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## FISCAL IMPACT REPORT

<b>SPONSOR</b>	<u>SFL</u>	<b>ORIGINAL DATE</b>	<u>2/13/08</u>	
		<b>LAST UPDATED</b>	<u>2/19/08</u>	<b>HB</b>
<b>SHORT TITLE</b>	<u>Capital Outlay Project Reauthorizations</u>			<u>CS/352/aSFL#1/a</u>
				<b>SB</b> <u>HTRC/aHAFC</u>
		<b>ANALYST</b>	<u>Kehoe, L.</u>	

### APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Non-Rec	Fund Affected
FY08	FY09		
NFI	NFI	N/A	(See Fiscal Impact Implications)

(Parenthesis ( ) Indicate Expenditure Decreases)

Relates to House Bill 44.

### SOURCES OF INFORMATION

LFC Files

#### Responses Received From

Public Education Department (PED)

Department of Transportation (DOT)

General Services Department (GSD)

Department of Health (deferred request for information to the General Services Department)

Corrections Department (no information received)

### SUMMARY

#### Synopsis of HAFC Amendments

The House Appropriations and Finance Committee amendments struck House Taxation and Revenue Committee amendments 3, 4, 5, and 6; and struck Sections 70 and 78 in their entirety. The effect of the amendments restores the unexpended funds totaling \$1,150,000 originally appropriated in 2007 “for renovations to the facilities at Red Rock state park in Gallup in McKinley County.”

#### Synopsis of HTRC Amendments

The House Taxation and Revenue Committee amendments provide as follows:

Item 1 and 2, reauthorizes unexpended funds originally appropriated (\$100,000) in 2007 for “a facility for a dance academy and ballet folklorico conservatory in Albuquerque” to instead be used “to plan, design, construct, and equip a dance facility for use by a children's dance program providing in-school, after-school and weekend activities in Bernalillo county.”

Item 3 and 4, reauthorizes unexpended funds originally appropriated (\$750,000) in 2007 “for renovations to the facilities at Red Rock state park in Gallup in McKinley County” to instead be appropriated to the capital program fund to be used “to plan, design, construct, equip and furnish a safety inspection station in Santa Teresa in Dona Ana county.” The original reauthorization was “to construct, equip and furnish improvements to the Pit facility in Albuquerque.

Item 5 and 6, reauthorizes unexpended funds originally appropriated (\$400,000) in 2007 “for renovations to the facilities at Red Rock state park in Gallup in McKinley County” to instead be appropriated to the capital program fund to be used “to plan, design, construct, equip and furnish a safety inspection station in Santa Teresa in Dona Ana county.” The original reauthorization was “to plan, design, construct, equip and furnish the Unser Museum in Albuquerque.”

Item 7 and 8, reauthorizes funds originally appropriated (\$2,500,000) in 2007 “for computers and related technology for certain nonpublic schools statewide” to instead be appropriated to the following projects:

To the Local Government Division, “\$200,000 to purchase land for, make improvements to, plan, design and construct tennis and basketball courts and a walking track for the Nambe head start program in Nambe in Santa Fe county”; and

To the capital program fund, “\$388,814 to plan, design, construct, equip and furnish the Unser museum in Albuquerque in Bernalillo county”;

“\$146,951 to plan, design, construct, equip and furnish a safety inspection station in Santa Teresa in Dona Ana county”; and

“\$214,235 to plan, design, construct and equip rapid payback energy efficiency projects in state buildings, including lighting retrofits and heating, ventilation and air conditioning control upgrades, statewide”;

To the General Services Department, “\$800,000” to purchase an airplane in Santa Fe in Santa Fe county; and

To the Board of Regents of the University of New Mexico, “\$750,000” to construct, equip and furnish improvements to the Pit facility in Albuquerque in Bernalillo county”.

Item 9 and 10, provide for technical amendments to the bill and restores funding (\$995,000) “for construction and equipping the Explora Science Center and Children’s museum in Albuquerque.” The original reauthorization was appropriated to the General Services Department “to purchase an airplane.”

Item 11, reauthorizes unexpended funds originally appropriated (\$354,719) in 2003 and 2005 “for improvements to the sewer lift station at the Southern New Mexico correctional facility and for improvements to wastewater systems at correctional facilities statewide” to instead be

appropriated “to plan, design, construct, equip and furnish a safety inspection station in Santa Teresa in Dona Ana county.”

Item 12 and 13, reauthorizes unexpended funds originally appropriated (\$330,007) in 2003 “to renovate the laundry building at the Southern New Mexico Rehabilitation Center in Roswell” to instead be appropriated “to plan, design, construct, equip and furnish a safety inspection station in Santa Teresa in Dona Ana county.”

Items 14 – 17, provides for technical amendments and expands the purpose of an appropriation of unexpended funds (\$301,701) in 2003 to be used “for repairs, improvements, equipment and furniture at state facilities and for energy efficiency upgrades.”

#### Synopsis of SFI#1 Amendment

The Senate Floor Amendment inserts a new section. The new section corrects an “erroneous estimate” for a project authorized in Laws 2007. The amendment changes the estimate from \$5,571,500 to \$3,500,000.

#### Synopsis of Original Bill

Senate Floor Substitute for Senate Bill 352 reauthorizes projects funded in previous years. The bill contains 442 project reauthorizations—45 sponsored by the Legislature on behalf of the executive, 207 sponsored by House members and 189 sponsored by Senate members.

### **FISCAL IMPLICATIONS**

The reauthorizations contained in this bill are a non-recurring expense to both the severance tax bond fund and general fund. Any unexpended or unencumbered balance remaining at the end of the fiscal year shall revert to either severance tax bond capacity or the general fund.

The Department of Finance and Administration (DFA), Local Government Division (LGD), is responsible for the administration, distribution and monitoring of special and capital outlay funds appropriated by the legislature. The reports generated by LGD are made available to the Legislature on a quarterly basis, therefore, the obligation to contractors, exact uncommitted balance for projects, or the reversion dates being extended in this bill is not always known at the time of developing the reauthorization bill. However, if the funding for projects contained in this bill have been obligated for work in progress or have reverted, the reauthorizations contained within this bill become null and void.

According to GSD, Section 1, Subsection B defines “unexpended balance” as “the remainder of an appropriation after reserving for unpaid costs and expenses covered by binding written obligations to third parties.” Therefore, funds from reauthorized projects can be spent under existing contracts until the end of the fiscal year on June 30, 2008. New contracts will not be initiated, but the exact amount of funds that will be available for new purposes will not be known until after July 1<sup>st</sup>.

Given the limited time and resources to research the status of each project and unexpended balance for the projects being reauthorized, the total fiscal impact of this bill is unknown. Of particular concern, based on information derived by LFC staff during the interim, are certain

sections of the bill reauthorizing funds, such as:

- Sec. 210 and 211 – reauthorizes balances of \$356.3 thousand originally appropriated to repair buildings at Turquoise Lodge and \$600 thousand for security improvements statewide and at the penitentiary. The funds are reauthorized to plan, design and construct a safety inspection station at Santa Teresa in Dona Ana County. According to GSD Infrastructure Capital Improvement Plan, the repairs to Turquoise Lodge buildings are needed to attract potential tenants for the vacant buildings. An additional \$1 million was requested by GSD in 2008 for this purpose.
- Section 400 - two appropriations authorized in 2003 totaling nearly \$1 million were combined to address connecting the wastewater facility at the New Mexico Southern Correctional center into the City of Las Cruces sewer system. Following three years of developing surveys, easements, sewage screening, etc., the project is now under contract and is scheduled to bid early this summer. Of the two appropriations, Section 400 reauthorizes nearly \$345 thousand of the funds. If the remaining \$546 thousand is not sufficient to continue with the work, the bid will be delayed, costs may escalate, and the Corrections Department will have to request additional funding in 2009. The funds were reauthorized “to plan, design, construct and equip rapid payback energy efficiency projects in state buildings, including lighting, retrofits and heating, ventilation and air conditional upgrades statewide.”
- Section 401 – reauthorizes \$351.4 thousand originally authorized for renovations to the laundry building at Southern New Mexico Rehabilitation Center to “to plan, design, construct and equip rapid payback energy efficiency projects in state buildings, including lighting, retrofits and heating, ventilation and air conditional upgrades statewide.”
- Section 402 – reauthorizes over \$300 thousand originally authorized for repairs, improvements, equipment and furniture at state facilities. Approximately \$250 thousand is already encumbered to pay vendors under contract for various projects. The state’s obligation to vendors may make the reauthorization null and void. The funds were reauthorized “to plan, design, construct and equip rapid payback energy efficiency projects in state buildings, including lighting, retrofits and heating, ventilation and air conditional upgrades statewide.”
- Section 406 – reauthorizes funds appropriated in 2003 to upgrade the fire system at Fort Bayard Medical Center. It may not be prudent to expend funds on a facility that will be abandoned, but because completion of the new facility has been extended, the State Fire Marshal has notified the Property Control Division that the fire system must be upgraded as long as patients and staff are housed in the facility. The fire system upgrade is under contract and should be completed by June 30, 2008. The funds were reauthorized “to plan, design, construct and equip rapid payback energy efficiency projects in state buildings, including lighting, retrofits and heating, ventilation and air conditional upgrades statewide.”
- Section 382 – reauthorizes \$995 thousand appropriated in 2006 to the Explora science and Children’s Museum for constructing and equipping the center. The reauthorization is for the purchase of an airplane for the General Services Department. According to the City of Albuquerque, a contract for \$200 thousand has been signed by the architect for

programming and schematics of the project. The project cost of \$2 million has been secured, but the loss of the \$995 thousand would be a major set-back for the project. Again, delays could cause costs to escalate, and the museum will have to again seek legislative funds in 2009. It should be noted only \$150 thousand of the \$995 thousand was from the executive's allocation.

- Section 383 – reauthorizes \$2 million originally appropriated for constructing a drop yard in Santa Teresa to the General Services Department to purchase an airplane. According to the Border Authority a request was made for an extension of time and a change of purpose to use the funds for construction of the Santa Teresa safety inspection station.

## SIGNIFICANT ISSUES

The LGD supervises capital projects for all state agencies, public schools and higher education on an electronic capital projects monitoring system. The system provides reports dependent upon data provided by the state and local government entities. This data is not audited, and is only reviewed by LGD for "reasonableness". Reports generated by the system provide a control number, project description, funding source, appropriation amount, expenditures, encumbrances, uncommitted balances and the percent of the project completed.

The State Board of Finance (BOF) maintains a report by agency reflecting sold, expended and balances for each project authorized for funding from general obligation and severance tax bonds. A separate report provides the amount, in aggregate, of unexpended bond proceeds for each series of bonds. A direct correlation between the LGD and BOF reports is not practical due to a number of factors. Bond sales are issued in multiple series and may contain partial amounts sold in separate issues. The Budget Division monitoring system relies on agency reported data that is not audited. Also, bond expenditures are made on a reimbursement basis of actual expenditures, but expenditures reported in the monitoring system may include payments from other funds that have not been submitted for reimbursement.

The joint Legislative County and Legislative Finance Committee Capital Outlay Subcommittee approved taking four recommended changes to the reauthorization process to the full Legislature for their consideration. They proposed changes are as follows:

1. No reauthorizations for completed projects with balances under \$20,000. (*Money that reverts will revert into the capital projects fund.*)
2. Reauthorizations can only be made once, except to fix errors.
3. Extension of time may only be granted for two years.
4. Language drafted into the capital bill to ensure that all balances remaining after a project's reversion date shall revert within a 90-day period after that June 30 reversion date.

*(Please note that exceptions to the first two policies can be made only if the receiving agency certifies to the Legislative Council Service that the project needs to be reauthorized due to tribal government delays.)*

Although not formally adopted by the Legislature, many of the legislators followed the proposed reauthorization process. The majority of the reauthorizations in this bill extended the period of time, broadened the language, or changed the purpose of the original project. A few legislators

continued to reauthorize balances with a value of less than \$20,000. Sponsors strictly complied with the two-year extension for completion of projects and reversion of funds.

### **ADMINISTRATIVE IMPLICATIONS**

Between 1997 and 2007, the Legislature authorized over \$3.7 billion for over 17,000 capital projects. Of the amount, over \$2.1 billion remains unexpended for over 8,500 projects, including \$721.6 million for nearly 3,000 projects authorized in 2007. It took Local Government Division and other agency staff nearly 6 months to research and to develop new budget documents for over 400 projects reauthorized in 2007. It could take the same amount of time for state agencies to research the 442 projects reauthorized in this bill.

The Public Education Department indicates reauthorizations are assigned new tracking numbers following each legislative session. The department indicates the number changes sometimes causes agencies to budget the same project twice and further confusion exists because the State Board of Finance always tracks the projects by the original numbers.

### **RELATIONSHIP**

House Bill 44, while not identical, reauthorizes some of the same projects referred to in Senate Floor Substitute for Senate Bill 352.

### **TECHNICAL ISSUES**

The following proposed amendments could allow the original purpose to be fulfilled and still ensure the projects will comply with the changed purpose of “rapid payback energy efficiency”:

On page 142, line 13, after the word “to” insert the words “repair, renovate, and make improvements to state buildings statewide, including”

On page 143, line 1, after the word “to” insert the words “repair, renovate, and make improvements to state buildings statewide, including”

On page 143, line 13, after the word “to” insert the words “repair, renovate, and make improvements to state buildings statewide, including”

On page 144, line 24, after the word “to” insert the words “repair, renovate, and make improvements to state buildings statewide, including”

### **OTHER SUBSTANTIVE ISSUES**

The purpose of reauthorization of projects may vary from project to project. The necessity for reauthorizations may include the following:

- Inadequate funding levels: scope of project exceeds available funding
- Grantees unable to meet match contingencies
- Expenditure period is not sufficient for property acquisition such as a right of way purchase or condemnation proceedings
- Projects funded for nonprofit or private entities do not meet the state’s anti-donation requirements

- Project may not be a priority for the receiving governmental entity or operational funds or staffing may not be available for the project
- Lack of planning, communication and oversight among between sponsor of project and administering agency and receiving entity
- Grantees lack proper documentation to draw reimbursement for completed projects or do not draw down reimbursements on a timely basis.

A reauthorization of a previously funded capital outlay project may change the administering agency, change the purpose of the project, extend the period of expiration of the project, or expand the purpose of the original project.

The Department of Transportation indicates the reauthorization in this bill to extend the period of time for road improvements in Curry County was needed due to a lack of electricity in the area of the road improvements.

LMK/bb