LEGISLATIVE EDUCATION STUDY COMMITTEE
BILL ANALYSIS
53rd Legislature, 1st Session, 2017

Bill Number	*HB499	**Sponsor**	Larrañaga & Haper
Tracking Number	.205687.7SA	**Committee Referrals**	HSIVC/HTRC/HAFC
Short Title	Severance Tax Bond Project Changes		
Analyst	Rogne	**Original Date** **Last Updated**	2/28/17

BILL SUMMARY

Synopsis of Bill

*House Bill 499 (*HB499) relates to the financing of capital expenditures from proceeds of severance tax bonds (STBs) by changing the purpose and authorization of previously issued STBs and supplemental severance tax bond (SSTB) proceeds. The bill authorizes the issuance of new bonds, reverts certain balances from earlier appropriations, and makes fund transfers and appropriations.

*HB499 also provides that the unexpended or unencumbered balances for agency appropriated projects shall not be used for their original purpose. Instead, the balances are to be transferred to the public school capital outlay fund (PSCOF) for use by the Public School Capital Outlay Council (PSCOC) in FY18 through FY22.

Effectively, the bill reduces STB capacity by $63.7 million and increases general fund reserve by $63.7 million. It also appropriates $25 million from the PSCOF to the Public Education Department (PED) for instructional materials and transportation.

*HB499 contains an emergency clause.

FISCAL IMPACT

This analysis only considers the impact of *HB499 on public schools.

This bill appropriates $63.7 million of nonrecurring taxable SSTB capacity for public school projects to the general fund for expenditure in FY17. Any unexpended or unencumbered balance remaining at the end of FY17 shall revert to the general fund.

SUBSTANTIVE ISSUES

This analysis only considers the impact of *HB499 on public schools; therefore, sections outlining appropriations for other purposes will not be included. Additional information can be accessed from the Legislative Finance Committee Fiscal Impact Report (FIR).

*HB499 captures the state's long-term STB capacity of $63.7 million for public school projects in order to free up the same amount in taxable SSTBs to shore up the state's reserves. Below is a section by section breakdown of the *HB499 provisions related to the PSCOF.

Section 1 authorizes the Board of Finance of the Department of Finance and Administration (DFA) to issue and sell SSTBs in an aggregate amount not to exceed $63.7 million in FY17. Proceeds from the sale of the bonds would be appropriated to the general fund.

Section 6 voids the unexpended and unencumbered balances of certain projects that were appropriated funds prior to 2016. Subsection E redirects $19 million in proceeds from voided projects in Subsections A through D to the PSCOF to implement the Public School Capital Outlay Act in FY18 through FY22. The unexpended or unencumbered balance remaining at the end of FY22 would revert to the severance tax bonding fund.

Section 7 authorizes the issuance and sale of STBs in FY17 and appropriates $44.7 million to the PSCOF for use by the PSCOC to implement the Public School Capital Outlay Act. The unexpended or unencumbered balance remaining at the end of FY22 would revert to the severance tax bonding fund.

Section 8 appropriates $17.5 million from the PSCOF to the instructional materials fund for expenditure in FY18 and $7.5 million to the transportation distribution of the public school fund for expenditure in FY18. Any unexpended or unencumbered balances remaining at the end of FY19 would revert to the public school capital outlay fund.

Sections 10 amends the Severance Tax Bonding Act, Section 7-27-12 NMSA 1978, which stipulates that proceeds from SSTBs can only be used for public school capital outlay projects pursuant to the Public School Capital Outlay Act or the Public School Capital Improvements Act, except in specific instances as enumerated in the Severance Tax Bonding Act. *HB499 adds Sections 1 through 8 of the bill to these exceptions. The Severance Tax Bonding Act is also amended so that the secretary of PED can certify for the issuance and sale of SSTBs in addition to the PSCOC.

Sections 10, 11, and 12 provide the authorization to the State Board of Finance of DFA to issue the bonds specified within the bill, provides a severability clause in the event that any of the projects listed within the bill are held invalid or otherwise cannot be effectuated, and provides for an emergency clause.

The FY18 Executive Budget Recommendation from Governor Martinez included the proposal to use "the state's long-term severance tax bond capacity of approximately $62 million for public school projects in order to free up the same amount in taxable bonds to shore up the state's reserves." The executive proposal would mean no new capacity for capital outlay projects in 2017 except those appropriations specified in Section 7 of *HB499.

Senate Bill 4 of the 2016 2nd special session amended Subsection N of Section 22-24-4 NMSA 1978 to reserve $25 million of the public school capital outlay fund for appropriation to the instructional material fund and the transportation distribution of the public school fund for each fiscal year from FY18 through FY22. House Bill 2, General Appropriation Act of 2017, appropriates $12.5 million to the instructional material fund and $12.5 million to transportation from the public school capital outlay fund. Instructional material and transportation appropriations in *HB499 appear to duplicate these appropriations in House Bill 2. House Bill 2 was adopted by the House and is scheduled next in the Senate Finance Committee. If both House Bill 2 and *HB499 are enacted, $50 million of the public school capital outlay fund will be appropriated to instructional materials and transportation.

TECHNICAL ISSUES

Section 10 proposes to amend Section 7-27-12 NMSA 1978 to allow PED to certify the need for SSTBs and direct the State Board of Finance to sell SSTBs – see lines 10 and 11 on page 63. This language appears to track with language in Section 8, which allows PED to certify that the need exists for the issuance of $25 million in SSTBs for instructional materials and transportation. However, the changes proposed in Section 8 do not require PED to direct the BOF to sell bonds because Section 8 is appropriating the fund balance in the PSCOF (PSCOC would have already certified the need for bonds for bond revenue to be in the fund). Historically, only the PSCOC certifies the need for SSTBs and directs the State Board of Finance to sell SSTBs. For example, PED is required to make a distribution from the public school capital improvements fund for the state match portion of the 2 mill levy imposed pursuant to the Public School Capital Improvements Act (also known as SB9). PED certifies the amount needed to the PSCOC then the PSCOC directs the BOF to sell SSTBs and the PSCOC distributes the amount needed to PED. The sponsor may want to consider inserting "to the Public School Capital Outlay Council" between "public education" and "that" on page 60 line 25 and eliminating underlined language on page 63 lines 10 and 11, which reads "or upon certification by the secretary of public education" to keep bond certification consistent with statute.

RELATED BILLS

*SB101, Severance Tax Bond Projects, authorizes $89.4 million for the purpose of funding 54 capital outlay projects for state-owned and –operated facilities statewide.

*SB112/aSFC, Capital Outlay Project Changes, as amended, reauthorizes taxable bond proceeds and other state funds to restore general fund capital expenditures made on or before June 30, 2016.

*SB260, Capital Project Reversion Dates, voids capital outlay projects totaling approximately $10.7 million appropriated from STB capacity.

SOURCES OF INFORMATION
- LESC Files
- Department of Transportation
- Department of Information Technology

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