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

SPONSOR HENRC **DATE TYPED** 2/16/04 **HB** 380/HENRCS/aHTRC

SHORT TITLE Energy Efficiency & Renewable Energy Bonding **SB**

ANALYST Gilbert

APPROPRIATION

Appropriation Contained		Estimated Additional Impact		Recurring or Non-Rec	Fund Affected
FY04	FY05	FY04	FY05		
	Indeterminate	Indeterminate See Narrative	Indeterminate	Recurring	Energy Efficiency and Renewable Energy Bonding Fund
	Indeterminate	Indeterminate See Narrative	Indeterminate	Recurring	General Fund

(Parenthesis ( ) Indicate Expenditure Decreases)

REVENUE

Estimated Revenue		Subsequent Years Impact	Recurring or Non-Rec	Fund Affected
FY04	FY05			
	$2,400.0	Indeterminate See Narrative	Recurring	Energy Efficiency and Renewable Energy Bonding Fund
	($2,400.0)	(Indeterminate) See Narrative	Recurring	General Fund

(Parenthesis ( ) Indicate Revenue Decreases)

Conflicts with: HB 575
Relates to: General Appropriations Act - $500.0 is appropriated from general fund to retrofit lighting and climate control fixtures to achieve energy cost savings.

SOURCES OF INFORMATION
LFC Files

Responses Received From
Energy, Minerals & Natural Resources Department (EMNRD)
New Mexico Finance Authority (NMFA)
Department of Finance & Administration (DFA)
Taxation & Revenue Department (TRD)

SUMMARY

Synopsis of HTRC Amendment

The House Taxation and Revenue Committee amendment to the House Energy and Natural Resources Committee substitute to House Bill 380 makes the following change to the proposed Energy Efficiency and Renewable Energy Bonding Act page 10, line 8:

Section 7. ENERGY EFFICIENCY BONDS AUTHORIZED--CONDITIONS--PROCEDURE

C. No bonds shall be issued pursuant to this section unless:

(1) the department has committed to install or has entered into one or more contracts pursuant to Section 4 of the Energy Efficiency and Renewable Energy Bonding Act for the installation of energy efficiency measures and the resulting energy cost savings will be realized within a reasonable time;

(2) considering the timeliness and amount of energy cost savings estimated to be realized from the energy efficiency measures, the department has certified the approximate date when the energy cost savings are most likely to equal or exceed the debt service due on the bonds to be issued to fund the energy efficiency measures;

(3) the life of energy efficiency measures meets or exceeds the life of the bonds allocable to those energy efficiency measures as determined by the department and the authority; and

Section 7C, subsection 4 is modified to state that no energy efficiency bonds may be authorized unless EMNRD can certify that debt service has been structured to prohibit debt service payments until savings equal or exceed debt service. Before, the NMFA only had to minimize such debt service payments.

(4) based on the department's certification, the debt service on the bonds has been structured by the authority to ~~minimize~~ <u>preclude</u> the annual debt service payments due until the date that the cost savings equal or exceed the debt service.

Synopsis of Original Bill

The House Energy and Natural Resources Committee Substitute for House Bill 380 creates the Energy Efficiency and Renewable Energy Bonding Act to fund energy efficiency measures in state and school district buildings with the proceeds of bonds that will be secured by gross receipt taxes (GRT) revenues and instructs the Energy, Minerals, and Natural Resources Department (EMNRD) to develop a state plan to install these measures in state and school district buildings by the end of FY10.

The bill also creates the Energy Efficiency and Renewable Energy Bonding Fund to be administered by the New Mexico Finance Authority (NMFA).

This bill requires the Public Education Department (PED) to deduct from a school district's State Equalization Guarantee distribution the total amount of cost savings certified by the EMNRD and transfer this amount to the energy efficiency fund.

HB 380/HENRCS specifies that (e.g. school districts, GSD, etc.) will be able to keep 10% of utility bill cost savings as a participation incentive. The remaining 90% of documented savings "captured" from the participating entities will be used for bond payments.

Significant Issues

State buildings and public schools have significant cumulative energy-related operating costs. These recurring costs, totaling tens of millions of dollars annually, are ultimately borne by New Mexico taxpayers.

Bonds will be secured by a pledge of a portion of gross receipts tax revenues that represent a fraction of the resulting cost savings. Bonds may not be issued unless the Energy, Minerals and Natural Resources Department (EMNRD) has entered into one or more contracts for the installation of energy efficiency measures, when EMNRD approximates the date when savings are most likely to equal or exceed the debt service payments, and when debt service on the bonds has been structured to minimize payments in the beginning until savings are sufficient to cover the debt service.

FISCAL IMPLICATIONS

The Taxation and Revenue Department (TRD) estimated a negative impact of $2.4 million to the general fund for fiscal year 2005.

According to the EMNRD, a substantial indirect benefit from this initiative is that at least $1.0 million will be contributed to the general fund in the long-term from gross receipts tax revenues directly stemming from construction of the efficiency projects.

The EMNRD requested one FTE ($85,800 for personal services/benefits) to facilitate initiation and administration of this entire initiative—particularly in light of the fact that the Energy Conservation and Management Division (ECMD) has experienced staffing and budget cuts of over 50% during the past decade.

This Act authorizes the New Mexico Finance Authority (NMFA) to issue and sell revenue bonds in an amount not to exceed $20 million for the purpose of installing energy efficiency and renewable energy technologies in public schools and state agency buildings. According to the EMNRD, such measures (e.g., replacing high usage light fixtures with newer energy-efficient models) can reduce energy utility costs by 20-30%. The revenue bonds, known as "energy efficiency bonds", are payable solely from a new "Energy Efficiency and Renewable Energy Bonding Fund" that is created as a special fund within the NMFA. The Act stipulates that the Bonding Fund shall consist of gross receipts tax revenues distributed to the Fund, as well as other authorized transfers; a monthly distribution of $200,000 from net gross receipts tax revenues to the Bonding Fund is specified. Money in the Fund is appropriated to the NMFA for the purpose of paying debt service on the energy efficiency bonds and the expenses incurred in their issuance, payment and administration.

The net proceeds from the sale of the energy efficiency bonds are appropriated to the EMNRD for installation of the energy efficiency measures. EMNRD must develop, in conjunction with those entities controlling and managing the targeted buildings, a state plan for such efficiency installations; the plan is required to include a funding and construction schedule, with all installations to be completed by the end of fiscal year 2010. The plan would be followed by EMNRD in executing contracts for the installation of the energy efficiency measures. Once the energy efficiency measures are installed, EMNRD must calculate the estimated cost savings from each project and certify those estimates to the Department of Finance and Administration (DFA), General Services Department (GSD), and/or the PED, as appropriate. The certified savings are then deducted from agency budgets to reimburse the general fund, effectively making this energy efficiency initiative revenue-neutral. In essence, the Act utilizes the energy cost savings associated with energy efficiency retrofits as the "revenue" needed to pay the debt service on the bonds.

On the last day of January and July of each year, the NMFA shall estimate the amount needed to make debt service and other payments during the next twelve months from the fund on the bonds issued pursuant to the Energy Efficiency and Renewable Energy Bonding Act, plus the amount that may be needed for any required reserves and the amount needed to meet any appropriation. The authority shall transfer to the general fund any balance in the fund above the estimated amounts.

ADMINISTRATIVE IMPLICATIONS

There will be a considerable administrative impact on EMNRD in undertaking this initiative.

The EMNRD shall develop a state plan for the installation, no later than the end of fiscal year 2010, of energy efficiency measures in state buildings and buildings owned by school districts. The plan shall include the maximum amount of on-site renewable energy measures possible while retaining the overall revenue-neutral status of the plan, such that the total cost of the plan is covered entirely by the combined energy savings of both the renewable energy and other energy efficiency measures undertaken. In addition, the plan shall include a schedule for funding and installing the energy efficiency measures that gives priority to those projects that will realize significant cost savings in the shortest time frame.

The plan shall be followed by each state agency and school district in New Mexico, and those agencies and districts shall cooperate with the EMNRD in the development and the implementation of the plan.

OTHER SUBSTANTIVE ISSUES

The Construction Industries Division (CID) is in the process of adopting the "2003 New Mexico Commercial Building Code" and the "2003 New Mexico Energy Conservation Code." Both of these codes dictate the minimum standards for construction in New Mexico. Therefore, the plan derived by the energy department for energy efficiency under this bill should benefit from, and be consistent with, the versions of these codes in effect at the time any construction retrofits is undertaken.

RLG/lg:yr:dm