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FISCAL IMPACT REPORT

ORIGINAL DATE 2/9/15

SPONSOR Griggs LAST UPDATED _____ HB _____

SHORT TITLE Tax Bonds for Department of Transportation Projects SB 113

ANALYST van Moorsel

APPROPRIATION (dollars in thousands)

Appropriation					Recurring or Nonrecurring	Fund Affected
FY15	FY16	FY17	FY18	FY19		
\$0.0	\$100,000.0	\$100,000.0	\$100,000.0	\$100,000.0	Recurring	State Road Fund
\$0.0	(\$100,000.0)	(\$100,000.0)	(\$100,000.0)	(\$100,000.0)	Recurring	Public School Capital Outlay Fund

Parenthesis () indicate expenditure decreases

Conflicts with HB 262 – Gas Tax & Road Projects
 Relates to SB214 – Motor Vehicle Tax to Road Fund
 Relates to SB150 – Increase Severance Tax Distributions

SOURCES OF INFORMATION

LFC Files

Responses Received From
 Department of Transportation (DOT)
 Public School Facilities Authority (PSFA)

SUMMARY

Synopsis of Bill

Senate Bill 113 amends the Severance Tax Bonding Act to authorize the State Board of Finance to issue and sell up to \$600 million (\$100 million per year for FY16-FY21) in supplemental severance tax bonds (SSTBs) for projects certified by the Department of Transportation (DOT).

Section 1 of the bill adds an exception to the provision requiring proceeds from supplemental severance tax bonds to be used only for public school capital outlay projects pursuant to the Public School Capital Outlay Act or the Public School Capital Improvements Act.

Section 2 provides that the amount of SSTBs that may be sold pursuant to certification by the Public School Capital Outlay Council (PSCOC) must be reduced by the amount of transportation SSTBs that may be issued pursuant to SB113.

Section 3 creates the authority to issue up to \$600 million in SSTBs for DOT projects, and provides that the bonds may only be issued and sold if DOT certifies the need for the funds for the maintenance, construction and improvement of state highways and bridges.

The proceeds from the sale of the bonds are appropriated to the state road fund.

The section also requires DOT's Traffic Safety Bureau to develop a report on the number of traffic fatalities per 1,000 residents for each State Transportation Commission (STC) District. DOT must use the report to establish, by July 1, 2015, a schedule by which state transportation projects for each STC district may be certified for FY16-FY21.

There is no effective date of this bill. It is assumed that the new effective date is 90 days after this session ends.

FISCAL IMPLICATIONS

SB 113 does not change total capacity to issue STBs in any given fiscal year. However, it redirects a significant portion of supplemental STB capacity to transportation infrastructure instead of public school capital improvements. The revenue table shows the maximum impact to the road fund and the public school capital outlay fund if the maximum allowable amount of SSTBs are issued and sold for transportation projects.

Recent decreases in oil and gas prices contributed to a reduction in the estimate of supplemental severance tax bond capacity. The table below shows the estimated SSTB capacity. If \$100 million is issued and sold for road projects in FY16-FY21, less than \$90 million would remain for public school capital outlay projects in those fiscal years.

STB Estimate February 2015	FY15	FY16	FY17	FY18	FY19	FY20	FY21
Supplemental Sponge (millions)	\$186.3	\$147.0	\$165.5	\$181.5	\$189.4	\$187.8	\$182.3

SIGNIFICANT ISSUES

PSFA indicates that even under current law, forecasted SSTB revenues (February, 2015) are not sufficient to maintain the average statewide Facility Condition Index (FCI). In FY16, the negative \$18.8 million available to PSCOC projects under the proposal indicates that either discretionary programs or PSCOC action to reduce awards on existing projects may be required to accommodate the \$100 million certification for transportation projects. PSFA estimates that an annual state match of \$157.9 million is required annually in order to maintain the FCI. PSFA provided the tables below, which compare current funding available for PSCOC awards with available funding under the proposal (after considering other uses of SSTBs including SB-9, lease assistance, PSFA operating budget costs, and facilities master plan assistance). PSFA indicates the available funds would fall short of the \$157.9 million required to maintain the statewide FCI.

State Share	FY15	FY16	FY17	FY18	FY19	FY20	FY21	FY22	FY23	FY24
Current Law	\$98.4	\$81.5	\$111.8	\$127.0	\$125.4	\$133.2	\$129.0	\$136.6	\$129.0	\$127.9
Maintain FCI	\$157.9	\$157.9	\$157.9	\$157.9	\$157.9	\$157.9	\$157.9	\$157.9	\$157.9	\$157.9
Proposal	\$98.5	-\$18.8	\$11.6	\$26.8	\$25.4	\$33.2	\$29.0	\$136.6	\$129.0	\$127.9

State Share	FY25	FY26	FY27	FY28	FY29	FY30	FY31	FY32	FY33
Current Law	\$126.7	\$125.5	\$124.3	\$123.1	\$121.9	\$120.7	\$119.5	\$118.3	\$117.1
Maintain FCI	\$157.9	\$157.9	\$157.9	\$157.9	\$157.9	\$157.9	\$157.9	\$157.9	\$157.9
Proposal	\$126.7	\$125.5	\$124.3	\$123.1	\$121.9	\$120.7	\$119.5	\$118.3	\$117.1

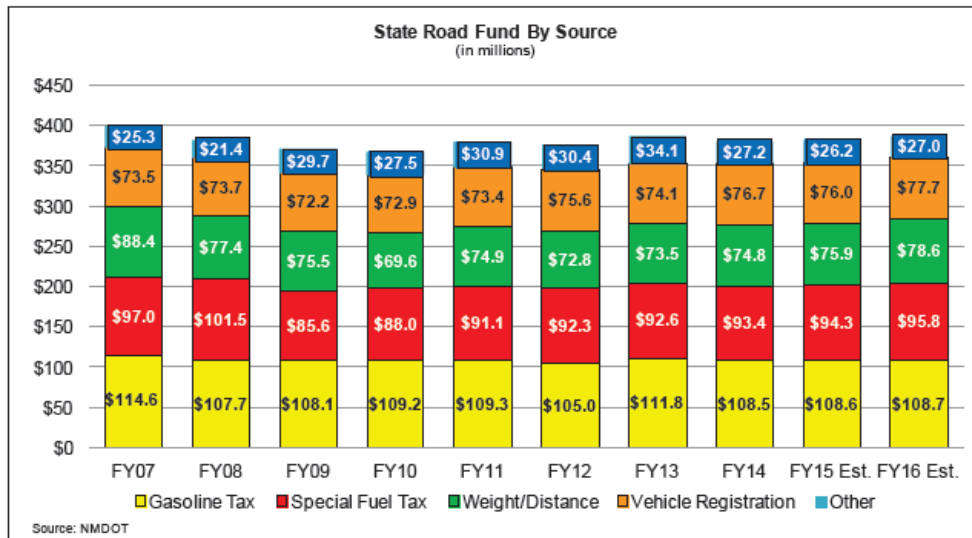
PSFA notes it reported to the Public School Capital Outlay Council (PSCOC) that the current PSCOC fund balance projection shows that the rate of SSTB sales and budgeting of revenues outpace the needs of the current project schedules in the current financial plan and project delays are imminent. PSFA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

SFA 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.

Transportation Infrastructure. New Mexico’s statewide transportation infrastructure network, 30 thousand lane miles of interstate corridors and U.S. and state highways, is maintained by the New Mexico Department of Transportation (NMDOT). Construction needs of the transportation network have increased as routine maintenance is deferred, expenses have increased, and maintenance has been performed less frequently. At the same time, revenue growth is not keeping pace with inflation, and debt service payments require a sizeable share of revenue. To ensure a safe, reliable, and robust transportation network, the Legislature and NMDOT must work together to identify efficiency gains and new revenue sources.

State Road Fund. The state road fund is composed of revenues from gasoline tax, special fuel (diesel) tax, weight-distance tax on commercial trucking, vehicle registration fees, and other fee and permit assessments. In FY14, the road fund realized revenues of \$374.5 million, 0.3 percent more than FY13. NMDOT estimates road fund growth of 1.8 percent between FY15 and FY16.

The slow growth in road fund revenues is related to a plateau in gasoline tax revenue brought on by gains in passenger vehicle efficiency, fewer vehicle miles traveled per-capita, and slow population growth.



Special fuels tax and weight-distance tax revenues are driven by national consumer demand and tend to be closely related to the state of the U.S. economy. NMDOT noted the slowing growth rate of special fuels tax revenue is primarily due to increasing efficiency in heavy trucks.

Although the state road fund continues to grow, albeit slowly, the purchasing power of the fund has been significantly diminished as a result of material and construction industry price increases. NMDOT estimates that, relative to calendar year 2005, the purchasing power of the state road fund has decreased by more than 10 percent.

Declining revenues are further constrained by significant, long-term debt obligations associated with the Governor Richardson’s Investment Partnership (GRIP) projects. The total outstanding principal on transportation infrastructure debt is currently \$1.44 billion. In FY16, NMDOT will pay \$141 million in debt service. When the effects of debt service are accounted for, the purchasing power of the state road fund decreased 32 percent since 1999.

New Mexico Transportation Needs. NMDOT recently completed the first-of-its-kind assessment of all system-wide lane miles. The assessment used state-of-the-art imaging equipment to determine roadway conditions throughout the state. The results show New Mexico roadways are in significantly worse condition than previously thought: In FY12, 84.5 percent of non-interstate lane miles were reported in good or fair condition; in FY13, the assessment showed only 70 percent were in good or fair condition. Based on this assessment, NMDOT estimates FY15 highway construction and maintenance needs total \$866.1 million. The combined maintenance and construction budgets for FY15 total \$407.5 million resulting in an unfunded need, or gap, of \$458.6 million.

Maintenance Needs. NMDOT estimates total system wide maintenance needs to be \$266 million in FY15. The current \$150.2 million maintenance budget for FY15 leaves a maintenance gap of \$115.8 million. The maintenance gap estimate represents the per year cost of implementing a regular maintenance schedule for roads statewide based on current road conditions.

Because NMDOT is unable to provide maintenance consistently, roadways continue to deteriorate to the point of needing to be reconstructed at a significantly increased cost. NMDOT

estimates the annual cost of maintaining a good condition road to be \$15 thousand per lane mile, a fair condition road costs an average \$180 thousand per lane mile, and a poor condition road may cost \$500 thousand to \$1.2 million per lane mile to rehabilitate or reconstruct.

Construction Needs. NMDOT estimates the FY16 need for construction to be \$600.1 million. The largest need is for roadway reconstruction and rehabilitation, which NMDOT estimated to be \$452.6 million. In addition to roadway construction, another \$147.5 million is needed to replace and repair bridges across the state. The current funding available for new construction is \$257.3 million, leaving a gap of \$342.8 million in FY15.

PERFORMANCE IMPLICATIONS

NMDOT manages the programming, design, and development of transportation projects, which comprises the Statewide Transportation Improvement Plan (STIP). NMDOT prioritizes the construction these projects based on the following criteria: (1) safety/fatalities; (2) roadway condition; (3) economic development; and (4) congestion mitigation.

Current safety/fatality performance is measured according to per vehicle miles driven in each State Transportation Commission district in order to prioritize the construction projects within NMDOT's STIP. SB 113 would change how safety performance is measured. The bill requires the NMDOT Traffic Safety Bureau to develop a report on the number of traffic fatalities per one thousand residents for each State Transportation Commission district.

TECHNICAL ISSUES

DOT suggests a change to the bill, pointing out that that Section 3(E) (lines 13-17 on page 6) of the bill currently states, "The proceeds from the sale of the bonds are appropriated to the state road fund for the construction, improvement or maintenance of state highways and bridges, consistent with the certification made pursuant to Subsection A of this section." DOT recommends changing the recipient of the STB proceeds from the state road fund to DOT.

ALTERNATIVES

The Transportation and Infrastructure Revenue Subcommittee was created by the Legislative Council Service in 2013 to identify current and new sources of transportation revenue and make recommendation to the full Legislature to meet the needs of the states transportations infrastructure network. The committee endorsed two revenue increasing bills for the 2015 session. The first would reduce public school capital outlay funding by \$100 million and increase the state road fund by that amount in each fiscal year from 2016 to 2021. The second would authorize counties or municipalities to increase their special fuels tax by up to 2 cents to match the current local government authority for a gas tax increase. NMDOT stated, while local governments currently have additional taxing authority over gasoline, none has exercised the option to increase the tax.

Alternative road funding options that do not have the negative general fund impact include increasing the motor vehicle excise tax and transferring the marginal revenue to the road fund, or increasing gasoline and special fuel taxes and transferring the additional revenue to the road fund. HB262 – Gas Tax & Road Projects – includes such provisions.

New Mexico's Motor Vehicle Excise Tax is currently 3.0 percent, lower than surrounding states. The last increase in the state gasoline tax occurred in 1993, when the tax was raised from \$0.16 to \$0.22 per gallon. It has since been reduced twice to the current rate of \$0.17 per gallon. The special fuels tax rate was last increased in 2003, when it was raised from \$0.18 per gallon to its present rate of \$0.21 per gallon.

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

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