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 funding for state agencies reflects the most critical projects impacting public health and safety and ongoing projects requiring additional funds to complete. The proposed funding will address fire and environmental codes, Americans with Disabilities Act regulations, and other licensing and certification requirements that could mean significant additional operating costs to the state if funding is delayed.

The bill provides authority for the Public Education Department to request budget increases from any funds received from the environmental mitigation trust to replace school buses statewide. New Mexico received approximately $27.3 million, including $9.3 million in fiscal year 2021, from the trust for actions that will reduce nitrous oxide emissions, specifically vehicle replacement and zero-emission vehicle infrastructure. The trust was established pursuant to a multistate settlement with Volkswagen for diesel emission violations and requires beneficiaries to request funds for eligible projects from the trustee.

ADMINISTRATIVE IMPLICATIONS

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

SO/LMK/al