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FISCAL IMPACT REPORT

ORIGINAL DATE 1/27/07
 LAST UPDATED 3/16/07 HB 496a/HTRC/aHFI/aSFC

SPONSOR Silva

SHORT TITLE Severance Tax Bond Transportation Projects SB _____

ANALYST Moser

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Non-Rec	Fund Affected
FY07	FY08		
\$50,000.0	\$50,000.0	Recurring through FY2012	Severance Tax Bond

(Parenthesis () Indicate Expenditure Decreases)

Duplicates to: SB 512
 Relates to: HB 1235

SOURCES OF INFORMATION

LFC Files

Responses Received From

NM Department of Transportation (NMDOT)
 NM Finance Authority (NMFA)

SUMMARY

Synopsis of SFC Amendment

Senate Finance Amendment to House Bill 496 as amended removes House Taxation and Revenue Amendments 1, 2, 4 and 5 (see synopsis of HRTC amendment below) and replaces section 1 through 3. The amendment proposes a new section of the Severance Tax Bonding Act that authorizes the State Board of Finance to issue and sell up to two hundred and eight million dollars (\$208,000,000) in severance tax bonds for transportation projects between fiscal years 2007 and 2012. The Amendment capitates the total amount available each year by providing that no more than fifty million dollars (\$50,000,000) or the lesser of fifteen percent of severance tax bonding capacity may be used in a single fiscal year.

Proceeds from the sale of bonds are appropriated to a newly created Severance Tax Transportation Fund for distribution as directed by the Department of Transportation, subject to administration by the New Mexico Finance Authority (NMFA), for projects pursuant to Section 6-21-6.12. Money from the bonds cannot be used to pay indirect costs. The purpose of the bonds is to partially fund transportation access to provide funding for only the 116 local government

transportation projects specifically identified in the bill and the spaceport project located in the counties of Sierra and Dona Ana. The bill specifically states that "...money in the fund shall be distributed to the local governments for projects specifically authorized by the legislature." These projects are enumerated within the Amendment.

The match provisions required within the Bill were adjusted by this Amendment to reflect:

- Projects less than \$500,000 a match of 10 percent;
- Projects equal to \$500,000 but less than \$1,000,000 a match of 20%;
- Projects equal to \$1,000,000 but less than or equal to \$6,000,000 a match of 35%; and,
- Projects greater than \$6,000,000 a match of 45%.

The amendment includes funding up to twenty-five million dollars (\$25,000,000) to be distributed between FY2007 and FY2012 for the development of transportation access to the spaceport in Sierra and Dona Anna Counties without a local match requirement. There is another thirty-three million also designated within SB 827, which was signed by the Governor, for this same spaceport transportation infrastructure project.

The bill declares an emergency and will take effect immediately.

Synopsis of HFI Amendment

House Floor Amendment #1 to House Taxation and Revenue Committee Amendment to House Bill 496 removes HTRC amendment 3 to the Bill. This removes the city of Carlsbad project as outlined below and returns the project to the original one for "... planning and design of a bridge over the Pecos river on the proposed southeast Loop road in Eddy county."

Synopsis of HTRC Amendment

House Taxation and Revenue Committee Amendment to House Bill 496 makes changes to language governing the following specific projects:

- In Sierra and Dona Ana county removes the "highest funding priority" status designated for the spaceport infrastructure improvements;
- In Curry County corrects the termini of the project from county road 4 to 3;
- The city of Carlsbad project was changed from the planning and design of a bridge over the Pecos river to the planning, design and construction, and paving improvements to San Jon Boulevard.
- Expanding the projects for Santa Fe County to include all roads within Santa Fe County with \$1.5 million specified for northern Santa Fe county roads.

Synopsis of Original Bill

House Bill 496 proposes a new section of the Severance Tax Bonding Act that authorizes the State Board of Finance to issue and sell up to two hundred and fifty million dollars (\$250,000) in severance tax bonds for transportation projects. The bill imposes a restriction that no more than fifty million dollars (\$50,000) of severance tax bonding capacity may be used in a single fiscal year between fiscal years 2007 and 2012. Proceeds from the sale are appropriated to the Severance Tax Transportation Fund for distribution as directed by the Department of Transportation, subject to administration by the New Mexico Finance Authority (NMFA), for

projects pursuant to Section 6-21-6.12. Money from the bonds cannot be used to pay indirect costs. The purpose of the bonds is to partially fund transportation access to provide funding for only the 116 local government transportation projects specifically identified in the bill. The bill specifically states that “...money in the fund shall be distributed to the local governments for projects specifically authorized by the legislature.” Unlike the GRIP legislation this bill specifically identifies projects and the maximum dollars allowed for each project. The bill declares an emergency and will take effect immediately.

FISCAL IMPLICATIONS

The \$208 million appropriation contained in this bill is a recurring expense to the severance tax bond fund through fiscal year 2012 as a result of the issuance of severance tax bonds in the amount not to exceed the lesser of \$50 million or the lesser of fifteen percent of severance tax bonding capacity in any given fiscal year. Any unexpended or unencumbered balance remaining at the end of FY 2012 shall revert to the Severance Tax Bond Fund.

SIGNIFICANT ISSUES

The bill establishes that the NMDOT, rather than the legislature, is responsible for establishing funding priorities and qualifications for the 117 transportation projects. Projects may only qualify for funding if the local government submitted through NMDOT’s regional or metropolitan planning organizations.

The NMDOT indicates that the bill provides funding to integrate the state and local transportation network. The projects were identified and proposed as critical projects for safety, economic development and mobility by local and tribal governments.

The bill also creates a project statewide for up to five hundred thousand dollars (\$500,000) to be expended by the Department of Transportation for engineering and design services for the specified projects.

The NMDOT asserts that the 117 locally-identified projects contained within the bill were submitted through the Regional and Metropolitan Planning Organizations with active participation from local and tribal governments.

The local match, which NMDOT indicates may be in-kind services, federal funds, local government road fund appropriations, grants, or loans, required for these projects depends on the total project cost as follows:

- Projects less than \$500,000 a match of 10 percent;
- Projects equal to \$500,000 but less than \$1,000,000 a match of 20%;
- Projects equal to \$1,000,000 but less than or equal to \$6,000,000 a match of 35%; and,
- Projects greater than \$6,000,000 a match of 45%.

The NMDOT has indicated that it is also reviewing and developing criteria for hardship matching options.

The bill includes funding up to twenty-five million dollars (\$25,000,000) to be distributed

between FY2007 and FY2010 for the development of transportation access to the spaceport in Sierra and Dona Anna Counties without requiring local match. The Bill does not restrict distribution of these funds over a period of years. Accordingly, the spaceport if drawn in one year would use fifty percent of the available funding.

The amendment also provides for up to five hundred thousand (\$500,000) to be provided to the NMDOT for engineering and design services to develop projects that do not require a local match, i.e. the spaceport.

The bill specifies the local projects, listing the dollar amount, purpose, and location. The attached table provided by NMDOT lists the projects, provides a brief description, dollar amounts and match requirements (See Attachment). The costs associated with these projects will require a local matching requirement of about approximately \$105.6 million.

The NMDOT acknowledges that there is no schedule for these projects. Funds will be disbursed dependent upon project readiness and the availability of match. The bill allows for any amount not certified by the NMDOT for issuance in a fiscal year to be carried forward and credited against the amount to be certified in subsequent years.

The remainder of the bill specifies the other local projects, listing the dollar amount, purpose, and location.

The bill declares an emergency and will take effect immediately.

ADMINISTRATIVE IMPLICATIONS

NMFA indicates that The Severance Tax Transportation Fund will be administered pursuant to criteria set out in the bill that include match requirements by local government. Upon certification by the Department of Transportation that a project has been approved for payment, money in the fund would be distributed by the New Mexico Finance Authority to local governments for projects specifically authorized by the Legislature.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

This Bill is a duplicate of Senate Bill 512 and is related to HB1235. Passage of HB 1235 would require that the Legislature set the priority for any projects funded by the Local Transportation Infrastructure Fund. GRIP II funding match required from local governments will in part be coming from this fund. House Bill 496 will conflict with HB 1235 in that it provides for the NMDOT to prioritize projects and not the Legislature

There is \$33 million for these same spaceport activities also contained within HB 827, which has been signed into law.

TECHNICAL ISSUES

As pointed out, this bill allows the NMDOT to use earnings from investing the fund to pay for administrative costs associated with the fund and engineering costs. The bill does not identify what these administrative costs are or who would be eligible to receive them. Nor, does the bill differentiate between the engineering costs eligible under this language from the engineering and design services for specified projects as outlined in the prior paragraph. This should be clarified.

ALTERNATIVES

The \$33 million for spaceport transportation infrastructure contained within HB827 has been signed into law. The Department of Economic Development has expressed concern that the \$25 million contained within this Bill for spaceport transportation infrastructure is insufficient to complete the needed improvements and road construction. Thus, need for the additional funding exists. Because the \$33 million within HB827 is immediately available for disbursement it is recommended that this be drawn first and that HB 496 be amended to allow for no more than \$5 million a year of the total \$25 million be committed to spaceport infrastructure improvements outlined in this Bill. This would spread out the distributions in a uniform manner and would additionally result in the local projects not being adversely impacted by a greater draw for the spaceport activities in any one year. If the spaceport is drawn in year one, fifty percent of the available funding under GRIP II would be used.

FORECAST OF CAPITAL OUTLAY AVAILABLE				
	FY07	FY08	FY09	FY10
STB Capacity	328.3	285.7	269.4	256.2
December 2006 Note and Authorized Unissued	(33.8)			
Spaceport (Funded in FY08/FY08 rather than FY07/FY08)		(66.0)	(34.0)	
GRIP I (LFC Staff Scenario)			(50.0)	(50.0)
GRIP II (HB496)	(49.2)	(42.9)	(40.4)	(38.4)
Water Project Fund (Statutory 10% of STB)	(32.8)	(28.6)	(26.9)	(25.6)
SB1061 (amended)	(11.0)			
House	(13.7)			
Senate	(16.6)			
Statewide	(147.2)			
Governor	(23.5)			
NET STB CAPACITY	0.4	148.3	118.0	142.1
GENERAL FUND AVAILABLE				
	FY07	FY08	FY09	FY10
Recurring Revenues	5,662.3	5,836.0	6,032.6	6,259.0
House Tax Plan	(4.6)	(94.4)	(115.8)	(141.0)
HB2 Revenue Enhancements		6.7	6.7	6.7
NET REVENUES	5,657.7	5,741.6	5,916.8	6,118.0
% Growth		1%	3%	3%
Recurring Appropriations	5,152.8	5,711.8	5,916.8	6,118.0
% Growth		11%	4%	3%
Nonrecurring Appropriations				
Prior year appropriations	71.1			
Specials, Supplementals, Deficiencies & IT	166.2			
Other Nonrecurring Legislation	12.0	3.2		
GF NR Spending - SB710 (\$82.5 m), SB1061 (\$1.0 m)	83.5	15.0		
GF Capital Outlay	404.9			
Subtotal	737.7	18.2	-	-
Ending Balance	565.0	576.5	576.5	576.5
Reserve as Percent of Recurring Appropriations	11.0%	10.1%	9.7%	9.4%
GENERAL OBLIGATION BOND CAPACITY		155.0		130.0
TOTAL REMAINING CAPACITY		303.3	118.0	272.1