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

ORIGINAL DATE 02/14/11
SPONSOR Wirth **LAST UPDATED** 03/02/11 **HB**

SHORT TITLE Energy Conservation Bonds **SB** 266

ANALYST Burrows

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
Congressional Research Service report

Responses Received From
Energy, Minerals and Natural Resources Dept (EMNRD)
New Mexico Environment Dept (NMED)
Renewable Energy Transmission Authority (RETA)
Dept of Finance and Administration (DFA)

SUMMARY

Synopsis of Bill

The American Recovery and Reinvestment Act of 2009 created qualified energy conservation bonds (“QECBs”) under Section 54D of the Internal Revenue Code (IRC). These bonds may be issued by each state and “large local government.” The national bond cap volume is set at $3.2 billion, of which New Mexico is allocated $20,580,000.

Senate Bill 266 requires the State Board of Finance (BOF) to determine the amount under the federal act to be allocated to each large local government. The bill defines “large local government,” in accordance with the federal provision, as a municipality or county with a population greater than 100,000 or an Indian tribal government. The bill would establish mechanisms for the Board to distribute the state allocation to qualified bond issuers desiring to designate bonds as qualified energy conservation bonds.

FISCAL IMPLICATIONS

The bonds are issued as tax credit bonds (TCBs), which allow the bondholder to claim a federal tax credit equal to a percentage of the bond's par value for a limited number of years. For QECBs, the tax credit percentage is set to 70 percent of the current yield on taxable corporate bonds. In addition, the state and other issuers pay no interest to bondholders. In essence, the federal government pays the interest through the tax credit. As such, there is virtually no cost to the state to issue bonds, other than minimal administrative costs incurred by agencies (see Administrative Implications).

SIGNIFICANT ISSUES

According to Senate Bill 266, QECBs are to meet all federal requirements and be used for qualified conservation purposes. Qualified conservation purposes include certain clean and renewable energy capital expenditures, research projects, mass commuting facilities, demonstration projects designed to promote the commercialization of clean energy technologies, or public education campaigns.

Bond issuance is allocated to the state and large local governments according to population. Section 54D provides that county allocations should be determined with the exclusion of the population of any municipality that is a large local government. In this case, the Albuquerque population is excluded from the Bernalillo County population for the determination of the county allocation. The figure below illustrates the allocation to New Mexico:

Expected Allocation of QECBs for 2009

	Population*	% of Population	QECB Allocation
State	1,984,356	100.00%	$20,587,000
Counties			
Bernalillo	113,140	5.70%	$1,173,788
Dona Ana	201,603	10.16%	$2,091,561
Sandoval	122,298	6.16%	$1,268,799
San Juan	122,500	6.17%	$1,270,895
Santa Fe	143,937	7.25%	$1,493,296
Cities			
Albuquerque	521,999	26.31%	$5,415,557
Total			$12,713,896
All Other	758,879	38.24%	$7,873,104

*2008 Population – U.S. Census Estimates

Source: EMNRD. The Bernalillo County population and percentage were corrected to exclude the Albuquerque population as specified under Section 54D of the IRC.

According to the provisions of Section 54D, up to 30 percent of the total allocation can be used to issue private activity bonds but only for the purpose of capital equipment.

The BOF notes that a New Mexico Administrative Code (NMAC) rule would need to be established to determine which projects receive bond funding. The state would need to determine whether the criteria for approval should be conservation-related, meaning the project with the largest conservation impact, or bond-related, meaning the project that is the most ready. This policy question would also address which agency is more suited to approve applications (see Other Substantive Issues).

ADMINISTRATIVE IMPLICATIONS

EMNRD may be asked to review projects to assure compliance with the guidelines of Section 54D and Senate Bill 266.

The BOF states that it would need to promulgate a New Mexico Administrative Code (NMAC) rule regarding application procedures, which would entail moderate administrative costs and a small fiscal impact of about $500,000.

TECHNICAL ISSUES

EMNRD expresses concern that screening criteria for proposed projects and evaluation of completed projects are not well defined. To administer the QECBs, the bill will need to include instructions for project selection and post-implementation for energy performance verification.

OTHER SUBSTANTIVE ISSUES

According to EMNRD, Senate Bill 266 could create additional New Mexican jobs. Moreover, EMNRD emphasizes the importance of financing mechanisms for clean energy projects when economic conditions force budget cutting measures; high upfront costs may prevent many governmental entities from implementing projects that will achieve utility bill savings.

NMED reports Senate Bill 266 could promote business in New Mexico through clean, renewable and energy efficient enterprise.

NMED also reports:

> "Increased renewable energy production will decrease the need for energy production from fossil fuels, resulting in reduced greenhouse gas and ozone precursor (nitrogen oxide and volatile organic compound) emissions. This would result in fewer requirements for other sources of these emissions in potential nonattainment areas. The Environment Department's Air Quality Bureau has a legislative performance measure to reduce annual statewide greenhouse gas emissions to a target level. Senate Bill 266 will assist with achieving these performance measures."

The BOF questions whether it is the most appropriate state entity to review project applications for bond issuance. EMNRD will likely have more expertise to assess the impact on energy conservation of proposed projects.

AMENDMENT

The BOF reports a mechanism should be established to divide the remainder of the state's volume cap after the amount allocated to large local governments. The BOF proposes adding a provision that this mechanism will also be used to reallocate the volume cap of large local governments that turn back their allocation or don't use it timely.

The BOF also proposes adding a provision (rather than a rule) specifying the date by which applications must be submitted. The board recommends a short-term, one-time event to minimize criticism directed toward the agency.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

The state of New Mexico will not be able to take advantage of this federally-authorized mechanism for financing clean energy projects.

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