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FISCAL IMPACT REPORT

ORIGINAL DATE 09/23/11

SPONSOR SFC LAST UPDATED _____ HB _____

SHORT TITLE Severance Tax Bond Projects SB 10/SFCS

ANALYST Kehoe/Snyder

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY11	FY12		
\$80,987.4		Nonrecurring	Severance Tax Bond Fund
\$4,000.0		Nonrecurring	General Fund
\$550.0		Nonrecurring	Game and Fish Bond Retirement Fund
\$325.0		Nonrecurring	Game Protection Fund
\$250.0		Nonrecurring	Habitat Management Fund
\$350.0		Nonrecurring	State Road Fund

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

SUMMARY

Synopsis of Bill

The Senate Finance Committee Substitute for Senate Bill 10 authorizes approximately \$81 million from severance tax bond capacity, \$4 million from the general fund, and approximately \$1.5 million from other state funds for various capital outlay projects statewide. The bill contains an emergency clause.

FISCAL IMPLICATIONS

Severance tax bond (STB) net capacity in fiscal year 2012 is \$212.7 million (Senior gross capacity totaling \$265.9 million less 10 percent of capacity equal to \$26.6 million for deposit into the water project fund, five percent of capacity equal to \$13.3 million for deposit into the tribal infrastructure fund, and five percent of capacity equal to \$13.3 million for deposit into the

colonias infrastructure project fund). Supplemental severance tax bond capacity dedicated for public school construction is approximately \$147.7 million.

Given New Mexico's and the United State's weakened economic outlook since the July forecast, leaving \$131.7 million available for capital funding in the 2012 Legislature may allow legislators to address unforeseen needs. For instance, the New Mexico Department of Transportation may be facing a 37 percent decrease in federal funds jeopardizing the ability to maintain construction programs if state funds are shifted to pay more debt.

The authorization totaling approximately \$86.5 million contained in this bill is a nonrecurring expense to severance tax bond (STB) capacity, the general fund (GF), and other state funds (OSF)--game and fish bond retirement fund, game protection fund, habitat management fund, and state road fund. *Except for appropriations to the capital program fund and the public school capital outlay fund, money from STB proceeds and any other fund contained in this bill may not be used to pay for administrative or any other indirect project costs.*

For the purposes in sections 1 and 2 of this bill, "unexpended balance" means the remainder of an appropriation after reserving for unpaid costs and expenses covered by binding written obligations to third parties. If an agency has not certified the readiness for STB proceeds by the end of fiscal year 2013, the authorization is void.

Unless otherwise specified, the unexpended balance from STB proceeds, GF, or OSF will revert to the originating fund no later than the following dates: 1) for a project for which STB were issued or an appropriation was made to match federal grants, six months after completion of the project; 2) for a project issued to purchase vehicles, including emergency vehicles and other vehicles requiring special equipment, heavy equipment, books, educational technology, or other equipment or furniture not related to a more inclusive construction or renovation project, at the end of the fiscal year two years following the fiscal year in which the severance tax bonds were issued or an appropriation was made for the purchase; and 3) any other projects for which STB were issued or an appropriation was made, within six months of completion of the project, but no later than the end of fiscal year 2016.

All remaining proceeds appropriated for a project in this Act shall revert to the STB or originating fund three months after the latest reversion date set forth in this bill. The balance of an appropriation made from state funds to the Indian Affairs Department and Aging and Long Term Services Department for a project located on lands of an Indian nation, tribe, or pueblo shall revert to the tribal infrastructure project fund within the time-frame set forth in this bill.

Incompliance with the Severance Tax Bonding Act, the State Board of Finance (BOF) is authorized to issue and sell STB in an amount not to exceed the total of the amounts appropriated in this bill. BOF must also comply with the Internal Revenue Code of 1986, as amended. The agencies named in this bill shall certify to BOF when the money from the proceeds of the severance tax bonds authorized in the bill is needed for the purposes specified in the applicable section of the bill. Before an agency certifies for issuance of the bonds, the project must be developed sufficiently so that the agency reasonably expects to: 1) incur within six months after the applicable bonds have been issued a substantial binding obligation to a third party to expend at least five percent of the bond proceeds for the project; and 2) spend at least eighty-five percent of the bond proceeds within three years after the applicable bonds have been issued.

Based on the certification of project readiness by grantees, the BOF authorizes the sale of bonds. The issuance of tax-exempt bonds for projects not ready to commence leaves the state open to noncompliance with the Internal Revenue Service Code. Failure to spend STB proceeds in a timely manner causes the state, under IRS regulations, to have to rebate interest earnings the state could otherwise use to reduce the cost of a project or to reduce debt service costs.

SIGNIFICANT ISSUES

The projects contained in the bill relate to infrastructure needs at state-owned facilities intended to address public health and safety, projects in progress, preservation of state-owned property value, projects to replace antiquated informational technology systems, and projects depending on federal match dollars to maximize state dollars. Executive agencies whose missions are tied to facility conditions such as: hospitals, long-term care facilities, correctional and juvenile facilities, and public safety facilities face a multitude of issues due to substandard and aged facilities unable to meet fire and environmental code compliance.

The projects were recommended by Legislative Finance Committee (LFC) staff and considered by the full Legislature in the 2011 Regular Session. The project selections were based on criteria (approved by the LFC), site visits, review of annual infrastructure capital improvement plans, monthly meetings with major state agencies (Department of Health, Corrections Department, Property Control Division, Department of Public Safety, and Children, Youth and Families Department), executive hearings, and presentations made before the Capitol Buildings Planning Commission and LFC during the interim.

The bill contains state matching funds totaling nearly \$37 million to generate federal dollars by the end of federal fiscal year 2011 or state fiscal year 2012. The projects depending on federal match funds include the following:

- Farmington Readiness Center for training of military police battalion (*state would lose \$8.5 million in federal match dollars if state match totaling \$1.6 million is not secured by September 30, 2011*)
- Alzheimer's and skilled nursing units at the Veterans' Home (\$5 million state match toward \$15.6 million federal funds)
- New Mexico Environment Department Wastewater Construction Loan Fund Program (\$1.4 million state match will generate \$7.2 million federal funds)
- Aamodt, Taos, and Navajo water rights settlement (\$15 million state match toward required \$130 million state match toward federal dollars totaling over \$1 billion required by 2017)
- The \$13.6 million contained in this bill for the Human Services, Income Support Division, ISD2R system is a portion of the \$28.9 million state match needed toward federal funds—total cost is \$75 million. The current system is 25 years old and at risk of catastrophic failure that could expose the state to legal and financial liability. Failure of the system would impact the delivery of benefits totaling nearly \$4 billion to 800,000 clients. The complexity involved in the development and implementation of the system is time-sensitive and requires immediate dollars to continue replacement of the system. In addition, the system does not currently have the capability to comply with Health Care Reform requirements and could impact the delivery of health care for over 600,000 recipients.

The bill contains \$16.6 million to address critical conditions threatening the safe operation of the prison system, physical safety of staff, and to address code violations. Funds will address security upgrades, repairs, and equipment statewide, completion of heating, ventilation and air conditioning systems at Southern and Central correctional facilities, continue upgrades at Western correctional facility; and complete renovation of kitchens at Southern and Central correctional facilities; and to plan and design water and wastewater erosion control at Western correctional facility.

In addition to the \$5 million state match for the Alzheimer's and skilled nursing units, the bill contains \$7.8 million to address critical infrastructure deficiencies and security upgrades at the NM Behavioral Health Institute and the State Veterans' Home. Funds will complete construction of phase 2 of the Meadows Nursing Home to replace living quarters for elderly currently living in substandard facilities. NMBHI currently operates the nursing home in three separate buildings requiring more nursing, housekeeping, dietary, and maintenance staff. Completing phase 2 now will be more efficient and cost-effective by allowing contractors already on site to continue the second phase.

The \$4 million authorized from GF requires 75 percent of the funds be expended for state police vehicles and 25 percent be expended for motor transportation vehicles. Language in the bill specifies at least \$2.2 million of the authorized \$4 million would be derived from the recent sale of the state aircraft. The proceeds of the aircraft reverted to the GF.

The \$3.9 million for senior citizen centers statewide as prioritized and requested by the Aging and Long Term Services Department addresses "critical health and safety" code violations requiring immediate attention; for purchase of high mileage handicap accessible vehicles, 12-passenger vans, walk-on vans, and special vehicles equipped for food delivery.

The bill contains funds for enterprise entities such as Department of Cultural Affairs, and Cumbres Toltec & Scenic Railroad. The entities depend on capital funds for the continuous preservation of their facilities to attract visitors and generate operational funds.

OTHER SUBSTANTIVE ISSUES

While funds cannot substitute or alleviate operating budget shortfalls, the funds would stimulate economic activity in the state. According to the Associated General Contractors of America *State Construction Employment Report*, 1,500 construction jobs were lost in New Mexico in 2010. The current market conditions and the competition for work have driven down labor costs and profit margins, but it is difficult to predict how long this trend will continue.

If funds for the most critical projects contained in this bill are not authorized until January 2012, funds will not be available until June or July 2012.