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FISCAL IMPACT REPORT

ORIGINAL DATE 01/30/12
LAST UPDATED 02/02/12 **HB** 139/a HTPWC

SPONSOR Larrañaga
 SUPPLEMENTAL ROAD SEVERANCE TAX

SHORT TITLE BONDS **SB** _____

ANALYST Smith

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY12	FY13	FY14		
	(84,436.0)	(87,820.0)	Recurring	Public School Capital Outlay
	84,436.0	87,820.0	Recurring	Road Fund

(Parenthesis () Indicate Revenue Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From

Department of Finance and Administration (DFA)
 Public Schools Facilities Authority (PSFA)
 Department of Transportation (DOT)

HTPW Amendment

House Transportation and Public Works Committee amendment to House Bill 139 inserts an effective date of July 1, 2012 into the bill. This change was recommended to prevent confusion as to whether the proposed changes in capacity would apply to supplemental STBs issued that may be issued in June 2012.

SUMMARY

Synopsis of Original Bill

House Bill 139 amends the Severance Tax Bonding Act to create a second type of supplemental severance tax bond. Currently, there is one kind of supplemental STB, the proceeds of which are used for public school facility capital projects awarded by the Public School Capital Outlay Council (PSCOC). The bill would rename those original bonds supplemental public school STBs and create a second category, supplemental road STBs which would be used for maintenance, construction and improvements of state transportation projects.

Supplemental road STBs would be issued only upon certification of need by the State Transportation Commission. Supplemental public school STBs would continue to be issued only upon certification of need by the PSCOC. Any supplemental bonds would also be limited to statutory capacity.

Up to 50 percent of prior fiscal year revenue into the severance tax bonding fund may be used for senior STB debt service, which would remain unchanged. Under current law, up to 95 percent of prior fiscal year revenue may be used for supplemental STBs, which all benefit public schools. Assuming senior capacity is all utilized, that means 45 percent (95 percent less 50 percent) is available for public school facilities.

This bill would split the 45 percent that benefits supplemental bonds into two parts: 25 percent (from 50 to 75 percent of prior year revenue) would still benefit public school facilities, but 20 percent (from 75 to 95 percent of prior year revenue) would now benefit maintenance, construction and improvements of state transportation projects.

FISCAL IMPLICATIONS

The bill would reduce the amount of supplemental STB capacity available for public school capital projects and would increase the amount available for transportation projects. The amounts available for senior STBs, including legislative projects, water trust board, colonias infrastructure, and tribal infrastructure would remain unchanged.

Under current law, supplemental STB capacity available for public schools is estimated as follows in FY12 through FY16: \$148.7 million; \$168.5 million; \$182.0 million; \$179.5 million; and \$179.8 million. Under the proposal in this bill, the following amounts would be reduced from the amount available for public schools and would instead be available for roads in FY12 through FY16: \$0; \$84.4 million; \$87.8 million; \$86.0 million; and \$85.5 million.

SIGNIFICANT ISSUES

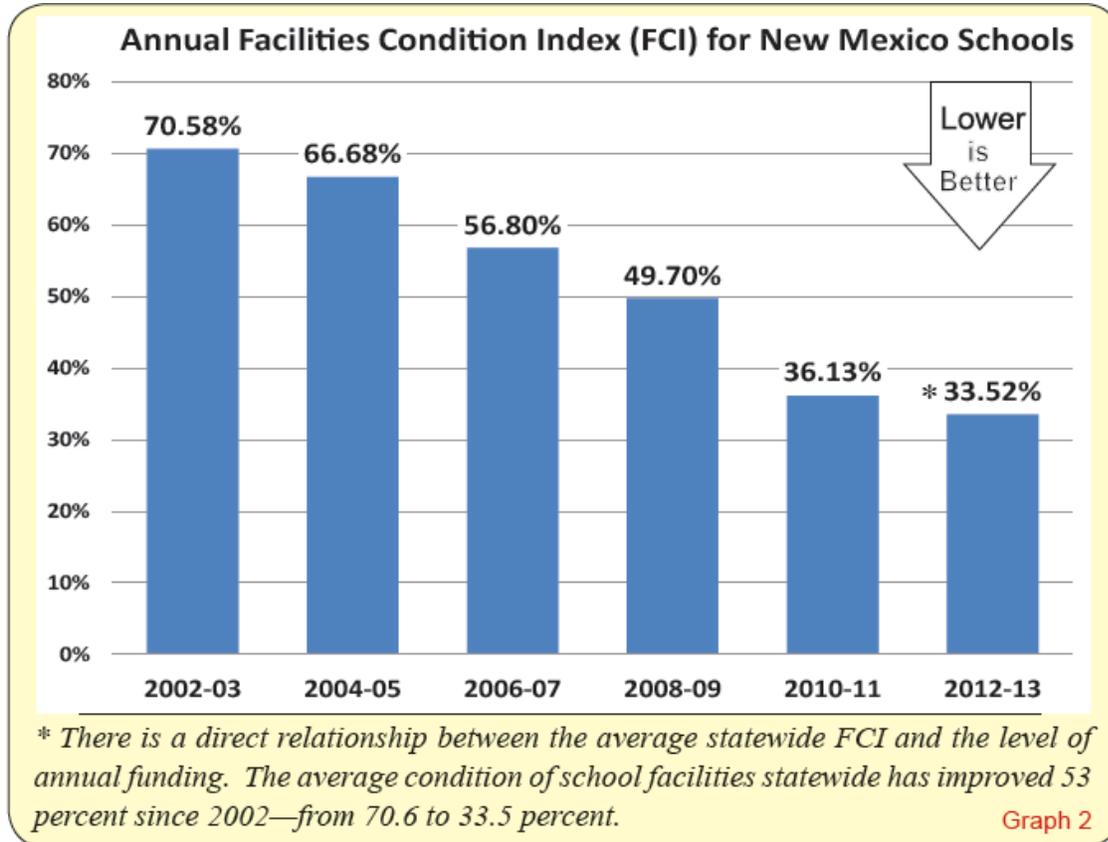
In 1999-2000, as a result of the "Zuni" lawsuit, which successfully challenged the constitutionality of New Mexico's educational financing and required the State to establish and implement a uniform system of funding future public school capital improvements, the supplemental STB program was created to provide a dedicated funding stream for public school capital improvements. In 1999, capacity for all STBs was increased from the long-standing rate of 50 percent of prior fiscal year revenue to 62.5 percent. Then, in 2000 it was increased further to 75 percent and then 87.5 percent. The percentage of prior fiscal year revenue that can be used for debt service has been 95 percent since 2004.

It is unclear whether reduction of the amount of supplemental STB capacity available for public school facilities as proposed in this bill would put the State out of compliance with its obligations under the Zuni lawsuit. The Department of Finance and Administration recommends consultation with the Attorney General's Office and/or the Legislative Council Service on that issue.

Affected agencies have submitted information both pro and con.

PFSA notes the priority uses of SSTB proceeds as provided for in the Public School Capital Outlay Act are Capital Improvement Act (SB-9) distributions, lease payment assistance, facility master plan Assistance, reimbursements to Construction Industries Division, and the operating budget of the PSFA. Due to these priority uses, the capacity for school construction falls by more than fifty-five (55%) percent while the other priority uses are not affected.

The average Facility Condition Index (FCI) for all educational school facilities in New Mexico is 33.5%. A translation of this is if a building costs \$100k and has an FCI of 34 percent, that building needs \$34K in repairs—lower FCI's are better.

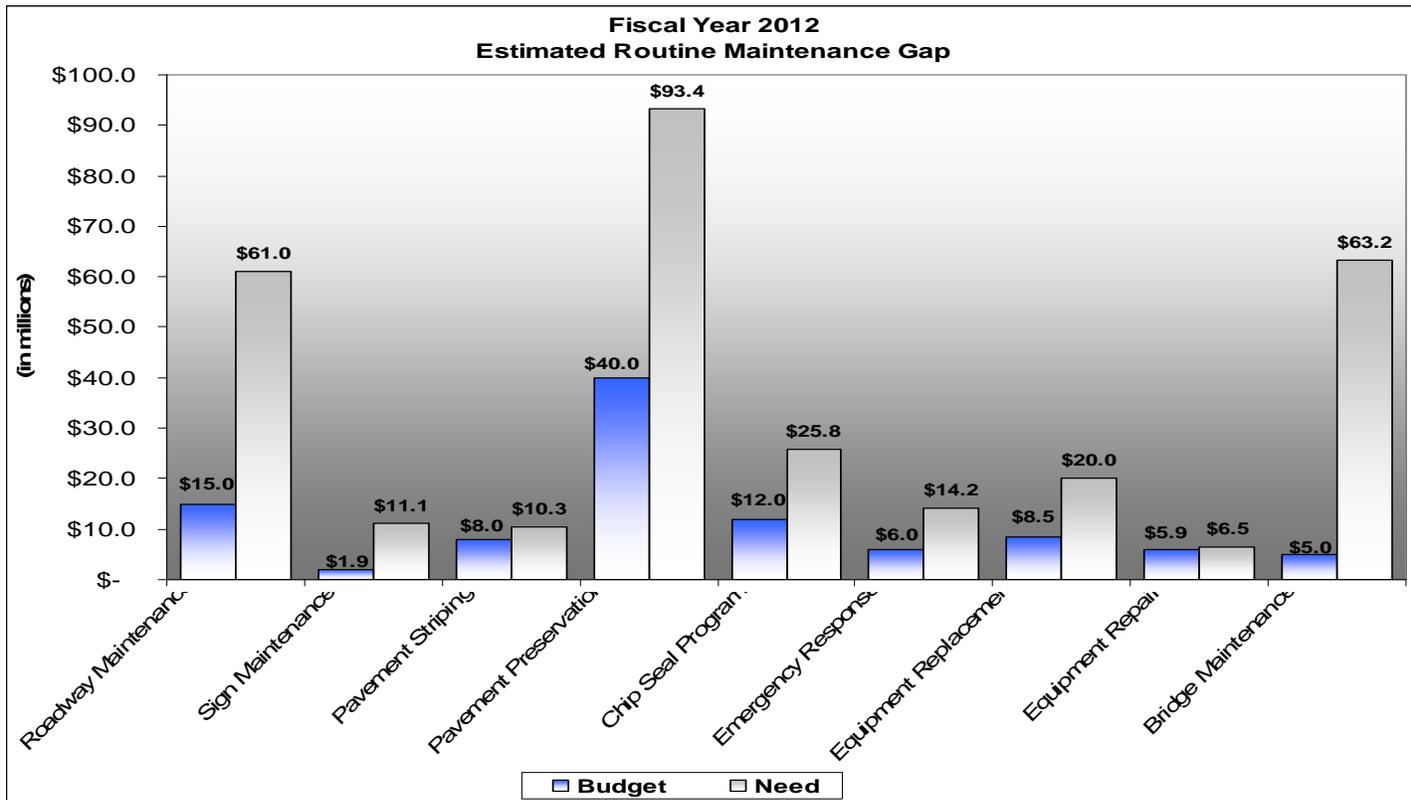


PSFA estimates that over the next five years, an average of \$343 million per year is required to be invested in New Mexico public school facilities to hold the FCI constant. Of the required \$343 million, the State funding share of this would represent about 39% or \$134 million per year. Current unfunded needs for public school facilities in New Mexico total about \$3 billion. A reduction in proceeds the Public School Capital Outlay Fund would have the effect of accelerating FCI levels, meaning that the overall condition of school facilities would worsen.

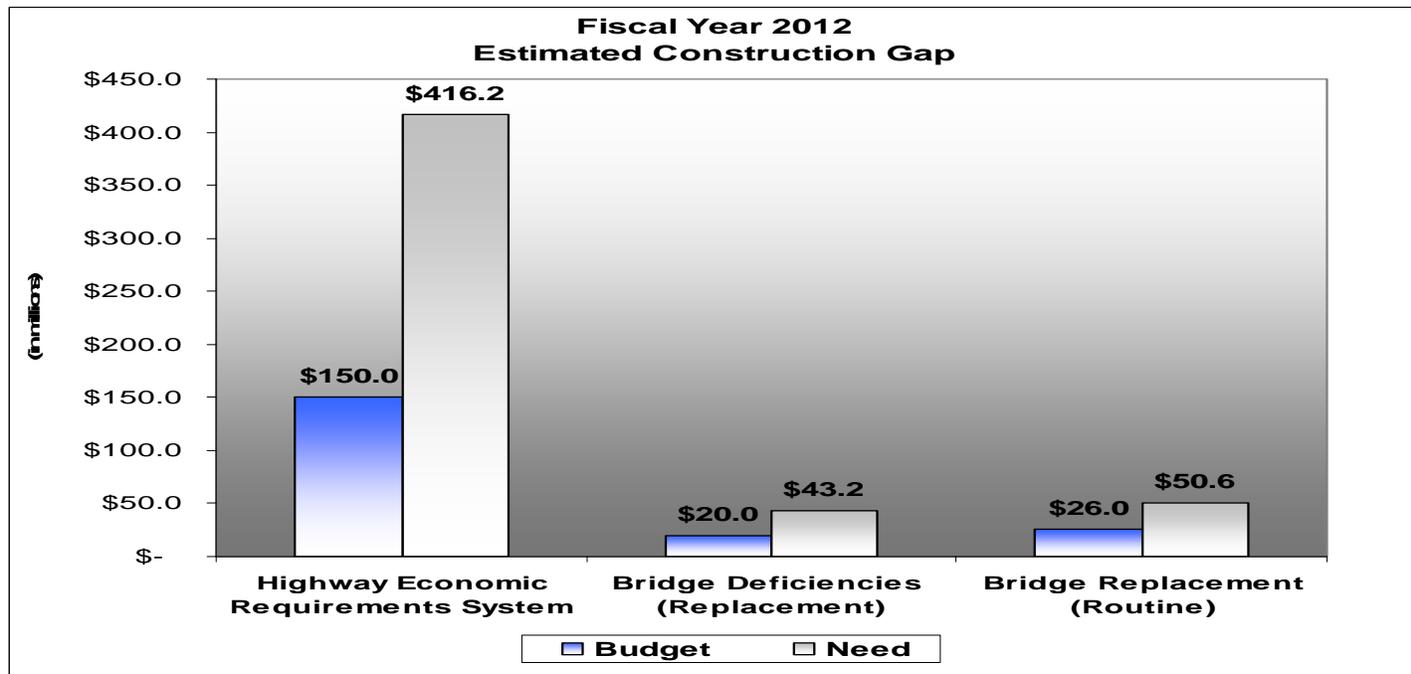
PFSC also notes that if legislation such as HB139 were to pass, it would likely prompt another status conference with the Court to review resources of the State to maintain the uniform system of funding for future public school capital improvements.

NMDOT has identified a backlog of transportation projects across the state that would benefit from the addition of severance tax dollars. Currently, NMDOT estimates the need to be performing approximately \$203 million of pavement preservation activities annually, including:

patching, pothole, ditch, drainage and guardrail repair, liter and graffiti removal, and snow plowing. A graphical representation is as follows:



In addition, the estimated construction gap reflects a number of a number of “total reconstruction” projects that need to be implemented in order to maintain the economic activities of the state. A graphical representation is as follows:



ADMINISTRATIVE IMPLICATIONS

Operating budget impacts to the Public School Facilities Authority (PSFA) may occur in FY14 and going forward. This is due to the operating budget of the PSFA funded from the Public School Capital Outlay (PSCO) Fund being limited to five percent of the average of the awards made by the PSCOC in the prior three fiscal years. Currently, the PSFA is operating at four percent. A reduction of the state share award capacity of over fifty percent would require, beginning in FY14, a reduction of PSFA's staff, currently authorized at 50 FTE, to approximately 20, as well as, an undetermined reduction in facility support systems utilized to support PSFA's statutorily defined services.

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