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FISCAL IMPACT REPORT

ORIGINAL DATE 02/25/09
LAST UPDATED 03/14/09 **HB** _____

SPONSOR Sanchez, M.

SHORT TITLE Technology & Energy Improvements Fund **SB** 650/SPACS

ANALYST Haug

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY09	FY10	FY11	3 Year Total Cost	Recurring or Non-Rec	Fund Affected
*Total	\$25.0	\$75.0	\$75.0	\$175.0	Recurring	General Fund

(Parenthesis () Indicate Expenditure Decreases)

*Per DFA estimates in Fiscal Implications below

SOURCES OF INFORMATION

LFC Files

Responses Received From

Energy, Minerals and Natural Resources Department (EMNRD)

Department of Finance and Administration (DFA)

No Response Received From

Economic Development Department (EDD)

SUMMARY

Synopsis of Bill

The Senate Public Affairs Committee substitute for Senate Bill 650, with the emergency clause, creates a non-reverting Technology and Energy Improvements Fund in the state treasury to be administered by the Economic Development Department (EDD). The fund would consist of legislative appropriations, gifts, grants, donations and federal stimulus distributions to New Mexico related to information or innovative technology; research, investment or development in clean or renewable energy generation, transmission and infrastructure and other science-related infrastructure, education and research.

The fund would be used to provide grants for projects allowed by the federal stimulus law or according to federal appropriations provisions.

A Technology and Energy Stimulus Technical Advisory Committee would be created consisting of:

- 1 member appointed by the Governor;

- 1 member appointed by the Speaker of the House;
- 1 member appointed by the President Pro Tempore of the Senate;
- 1 member appointed by the House Majority Floor Leader;
- 1 member appointed by the Senate Majority Floor Leader;
- 1 member appointed by the House Minority Floor Leader;
- 1 member appointed by the Senate Minority Floor Leader;
- 1 member appointed by the Public Regulation Commission;
- The Director of Sandia National Laboratory, or designee;
- The Director of Los Alamos National Laboratory, or designee;
- The Secretary of the EDD, or designee; and
- The President of the New Mexico Institute of Mining and Technology, who would serve as Chair.

Members or designees must knowledgeable in at least one of the following areas:

- Information or innovative technology;
- Research, investment or development in clean or renewable energy generation and transmission infrastructure; or
- Other science-related infrastructure, education or research.

Members would be appointed no later than 20 days following enactment of the bill and the committee would provide, no later than one month following publication of the federal guidelines for the American Recovery and Reinvestment Act of 2009,:

- a statewide renewable energy development strategic plan to distribute money in the fund;
- identification of project-ready programs to provide grants and contracts to develop renewable energy and technology; and
- guidance on the distribution of money in the fund.

Agencies with project ready programs for technology or energy related project could apply for stimulus funds by providing the advisory committee with the project information for consideration and review. The advisory committee would provide guidance to the agency on the priority of project ready programs for which federal money would be sought, and the agency would give priority to programs identified by the advisory committee.

The EDD would serve as staff for the committee.

FISCAL IMPLICATIONS

The bill provides that any funds from federal stimulus distributions unencumbered to a specific project within one year from receipt would be deposited in the State Treasury to the credit of the fund.

The Additional Operating Budget table above is based on comments submitted with respect to the original bill would largely still apply:

The DFA states that:

The amount of money expected to flow into New Mexico from the federal stimulus legislation related to information technology, clean energy and science is

still not clear, and how much of that would be flow-through to other public or private entities remains to be seen.

Under the assumption that agencies require one additional FTE (plus associated workstations) for each \$1,000.0 in new funding to administer, EMNRD could potentially need a large increase in temporary or term staff to support the advisory committee.

While the substitute charges EDD with this duty, EMNRD's estimate would likely still apply: it could see through the provisions of the bill with one new FTE at an estimated cost (including salary, benefits and workstation costs) of \$75.0 per full fiscal year through FY11. Because it is unclear if any portions of federal stimulus funds allowed for administration could be used to meet the requirements of the bill, the budget impact is listed from the General Fund. The cost is estimated as \$25.0 in FY09 under the assumption that the department would begin work when the bill is signed.

The DFA notes in response to the SPAC substitute that the budget impact to EMNRD would be replaced by an equal if not greater budget impact to EDD because EDD is smaller in size.

SIGNIFICANT ISSUES

The EMNRD states:

Federal agencies such as the Department of Transportation and Department of Housing and Urban Development already have issued guidelines and sent out funding to the state agencies; the Department of Energy (DOE) sent out State Energy Program guidelines on March 12, 2009 that affect EMNRD. The first charge of the proposed committee under this bill, is to devise a strategic plan on how to distribute renewable energy related money. The requirement for a plan already is incorporated in the guidelines DOE has transmitted to EMNRD, which is due on March 23, 2009 to allow New Mexico to access the funding. The second charge, to identify project-ready programs, is moot, as the entire stimulus package is predicated on using existing programs. EMNRD's Energy Conservation and Management Division (ECMD) is designated by the Governor to be New Mexico's State Energy Office. Based on federal regulations (10 CFR 420) governing the State Energy Program, DOE will only receive and award funds to the state of New Mexico through the designated agency. The final charge for the Committee is to provide guidance on the distribution of money. This also is covered under the above referenced federal regulations with respect to renewable energy and will be included in the above plan that EMNRD will submit to DOE.

DOE will monitor closely the expenditure rate of Recovery Act funding by the states to ensure the targets and purposes set by the Administration and outline by OMB are met. Funds will be provided to States according to the schedule detailed in the federal guidelines.

The Governor has created the New Mexico Office of Recovery and Reinvestment (NMORR) to oversee spending of the \$1.8 billion in federal stimulus money, including the areas of funding outlined in SB 650 SPAC Sub. The office is tasked to perform many of the same functions prescribed by the Committee in SB 650 SPAC Sub to the

Technology and Energy Stimulus Technical Advisory Committee. However, unlike SB 650 SPAC Sub the NMORR does not create a new fund for stimulus funding that would conflict with federal law nor does the NMORR designate an alternate State energy Office in violation of 10 CFR 420.

ECMD is designated by the Governor of New Mexico to be the State Energy Office. As per 10 CFR 420 which governs the State Energy Program, DOE will only receive and award funds to the state of New Mexico through the designated agency.

PERFORMANCE IMPLICATIONS

The DFA notes that without an appropriation to cover the costs of EDD staff and associated resources, that department would have to allocate administrative and program staff to carry out the legislation. Implications for agency performance could be substantial in the negative.

The EMNRD states that if EMNRD is no longer designated to receive the DOE funding, the State of New Mexico could lose approximately \$39 million (includes State Energy Program, Energy Efficiency Block Grants and Energy Efficient Appliance Rebates) in ARRA funding slated to go to small communities around the state for clean energy projects and other purposes. It is doubtful whether these funds could flow to other state agencies, given constraints outlined below under administrative implications.

According to the EMNRD in its comments on the original bill, DOE expects EMNRD, along with all other state energy offices, to disburse fifty percent of funding to grantees no later than December 31, 2009, with all Funds expended by September 30, 2010. SB 650 would not reinforce this accelerated timetable.

ADMINISTRATIVE IMPLICATIONS

The DFA states:

Agencies would likely have to coordinate closely with EDD to ensure that their input is considered in staff analysis and committee deliberations. This would hamper their abilities to carry out their missions in the most efficient means possible.

In addition, because money in the fund is not appropriated to EDD a separate layer of administrative processes (i.e. budget adjustment requests) or legislative appropriations would have to be put in place for the funds to be expended.

TECHNICAL ISSUES

The DFA notes that the substitute for S 650 directs the committee to provide a statewide renewable energy development strategic plan no later than one month after "the federal guidelines for the federal American Recovery and Reinvestment Act of 2009 are published". Because different federal grants have different federal guidelines it is unclear how this deadline would be interpreted.

OTHER SUBSTANTIVE ISSUES

The EMNRD notes that the New Mexico Institute of Mining and Technology, New Mexico State University and other institutions of higher education and research already have existing programs based on established relationships with DOE and other federal agencies. The federal stimulus package presumes funding will flow into these existing programs. The Fund will not to enhance New Mexico's ability to attract federal competitive grants.

ALTERNATIVES

According to the DFA, handling the proper disbursement of federal stimulus funds will require decisions to be made at high levels of the executive and legislative branches. Many alternatives exist, including the creation of funds at "lead agencies", although those funds should not contain federal stimulus money intended for materially diverse and unrelated interests. Administrative creation of such funds is also possible.

The ENMRD suggests establishing a non-reverting fund with state appropriations that would be available to institutions of higher education and research projects to augment and support applications to federal agencies, allowing New Mexico projects to be more competitive. Request through a joint memorial the New Mexico Office of Recovery and Reinvestment report to the Legislative Finance Committee the use of federal stimulus funds.

GH/svb:mc