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FISCAL IMPACT REPORT

ORIGINAL DATE 2/15/15

SPONSOR Stewart LAST UPDATED _____ HB _____

SHORT TITLE Increase Severance Tax Distributions SB 150

ANALYST van Moorsel

REVENUE (dollars in thousands)

Estimated Revenue					Recurring or Nonrecurring	Fund Affected
FY15	FY16	FY17	FY18	FY19		
\$0.0	\$11,200.0	\$11,000.0	\$15,700.0	\$33,700.0	Recurring	STPF (contributions)
\$0.0	\$0.0	\$800.0	\$1,700.0	\$3,000.0	Recurring	STPF (earnings)
\$0.0	\$0.0	\$0.0	\$100.0	\$300.0	Recurring	General Fund

(Parenthesis () indicate revenue decreases

Estimated STB Capacity					Recurring or Nonrecurring	Fund Affected
FY15	FY16	FY17	FY18	FY19		
\$0.0	(\$38,400.0)	(\$32,800.0)	(\$34,600.0)	(\$40,800.0)	Recurring	STB Capacity
\$0.0	(\$2,500.0)	\$0.0	\$0.0	(\$8,900.0)	Recurring	Supplemental STB Capacity

(Parenthesis () indicate revenue decreases

SOURCES OF INFORMATION

LFC Files

Responses Received From

State Investment Council (SIC)

Department of Finance and Administration (DFA) (Board of Finance)

Office of the State Engineer (OSE)

Indian Affairs Department (IAD)

Public School Facilities Authority (PSFA)

SUMMARY

Synopsis of Bill

Senate Bill 150 amends the Severance Tax Bonding Act to phase in reductions in the statutory limits of both senior and supplemental severance tax bond capacities in order to increase the

amount of revenue deposited into the severance tax bonding fund that is transferred to the severance tax permanent fund semiannually. Specifically, the bill:

- provides that the amount of severance tax deposits into the severance tax bonding fund that may be used to determine bonding capacity be the lesser of prior-year or current year deposits as estimated by the State Board of Finance. Current law provides capacity is determined by prior-year deposits only.
- Reduces statutory capacity for senior severance tax bonds by providing the BOF may not issue STBs unless the total amount outstanding and the issue proposed can be financed with the following percentages of deposits into the severance tax bonding fund:

FY15 (current law)	FY16	FY17	FY18	FY19 (& onward)
50.0%	49.1%	48.2%	47.3%	46.4%

- Reduces statutory capacity for long-term supplemental severance tax bonds by providing the BOF may not issue STBs unless the total amount outstanding and the issue proposed can be financed with the following percentages of deposits into the severance tax bonding fund:

FY15 (current law)	FY16	FY17	FY18	FY19 (& onward)
62.5%	61.6%	60.7%	59.8%	58.9%

- Reduces statutory capacity for long-term supplemental severance tax bonds by providing the BOF may not issue STBs unless the total amount outstanding and the issue proposed can be financed with the following percentages of deposits into the severance tax bonding fund:

FY15 (current law)	FY16	FY17	FY18	FY19	FY20	FY21	FY22	FY23 (& onward)
95.0%	94.1%	93.2%	92.3%	90.4%	89.4%	88.4%	87.4%	86.4%

The net effect of these statutory limits on the amount of revenue that may be used to service the debt on each type of bond is identified below, showing that SB 150 first reduces senior bonding capacity by 0.9 percent per year through FY19, for a total decrease of 3.6 percent of severance tax revenue. In FY19, short-term supplemental severance tax bonding capacity begins to decrease by 1 percent per year through FY23, for a total 5 percent decrease. (see “Fiscal Implications” for discussion of the fiscal impact of these changes.

Type of STB	FY15 (current law)	FY16	FY17	FY18	FY19	FY20	FY21	FY22	FY23 (& onward)
Senior	0%	-0.9%	-1.8%	-2.7%	-3.6%	-3.6%	-3.6%	-3.6%	-3.6%
Long Term Supplemental	0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%
Short Term Supplemental	0%	0.0%	0.0%	0.0%	-1.0%	-2.0%	-3.0%	-4.0%	-5.0%

The effective date of SB 150 is July 1, 2015

FISCAL IMPLICATIONS

The Board of Finance estimated the bill's impact on STB capacity and STPF transfers. The bill reduces severance tax bonding capacity and instead provides for additional transfers of severance tax revenue to the severance tax permanent fund (see table below)

According to the BoF, the bill reduces STB capacity over the period FY15-FY24 as follows:

- Senior capacity is reduced by \$305.8 million (12 percent). Earmarks of senior capacity are reduced by the same percentage, as follows:
 - Water trust fund capacity is reduced by \$30.6 million.
 - Tribal infrastructure capacity is reduced by \$15.3 million.
 - Colonias infrastructure capacity is reduced by \$15.3 million.
 - After earmarks, the remaining capacity is available for legislative appropriation. This amount will see reductions of \$244.7 million.
- Supplemental STB capacity is reduced by \$115.7 million (6 percent).

The Board of Finance notes that because changes to the supplemental STB program are phased in more gradually over eight years, the percent reduction to this bonding program appears smaller than for the senior program. However, BoF adds the percentage reduction would approach the percentage reduction in the senior STB program over time.

The reductions in STB capacity would increase transfers to the STPF, estimated by BoF to total \$321.4 million over 10 years. Assuming 7.5 percent compound interest, BoF estimates these increased distributions to the STPF would result in an additional \$74.0 million in STPF interest earnings over 10 years.

Finally, the increase STPF corpus resulting from increased contributions and investment earnings would result in increased transfers from the STPF to the general fund, which receives a 4.7 percent distribution of the 5-year average of year-ending STPF market values. BOF estimates that over the ten-year period general fund revenues would increase by \$15.1 million.

<i>Fiscal Impact Estimate of SB 150 versus Current Law</i>											
Sources of Funds (millions)	FY15	FY16	FY17	FY18	FY19	FY20	FY21	FY22	FY23	FY24	10-Year
Severance Tax Bonds	-	(25.0)	(25.0)	(25.0)	(25.0)	(25.0)	(25.0)	(25.0)	(25.0)	(25.0)	(225.0)
Severance Tax Notes	-	(13.4)	(7.8)	(9.6)	(15.8)	(14.0)	(9.8)	(7.0)	(3.5)	0.0	(80.8)
Subtotal Senior STBs	-	(38.4)	(32.8)	(34.6)	(40.8)	(39.0)	(34.8)	(32.0)	(28.5)	(25.0)	(305.8)
Supplemental Severance Tax Bonds	-	-	-	-	-	-	-	-	-	-	-
Supplemental Severance Tax Notes	-	2.5	-	-	(8.9)	(14.9)	(18.4)	(23.1)	(26.8)	(26.1)	(115.7)
Subtotal Supplemental STBs	-	2.5	-	-	(8.9)	(14.9)	(18.4)	(23.1)	(26.8)	(26.1)	(115.7)
Total Sources of Funds	\$0.0	(\$35.8)	(\$32.8)	(\$34.6)	(\$49.7)	(\$53.9)	(\$53.3)	(\$55.1)	(\$55.3)	(\$51.1)	(\$421.5)
Uses of Funds (millions)											
Authorized but Unissued STB Projects*	-	-	-	-	-	-	-	-	-	-	-
10% Water Projects	-	(3.8)	(3.3)	(3.5)	(4.1)	(3.9)	(3.5)	(3.2)	(2.8)	(2.5)	(30.6)
Colonias Projects - 5%	-	(1.9)	(1.6)	(1.7)	(2.0)	(2.0)	(1.7)	(1.6)	(1.4)	(1.2)	(15.3)
Tribal Projects - 5%	-	(1.9)	(1.6)	(1.7)	(2.0)	(2.0)	(1.7)	(1.6)	(1.4)	(1.2)	(15.3)
New Senior STB Statewide Capital Projects	-	(30.7)	(26.2)	(27.7)	(32.6)	(31.2)	(27.8)	(25.6)	(22.8)	(20.0)	(244.7)
Education Capital	-	2.5	-	-	(8.9)	(14.9)	(18.4)	(23.1)	(26.8)	(26.1)	(115.7)
Total Uses of Funds	\$0.0	(\$35.8)	(\$32.8)	(\$34.6)	(\$49.7)	(\$53.9)	(\$53.3)	(\$55.1)	(\$55.3)	(\$51.1)	(\$421.5)
Estimated STPF Transfer	-	11.2	11.0	15.7	33.6	40.7	42.9	45.0	51.1	70.3	321.4
STPF Earnings on Contributions - 7.5% Compounding	-	-	0.8	1.7	3.0	5.8	9.3	13.2	17.5	22.7	74.0
General Fund Distributions from STPF	-	-	-	0.1	0.3	0.7	1.4	2.6	4.1	5.9	15.1

Source: Department of Finance and Administration

It should be noted that due to significant reductions in oil and gas prices since the December estimate that the February bonding capacity estimate was reduced significantly. The biggest impact from the commodity price decline was seen in the supplemental severance tax bonding capacity, which was reduced by a total of \$124 million over five years, for an average reduction in annual SSTB capacity of nearly \$25 million. FY16 SSTB capacity was revised downward by \$54.2 million. This reduction alone will have a significant impact on the ability of the Public School Capital Outlay Council (PSCOC) to award funding for school facilities. The provisions in this bill would further reduce the availability of such funding.

SIGNIFICANT ISSUES

The bill attempts to increase inflows into the severance tax permanent fund. The State Investment Council reports the STPF is in jeopardy of being permanently impaired or diminished due to the existing imbalance between contributions of state severance taxes to the STPF, and annual distributions the STPF makes to the general fund.

The following chart, provided by SIC, shows historic STPF corpus, contribution, distribution values, as well as the total amount of severance taxes collected by the state.

	Contributions to STPF	Distributions from STPF	Total Severance Taxes Collected	STPF Value
FY02	\$ 32,034,751	\$ 159,182,592	\$ 230,506,000	3,403,010,366
FY03	\$ 1,032,283	\$ 170,954,868	\$ 237,642,000	3,323,379,564
FY04	\$ 16,318,268	\$ 172,434,107	\$ 305,594,000	3,632,322,981
FY05	\$ 12,371,958	\$ 173,249,126	\$ 391,581,000	3,781,460,841
FY06	\$ 123,217,261	\$ 171,797,507	\$ 497,336,000	4,150,806,633
FY07	\$ 24,073,243	\$ 170,972,506	\$ 452,901,000	4,709,504,971
FY08	\$ 41,413,897	\$ 177,171,816	\$ 511,794,000	4,314,948,773
FY09	\$ 27,539,293	\$ 191,292,480	\$ 516,315,000	3,173,448,933
FY10	\$ 3,488,067	\$ 187,072,285	\$ 350,123,000	3,379,772,625
FY11	\$ 7,617,058	\$ 184,570,731	\$ 366,727,000	3,966,034,159
FY12	\$ 103,888,028	\$ 183,423,501	\$ 462,831,000	3,880,616,288
FY13	\$ 339	\$ 176,172,687	\$ 414,375,000	4,166,990,158
FY14	\$ 129,975,882	\$ 170,472,647	\$ 530,668,000	4,768,257,245
FY15 (YTD@12/31)	\$ 88	\$ 182,722,980	\$ 296,095,000	4,696,094,067

IAD notes the Tribal Infrastructure Fund (TIF) program receives 5 percent of STB capacity through a statutory earmark. As this bill reduces senior STB capacity, it would also reduce the amount of capacity for TIF projects, as well as water infrastructure and colonias projects, which also receive statutorily earmarked STB capacity. IAD adds that since the program’s inception in 2006, New Mexico has invested over \$69 million in tribal infrastructure projects, funding 156 tribal planning, design and construction projects that benefited 54 tribal communities.

PSFA indicates that even under current law, forecasted SSTB revenues (February, 2015) are not sufficient to maintain the average statewide Facility Condition Index (FCI). PSFA estimates that an annual state match of \$157.9 million is required annually in order to maintain the FCI. Supplemental severance tax bond proceeds are not just used for public school construction, they also include SB-9 capital improvements, lease assistance, PSFA operating budget costs, and facilities master plan assistance. In its analyses of other legislation that affects the funds for public school capital outlay, PSFA has noted concern that school capital funding may fall short of the \$157.9 million required to maintain the statewide FCI.

PSFA notes it reported to the Public School Capital Outlay Council (PSCOC) that the current PSCOC fund balance projection shows that the rate of SSTB sales and budgeting of revenues outpace the needs of the current project schedules in the current financial plan and project delays are imminent. PSFA adds reductions in SSTB capacity available for PSCOC programs would further exacerbate the risk of project delays.

PSFA adds the current funding source for public school capital outlay was established in response to the Zuni Lawsuit. In 1999, the district court ruled that the current public school capital outlay funding system was unconstitutional and appointed a special master to review the state’s progress in developing a uniform system for funding public school capital improvements and in 2002 issued a finding that the state “is in good faith and with substantial resources attempting to comply with the requirements” of the court. In 2014, Gallup McKinley County school district, one of the original litigants, requested that the court re-open the lawsuit and the request was granted. A hearing is currently scheduled in the spring of 2015. PSFA cautions that repurposing SSTB proceeds at this time may be viewed unfavorably.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

Conflicts with HB 236 - Reduce Severance Tax Bonding Capacity, HB 262 – Gas Tax & Road Projects, SB 326 – Reduce Severance Tax Bonding Capacity.

Does the bill meet the Legislative Finance Committee tax policy principles?

1. **Adequacy:** Revenue should be adequate to fund needed government services.
2. **Efficiency:** Tax base should be as broad as possible and avoid excess reliance on one tax.
3. **Equity:** Different taxpayers should be treated fairly.
4. **Simplicity:** Collection should be simple and easily understood.
5. **Accountability:** Preferences should be easy to monitor and evaluate

PvM/je/bb/je