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FISCAL IMPACT REPORT

SPONSOR HTRC ORIGINAL DATE 2/17/2020
 LAST UPDATED 2/19/2020 HB CS/HB 349/aSFC/ec

SHORT TITLE Severance Tax Bond Projects SB _____

ANALYST Edwards/Kehoe

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY20	FY21		
\$361,956.2		Nonrecurring	Severance Tax Bond Fund
\$142,817.1		Nonrecurring	General Fund
\$8,989.0		Nonrecurring	Public School Capital Outlay Fund
\$5,000.0		Nonrecurring	Penitentiary Income Fund
\$5,000.0		Nonrecurring	Equipment Replacement Revolving Funds
\$2,500.0		Nonrecurring	Oil and Gas Reclamation Fund
\$2,000.0		Nonrecurring	Miners' Trust Fund
\$1,000.0		Nonrecurring	State Road Fund
\$1,309.0		Nonrecurring	Educational Retirement Fund
\$1,000.0		Nonrecurring	Sikes Account of the Game Protection Fund
\$650.0		Nonrecurring	State Lands Maintenance Fund

(Parenthesis () Indicate Expenditure Decreases)

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY20	FY21	FY22		
	\$8,000.0		Nonrecurring	General Fund

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

SUMMARY

Synopsis of Senate Finance Committee Amendment

The Senate Finance Committee amendment to House Bill 349 amended:

- Section 3 to change the reversion date for the overfunded projects from July 1, 2021, to July 1, 2020;
- Added \$4 million appropriated from the general fund for statewide emergency projects for administration by the Department of Finance and Administration, Local Government Division; and
- Changed the \$2 million in funds appropriated from the public project revolving loan fund to instead be funded from the general fund (\$1 million for Carlsbad brine well remediation and \$1 million for improvements to contaminated water systems in Curry and Otero counties).

As amended, House Bill 349 authorizes \$532.2 million, including approximately \$362 million from severance tax bond (STB) capacity, \$27.5 million from other state funds, and \$142.8 million from the general fund for the purpose of funding capital outlay projects statewide.

Synopsis of Original Bill

House Bill 349 authorizes \$528.2 million, including approximately \$362 million from severance tax bond (STB) capacity, \$29.5 million from other state funds, and \$136.8 million from the general fund for the purpose of funding capital outlay projects statewide. The bill contains an emergency clause. *A listing of the projects funded in this bill is attached.*

FISCAL IMPLICATIONS

The estimated net STB capacity in fiscal year 2020 is \$362.3 million after deductions from the estimated \$442.1 million senior STB gross capacity. Deductions from gross capacity include: \$80 thousand for authorized but unissued bonds; \$39.8 million, 9 percent of capacity, for deposit into the water project fund; \$19.9 million, 4.5 percent of capacity, for deposit into the tribal infrastructure project fund; and \$19.9 million, 4.5 percent of capacity, for deposit into the colonias infrastructure project fund.

The bill includes an authorization to Public Education Department to request \$200 thousand from the environmental mitigation trust fund for fueling and charging stations for alternatively-fueled school buses statewide.

The Legislative Council Service identified approximately \$8 million general fund of projects that were overfunded in the bill. Section 3 of the bill requires the Department of Finance and Administration and the Legislative Council Service to determine which projects were overfunded. If capital projects funded with general fund are in excess of the total project cost, DFA shall not allow that overage to be encumbered. DFA shall revert excess appropriations to the general fund by July 1, 2021. The Senate Finance Committee amendment changes the reversion date to July 1, 2020.

The appropriations and authorizations to expend funds in this bill are nonrecurring expenses to STB capacity, the general fund, and other state funds. Any unexpended or unencumbered balance shall revert to the originating fund.

For the purposes in Sections 1 and 2 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 issuance by the end of fiscal year 2022, the authorization is void.

In compliance with the Severance Tax Bonding Act, the State Board of Finance (BOF) is authorized to issue and sell STBs in an amount not to exceed the total of the amounts appropriated in this bill. BOF must also comply with the Internal Revenue Code of 1986, as amended. The agencies named in this bill shall certify to BOF when the money from the proceeds of the STBs 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 a substantial binding obligation to a third party to expend at least five percent of the bond proceeds for the project within six months after the applicable bonds have been issued; and 2) spend at least 85 percent of the bond proceeds within three years after the applicable bonds have been issued.

Based on the certification of project readiness by grantees, 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 (IRS) 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

As in past years, funding requests for state and local infrastructure needs are far greater than available bonding capacity. For 2020, state agency priority capital requests total nearly \$1 billion. The proposed projects and funding for state agency facilities in this bill are based on criteria, site visits, review of infrastructure capital improvement plans, monthly meetings with major departments, and testimony at hearings held in the interim. The majority reflect the most critical projects impacting public health and safety and ongoing projects requiring additional funds to complete. The proposed funding will address fire and environmental codes, Americans with Disabilities Act regulations, and other licensing and certification requirements that could mean significant additional costs to the state if funding is delayed. Addressing the most critical

infrastructure projects will reduce operating expenses spent on maintenance and allow funds to be used for agency programming.

A large portion of funding for agencies in this bill is for facilities under the jurisdiction of the General Services Department, Facilities Management Division). The division is responsible for the repairs and maintenance of 6.9 million square feet of space in 750 buildings throughout the state, including hospitals, prisons, juvenile facilities, state police district offices, and other office space serving the public.

OTHER SUBSTANTIVE ISSUES

The bill provides authority for the Public Education Department to request budget increases from funds received from the environmental mitigation trust to provide infrastructure for fueling and charging stations for alternatively fueled school buses statewide. New Mexico is eligible to receive nearly \$18 million from the trust for actions that will reduce nitrous oxide emissions, specifically vehicle replacement and zero emission vehicle infrastructure. The trust was established pursuant to a multistate settlement with Volkswagen for diesel emission violations and requires beneficiaries to request funds for eligible projects from the trustee.

ADMINISTRATIVE IMPLICATIONS

While facility repairs are a major concern, the ratio of project management compared with the number of major projects are not always adequate to address the needs in a timely manner.

OTHER SUBSTANTIVE ISSUES

Volume 2 of the LFC Budget Document (Capital Outlay) includes a short description of some of the most critical needs requested by the larger state agencies.

TE/LMK/rl/al