FISCAL IMPACT REPORT

ORIGINAL DATE 2/9/15
SPONSOR Harper **LAST UPDATED** 3/30/15 **HB** 236/aHWMC/aSFL

SHORT TITLE Reduce Severance Tax Bonding Capacity **SB**

ANALYST van Moorsel

REVENUE (dollars in thousands)

Estimated Revenue					Recurring or Nonrecurring	Fund Affected
FY15	**FY16**	**FY17**	**FY18**	**FY19**		
$0.0	$9,200.0	$6,800.0	$9,700.0	$23,500.0	Recurring	STPF Transfer
$0.0	$0.0	$700.0	$1,300.0	$2,100.0	Recurring	STPF Investment Earnings
$0.0	$0.0	$0.0	$100.0	$500.0	Recurring	General Fund

(Parenthesis ( ) indicate revenue decreases

ESTIMATED SEVERANCE TAX BOND CAPACITY IMPACT (dollars in thousands)

FY15	FY16	FY17	FY18	FY19	Recurring or Nonrecurring	Fund Affected
$0.0	($58,000.0)	($22,100.0)	($23,100.0)	($25,900.0)	Recurring	Senior STB Capacity
$0.0	$31,400.0	($0.0)	($0.0)	($8,900.0)	Recurring	Supplemental STB Capacity
$0.0	($26,600.0)	($22,100.0)	($23,100.0)	($34,800.0)	Recurring	Total STB Capacity

Parenthesis ( ) indicate expenditure decreases

See Fiscal Implications, below.

Relates to SB 150 – Increase Severance Tax Distributions and SB 326 – Reduce Severance Tax Bonding Capacity. Relates to SB 113 – Tax Bonds for Dept. of Trans. Projects. Relates to HB 92 – Severance Bonds for Transportation Projects.

SOURCES OF INFORMATION
LFC Files

<u>Responses Received From</u>
State Investment Council (SIC)
Department of Finance and Administration (DFA) - Board of Finance (BoF)
Indian Affairs Department (IAD)

SUMMARY

Synopsis of Senate Floor Amendment

The Senate Floor Amendment delays the phaseout of supplemental severance tax capacity until FY19 and adjusts the percentages of STB capacity earmarked for tribal infrastructure (TIF) and colonias infrastructure projects to hold these beneficiaries approximately harmless from the reductions in senior STB capacity. In FY16 the earmark for TIF and colonias will be 6.5 percent and in FY17 and subsequent years the earmark will be 5.5 percent.

The amendment also delays the phasein of reductions to supplemental severance tax bonding capacity until FY19, when supplemental STB capacity will be reduced by 1.6 percent. When fully phased in, the revenue that can be used to finance SSTBs will be reduced by 6.4 percent to 38.6 percent of revenue to the severance tax bonding fund. (See "amended Fiscal Implications)

Synopsis of HWMC Amendment

The House Ways and Means Committee amendment changes the percentages by which the STB capacity is reduced to ensure all beneficiaries see an equal percent reduction capacity. The new reduction schedule is depicted in the revenue table and will be implemented as follows:

	FY15 (current law)	FY16	FY17	FY18	FY19 (& onward)
Senior	50.0%	49.4%	48.8%	48.2%	47.6%

	FY15 (current law)	FY16	FY17	FY18	FY19 (& onward)
Long Term Supplemental	62.5%	61.9%	61.3%	60.7%	60.1%

	FY15 (current law)	FY16	FY17	FY18	FY19 (& onward)
Short Term Supplemental	95.0%	92.8%	90.6%	88.4%	86.2%

Net changes in capacity by bonding program are shown below:

Type of STB	FY15 (current law)	FY16	FY17	FY18	FY19
Senior	0%	-0.6%	-1.2%	-1.8%	-2.4%
Long Term Supplemental	0%	0.0%	0.0%	0.0%	0.0%
Short Term Supplemental	0%	-1.6%	-3.2%	-4.8%	-6.4%

Synopsis of Original Bill

House bill 236 amends the Severance Tax Bonding Act to phase in reductions 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. The bill is endorsed by the Investments and Pensions Oversight Committee.

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 (& onward)
95.0%	92.7%	90.4%	88.1%	85.8%

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 HB 236 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. Short-term supplemental severance tax bonding capacity decreases by 1.4 percent per year through FY19, for a total 5.6 percent decrease. (see "Fiscal Implications" for discussion of the fiscal impact of these changes.

Type of STB	FY15 (current law)	FY16	FY17	FY18	FY19
Senior	0%	-0.9%	-1.8%	-2.7%	-3.6%
Long Term Supplemental	0%	0.0%	0.0%	0.0%	0.0%
Short Term Supplemental	0%	-1.4%	-2.8%	-4.2%	-5.6%

HB 236 is endorsed by the Investments and Pensions Oversight Committee. The effective date of HB 150 is July 1, 2015.

AMENDED FISCAL IMPLICATIONS

The Senate Floor Amendment decreases the size of the reduction to TIF and colonias projects and delays the reductions to SSTB capacity, as presented in the Board of Finance table, below:

Fiscal Impact Estimate of HB236/aHWMC/proposed aSFl 201758.1 versus Current Law

Sources of Funds (millions)	**FY15**	**FY16**	**FY17**	**FY18**	**FY19**	**FY20**	**FY21**	**FY22**	**FY23**	**FY24**	**10-Year**
Severance Tax Bonds	-	(17.6)	(17.6)	(17.6)	(17.6)	(17.6)	(17.6)	(17.6)	(17.6)	(17.6)	(158.4)
Severance Tax Notes	-	(40.4)	(4.5)	(5.5)	(8.3)	(10.2)	(7.6)	(5.0)	(2.5)	0.0	(83.9)
Subtotal Senior STBs	-	*(58.0)*	*(22.1)*	*(23.1)*	*(25.9)*	*(27.8)*	*(25.2)*	*(22.6)*	*(20.1)*	*(17.6)*	*(242.3)*
Supplemental Severance Tax Bonds	-	-	-	-	-	-	-	-	-	-	-
Supplemental Severance Tax Notes	-	31.4	-	-	(8.9)	(19.4)	(25.5)	(28.7)	(30.3)	(29.4)	(110.8)
Subtotal Supplemental STBs	-	*31.4*	-	-	*(8.9)*	*(19.4)*	*(25.5)*	*(28.7)*	*(30.3)*	*(29.4)*	*(110.8)*
Total Sources of Funds	**$0.0**	**($26.6)**	**($22.1)**	**($23.1)**	**($34.8)**	**($47.2)**	**($50.7)**	**($51.4)**	**($50.4)**	**($47.0)**	**($353.1)**
Uses of Funds (millions)	**FY15**	**FY16**	**FY17**	**FY18**	**FY19**	**FY20**	**FY21**	**FY22**	**FY23**	**FY24**	**10-Year**
Authorized but Unissued STB Projects*	-	-	-	-	-	-	-	-	-	-	-
10% Water Projects	-	(5.8)	(2.2)	(2.3)	(2.6)	(2.8)	(2.5)	(2.3)	(2.0)	(1.8)	(24.2)
Colonias Projects - (6.5% FY16, 5.5% FY17+)	-	0.2	(0.2)	(0.2)	(0.3)	(0.4)	(0.3)	(0.2)	(0.2)	(0.1)	(1.7)
Tribal Projects - (6.5% FY16, 5.5% FY17+)	-	0.2	(0.2)	(0.2)	(0.3)	(0.4)	(0.3)	(0.2)	(0.2)	(0.1)	(1.7)
New Senior STB Statewide Capital Projects	-	(52.5)	(19.6)	(20.4)	(22.7)	(24.2)	(22.0)	(19.9)	(17.7)	(15.6)	(214.7)
Education Capital	-	31.4	-	-	(8.9)	(19.4)	(25.5)	(28.7)	(30.3)	(29.4)	(110.8)
Total Uses of Funds	**$0.0**	**($26.6)**	**($22.1)**	**($23.1)**	**($34.8)**	**($47.2)**	**($50.7)**	**($51.4)**	**($50.4)**	**($47.0)**	**($353.1)**
Estimated STPF Transfer	-	9.2	6.8	9.7	23.5	37.9	43.4	46.1	47.6	66.7	290.9
STPF Earnings on Contributions - 7.5% Compounding	-	-	0.7	1.3	2.1	4.0	7.1	10.9	15.2	19.9	61.2
General Fund Distributions from STPF	To Be Determined										
Source: Department of Finance and Administration											

The HWMC amendment decreases the size of the reduction to severance tax bonding programs. The fiscal impact to the uses of the funds, as estimated by the Board of Finance, is as follows:

Uses of Funds (millions)	**FY15**	**FY16**	**FY17**	**FY18**	**FY19**	**FY20**	**FY21**	**FY22**	**FY23**	**FY24**	**10-Year**
Authorized but Unissued STB Projects*	-	-	-	-	-	-	-	-	-	-	-
10% Water Projects	-	(5.8)	(2.2)	(2.3)	(2.6)	(2.8)	(2.5)	(2.3)	(2.0)	(1.8)	(24.2)
Colonias Projects - 5%	-	(2.9)	(1.1)	(1.2)	(1.3)	(1.4)	(1.3)	(1.1)	(1.0)	(0.9)	(12.1)
Tribal Projects - 5%	-	(2.9)	(1.1)	(1.2)	(1.3)	(1.4)	(1.3)	(1.1)	(1.0)	(0.9)	(12.1)
New Senior STB Statewide Capital Projects	-	(46.4)	(17.7)	(18.4)	(20.7)	(22.2)	(20.2)	(18.1)	(16.1)	(14.1)	(193.9)
Education Capital	-	15.9	(12.6)	(20.6)	(30.1)	(33.2)	(32.2)	(28.7)	(30.3)	(29.4)	(201.2)
Total Uses of Funds	**$0.0**	**($42.0)**	**($34.7)**	**($43.7)**	**($56.0)**	**($61.0)**	**($57.4)**	**($51.4)**	**($50.4)**	**($47.0)**	**($443.5)**

ORIGINAL FISCAL IMPLICATIONS

The bill reduces the amount of severance tax revenue that may be used to finance severance tax bonds while increasing the amount of severance tax revenue that is transferred to the severance tax permanent fund. This has the effect of reducing estimated capital capacity as well as increasing the balance to the STPF, which in turn results in increased general fund transfers.

Current law requires bonding capacity to be estimated based on prior year severance tax revenue. As such, in years where severance taxes decrease over the previous year, more than 95 percent of current year revenue can be used to finance bonds, resulting in less than the 5 percent distribution to the STPF. For example in FY13, when $414.4 million in severance taxes were collected, only $339 not used for bonding capacity was transferred to the STPF. The provision that bases bonding capacity on the lesser of prior year revenues or current-year revenue estimate could result in a minimum of 5 percent of severance tax revenues being transferred to the STPF.

Based on the February update to the severance tax bonding capacity estimate, the Board of Finance estimated the impact on bonding programs of the phased in reduction of senior and supplemental bonding capacity. The changes pursuant to this bill (attachment 1) and the STB capacity estimate under current law (attachment 2) attached to this FIR, and the summary of the fiscal impact, as described by Board of Finance, is shown below. Over the ten-year period of FY15-FY24:

- Senior capacity is reduced by $311.2 million (14 percent).
- A portion of senior capacity is earmarked for special purposes. These earmarks are reduced as follows:
  - o The 10 percent earmark to the water trust fund is reduced by $31.1 million (14 percent). The 5 percent earmark to the tribal infrastructure fund is reduced by $15.6 million (14 percent); and
  - o The 5 percent earmark to the colonias infrastructure fund is reduced by $15.6 million (14 percent).
  - o The balance of the difference is borne by the STB capacity available for legislative appropriation, which sees a $249 million (14 percent) reduction.
- Supplemental severance tax bonding capacity (for public school capital projects) is reduced by $167.3 million (9 percent).

The board of finance estimates the bill will increase the amount of severance taxes deposited into the STPF by $389.6 million over 10 years. Assuming 7.5 percent compound interest, BOF estimates these increased distributions to the STPF will result in an additional $106.4 million in STPF interest earnings over 10 years.

The increased corpus of the STPF will have a marginal positive effect on the annual 4.7 percent distribution from the STPF to the general fund.

The HWMC amendment decreases the size of the reduction to severance tax bonding programs. The fiscal impact to the uses of the funds, as estimated by the Board of Finance, is as follows:

Uses of Funds (millions)	FY15	FY16	FY17	FY18	FY19	FY20	FY21	FY22	FY23	FY24	10-Year
Authorized but Unissued STB Projects*	-	-	-	-	-	-	-	-	-	-	-
10% Water Projects	-	(5.8)	(2.2)	(2.3)	(2.6)	(2.8)	(2.5)	(2.3)	(2.0)	(1.8)	(24.2)
Colonias Projects - 5%	-	(2.9)	(1.1)	(1.2)	(1.3)	(1.4)	(1.3)	(1.1)	(1.0)	(0.9)	(12.1)
Tribal Projects - 5%	-	(2.9)	(1.1)	(1.2)	(1.3)	(1.4)	(1.3)	(1.1)	(1.0)	(0.9)	(12.1)
New Senior STB Statewide Capital Projects	-	(46.4)	(17.7)	(18.4)	(20.7)	(22.2)	(20.2)	(18.1)	(16.1)	(14.1)	(193.9)
Education Capital	-	15.9	(12.6)	(20.6)	(30.1)	(33.2)	(32.2)	(28.7)	(30.3)	(29.4)	(201.2)
Total Uses of Funds	**$0.0**	**($42.0)**	**($34.7)**	**($43.7)**	**($56.0)**	**($61.0)**	**($57.4)**	**($51.4)**	**($50.4)**	**($47.0)**	**($443.5)**

SIGNIFICANT ISSUES

HB 236 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 (see attachment).

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.

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/bb/aml/je