FISCAL IMPACT REPORT

		LAST UPDATED	2/23/2023
SPONSOR	Lente	**ORIGINAL DATE**	02/20/2023
SHORT TITLE	Capital Outlay Projects	**BILL NUMBER**	House Bill 505/ec
		ANALYST	Carswell/Chavez/Kehoe

APPROPRIATION*
(dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY23	**FY24**		
$399,218.4		Nonrecurring	General Fund
$1,000.0		Nonrecurring	Game Protection Fund
$500.0		Nonrecurring	Game and Fish Bond Retirement Fund
$3,600.0		Nonrecurring	Educational Retirement Fund
$10,000.0		Nonrecurring	Forest Land Protection Revolving Fund
$1,500.0		Nonrecurring	Miners' Trust Fund
$121,015.0		Nonrecurring	Public School Capital Outlay Fund
$115.0		Nonrecurring	Workers' Compensation Fund
$900.0		Nonrecurring	Fire Protection Fund

Parentheses ( ) indicate expenditure decreases.
*Amounts reflect most recent analysis of this legislation.

REVENUE*
(dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY23	**FY24**	**FY25**		
$92,000.0	$92,000.0	$92,000.0	Recurring over a 10-Year Period– See Fiscal Impact	Severance Tax Permanent Fund – See Fiscal Impact

Parentheses ( ) indicate revenue decreases.
*Amounts reflect most recent analysis of this legislation.

Sources of Information

LFC Files

SUMMARY

Synopsis of House Bill 505

House Bill 505 appropriates $399.2 million from the general fund and $138.6 million from other state funds for the purpose of funding capital outlay projects statewide.

Funding for state agency projects totals $370.5 million, funding for higher education projects totals $88.4 million, funding for judiciary projects totals $39.5 million, and funding for senior center projects totals $26 million, including $3 million for emergency equipment and renovations. Two capital outlay charts (Funded Projects by Agency and Funded Projects by County) showing the projects funded in this bill are posted online.

Section 1 provides for the circumstances and timelines under which appropriations made in this bill shall revert to the general fund. Unexpended balances shall revert no later than September 30 following the end of FY24 if less than 5 percent of a project's total appropriation is subject to a valid encumbrance; following the end of FY25 for appropriations to purchase vehicles, furniture, or equipment; and following the end of FY27 for appropriations for construction or renovation projects. Section 2 provides for the circumstances and timelines under which authorizations for expenditures from other state funds shall revert to the respective funds.

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

FISCAL IMPLICATIONS

The appropriations of $537.8 million contained in this bill are nonrecurring expenses to the general fund and other state funds. Any unexpended or unencumbered balance remaining at the end of the fiscal years specified in Section 1 and Section 2 of the bill shall revert to the originating fund.

A surplus of nonrecurring general fund revenues related to historically high oil and gas production presents the opportunity to cash-finance 2023 capital projects rather than relying on bonding. Paying cash for projects generates long-term savings by eliminating the cost of interest. Additionally, the severance tax revenues that would typically be dedicated to paying down debt can instead be transferred to the severance tax permanent fund to increase recurring general fund revenue in future years. The $92 million annual transfer over 10 years is equal to the long-term debt service avoided by not issuing severance tax bonds for capital outlay in 2023.

By the end of the 10-year period, the State Investment Council estimates the transfers will have resulted in $185.7 million in additional general fund revenue, with an annual distribution of $41.3 million and growing. (see Table 1 on next page). Through FY50, the cumulative additional distributions to the general fund could exceed $1 billion. To ensure these savings flow into the severance tax permanent fund as intended, Board of Finance and legislative staff collaborated to propose adjustments to statutory language regarding the calculations for severance tax permanent fund transfers and for future bonding capacity, which are contained in Senate Bill 378. The revenue impacts described in this fiscal analysis assume passage of SB378.

Statutory earmarks on severance tax bond (STB) capacity to certain funds and the sale of bonds for the public school capital outlay fund will not be impacted by the use of general fund for capital outlay. The Board of Finance's January 2023 STB capacity estimates project the following distributions to earmark funds: $135.1 million to the water project fund (9 percent earmark); $67.6 million to the colonias infrastructure project fund (4.5 percent earmark); and $67.6 million to the tribal infrastructure project fund (4.5 percent earmark). Supplemental severance tax bonding capacity for public school capital projects is estimated to total $682.2 million for FY23.

SIGNIFICANT ISSUES

Demand for capital outlay continues to exceed available funding, even as state revenues surge. Capital outlay requests for 2023 total an estimated $4.8 billion, including $3.7 billion submitted for consideration for direct appropriations from House and Senate members, and $1.1 billion submitted through the state agency and higher education request processes. Total funding for capital outlay proposed in the initial Legislative Finance Committee and executive budget recommendations, in comparison, was $650 million and $1 billion, respectively.

The proposed projects and funding for state agencies, the judiciary, and higher education institutions in this bill are based on analysis, criteria, site visits, review of infrastructure capital improvement plans, monthly meetings with major departments, and testimony at interim hearings. Projects that address public health and safety and that reduce risk and liability to the state were prioritized, as were projects already in progress that require additional funds to complete. Major appropriations in the bill include $68 million to construct a new forensic unit at the New Mexico Behavioral Health Institute in Las Vegas, $30 million to recover aquifers on the Lower Rio Grande and promote settlement of litigation related to the Rio Grande Compact, and $26 million to modernize and stabilize public safety radio communications systems statewide. Additionally, for the first time, the Higher Education Department invited institutions to submit requests for supplemental funding for existing projects. Proposed funding in this bill prioritizes those requests.

Table 1. Estimated Increase in Recurring General Fund Revenue under SB378
in millions

Fiscal Year	Current Estimated STPF Distribution to General Fund	New STPF Distribution to General Fund under SB378	Additional General Fund Distribution from STPF under SB378
FY23	$265.80	$265.80	-
FY24	$289.60	$289.60	-
FY25	$316.50	$317.40	**$0.90**
FY26	$340.30	$343.10	**$2.80**
FY27	$365.40	$371.00	**$5.70**
FY28	$385.70	$395.30	**$9.60**
FY29	$401.00	$415.60	**$14.60**
FY30	$418.00	$437.70	**$19.70**
FY31	$435.20	$460.10	**$25.00**
FY32	$452.10	$482.40	**$30.30**
FY33	$468.40	$504.20	**$35.80**
FY34	$484.30	$525.50	**$41.30**
FY35	$499.90	$546.70	**$46.80**
FY36	$514.90	$566.30	**$51.50**
FY37	$529.70	$584.90	**$55.20**
FY38	$544.30	$602.40	**$58.10**
FY39	$558.60	$618.50	**$59.90**
FY40	$572.60	$633.30	**$60.70**
FY41	$586.30	$647.70	**$61.40**
FY42	$599.60	$661.60	**$62.00**
FY43	$612.50	$675.00	**$62.60**
FY44	$625.10	$688.20	**$63.10**
FY45	$637.30	$700.90	**$63.60**
FY46	$649.20	$713.40	**$64.20**
FY47	$660.90	$725.60	**$64.70**
FY48	$672.20	$737.50	**$65.30**
FY49	$683.30	$749.10	**$65.80**
FY50	$694.10	$760.50	**$66.30**
Cumulative Additional General Fund Distribution under SB378			**$1,156.70**

Source: State Investment Council

The proposed funding in this bill strikes a balance between need and capacity to efficiently expend funds and complete projects. Finding such a balance is necessary due to historically high outstanding balances across thousands of active projects previously authorized by the Legislature and ongoing challenges in completing projects due to rising construction costs, supply chain issues, and labor constraints. At the end of the second quarter of FY23, outstanding capital outlay funds totaled an estimated $3.3 billion, including projects authorized by the Legislature through 2022 ($1.7 billion), earmark projects ($276.1 million), supplemental severance tax bonds for public schools ($521.8 million), and special appropriations for capital projects during the 2021 special and 2022 regular session ($746.1 million).

Balances in the public school capital outlay fund remain high even after the Public School Capital Outlay Council (PSCOC) did not pursue a bond sale in June 2022 after two application cycles did not result in substantial commitments to new projects. This bill would authorize $121 million of that fund's balance toward legislative priorities, including school security, prekindergarten, and career technical education. Changes to funding formulas and offsets from legislative appropriations are currently under consideration by the Legislature, and if approved, may dramatically increase demand for funding from PSCOC. The Legislature should therefore exercise caution when considering any additional appropriations from the fund this year.

ADMINISTRATIVE IMPLICATIONS

Recent surges in the amount of state and federal funding available for capital projects have contributed to the large number of active projects underway in the state and increased workloads for the state agencies tasked with overseeing projects. The capacity of those agencies to efficiently administer funds and provide other administrative support to local entities is likely to be further strained by a significant capital appropriations package in 2023.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

HB505 relates to appropriations in Section 4 and Section 5 of HB2, which is awaiting approval by the Senate. The related appropriations include increases in recurring funding to the New Mexico Environment Department, Office of the State Engineer, and Spaceport Authority to increase capacity to administer capital projects, and nonrecurring funding to create a central infrastructure office, to address cost increases for local projects, and to mitigate capacity limitations at the local level that contribute to project delays.

HB505 relates to Senate Bill 378, providing for a minimum distribution from the severance tax bonding fund to the severance tax permanent fund every year for 10 years.

HB505 relates to Senate Bill 197, which creates the Office of Infrastructure Planning and Development within the Office of the Governor.

HB505 relates to Senate Bill 186, which creates a permanent Interim Public Works Committee to review capital project requests and conduct oversight of funded projects.

TECHNICAL ISSUES

In 2019, the last time general fund was used for capital outlay, the capital bill included a section directing the state Board of Finance to issue severance tax bonds and send the proceeds to the three funds with statutory earmarks on annual STB capacity: the water project fund, the colonias infrastructure project fund, and the tribal infrastructure project fund.

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