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

SPONSOR Silva **ORIGINAL DATE LAST UPDATED** 8/16/2008 **HB** 10

SHORT TITLE 2003 Road Projects Funding **SB**

ANALYST Moser/Francis

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Non-Rec	Fund Affected
FY09	FY10		
$75,000	$75,000	Non-Recurring	State Severance Bonds
$25,000	$25,000	Non Recurring	General Fund

(Parenthesis ( ) Indicate Expenditure Decreases)

Relates To: *Laws 2003 (S.S.), Ch. 3, Sec. 27*

SOURCES OF INFORMATION
LFC Files
New Mexico Department of Transportation (NMDOT)

Responses Received From
New Mexico Department of Transportation (NMDOT)

SUMMARY

Synopsis of Bill

House Bill 10 authorizes $150 million in severance tax bonds in FYs 2009 through 2011, with a limit of $75 million in a single fiscal year, with proceeds appropriated to the Department of Transportation for projects authorized in paragraphs (1) and (3) through (37) of Laws 2003 (S.S.), Ch. 3, Sec. 27, Subsection. A. Subject to certain limitations, an additional $50 million (GF) is appropriated to DOT for the same projects. This appropriation cannot be used on the Commuter Rail Project through the omission of Paragraph (2) of Laws 2003 (S.S.), Ch. 3, Sec. 27, Subsection A.

FISCAL IMPLICATIONS

House bill 10 provides up to $200 million to partly offset a projected $559 million shortfall in the 2003 transportation projects provided for under Governor Richardson's Investment Partnership (GRIP):

- $150 million is scheduled to be funded out of severance tax bond proceeds in FY09 with $75 million scheduled for release in FY09 and the remaining $75 million in FY10.
- $25 million is from the general fund contingent on either:
  - reserves at the end of FY09 are at least 10 percent above FY09 recurring appropriations plus $86.5 million. This would leave $61.5 million for non-recurring uses in the 2009 regular session and a 10 percent reserve. The reserve level will be calculated by DFA after the December 2008 consensus revenue estimate; or
  - Reserves at the end of FY10 are at least 10 percent plus $25 million based on the July 2009 consensus revenue estimate.
- $25 million is from the general fund contingent on either:
  - Reserves at the end of FY10 based on the July 2009 consensus revenue estimate are at least 10 percent plus $25 million if $25 million had already been appropriated as indicated above; or
  - Reserves at the end of FY10 based on the July 2009 consensus estimate are at least 10 percent plus $50 million.

FORECAST OF CAPITAL OUTLAY AVAILABLE				
Severance Tax Bonding				
	FY08	**FY09**	**FY10**	**FY11**
STB Capacity - BOF Estimate July 2008*	**349.2**	**388.6**	**539.4**	**455.2**
LFC August Adjustment	**-**	**(15.0)**	**(102.3)**	**(42.3)**
STB Capacity - LFC Estimate August 2008*	**349.2**	**373.6**	**437.1**	**412.9**
Authorized Unissued		**(31.9)**		
Issued Bonds				
Spaceport (Laws 2006 Chapter 622)	*(11.3)*	*(33.0)*	*(34.0)*	
2007SS - DOT maintenance (20%)	*(9.1)*	*(9.3)*		
2007SS - GRIP II (40%)	*(18.2)*	*(18.7)*		
2007SS - GRIP I (40%)	*(18.2)*	*(18.7)*		
*North/South Valley Sewer***	*(2.0)*	*(2.0)*		
Water Project Fund (Statutory 10% of STB)	*(32.2)*	*(37.4)*	*(43.7)*	*(41.3)*
Other Certified Projects	*(202.1)*			
GRIP 2008 Special Session		*(75.0)*	*(75.0)*	
NET STB CAPACITY	**56.1**	**147.6**	**284.4**	**371.6**
Sweep	*(15.0)*	n/a	n/a	n/a
Transfer to Permanent Fund	*(41.1)*	n/a	n/a	n/a

This type of budgeting may establish a precedent of contingent financing that could disrupt the normal appropriation process.

SIGNIFICANT ISSUES

This appropriation along with the already committed appropriations listed in the table above lowers the severance tax bond proceeds available for capital outlay projects. With the expectation that there will be very little general fund reserves available for nonrecurring uses, the amount of capital outlay that will be available for appropriation in the 2009 session will be dramatically less than prior years.

FY09 reserves have been estimated at $821.8 million or 13.6 percent of current year recurring appropriations. However, no non recurring appropriations have been decided upon by the legislature. The executive proposal contains several appropriations and revenue bills that will lower FY09 reserves to $679.9 million or 11.3 percent. If the entire executive package is enacted and a ten percent reserve is maintained, there will only be $77.2 million for nonrecurring appropriations, including the feed bill and specials, supplementals and IT, in the 2009 session.

Governor Richardson's Investment Partnership (GRIP) was passed in the 2003 special Legislative session. The program provides for the construction and reconstruction of assorted projects throughout the state of New Mexico. Funding for GRIP was provided through the issuance of bonds totaling $1.585 billion dollars. In 2007, to offset GRIP shortfalls, the Legislature appropriated an additional $52.8 million from both the general fund and severance tax bonding authority for FY07, FY08 and FY09. GRIP funding has also been augmented by the use of GRIP interest and STIP funding. This additional $291 million increased GRIP to $1.872 billion.

NMDOT reports that through July 2008, 32 projects totaling $525 million have been completed. Another 33 projects valued at $718 million are under construction and 26 projects valued at $629 million are scheduled to be let for bid. This, however, leaves 32 projects valued at <u>$559 million unfunded</u>.

These unfunded projects are largely the result of inflationary increases in the cost of materials, an under-funded commuter rail project and inadequate initial cost projections. While the NMDOT disagrees with the impact of commuter rail there is no question that costs dramatically accelerated from the original $120 million for this project to its current projection of $475 million. This has resulted in GRIP being over half a billion dollars short of the requisite funding for completion of all projects designated by the Legislature. This shortfall is growing because of continued inflationary pressure. In January the Legislature was advised by the department that the shortfall was projected at $495 million. Since January this number has grown to the current projection of $559 million, a 12.9 percent increase in a seven month period.

The following table illustrates the growth in construction materials costs since 2003:

ITEM	**2003**	**2008**	**PERCENT INCREASE**
Asphalt	$219 per ton	$850 per ton	288%
Pavement	$29 per ton	$55 per ton	90%
Base Course	$8.77 per cubic yard	$15.59 per cubic yard	65%
Earthwork	$4.34 per cubic yard	$5.65 per cubic yard	30%
Concrete	$351 per cubic yard	$$475 per cubic yard	30%
Rebar	$0.53 per pound	$1.17 per pound	121%

NMDOT indicates that it has issued $1.1 billion of the bonding authority and secured a $200 million line of credit with the remaining authority of $236 million outstanding. The financing plan calls for a final bond issuance of $436 million (includes redemption of the line of credit) to occur in late CY2010. Due to the construction inflation previously mentioned, project costs have grown requiring the department to spend down the proceeds at a quicker rate than anticipated in the original finance plan.

TECHNICAL ISSUES

The definition of reserves is defined as "reserves as a percentage of current-year recurring appropriations." In the last few years, the term "reserves" has referred to *budget* year appropriations to be decided during the regular legislative session and not the operating budget already in place. For example, the reserves estimated based on the August consensus revenue group have been reported as $207.8 million based on the expected reserve balance of 10 percent of *FY10* appropriations.

Section 2-B-1(a) and (b) should simply state minimum amounts of revenue that must be estimated rather than the complicated formula in the current proposal.

The bill creates a "July 2009 revenue projection" that is not subject to the DFA and LFC performance measures.

NMDOT indicates that it will comply with the requirements of Subsections C, D and E of Section 67-3-59.4 NMSA 1978. (Legislative reporting requirements on project status).

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

The department will not be able to complete the scheduled projects under GRIP. Additional maintenance funds will need to be expended to maintain the deteriorated condition of these highways for public safety.

GM/mt