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

SPONSOR Garcia, M.H. **ORIGINAL DATE** 02/19/11 **LAST UPDATED** 03/01/11 **HB** 322/aHBIC

SHORT TITLE Additional Powers to Border Authority **SB**

ANALYST Lucero

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Non-Rec	Fund Affected
FY11	**FY12**	**FY13**		
	NFI	NFI		

(Parenthesis ( ) Indicate Revenue Decreases)

SOURCES OF INFORMATION
LFC Files

Responses Received From
Border Authority
New Mexico Finance Authority (NMFA)

SUMMARY

Synopsis of House Business and Industry Committee Amendment

House Business and Industry Committee (HBIC) Amendment to House Bill 322 changes the revenue distribution from the original bill that the Border Authority receives from tolls, fees, rents, lease payments, and other charges imposed, collected, and received authority so that 10 percent is distributed to the border project fund and 90 percent distributed to the border authority fund.

Synopsis of Original Bill

House Bill 322 amends Section 58-27-3 NMSA 1978 of the Border Development Act to give the New Mexico Border Authority broader authority to enter into agreements with the federal government and/or private entities for the operation, improvement and expansion of federal border facilities and to enter into joint ventures, partnerships or other business relationships for the joint funding and operation of projects.

The bill amends Section 58-27-3 to define "financial assistance" to mean grants and loans provided for projects to a "qualified entity" which, in turn, is defined to mean a state or one of its agencies, instrumentalities, institutions or political subdivisions or the United States or any corporation, department, instrumentality or agency of the federal government; adds the term "solid waste disposal facilities" as part of infrastructure development; redefines "port of entry" to include border protection; and redefines a "project" to include an inspection station and an emergency response station.

The bill amends Section 58-27-10 to give the border authority the duty to administer the border project fund projects financed with expenditures from that fund, the power to enter into agreements with the federal government for the operation, improvement and expansion of federal border facilities, and the power to enter into joint ventures, partnerships or other business relationships with qualified entities and private persons for the joint funding and operation of projects.

Section 58-27-25 proposes an amendment to the creation of the border authority fund to create a new statutory section, namely Section 58-27-25.1, to provide that if money is received by the authority from any public or private source that specifically intends the money to be used for projects pursuant to the new Section 58-27-25.1, then the money will be deposited into the border project fund rather than the border authority fund. The bill also includes new language providing instructions for the deposit of tolls, fees, rents and lease payment, for which 15% of the excess of the amount pledged for debt service and an adequate reserve shall be deposited into the border project fund, while the remaining 85% of the excess of the amount pledged for debt service and an adequate reserve shall be deposited into the border authority fund. Money is to only be expended as appropriated in accordance with the budget approved by the state budget division of DFA.

The bill includes a proposal for a new statutory section, Section 58-27-25.1, which will create the border project fund in the New Mexico state treasury. The border project fund shall consist of payments from principal and interest on loans for projects; a portion of the tolls, fees, rents, lease payments or other charges imposed, collected and received by the authority; money appropriated by the legislature or distributed or otherwise allocated to the fund; proceeds from severance tax bonds appropriated to the fund for projects; and income from investment in the fund, which shall be credited to the border project fund.

FISCAL IMPLICATIONS

HBIC amendment changes the allocation for revenues received by the authority. The amendment increases the distribution to the Border Authority fund so that more of the revenue received is available for operational costs. Over the last several years, revenue from the general fund has decreased leaving the agency more dependent on enterprise revenue to support operations.

The bill does not appropriate dollars from the state's general fund. Instead, it authorizes a new fund and language to specify how money collected in excess of debt obligations shall be allocated between a project fund and an operating fund. Currently, all of the Authority's revenues are used to partially sustain the agency's operating budget in lieu of general fund dollars. The 15% segment of the Authority's revenues allocated to the project fund would be used to match private contributions and/or government grants in order to finance border infrastructure projects.

This bill creates a new fund and provides for continuing appropriations. The LFC has concerns with including continuing appropriation language in the statutory provisions for newly created funds, as earmarking reduces the ability of the legislature to establish spending priorities.

SIGNIFICANT ISSUES

Large corporate users of New Mexico ports of entry have expressed interest in exploring public-private partnerships with the Border Authority to accomplish the planning and construction of port of entry and related improvements to increase the capacity and efficiency of the state's border crossings. At the same time, the federal government no longer has sufficient funding to expand its facilities and is working to change its regulations to better allow public-private partnerships to accomplish critical expansion projects.

At the same time, the lack of general fund capital outlay and the limitations attached to severance tax bond capital outlay calls for creative ways to attract private and public resources to develop critical projects. Public-private partnerships made possible by the proposed legislation are a good way to better leverage scarce state funds for infrastructure that is essential to grow the New Mexico border economy.

DL/svb/mew