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

ORIGINAL DATE 3/20/2007
SPONSOR Silva **LAST UPDATED** 3/30/2007 **HB** 2/aSFl#1/aSFl#2

SHORT TITLE Severance Tax Bond Transportation Projects **SB**

ANALYST Moser/Francis/Fernandez

APPROPRIATION (dollars in thousands)

Appropriation			Recurring or Non-Rec	Fund Affected
FY07	**FY08**	**FY09**		
$50,000.0	$35,700.0	$33,700.0	Nonrecurring	Severance Tax Bond
$60,000.0			Nonrecurring	General Fund

(Parenthesis ( ) Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

SUMMARY

Synopsis of SFl #2 Amendment

Senate Floor amendment #2 earmarks $24.1 million of interest earned on the proceeds of transportation project bonds issues pursuant to Sections 67-3-59.3 and 67-3-59.4 NMSA 1978 (GRIP I) for the reconstruction and preservation of the existing two lanes on highway 491. This was included in the 2007 GAA but vetoed. Without this language the interest on proceeds would be available to all GRIP I projects.

Synopsis of SFl#1 Amendment

House Bill 2 was amended on the Senate Floor in the following ways:

- Changes the name of the fund to the "local government transportation fund" from "severance tax transportation fund" and allows general fund distributions.
- Changes the method of project certification. In the original bill, the Department of Transportation (DOT) established priorities for project approval. The amendment changes that to fund projects as they are received by DOT from the local governments provided that they are ready to be funded.
- Changes the severance tax bond authorization from $208 million to up to $150 million. This includes $50 million to be issued in FY07 and the lesser of $50 million or 12.5 percent of STB capacity in FY08 and FY09 (which amounts to an estimated $35.7

million and \$33.7 million respectively). \$50 million of the bonds can be used for the named local projects, referred to as GRIP 2 projects, in FY07. In FY08 and FY09, the bond proceeds are split 40 percent for projects related to Laws 2003 (1st SS) Chapter 3 Section 27 (referred to as GRIP 1), 40 percent for GRIP 2 and 20 percent to fund state road maintenance.
- Adds a new section that appropriates \$10 million from the general fund for a road to the spaceport, \$25 million to fund local projects through GRIP 1 and \$25 million for projects named in HB2 as amended.
- Makes the interest earned in the fund to be subject to appropriation rather than giving the New Mexico Finance Authority the authority to distribute the interest.

Synopsis of Original Bill

House Bill 2 proposes a new section of the Severance Tax Bonding Act that authorizes the State Board of Finance to issue and sell up to two hundred and eight million dollars (\$208,000,000) in severance tax bonds for transportation projects between fiscal years 2007 and 2012.

The maximum amount available each year is limited to the lessor of fifty million dollars (\$50,000,000) or fifteen percent of severance tax bonding capacity. Proceeds from the sale of bonds are appropriated to a newly created Severance Tax Transportation Fund for distribution as directed by the Department of Transportation, subject to administration by the New Mexico Finance Authority (NMFA), for projects pursuant to Section 6-21-6.12. Money from the bonds cannot be used to pay indirect costs.

The purpose of the bonds is to partially fund transportation access to provide funding for the 116 local government transportation projects specifically identified in the bill and the spaceport project within the counties of Sierra and Dona Ana. The bill specifically states that "…money in the fund shall be distributed to the local governments for projects specifically authorized by the legislature."

The Bill includes funding a spaceport project of up to twenty-five million dollars (\$25,000,000) to be distributed between FY2007 and FY2012 for the development of transportation access to the spaceport in Sierra and Dona Anna Counties without the requirement for a local match. This is in addition to the thirty-three million (\$33,000,000) also designated within SB 827, which has been signed into law by the Governor, for this same spaceport transportation infrastructure project.

The Bill establishes that NMDOT, rather than the legislature, is responsible for determining when each project, based upon project readiness, will be built. The bill also creates a project statewide for up to a total of five hundred thousand dollars (\$500,000) to be expended by the Department of Transportation for engineering and design services for the specified projects.

All projects are specified within the Bill listing the dollar amount, purpose, and location. The attached table provided by NMDOT lists the projects, provides a brief description, project cost and match requirements (See Attachment). The costs associated with these projects require a local match of approximately \$105.6 million. The NMDOT has indicated that it is also reviewing and developing criteria for hardship matching options.

A local match, which NMDOT indicates may be in-kind services, federal funds, local government road fund appropriations, grants, or loans, is required for these projects depends on the total project cost as follows:

- Projects less than $500,000 a match of 10 percent;
- Projects equal to $500,000 but less than $1,000,000 a match of 20%;
- Projects equal to $1,000,000 but less than or equal to $6,000,000 a match of 35%; and,
- Projects greater than $6,000,000 a match of 45%.

The bill includes funding up to twenty-five million dollars ($25,000,000) to be distributed between FY2007 and FY2010 for the development of transportation access to the spaceport in Sierra and Dona Anna Counties without requiring local match. The Bill does not restrict distribution of these funds over a period of years. Accordingly, the spaceport if drawn in one year would use fifty percent of the available funding.

The bill provides up to five hundred thousand ($500,000) to NMDOT for engineering and design services to develop projects that do not require a local match, i.e. the spaceport.

The bill declares an emergency and will take effect immediately.

FISCAL IMPLICATIONS

House bill 2 as amended makes a nonrecurring general fund appropriation of $60 million in FY07 as well as STB authorizations of $50 million in FY07 and the lesser of 12.5 percent of STB capacity or $50 million in FY08 and FY09, which is estimated to be $35.7 million and $33.7 million respectively.

HB2 (special session) As Amended - Road Funding

($Millions)

	FY07	FY08	FY09
Sources			
General Fund	$ 60.0		
Severance Tax Bonds	$ 50.0	$ 35.7	$ 33.7
Total	**$ 110.0**	**$ 35.7**	**$ 33.7**
Uses			
Grip 1	**$ 25.0**	**$ 14.3**	**$ 13.5**
General Fund	*25.0*		
STB		*14.3*	*13.5*
Grip 2	**$ 75.0**	**$ 14.3**	**$ 13.5**
General Fund	*25.0*		
STB	*50.0*	*14.3*	*13.5*
Spaceport (General Fund)	**$ 10.0**		
State Road Maintenance (STB)		**$ 7.1**	**$ 6.7**
Total	**$ 110.0**	**$ 35.7**	**$ 33.7**

SIGNIFICANT ISSUES

HB2 as amended removes the spaceport project from the GRIP 2 project list and funds it separately with the $10 million from general fund. The total cost of GRIP 2 is $183 million, down from $208 million.

At the end of the 2007 regular session, the general fund reserve balance was 11.1 percent of recurring appropriations reflecting signed legislation and legislation that is awaiting executive action. This appropriation of $60 million will leave a reserve balance of just over 10 percent.

Rising construction costs including fuel and material costs combined with flat or declining federal funds have put significant pressure on the Department of Transportation to maintain the state highways. HB2 as amended provides $7.1 million in FY08 and $6.7 million in FY09 to address this issue.

OTHER SIGNIFICANT ISSUES

In October 2006, the department estimated that GRIP is under funded by $250 million and the remainder of the STIP by as much as $120 million for plan years 2005 to 2009. These cost increases are not unique to New Mexico and other states are struggling with the same issues as New Mexico regarding the continued funding of their programs. The costs associated with the projects enumerated within the Bill do not account for inflationary pressures currently being experienced within the highway construction industry. Secretary Faught testified to the Senate Finance Committee in the 2007 Regular Session that local governments will be responsible for any cost overruns. It is anticipated that as these inflationary pressures are experienced that not all of the projects listed within this Bill will be able to be completed. The best evidence of this can be seen in the GRIP program. In December of 2005 the department reported to the LFC that it had experienced that calendar year a 12 percent inflationary growth on all GRIP projects. The department prognosticated at that time that inflation in FY06 would be closer to a 3.5 percent growth rate. Unfortunately, the FY06 inflation level was closer to 28 percent. This inflationary spiral is associated with the price of oil combined with national shortages of both steel and concrete. Inflationary pressures have dramatically increased GRIP project costs, delayed construction and required the use of STIP funds from deferred projects to supplement the GRIP program. It will also result in some projects not being completed due to this underfunding with the Legislature having to appropriate additional monies for these projects at some later point.

The department anticipates continued adjustments will need to be made to both GRIP and STIP projects with the expected continuation of this inflationary trend. This may result in projects being delayed even further as they are moved into other plan years, and/or redesigned. The department continues to stress that projects within the STIP will be completed but may be delayed in order to meet the new funding requirements. The management of these projects and the restrictions on resources makes this a perennial juggling act within STIP.

Federal transportation funding cuts to the NMDOT have no impact upon the GRIP program costs as these bonds have been secured with existing federal revenues and not future revenues.

The NMDOT asserts that the 116 locally-identified projects contained within the bill were submitted through the Regional and Metropolitan Planning Organizations with active participation from local and tribal governments. The Bill includes 31 projects in counties, 68 projects in municipalities, 18 projects on tribal lands and 1 project for engineering support. The projects were identified and proposed as critical projects for safety, economic development and mobility by local and tribal governments. HB2 as amended removes the spaceport from this list of projects leaving a balance of $183 million but only provides an estimated $103 million for projects. If STB capacity is larger than estimated, projects up to $150 million could be funded. Presumably, requests would be made to future legislatures to fund the balance of GRIP 2 costs.

NMDOT acknowledges that there is no schedule for these projects. Funds will be disbursed dependent upon project readiness and the availability of match. The bill allows for any amount not certified by the NMDOT for issuance in a fiscal year to be carried forward and credited against the amount to be certified in subsequent years.

The remainder of the bill specifies the other local projects, listing the dollar amount, purpose, and location.

The bill declares an emergency and will take effect immediately.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

There is $33 million for these same spaceport activities also contained within HB 827, which has been signed into law. This duplicates the appropriation contained within this Bill.

This attached table shows a forecast of capital outlay funding available for the next three years. It points out that if general fund surpluses above estimates are not realized in the next few years, available funding for capital outlay will fall sharply. In line with LFC policy to state concerns about continuing appropriations it may be desirable to appropriate for GRIP II one year at a time.

ATTACHMENT

GM/NF/CF/mt:csd

FORECAST OF CAPITAL OUTLAY AVAILABLE

	FY07	FY08	FY09	FY10
STB Capacity	**328.3**	**285.7**	**269.4**	**256.2**
December 2006 Note and Authorized Unissued	*(33.8)*			
Reduction in capacity due to Coal surcharge repeal		*(6.7)*	*(6.7)*	*(5.8)*
Spaceport (Funded in FY08/FY08 rather than FY07/FY08)		*(66.0)*	*(34.0)*	
HB2 SS as amended	*(50.0)*	*(35.7)*	*(33.7)*	
Water Project Fund (Statutory 10% of STB)	*(32.8)*	*(28.6)*	*(26.9)*	*(25.6)*
SB1061 (amended)	*(11.0)*			
House	*(13.7)*			
Senate	*(16.6)*			
Statewide	*(147.2)*			
Governor	*(23.5)*			
NET STB CAPACITY	**(0.3)**	**148.7**	**168.1**	**224.8**

GENERAL FUND AVAILABLE

	FY07	FY08	FY09	FY10
Recurring Revenues	**5,662.3**	**5,836.0**	**6,032.6**	**6,259.0**
Tax Legislation	(4.6)	(83.2)	(101.3)	(127.9)
HB2 Revenue Enhancements		6.7	6.7	6.7
NET REVENUES	**5,657.7**	**5,759.5**	**5,938.0**	**6,137.8**
% Growth		***2%***	***3%***	***3%***
Recurring Appropriations	**5,151.2**	**5,700.4**	**5,938.0**	**6,137.8**
% Growth		***11%***	***4%***	***3%***
Nonrecurring Appropriations				
Prior year appropriations	71.1			
Specials, Supplementals, Deficiencies & IT	148.6			
Other Nonrecurring Legislation	19.2	3.5		
GF NR Spending - SB710 ($82.5 m), SB1061 ($1.0 m)	82.5	15.0		
GF Capital Outlay	404.9			
HB2 as amended	60.0			
Subtotal	**786.3**	**18.5**	**-**	**-**
Other General Fund Reserve Transactions	6.0	(19.5)		
Ending Balance	**511.9**	**572.0**	**572.0**	**572.0**
Reserve as Percent of Recurring Appropriations	10.0%	10.0%	9.6%	9.3%

	FY07	FY08	FY09	FY10
GENERAL OBLIGATION BOND CAPACITY		**155.0**		**130.0**
TOTAL REMAINING CAPACITY		**303.7**	**168.1**	**354.8**