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

SPONSOR Lundstrom **ORIGINAL DATE** 1/24/08 **LAST UPDATED** **HB** 235

SHORT TITLE Road Projects Severance Tax Bonds **SB**

ANALYST Moser

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Non-Rec	Fund Affected
FY08	FY09		
	$50,000.0	Recurring	Severance Tax Bonds

(Parenthesis ( ) Indicate Expenditure Decreases)

SOURCES OF INFORMATION
LFC Files

Responses Received From
New Mexico Department of Transportation (NMDOT)
Department of Finance and Administration (DFA)

SUMMARY

Synopsis of Bill

House Bill 235 proposes a new section of the Severance Tax Bonding Act that authorizes the State Board of Finance to issue and sell up to five hundred million dollars ($500,000,000) in severance tax bonds for transportation projects authorized in Paragraphs (1) and (#) through (38) of subsection A of Laws 2003 (1st S.S.), Section 27 between fiscal years 2009 and 2018. These are all the projects except commuter rail within Governor Richardson's Investment Partnership (GRIP) program.

The maximum amount available each year is limited to the lesser of fifty million dollars ($50,000,000) or twenty percent of severance tax bonding capacity. Proceeds from the sale of bonds are appropriated to a newly created Severance Tax Transportation Fund for distribution as directed by NMDOT. Money from the bonds cannot be used to pay indirect costs.

The Bill establishes that NMDOT, rather than the legislature, is responsible for determining when each project, based upon project readiness, will be built.

FISCAL IMPLICATIONS

This bill appropriates the lesser of $50 million or 20 percent of severance tax bonding capacity in fiscal years 2008 through 2018. DFA indicates in the table below the estimated amount that would be funded by fiscal year based on current capacity estimates. The total fiscal impact over the 11-year period is estimated at $460 million.

Fiscal Year	2008	2009	2010	2011
STB Capacity	*322.5*	*306.7*	*301.1*	*282.2*
20%	*64.5*	*61.3*	*60.2*	*56.4*
Lesser of $50 million or 20%	***50.0***	***50.0***	***50.0***	***50.0***

Fiscal Year	2012	2013	2014	2015
STB Capacity	*257.3*	*230.5*	*187.3*	*174.1*
20%	*51.5*	*46.1*	*37.5*	*34.8*
Lesser of $50 million or 20%	***50.0***	***46.1***	***37.5***	***34.8***

Fiscal Year	2016	2017	2018	Total
STB Capacity	*160.4*	*149.2*	*147.4*	
20%	*32.1*	*29.8*	*29.5*	
Lesser of $50 million or 20%	***32.1***	***29.8***	***29.5***	***459.8***

<u>Continuing Appropriations language</u>

This bill creates a new fund and provides for continuing appropriations. The LFC has concerns with including continuing appropriation language in the statutory provisions for newly created funds, as earmarking reduces the ability of the legislature to establish spending priorities.

SIGNIFICANT ISSUES

DFA points out that this appropriation would overlap with a similar existing appropriation. Chapter 3, Laws of 2007 (1st Special Session) allows for the Board of Finance to issue the lesser of $50 million or 12.5% of severance tax bonding capacity in both fiscal year 2008 and fiscal year 2009 for transportation projects, forty percent of which proceeds are appropriated to the same projects that are in this bill. If this bill were to pass, based on the latest severance tax bonding capacity estimate, this bill would provide a total of approximately $66 million to these specific transportation projects and a total of approximately $92 million to transportation projects as a whole in fiscal year 2008. In fiscal year 2009, this bill would provide a total of approximately $65 million to these specific transportation projects and a total of approximately $88 million to transportation projects as a whole in fiscal year 2009 in conjunction with existing laws.

LFC indicates concern with the forecast of capital outlay, as shown in the above table. If general fund surpluses above estimates are not realized in the next few years, available funding for capital outlay will fall sharply. In line with LFC policy to state concerns about continuing appropriations it may be desirable to appropriate for GRIP one year at a time.

In December 2007, NMDOT estimated that GRIP is under funded by $494 million due both to increased inflationary pressures and project scope changes. These increases in costs are not unique to New Mexico with practically every other state struggling with the same issues as New Mexico regarding the continued funding of their construction and maintenance programs.

It is anticipated that inflationary pressures are experienced that the $500 million will be insufficient to complete the projects as inflation within the highway construction industry is expected to continue to escalate. In December of 2005 the department reported to the LFC that it had experienced that calendar year a 12 percent inflationary growth on all GRIP projects. The department prognosticated at that time that inflation in FY06 would be closer to a 3.5 percent growth rate. Unfortunately, the FY06 inflation level was closer to 28 percent. Since then this rate has risen to 37 percent. This inflationary spiral is associated with the price of oil combined with national shortages of both steel and concrete. Inflationary pressures have dramatically increased GRIP project costs, delayed construction and resulted in some projects being postponed until additional funding has been identified. This problem is not just a GRIP problem but impact all funding for maintenance and construction activities within the NMDOT.

Federal transportation funding cuts to the NMDOT have no impact upon the GRIP program costs since these bonds were secured with existing federal revenues and not future revenues.

ADMINISTRATIVE IMPLICATIONS

NMDOT reports that with the assemblage and construction of the GRIP projects, NMDOT has demonstrated the capability to manage large numbers of varying dollar size projects. Since the work is already planned and programmed, there will be no additional administrative impact.

TECHNICAL ISSUES

As noted in the significant issues, the appropriation would overlap with an existing appropriation. Chapter 3, Laws of 2007 (1st Special Session) allows for the Board of Finance to issue the lesser of $50 million or 12.5% of severance tax bonding capacity in both fiscal year 2008 and fiscal year 2009 for transportation projects, forty percent of which proceeds are appropriated to the same projects that are in this bill.

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