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

ORIGINAL DATE 2/28/07
SPONSOR Sanchez, M. **LAST UPDATED** 3/7/07 **HB**

SHORT TITLE Economic Development Project and Loans **SB** 1152/aSPAC

ANALYST Francis

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Non-Rec	Fund Affected
FY07	FY08		
	($879.0)	Recurring	Severance Tax Permanent Fund
	($8.4)	Recurring (Increasing)	General Fund
	* SEE NARRATIVE		

(Parenthesis ( ) Indicate Expenditure Decreases)

Relates to HB1190, SB1130, SB1119
Relates to HB253, SB463

SOURCES OF INFORMATION
LFC Files

Responses Received From
New Mexico Finance Authority (NMFA)
Economic Development Department (EDD)

SUMMARY

Synopsis of SPAC Amendment

The Senate Public Affairs Committee amended Senate Bill 1152 by including language that guarantees payments to creditors other than New Mexico Finance Authority to protect a project from default.

Synopsis of Bill

Senate Bill 1152 authorizes a loan guarantee of $25 million to guarantee a project revenue bond used to finance Ausra, Inc, for a 50 megawatt solar thermal electric plant in New Mexico. The loan guarantee uses a program that is being proposed by House bill 1190, Senate Bill 1130 and Senate Bill 1119 and therefore is contingent on one of these pieces of legislation becoming law.

The authorization expires July 1, 2010, if no bond has been issued.

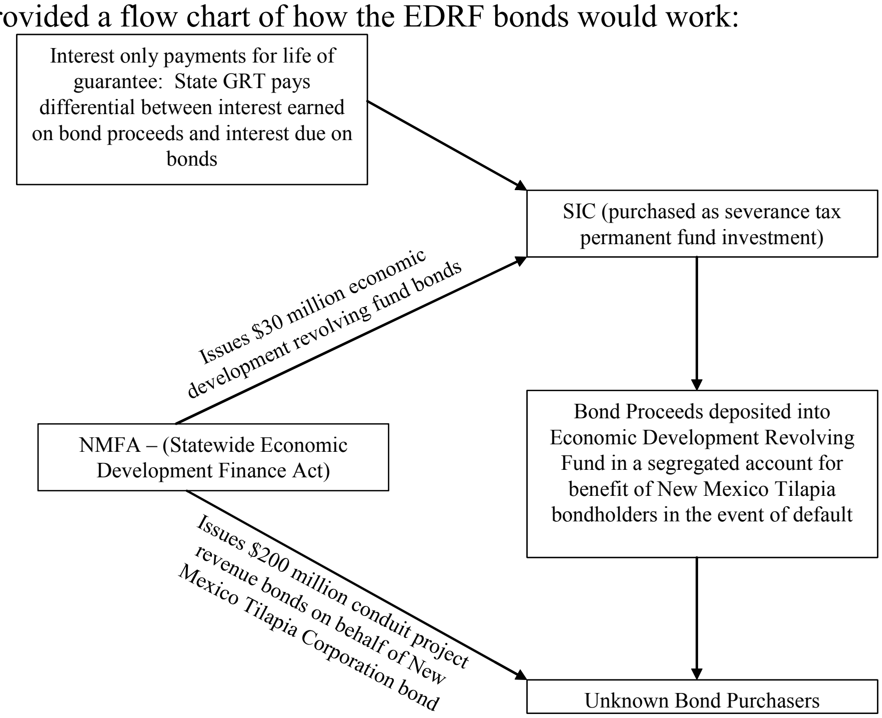
Synopsis of HOUSE BILL 1190 (contingent legislation):

House Bill 1190 amends the Statewide Economic Development Finance Act (SWEDFA) to allow the New Mexico Finance Administration (NMFA) to issue bonds to guarantee project revenue bonds issued for economic development. These loan guarantee bonds can only be sold to the State Investment Council (SIC), which will purchase them as part of their severance tax permanent fund investments. The maximum amount of outstanding bonds is capped at $100 million.

The economic development revolving fund bonds ("EDRF bonds") would need to be authorized by law and approved by the state Board of Finance (BOF) as well as reviewed by the Legislative Finance Committee and the NMFA Oversight Committee. The duration of the bonds will be the same as the project revenue bond they are guaranteeing.

The EDRF bonds will be paid off from an account within the Economic Development Revolving Fund (EDRF) that consists of payments on the underlying project revenue bonds that come from the project or other sources and a distribution from net gross receipt tax collections. If the project payments are insufficient to cover the EDRF bond payments owed to EDRF bond holders (i.e. SIC) than a distribution from net gross receipts taxes (GRT) will be made to the EDRF. The GRT distributions will be made along with any other distributions required for debt service payments and prior to any other distributions.

NMFA has provided a flow chart of how the EDRF bonds would work:



Source: NMFA

FISCAL IMPLICATIONS

The bills that establish this loan guarantee program would require NMFA to approve the program and do the due diligence necessary for the Smart Money program and the State Investment Council (SIC) to purchase the bonds. SB1152 satisfies the requirement that the loan guarantee for a project is specifically authorized by law. The board of finance would still need to approve the project.

The financing set up by HB1190 and other bills would require a gross receipts tax distribution to pay SIC should there not be enough generated by the project. This fiscal impact is difficult to determine.

If the SIC purchased the bonds, they would likely be receiving a lower rate than they normally would require since the bonds would be considered "differential rate" investments. Assuming the coupon rate on the bond for this project is 3 percent, the differential is their historic rate of 8.5 percent less 3 percent or 5.5 percent. If the bond's maturity were 10 years, the fiscal impact to the severance tax permanent fund would be $879 thousand per year. Changing the balance of the STPF decreases the distribution to the general fund. The distribution is based on 4.7 percent of 102 % of a five year average of the fund's ending balance. This will increase to $42 thousand by FY11.

SIGNIFICANT ISSUES

Ausra, Inc, is a new company relocated from Australia, formerly called Solar Heat and Power, backed by Silicon Valley venture capitalists Kleiner Perkins. Typically, venture capitalists invest in a company and take an equity stake but with the HTRC amendment, there may be a different financing structure that is in part or in whole guaranteed by the state. NMFA reports that they and the Legislative Finance Committee will still have to review and approve any plan which affords a measure of protection.

Ausra plans to build a 50 to 100 megawatt solar thermal power plant and are negotiating with PNM for a power purchase agreement, according to representatives from Ausra. A power purchase agreement is critical to a successful renewable energy power plant. The technology Ausra plans on using is touted to be much more cost effective than traditional parabolic technology because of the smaller footprint and cheaper components, particularly the glass for the mirrors.

NMFA has not participated in a project bond of this size. The bill for authorizing NMFA projects (HB253) limits their participation to $5 million per project, or one-fifth of the amount proposed here.

Smart Money Program (reported in FIR for HB253 2007 Session):
Laws 2003, Chapter 349, enacted the Statewide Economic Development Finance Act authorizing creation of a Statewide Economic Development Finance Program (Smart Money), creation of the economic development revolving fund, and authorizing NMFA to issue certain Economic Development Bonds and make loan participation and loan guarantees on behalf of entities engaged in qualifying economic development projects. The fund was not initially capitalized. However, Laws of 2005, Chapter 347, appropriated $10 million for the "Smart Money" loan participation program to capitalize the economic development revolving fund. The 2006

Legislature authorized 48 projects to potentially receive financial assistance from the economic development revolving fund. To date, NMFA has obligated $4.3 million for business attraction, retention and expansion projects in Alamogordo, Albuquerque and Raton. The NMFA indicates it has ten additional projects in line for the remaining funds totaling $5.7 million.

The NMFA will leverage the capital by partnering with private banks and institutions so that loans from the fund finance no more than 49 percent of a total project. The program is designed to match the risk-need with appropriate financing arrangements. In a rural area, for example, local lenders may be constrained by legal lending limits and out-of-area lenders may be uncomfortable with the location. Regardless of the reason, the program will bridge the gap and give businesses in all areas of the state access to affordable capital. Some projects may only need introductions to lenders while others may need direct guarantees.

The NMFA will estimate the overall economic impact of each project by analyzing the long-term economic diversification, the increase in revenue to the state, job creation, and geographical location to determine priority of funded projects. EDD expects the economic impact of the original $10 million appropriation to create one thousand jobs, $75 million in new plant and equipment, $420 million in new wages and salaries over the next decade, and $50 million in added state income and gross receipts taxes

ADMINISTRATIVE IMPLICATIONS

Economic Development Department has reported that they already have an oversight function with NMFA related to economic development projects and this would fit within that framework.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

Senate Bill 1119 establishes a framework to guarantee loans under SWEDA. Senate Bill 1130 and House Bill 1190 establish the same framework but include a project authorization of $30 million for a tilapia factory.

Senate Bill 463 amends the existing renewable energy production credit in the corporate income tax act and includes the credit in the income tax act. The existing credit of one cent per kilowatt hour (kWh) of electricity produced by renewable energy sources is limited to wind and biomass energy sources while a new more expansive credit is allowed for electricity produced by solar energy sources.

NF/mt