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FISCAL IMPACT REPORT

SPONSOR Cervantes ORIGINAL DATE 2/06/17
 LAST UPDATED 2/23/17 HB _____

SHORT TITLE Capital Projects Reversion Dates SB 260/ec

ANALYST Kehoe

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY17	FY18		
(\$7,200.0)		Nonrecurring	Severance Tax Bond (authorized but bonds not issued)
(\$3,500.0)		Nonrecurring	Severance Tax Bond
(\$1,040.0)		Nonrecurring	Other State Funds (See Fiscal Summary)

(Parenthesis () Indicate Expenditure Decreases)

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY17	FY18	FY19		
\$10,700.0			Nonrecurring	Severance Tax Bond
\$1,040.0			Nonrecurring	Other State Funds (See Fiscal Summary)

(Parenthesis () Indicate Revenue Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From

Department of Finance & Administration (DFA)
 New Mexico Department of Transportation (NMDOT)
 New Mexico Environment Department (NMED)
 Office of State Engineer (OSE)

SUMMARY

Synopsis of Bill

Senate Bill 260 voids all capital outlay projects appropriated from severance tax bond capacity for which bonds were not issued by January 1, 2017, voids unencumbered or unexpended balances for capital outlay projects appropriated from severance tax bond capacity, the general fund, and other state funds authorized prior to the 2015 Legislative Session. (See Attachments A and B lists “potential” projects proposed for voiding)

FISCAL IMPLICATIONS

Senate Bill 260 voids capital outlay projects totaling approximately \$10.7 million appropriated from severance tax bond (STB) capacity. Of the total, \$7.2 million is for bonds not issued as of January 1, 2017 and approximately \$3.5 million is for projects appropriated from STB with no encumbrances and expenses made prior to 2015. According to Legislative Finance Committee quarterly reports and DFA, no balances for capital outlay projects appropriated from the general fund remain outstanding.

Any unexpended or unencumbered balances voided in this bill from severance tax bonds, the general fund, or “other state funds” shall revert to the originating fund. The balances for voided projects appropriated from the general fund to the Indian Affairs Department or the Aging and Long-Term Services Department for capital projects located on lands of an Indian Nation, trip or pueblo shall revert to the tribal infrastructure project fund.

Other state fund balances could include balances from the state land office maintenance fund, Miners’ Trust Fund, and various funds administered by the Game and Fish Department. According to DFA, it would be difficult to identify “other state” fund balances because not all agencies budget and report expenditures and encumbrances through the Statewide Human Resources Management Reporting (SHARE) system.

To date, severance tax bonds have not been issued by the State Board of Finance (BOF) for 51 projects due to anti-donation issues, non-readiness, or noncompliance with audit requirements. According to BOF reports, the following are the amounts and reasons for non-issuance of bonds:

- 19 projects totaling \$1.3 million are ineligible due to noncompliance with audit requirements;
- 13 projects totaling \$1.3 million are ineligible due to anti-donation issues;
- 12 projects totaling \$1.1 million did not submit a certification of readiness to State Board of Finance; and
- 7 projects totaling \$3.4 million, grantees indicated they were not ready to proceed in their certification of readiness submitted to the State Board of Finance.

TECHNICAL ISSUES

State agencies submitting analysis of this bill note certain projects may have already met procurement requirements to allow projects to move forward. Notices of Obligation issued by a state agency triggers an encumbrance of the funding and allows grantees to enter into third party contracts. If grantees followed proper procurement procedures, the state may have an

obligation to honor expenses incurred by the grantees and contractors. The sponsor may want to consider including a severability clause in the bill to protect such projects and prevent future legal issues.

LK/al/jle