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FISCAL IMPACT REPORT

SPONSOR HTRC **ORIGINAL DATE** 02/14/14
LAST UPDATED 02/17/14 **HB** 241/HTRCS

SHORT TITLE Create Southwest Chief Rail Service Fund **SB** _____

ANALYST Soderquist

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY14	FY15		
\$0.0	\$0.0	Recurring	Severance Tax Bond Capacity
\$0.0	\$0.0	Recurring	Severance Tax Bonding Fund
\$0.0	\$0.0	Recurring	* See Narrative

(Parenthesis () Indicate Expenditure Decreases)

Relates to SB 221, HB 116, HB 117, SB 168, HB 4 and HB 2

SOURCES OF INFORMATION

LFC Files

Responses Received From

Department of Finance and Administration (DFA)

Department of Transportation (NMDOT)

SUMMARY

Synopsis of Bill

The House Taxation and Revenue Committee substitute for HB 241 proposes that the Board of Finance (BOF) may issue and sell severance tax bonds in fiscal years 2015 through 2025 up to \$40 million, up to \$4 million in any fiscal year, when the New Mexico Department of Transportation (NMDOT) certifies the need for issuance, with proceeds appropriated to a new southwest chief rail service fund (to include other donations and investment income from that fund). The BOF must find the project sufficiently developed and able to go to contract in a reasonable time. Bond certification is contingent on NMDOT certification that interstate compacts and other agreements with other parties are in effect and obligations are being met. Any unexpended or unencumbered balance at the end of fiscal year 2029 reverts to the severance tax bonding fund. If NMDOT has not certified the need for bond issue by the end of fiscal year 2055, authorization of the bonds expires.

The bill contains no effective date or emergency clause, so would become effective 90 days after the session ends; May 21, 2014.

FISCAL IMPLICATIONS

According to the response from DFA, severance tax bonds for this purpose would likely need to be issued on a taxable basis due to private use as well as expenditure timelines, either using short-term sponge notes or by initiating a long-term bond sale to the State Treasurer. The State's capacity to issue taxable severance tax bonds has been in high demand in recent years due to earmarks for water, tribal and colonias projects, and legislative prerogative to appropriate other projects of a taxable nature. As such, this bill would create more demand for scarce taxable capacity.

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

The Southwest Chief refers to Amtrak passenger service operating between Chicago and Los Angeles. The route diverges from the main BNSF "Transcon" east-west line used for both passenger and freight transportation in Kansas and then follows a rail line through 9 communities in Kansas, Colorado and New Mexico. In New Mexico, the route goes through Raton, Las Vegas and Lamy, where BNSF ownership ends. From Lamy, the service continues south through Albuquerque to Isleta Pueblo, where it returns to BNSF-owned track and continues west to Los Angeles.

At issue is the cost of track, bridges and signal maintenance on the rail line through Kansas, Colorado and New Mexico. Both Amtrak and BNSF have stated publicly that additional funding will be required for service to continue as current track conditions preclude the train speed required for passenger travel. Financial commitments will need to be made by impacted states by the end of 2014, with funding required by January 2016. The rerouting of passenger service would negatively impact the tourism and related industries in the three states. Annual routine maintenance costs for the rail line through the three states are currently estimated at \$8.8 million per year; capital outlay costs are currently estimated at \$9.3 million a year. The proposed legislation is designed provide a partial remedy to the funding required to maintain the rail line – and existing passenger service – in New Mexico. It is unclear if the funding is sufficient continue service, even if the proposed funding is matched or exceeded by the governments of Kansas and Colorado.

PERFORMANCE IMPLICATIONS

There are no performance implications identified by NMDOT in the original HB 241.

ADMINISTRATIVE IMPLICATIONS

HB 241 could entail additional administrative duties for NMDOT staff, including but not limited to activities required to develop, negotiate, execute, and monitor the funding agreement among Amtrak and the States of Kansas, Colorado and New Mexico and efforts related to the issuance

of severance tax bonds. The department stated there would be no significant fiscal impact as a result of the activities mentioned in the original HB 241 related to establishing an agreement between Amtrak and the states, but it did not respond to the HTRC substitute so it is not known if there would be a significant fiscal impact to the staff activities required for the issuance of severance tax bonds.

RELATIONSHIP

HB 241 is related to SB 221, HB 116, HB 117, and SB 168, all of which address the issue of continuing service for the Southwest Chief on its current passenger route.

HB 241 relates to HB 4, which is the appropriation act for the Department of Transportation and HB 2, which now contains the provisions of HB 4.

TECHNICAL ISSUES

The constitution's anti-donation clause bars New Mexico from making donations to private individuals or entities. NMDOT has previously noted that could be a barrier to a cost-sharing agreement with BNSF and Amtrak, established by the federal government yet considered a private company.

The title of the bill includes "making an appropriation", but there are no specific appropriations in the bill. However, it provides for a fund creation and authorizes deposits up to a specific limit from bond purchases.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

New Mexico does not presently provide financial support for the Amtrak Southwest Chief. If the proposed legislation is not enacted, it is likely that passenger service through Raton, Las Vegas and Lamy will end in 2015. Amtrak passenger service would be rerouted through other New Mexico communities.

RS/ds:svb:jl