| LFC Requester: | Sunny Liu |
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**AGENCY BILL ANALYSIS**
**2017 REGULAR SESSION**

**WITHIN 24 HOURS OF BILL POSTING, EMAIL ANALYSIS TO:**

**LFC@NMLEGIS.GOV**

***and***

**DFA@STATE.NM.US**

***{Include the bill no. in the email subject line, e.g., HB2, and only attach one bill analysis and related documentation per email message}***

## SECTION I: GENERAL INFORMATION

***{Indicate if analysis is on an original bill, amendment, substitute or a correction of a previous bill}***

*Check all that apply:*

**Original** X **Amendment** ___
**Correction** ___ **Substitute** ___

**Date** 2/27/17
**Bill No**: SB332

**Sponsor:** Senator Craig W. Brandt
**Short Title:** REPLENISH SCHOOL CASH BALANCES

**Agency Code**: 924
**Person Writing** Aguilar/Craig
**Phone:** 827-6519 **Email** ___

## SECTION II: FISCAL IMPACT

### APPROPRIATION (dollars in thousands)

| Appropriation | | Recurring or Nonrecurring | Fund Affected |
|---|---|---|---|
| FY17 | FY18 | | |
| $26,100 | | Nonrecurring | Capital Outlay Project Allocations |
| $20,000 | | Nonrecurring | State Equalization Guarantee |

(Parenthesis ( ) Indicate Expenditure Decreases)

**REVENUE (dollars in thousands)**

| Estimated Revenue | | | Recurring or Nonrecurring | Fund Affected |
|---|---|---|---|---|
| **FY17** | **FY18** | **FY19** | | |
| **$26,100.0** | | | Nonrecurring | General Fund |
| ($20,000.0) | | | Nonrecurring | Film production tax credit or the Film and television tax credit |

(Parenthesis ( ) Indicate Expenditure Decreases)

**SECTION III: NARRATIVE**

## BILL SUMMARY

Synopsis:

SB 332 authorizes the Secretary of Finance and Administration to sell up to $26.1 million in Supplemental Severance Tax Bonds (SSTB) and appropriates this amount to the General Fund.

SB 332 also authorizes the sale of $26.1 million to be appropriated to the Public School Capital Outlay Fund for expenditure in fiscal years 2018 through 2022.

SB 332 repeals a section of law passed earlier this Legislative Session that creates a credit for FY 17 SEG distributions for excess FY16 Operational fund cash balances and suspends payments of refundable portions of the film and television tax credit until the aggregate amount of suspended payments equals $20 million.

## FISCAL IMPLICATIONS

**As the result of the Zuni Lawsuit, SSTB capacity has been appropriated by the Legislature for use in meeting the terms and conditions of the partial settlement ordered by Judge Rich. Diverting these revenues may cause the state to be in a default condition relative to this agreement and affect the status of the lawsuit that is now back in front of the court.**

SB 332 repeals Laws 2017, Chapter 3, Section being SB-114/SFCS/CC passed in the 2017 Regular Session. SB-114/SFCS/CC creates provisions that require PED to offset remaining FY17 SEG distributions for a certain percentage of FY16 cash balances (a “cash balance credit”), with exclusions for school districts receiving Supplemental Emergency funding or having audited cash balances at or below three percent. SB-114/SFCS/CC is estimated to reduce statewide SEG by approximately $42 million in FY 17, though that amount was based upon budgeted cash balances and budget emergency supplemental and actual offset amounts could be less based upon actual Supplemental Emergency awards and audited cash balances.

SB 332 seeks to increase revenues to offset the repeal of this cash balance credit by allowing the Department of Finance and Administration to sell Supplemental Severance Tax Bonds (SSTB’s) and suspend some of the film production tax credit and television tax credit amounts in amounts totaling $46.1 million, the Legislature's estimate of the amount PED would offset under SB-114/SFCS/CC  Additionally, SB 332 seeks to sell SSTB's for the use in the Public Schools Facilities award process currently operated by the Public School Capital Outlay Council (PSCOC) for expenditure in FY 18 and FY 22.

Under the provisions of 7-29-14 NMSA 1978, for FY17 the State Board of Finance (BOF) cannot issue severance tax bonds (STB's) unless the aggregate amount of STB's outstanding, including the issue proposed, can be serviced with no more than 48.8 percent of the annual deposits into the severance tax bonding fund, as determined by the lesser of the deposits during the preceding fiscal year or the deposits during the current fiscal year.  Also, the BOF cannot issue SSTB's with a term that extends beyond the fiscal year in which the bonds are issued unless the aggregate amount of STB's and SSTB's outstanding, including the issue proposed, can be serviced with no more than 61.3 percent of the annual deposits into the severance tax bonding fund, as determined by the lesser of the deposits during the preceding fiscal year or the deposits during the current fiscal year.  Further, the BOF cannot issue a SSTB with a term of one fiscal year or less unless the SSTB, when added to the debt service previously paid or scheduled to be paid during the fiscal year, does not exceed 93.8 percent of the lesser of the deposits into the severance tax bonding fund during the preceding fiscal year or the deposits into the severance tax bonding fund during the current fiscal year.

Commonly termed the calculation of availability capacity, sale of SSTB's in violation of the available capacity section would be problematic due to the availability conflict.  According to staff at DFA, there is available capacity to sell the SSTB's proposed by SB 332.  The December 2016 estimate indicates there is $112 in available SSTB capacity in FY 17 and $110 in available capacity for FY 18, however most, if not all of this capacity has been scheduled for awards to school districts for facility construction.  The impact of this diversion of funds will be significant and may cause arbitrage issues for those districts that have sold local bonds and will not be able to begin construction in the timeframe necessary under the bonding statutes.

Any prescribed use of SSTB's other than that in current law would impact the Public School Capital Outlay Fund because currently they are the main beneficiary of SSTB sales and these amounts would negatively impact those uses.  See attachment.

**ALTERNATIVES**

CS SB 114 could not be repealed and PED would take credit for cash balances.