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

SPONSOR Ingle **ORIGINAL DATE** 2/16/07
LAST UPDATED **HB**

SHORT TITLE Higher Education Capital Outlay Act **SB** 862

ANALYST Kehoe

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Non-Rec	Fund Affected
FY07	FY08		
	$56,700.0	Recurring	Higher Education Capital Outlay Fund

(Parenthesis ( ) Indicate Expenditure Decreases)

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Non-Rec	Fund Affected
FY07	FY08	FY09		
	($56,700.0)		Recurring	General Fund
	$56,700.0		Recurring	Higher Education Capital Outlay Fund

(Parenthesis ( ) Indicate Revenue Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From
Higher Education Department (HED)

SUMMARY

Synopsis of Bill

Senate Bill 862 enacts the Higher Education Capital Outlay Act, creates the higher education capital outlay council and higher education capital outlay fund, provides a process for correcting outstanding deficiencies at state institutions, and provides for a process for prioritizing future critical capital outlay projects. The bill further makes a distribution to the proposed higher education capital outlay fund in an amount equal to the tribal gaming revenue received by the state in accordance with the revenue sharing agreements.

FISCAL IMPLICATIONS

Senate Bill 862 creates the higher education capital outlay fund in the treasury. The fund, consisting of appropriations, gifts, grants, donations, and bequests shall be administered by the Department of Finance and Administration. Income from the fund will be credited to the fund, and money in the fund shall not be transferred or revert to any other fund at the end of a fiscal year.

The bill proposes appropriating the full distribution of the annual tribal gaming revenue to the higher education capital outlay council for the purposes of making grants to institutions for capital projects approved by the council. The bill will reduce the state general fund revenue by the entire amount of tribal revenue sharing and increase revenue to the newly created higher education capital outlay fund by the same amount. The December 2006 consensus revenue estimate of tribal revenue sharing payments in FY08 is $54.0 million which grows by five percent annually. The five percent interest earnings of $2.7 million will also decrease general fund revenue. Indian Gaming Compact negotiations currently underway could increase the tribal revenue sharing to the state by approximately $9 million in FY08.

In the last several years, capital improvements for higher education facilities have been financed by local general obligation bonds, revenue bonds issued by the universities, and state severance tax bonds and general funds. Additional amounts are derived from other sources such as federal funds, grants, foundations or institution fund balances.

The Legislature authorizes the funding of larger, more costly capital improvements for higher education projects from general obligation bond capacity available only in even-years. Local funds, which are usually local general obligation bonds issued by the two-year colleges, have contributed significantly towards capital needs at their campuses to pay for campus improvements such as childcare centers, student activity buildings and student recreational facilities. University system revenue bonds are generally used to pay for projects such as dormitories, student union buildings, stadiums, parking garages, UNM Hospital, other revenue-generating facilities or for capital improvements.

Senate Bill 2 and House Bill 7 each contain an appropriation of $43 million based on a recent facility condition assessment commissioned by the Higher Education Department. The funds would address the most critical and immediate needs for buildings, sites, campus utilities, and road infrastructure for higher education institutions listed on the attachment.

SIGNIFICANT ISSUES

Senate Bill 862 creates a Higher Education Capital Council similar to the Public School Capital Outlay Council. The Council shall consist of 11 members consisting of the following members, or their designees: secretary of finance and administration, the governor, the directors of the Legislative Finance Committee and Legislative Council Service, the secretary of Higher Education Department, a representative of a two-year institution appointed by the New Mexico Association of Community Colleges, and a representative of a four-year institution appointed by the Council of University Presidents, two members appointed by the president pro tempore of the Senate, and two members appointed by the Speaker of the House of Representatives.

The Council is required to review all applications for assistance from the higher education capital fund, including a review of all existing five-year facility plans and the institution's facility condition index (represents the relative physical condition of facilities), verify all health, safety or infrastructure deficiencies, develop a plan to correct the deficiencies, develop criteria for assessing other critical capital outlay needs of each institution, prioritize critical needs, and establish guidelines to ensure the allocations from the fund are expended in a prudent manner. The council would also be responsible for monitoring the construction of facilities funded through the proposed capital process.

To aid policymakers and institutions in evaluating and determining the current and future repair and replacement costs of all higher education and special school facilities, HED contracted a general facility-condition index assessment of buildings at all 27 state-funded institutions, a total of 17.7 million gross square feet. According to the assessment, New Mexico's higher education and special schools facility condition index (FCI) average is 35.5 percent. The FCI is determined by taking the total cost of the repairs divided by the current replacement cost for the facility. The higher the FCI, the poorer the relative condition of the facility. For example, if a building has a replacement value of $1 million and has $100 thousand of existing deficiencies, the FCI is $100 thousand/$1 million or 0.10. The generally accepted rule of thumb in building condition assessments is: Good - 0 to 5%; Fair - 5% to 10%; Poor - 10% and above.

An FCI greater than 10 percent is considered poor by national standards. A ranking of the listed institutions in order of their FCI and deficiencies ranked from worst to best are attached. The assessment costs are ranked by priority—critical immediate needs, trending critical in 12 months, necessary in three to five years, and necessary in five to 10 years. Over $1.1 billion is needed to address the current backlog of deficiencies due to the aging conditions of the facilities. An additional $1 billion is needed for renewal of facilities over the next five to 10 years.

PERFORMANCE IMPLICATIONS

While Senate Bill 862 addresses a process and prioritization of emergency capital needs and deficiencies, the bill does not address a process, prioritization, or oversight of other capital outlay projects funded by the Legislature. A body such as the council proposed in this bill could focus on coordinating and prioritizing all funding allocations for all capital improvements at higher education institutions

ADMINISTRATIVE IMPLICATIONS

Senate Bill 862 states the Department of Finance and Administration will be responsible for administering the higher education capital outlay fund. However, the bill does not provide a mechanism or support for staffing the council in its mission to achieve the processes proposed by this bill. The proposed Higher Education Capital Outlay Council would be responsible for overseeing capital improvements or construction on 27 campuses throughout the state. The Public School Facility Authority (PSFA), Legislative Council Service, Legislative Finance Committee, and Legislative Education Study Committee currently assist in staffing the Public School Capital Outlay Council. The PSFA, with 55 FTE, support the efforts of direct oversight of the construction of facilities for 89 public school districts statewide.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

Senate Bill 653 duplicates the concept of this bill, but proposes funding the higher education capital outlay fund through the issuance of short-term severance tax bonds.

Senate Bill 2 and House Bill 7 each contain an appropriation of $43 million to correct higher education facility deficiencies statewide. The executive's most recent capital outlay proposal reduces its support to correct deficiencies from $40 million to $25 million.

OTHER SUBSTANTIVE ISSUES

Results of the 2006 independent assessment indicate major investments totaling nearly $1.5 billion at our campuses is needed to maximize the useful life of the state's assets and to make the necessary health and safety improvements to meet the current and future needs of students, faculty, staff, and to strengthen community relationships. Without adequate funding to address the aging and rapidly deteriorating conditions on the state's campuses, in particular the growing backlog of deferred maintenance, the mission of the post educational institutions is becoming more difficult to achieve. Higher education facilities are a major tool required for the institutions to carry out their mission and are critical to supporting academic excellence whether it be for teaching, research or public activities.

The buildings and infrastructure at the state's campuses require a substantial investment for "deferred maintenance. Most campuses require extensive infrastructure replacements or improvements for heating and cooling, water and sewer improvements, metering and energy management systems, electrical distribution systems, fiber optic cabling and other communications systems, and other improvements to eliminate fire and safety code deficiencies.

The backlog of repairs and renovations along with the lack of adequate funding has resulted in the minimum performance of repairs and maintenance necessary to keep buildings at a "safe and healthy" level for students and staff. More and more campuses are suffering from frequent utility outages, unusable classrooms, a loss of students, and discouraged faculty members.

POSSIBLE QUESTIONS

1. Which state entity will be responsible for providing staff support to the proposed Higher Education Capital Outlay Council?
2. What role will the Higher Education Department play in the prioritizing of capital outlay deficiencies?
3. Two-year institutions are now represented by two separate associations, the New Mexico Association of Community Colleges, and the New Mexico Association of Independent Community Colleges, should the appointment to the council be a joint appointment?

LMK/mt