# FISCAL IMPACT REPORT

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| | | **ORIGINAL DATE** | 02/03/14 | | 55/HTRCS/aHFl#1/aSFl#1 |
| **SPONSOR** | HTRC | **LAST UPDATED** | 02/21/14 | **HB** | |
| **SHORT TITLE** | 2014 Work NM Act – Severance Tax Bond Projects | | | **SB** | |
| | | | | **ANALYST** | Kehoe/Snyder |

## APPROPRIATION (dollars in thousands)

| Appropriation | | Recurring or Nonrecurring | Fund Affected |
|---|---|---|---|
| **FY14** | **FY15** | | |
| $184,820.9 | | Nonrecurring | Severance Tax Bond Fund |
| $30,188.8 | | Nonrecurring | Public School Capital Outlay Fund |
| $1,300.0 | | Nonrecurring | Public Project Revolving Fund |
| $150.0 | | Nonrecurring | Game and Fish Bond Retirement Fund |
| $1,925.0 | | Nonrecurring | Game Protection Fund |
| $200.0 | | Nonrecurring | Habitat Management Fund |
| $1,310.0 | | Nonrecurring | State Lands Maintenance Fund |
| $1,400.0 | | Nonrecurring | Miners' Trust Fund |
| 10,000.0 | | Nonrecurring | Attorney General Consumer Settlement Fund |

(Parenthesis ( ) Indicate Expenditure Decreases)

## REVENUE (dollars in thousands)

| Estimated Revenue | | | Recurring or Nonrecurring | Fund Affected |
|---|---|---|---|---|
| **FY14** | **FY15** | **FY16** | | |
| $1,300.0 | | | Nonrecurring | Wastewater Facility Construction Loan Fund |

(Parenthesis ( ) Indicate Revenue Decreases)

Relates to HB 146

**SOURCES OF INFORMATION**
LFC Files

## SUMMARY

Synopsis of SFla #1

The Senate Floor Amendment #1 deleted Section 49 of the bill. The section, notwithstanding the Water Project Finance Act, would have authorized $1.5 million from the water project fund to the Office of the State Engineer for the purpose of planning, designing, and constructing dam rehabilitation for publicly-owned facilities statewide.

Synopsis of HFla #1

The House Floor Amendment #1 deleted $140,000 to plan, design, construct and equip improvements to the county fairgrounds in Estancia County, and increased from $60,000 to $200,000 a project to purchase and install a computer-aided dispatch and records management system for the sheriff's and dispatch departments in Estancia in Torrance County. There was no fiscal impact to the bill

Synopsis of Bill

House Taxation and Revenue Substitute for House Bill 55 authorizes approximately $231.3 million, $184.8 million from severance tax bond capacity and approximately $46.5 million from other state funds, for the purpose of funding 915 capital outlay projects statewide. The bill contains an emergency clause. A listing of the projects proposed for funding within this bill is attached.

## FISCAL IMPLICATIONS

The estimated severance tax bond (STB) net capacity in fiscal year 2014 is $184.8 million after deducting amounts from the estimated senior STB gross capacity of $284.7 million. Deductions from gross capacity were made for the following: $38 million for authorized but unissued bonds; 10 percent of capacity equal to $28.5 million for deposit into the water project fund; 5 percent of capacity equal to $14.2 million for deposit into the tribal infrastructure project fund; and 5 percent of capacity equal to $14.2 million for deposit into the colonias infrastructure project fund. Supplemental severance tax bond capacity dedicated for public school construction is approximately $175.2 million for deposit into the public school capital outlay fund.

The appropriations and authorization to expend funds in this bill are nonrecurring expenses to STB capacity and other state funds (OSF). Any unexpended or unencumbered balance shall revert to the originating fund. The public school capital outlay fund is a non-reverting fund. The balance of appropriations made from the general fund or other state fund to the Indian Affairs Department or the Aging and Long-Term Services Department for a project located on lands of an Indian nation, tribe or pueblo shall revert to the tribal infrastructure project fund.

Except for appropriations to the capital program fund and public school capital outlay fund, money from STB proceeds and any other state funds contained in this bill may not be used to pay indirect project costs.

For the purposes in sections 2 and 3 of this bill, "unexpended balance" means the remainder of an appropriation after reserving for unpaid costs and expenses covered by binding written obligations to third parties. If an agency has not certified the readiness for STB proceeds by the end of fiscal year 2016, the authorization is void.

Unless otherwise specified, the unexpended balance from STB proceeds or appropriations from the GF or OSF will revert to the originating fund no later than the following dates: 1) for a project appropriated to match federal grants, six months after completion of the project; 2) for a project appropriated to purchase vehicles, including emergency vehicles and other vehicles requiring special equipment, heavy equipment, books, educational technology, or other equipment or furniture not related to a more inclusive construction or renovation project, at the end of the fiscal year two years following the fiscal year in which the STB were issued or an appropriation was made for the purchase; and 3) for any other project for which STB were issued or an appropriation was made, within six months of completion of the project, but no later than the end of fiscal year 2018.

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. The BOF must also comply with the Internal Revenue Code of 1986, as amended. The agencies named in this bill shall certify to the 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 within six months after the applicable bonds have been issued a substantial binding obligation to a third party to expend at least five percent of the bond proceeds for the project; 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, the 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 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.

**SIGNIFICANT ISSUES**

Policymakers recognize infrastructure funding is critical to the public health, safety, and economic vitality within New Mexico’s communities. During the interim, the LFC heard reports of shrinking revenues coupled with the increasing needs and costs of planning, constructing, operating and maintaining the state’s roads, water systems, and state-owned and -operated facilities.

In 2014, state agencies, higher education, special schools, and local entities requested over $1.3 billion for capital outlay projects statewide, an amount much greater than capacity. A majority of the projects contained in the bill relate to local infrastructure needs. Nearly all funds requested by Executive agencies responsible for managing hospitals, long-term care facilities, correctional and juvenile facilities, and public safety facilities were eliminated from the bill and may face a multitude of issues due to substandard and aged facilities unable to meet fire and environmental code compliance.

The bill contains nearly $85.5 million for various water projects, including approximately $67 million water-related projects initiated by the governor. The major projects requested by the governor include the following: for a watershed restoration program administered by the Energy, Minerals & Natural Resources Department ($6.2 million), Alamogordo desalinization plant ($4 million), Camino Real Regional Utility Authority ($5.4 million), Bradner Dam in Las Vegas ($10 million), water systems and wells in Dona Ana County ($4 million), and Chama wastewater treatment plant ($8 million).

As proposed by the executive, the bill contains $30 million for state agency capital including the following major projects: Corrections Department security and maintenance ($2 million), Department of Informational Technology ($5 million), Economic Development Department for Local Economic Development Act ($5 million), Secretary of State for voting system replacement ($6 million), and the south access Road from Dona Ana County for the Spaceport ($6.4 million).

The bill further contains approximately $97.7 million for projects authorized by individual legislators for various water projects, roads, public schools, special schools, higher education, senior center, tribal, and other community infrastructure needs.

## ADMINISTRATIVE IMPLICATIONS

The majority of the 915 projects will be administered by the Public Education Department, 249 projects; Department of Environment, 153 projects; Local Government Division 225 projects, and Department of Transportation, 86 projects.

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