F I S C A L I M P A C T R E P O R T

SPONSOR Stewart **DATE TYPED** 3/14/05 **HB** 32/aHTRC

SHORT TITLE Energy Efficiency and Renewable Energy Bonding **SB**

ANALYST Aguilar

REVENUE

Estimated Revenue		Subsequent Years Impact	Recurring or Non-Rec	Fund Affected
FY05	**FY06**			
	$600*	$600.0 to $2,400.0*	Recurring	Energy Efficiency and Renewable Energy Bonding fund
	($0 to $600.0)*	($600.0 to $2,400.0)*	Recurring	General Fund GRT Distribution
	$0 to $600*	$600.0 to $2,400.0*	Recurring	General Fund Reversion

(Parenthesis ( ) Indicate Revenue Decreases)

* Revenue impacts depend on the timing of projects completion and the timing of energy savings realized from state agencies and public school districts. It is expected the first savings deposits will occur in FY07. See Significant Issues discussion

SOURCES OF INFORMATION
LFC Files

Responses Received From
Taxation and Revenue Department (TRD)
Public Schools Facilities Authority (PSFA)
Department of the Environment (ED)
Energy, Mineral and Natural Resources Department (EMNRD)
New Mexico Finance Authority (NMFA)

SUMMARY

Synopsis of HTRC Amendment

The House Taxation and Revenue Committee amendment to House Bill 32 changes the requirement state agencies and school districts follow the plan and provides instead they cooperate in the development and implementation.

The amendment further provides that un-obligated balances in the bonding fund revert to the general fund at the end of a fiscal year rather than remaining in the fund and eliminates the requirement that balances in the bonding fund in excess of projected debt service be transferred to the general fund every six months but instead, unexpended or unencumbered balances will revert at the end of a fiscal year.

The amendment also changes language where a distribution of approximately $200 thousand monthly **shall** be made to a distribution **may** be made in an amount necessary to make the necessary bond debt service payments as determined by the New Mexico Finance Authority.

Significant Issues for HTRC Amendments

The New Mexico Finance Authority's (NMFA) analysis expressed concern regarding the HTRC amendment that struck the $2.4 million gross receipts revenue transfer from the general fund and provided instead a distribution in an amount necessary to make debt service payments. They question whether this provides a state commitment sufficient to sell the bonds.

Discussion with NMFA staff revealed that they plan to structure bonds so that debt service is capitalized in the first two years. This would enable the Energy Efficiency and Renewable Energy Bonding Fund to build up sufficient revenues from energy savings to pay debt service payments in the third year, they say. Gross receipts revenue transfers from the general fund are meant to provide increased coverage and provide comfort to bond purchasers. Assuming that revenues from energy savings are sufficient to pay debt service, the gross receipts revenue will revert back to the general fund. The financial risks associated with this structure are minimal. However, in a case of unexpected utility rate increases, there is some risk that agencies or schools will seek relief for these costs from the legislature.

Funds in the Energy Efficiency and Renewable Energy Bonding Fund are appropriated to the New Mexico Finance Authority to pay debt service on bonds. The HTRC amendment provides for a gross receipts tax distribution monthly into the fund in an amount necessary to meet these payments. HB 32 provides for the issuance of up to $20 million in energy efficiency bonds to be used for installing energy efficiency measures. Although the amount necessary to make debt payments month to month will fluctuate with the amount of bonds outstanding, EMNRD has noted that approximately $5 million would be required in the first year. If this is the case, it is estimated that approximately $600 thousand would be required for debt service. As the amount of bonds outstanding reaches the $20 million threshold, approximately $2.4 million would be required annually for debt service.

HB 32 provides for EMNRD to calculate and certify annually to DFA and PED the estimated energy cost savings in the form of lower utility payments. Upon certification, provisions contained in the bill require PED to deduct 90 percent of the calculated savings from the state equalization guarantee distribution for each participating school district project and for DFA to deduct 90 percent of the calculated savings from a participating agency's operating budget and to deposit these funds into the Energy Efficiency and Renewable Efficiency Bonding Fund. Amounts remaining in the fund after debt service payments at the end of a fiscal year would revert to the general fund. EMNRD estimates these amounts would equal the cumulative distributions annually, thereby making the program revenue neutral after some period of time.

The amount of overall debt associated with these bonds is capped at a reasonable level. However, there needs to be some assessment as to the impact on the state's overall indebtedness. This may become a more important issue if the debt cap provided here is increased in future years.

Fiscal Impact of Amended Bill

The fiscal impacts of the bill are expected to be revenue neutral to the general fund: The specific impacts on any given year are uncertain as they depend on how the bonds are structured. As noted above NMFA staff has reported that they plan to issue bonds with debt capitalized for the first two years, implying that no fiscal impact for those years.

However, NMFA is also concerned about their ability to sell bonds given that the original annual grt revenue transfer of $2.4 million was stripped by the HTRC amendment and replaced with an amount needed for debt service payment provision. Similarly, there may be questions as to their ability to build reserves for the same purpose.

Synopsis of Original Bill

House Bill 32 creates the Energy Efficiency and Renewable Energy Bonding Act to fund energy efficiency measures in state and school district buildings with the proceeds of bonds that will be secured by gross receipts tax (GRT) revenues and instructs EMNRD to develop a state plan to install or contract to install these measures in state and school district buildings by the end of FY10.

The bill also creates the Energy Efficiency and Renewable Energy Bonding Fund to be administered by the New Mexico Finance Authority (NMFA).

This bill requires the Public Education Department (PED) to deduct from a school district's State Equalization Guarantee distribution ninety percent of the amount of cost savings certified by EMNRD and transfer this amount to the energy efficiency fund to be used for bond payments.

In the case of state buildings, this bill requires the Department of Finance to deduct from the operating budget of the agency responsible for paying the utilities of the state building, ninety percent of the amount certified by EMNRD. Prior to June 30 of each year, the total amount deducted for all agencies will be transferred to the energy efficiency fund to be used for bond payments.

Significant Issues

This bill was endorsed by the interim Revenue Stabilization and Tax Policy committee.

The net proceeds from the sale of the bonds are appropriated to the Energy, Minerals and Natural Resources Department (EMNRD) for installation of the energy efficiency measures. EMNRD must develop, in conjunction with those entities controlling and managing the targeted buildings, a state plan for such efficiency installations; the plan is required to include a funding and construction schedule, with all installations to be completed by the end of fiscal year 2010. The plan would be followed by EMNRD in executing contracts for the installation of the energy efficiency measures. Once energy efficiency measures are installed, EMNRD must calculate the estimated cost savings from each project and certify those estimates to the Department of Finance and Administration, General Services Department, and/or Department of Education, as appropriate. The certified savings are then deducted from the appropriate state agency or school district budgets to reimburse the General Fund. These deductions cease when an agency or school district's total payments equal its proportional share of the cumulative debt service. EMNRD notes provisions contained in HB32 utilize the energy cost savings associated with energy efficiency retrofits as revenue to be used to pay debt service on the bonds, making this energy efficiency initiative revenue-neutral.

PERFORMANCE IMPLICATIONS

Implementation of this initiative would help meet the goals in the EMNRD Energy Conservation and Management Division's Strategic Plan and its current performance measure relating to energy savings in State buildings and school facilities.

The Environment Department notes if combustion units such as wood-waste fired boilers were funded as renewable energy technology by HB32, such units could potentially require an air quality permit. This could potentially increase the number of permit applications which the Air Quality Bureau must review, but permit application fees are sufficient to cover any increased administrative burden.

FISCAL IMPLICATIONS

The Taxation and Revenue Department (TRD) estimated a negative impact of $2.4 million to the general fund in fiscal year 2006.

This Act authorizes the New Mexico Finance Authority (NMFA) to issue and sell revenue bonds in an amount not to exceed $20 million for the purpose of installing energy efficiency and renewable energy technologies in public schools and state agency buildings. According to EMNRD, such measures (e.g., replacing high usage light fixtures with newer energy-efficient models) can reduce energy utility costs by 20-30%. The revenue bonds, known as "energy efficiency bonds", are payable solely from a new "Energy Efficiency and Renewable Energy Bonding Fund" that is created as a special fund within NMFA. The Act stipulates that the Bonding Fund shall consist of gross receipts tax revenues distributed to the Fund, as well as other authorized transfers; a monthly distribution of $200,000 from net gross receipts tax revenues to the Bonding Fund is specified. Money in the Fund is appropriated to the NMFA for the purpose of paying debt service on the energy efficiency bonds and the expenses incurred in their issuance, payment and administration.

The net proceeds from the sale of the energy efficiency bonds are appropriated to the EMNRD for installation of the energy efficiency measures. EMNRD must develop, in conjunction with those entities controlling and managing the targeted buildings, a state plan for such efficiency installations; the plan is required to include a funding and construction schedule, with all installations to be completed by the end of fiscal year 2010. The plan would be followed by EMNRD in executing contracts for the installation of the energy efficiency measures. Once the energy efficiency measures are installed, EMNRD must calculate the estimated cost savings from each project and certify those estimates to the Department of Finance and Administration (DFA), General Services Department (GSD), and PED, as appropriate. The certified savings are then deducted from agency budgets to reimburse the general fund, effectively making this energy efficiency initiative revenue-neutral. In essence, the Act utilizes the energy cost savings associated with energy efficiency retrofits as the “revenue” needed to pay the debt service on the bonds.

On the last day of January and July of each year, the NMFA shall estimate the amount needed to make debt service and other payments during the next twelve months from the fund on the bonds issued pursuant to the Energy Efficiency and Renewable Energy Bonding Act, plus the amount that may be needed for any required reserves and the amount needed to meet any appropriation. The authority shall transfer to the general fund any balance in the fund above the estimated amounts.

ADMINISTRATIVE IMPLICATIONS

There will be a considerable administrative impact on EMNRD in undertaking this initiative. The EMNRD shall develop a state plan for the installation, no later than the end of fiscal year 2010, of energy efficiency measures in state buildings and buildings owned by school districts. The plan shall include the maximum amount of on-site renewable energy measures possible while retaining the overall revenue-neutral status of the plan, such that the total cost of the plan is covered entirely by the combined energy savings of both the renewable energy and other energy efficiency measures undertaken. In addition, the plan shall include a schedule for funding and installing the energy efficiency measures that gives priority to those projects that will realize significant cost savings in the shortest time frame. The plan shall be followed by each state agency and school district in New Mexico, and those agencies and districts shall cooperate with the EMNRD in the development and the implementation of the plan.

TECHNICAL ISSUES

Page 9, line 10 refers to Subsection D. It appears this reference should be Subsection E.

The committee may wish to consider defining the term "renewable energy source".

The committee may wish to consider amending Section 4, page 4, line 21, to ensure that any applicable permitting requirements are met: "The installation or contracts shall address provisions concerning payment schedules, monitoring, inspecting, <u>permitting</u>, measuring and warranties as are necessary to ensure that the energy efficiency measures will be installed and the energy cost savings realized in the manner most beneficial to the state; ..."

PA/yr