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FISCAL IMPACT REPORT

ORIGINAL DATE 1/25/2008
LAST UPDATED 2/5/2008

SPONSOR Nava HB _____

SHORT TITLE New Mexico School For the Arts Act SB 34/aSEC/aSFC

ANALYST Escudero/Aguilar

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Non-Rec	Fund Affected
FY08	FY09		
	NFI		

(Parenthesis () Indicate Expenditure Decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY08	FY09	FY10	3 Year Total Cost	Recurring or Non-Rec	Fund Affected
Total			\$0.1	\$0.1	Recurring	General Fund

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From
Public Education Department (PED)

SUMMARY

Synopsis of SFC Amendment

The Senate Finance Committee amendment to Senate Bill 34 strikes the appropriation from the bill.

The Senate Education Committee Amendment added a new section eight and directed renumbering of the bill. References to striking "Section nine" refers to that section of the bill making the appropriation.

Synopsis of SEC Amendment

The Senate Education Committee Amendment inserts into the body of the act:

1. On page 1, line 16, after the semicolon insert "REQUIRING PRIVATE FUNDING FOR ROOM AND BOARD COSTS AND OUTREACH ACTIVITIES;"

2. On page 3, line 6, before the quotation marks insert:

"The school shall be supported by state funds in the same manner as other charter high schools authorized by the commission."

3. On page 5, between lines 15 and 16, insert the following new section:

"Section 8. A new section of the Public School Code is enacted to read:

"[NEW MATERIAL] ROOM AND BOARD COSTS--OUTREACH ACTIVITIES--PRIVATE FUNDING REQUIRED.--The school shall, either through a foundation or other private funding sources, obtain gifts, grants and donations to ensure that the school has adequate revenue to pay for all expenses associated with outreach activities provided for in Section 6 of the New Mexico School for the Arts Act and for room and board costs for those students who are not able to pay the full cost of room and board as provided in Section 7 of that act. The school shall separately account for the costs of outreach activities and room and board and for the revenue received from private sources to pay those costs. The school shall not use money received from the state for these purposes. Failure of the school to secure adequate funding for these purposes shall be grounds for denial or revocation of a charter.""

4. Renumber the succeeding sections accordingly.

SIGNIFICANT ISSUES

This Amendment is adding a new Section entitled, "Room and Board costs-Outreach Activities and Private Funding Required". This amendment is requiring the school to separately account for the costs of outreach activities and room and board and for the revenue received from private sources to pay those costs. Failure of the school to secure adequate funding for these purposes shall be grounds for denial or revocation of a charter.

Synopsis of Original Bill

Senate Bill 34 appropriates \$450 thousand from the general fund for expenditure in FY09 to the Public Education Department to provide financial support for initial start-up costs, including planning and outreach Activities for the New Mexico School for the Arts.

The bill would create the New Mexico School for the Arts as a statewide residential charter school. Provisions in the bill exempt the school from prohibitions on charter school admissions and enrollment, directs that the school be chartered by the Public Education Department (PEC) and requires outreach activities throughout the state.

The bill further provides for the school to charge residential students a fee to cover the cost of room and board, to establish a sliding-fee scale based on a student's ability to pay for the total cost of room and board.

FISCAL IMPLICATIONS

The appropriation of \$450,000 contained in this bill is a recurring expense to the general fund. Any unexpended or unencumbered balance remaining at the end of FY09 shall revert to the general fund.

SIGNIFICANT ISSUES

The school shall be governed by a board of at least five members constituted as provided in the school's application for a charter, prohibits members of the board from serving on the governing board of any other charter school. The bill includes a provision which expands the current Section 22-8B-4(O) of the Charter Schools Act language to permit the board to use gifts, grants and donations to further the purposes of the school and to assist the school in providing free or reduced-fee room and board for those residential students who cannot pay all or part of the residential costs.

The school would be free and available to students who have demonstrated artistic abilities and potential who are state residents and who meet admissions criteria and standards of the school, with the goal of an equal number of students being admitted from each of the state's congressional districts.

PED reports that on January 25, 2007, the Attorney General issued an opinion stating that the creation of a statewide charter school for the arts would not violate the New Mexico Constitution. However, various federal laws, including the statutes authorizing the charter schools grant program, rely on a definition of a charter school that requires that the school admit students on the basis of a lottery, if more students apply for admission than can be accommodated. For this reason, this school would not be eligible for any federal charter school funds.

ADMINISTRATIVE IMPLICATIONS

PED notes that:

“The school would require administrative oversight by the PED's Charter Schools Division as required for all state-chartered charter schools. Furthermore, there will be administrative burdens relative to the disbursement of the start-up appropriation requested in this bill. In order to defray some of the administrative costs, Section 22-8B-13(A) (2007) permits the PED to withhold 2% of the school-generated program cost for administrative support.”

TECHNICAL ISSUES

In its analysis, PED submits the following recommendations:

Page 2, Line 21: For consistency with the intent of the bill, the sponsor may consider revising line 21 as follows: “The commission may charter a the “New Mexico school “

Page 3, Lines 3 and 4 and Line 25: The bill's sponsor may consider moving part of Lines 3 and 4 to become sub-section A on Line 25 and re-lettering the existing subsection A as B:

Senate Bill 34/aSEC/aSFC – Page 4

Lines 3 and 4: provisions of the Charter Schools Act. Except Subsection K of Section 22-8B-4 NMSA 1978 and Section 22-8B-4.1 NMSA 1978. The

Line 25: A. The school shall be exempt from Subsection K of Section 22-8B-4 NMSA 1978 and Section 22-8B-4.1 NMSA 1978.

The current letter A would then become letter B, the current letter B would become C, and so forth.

Page 4, Line 13: the bill’s sponsor may consider revising line 13 as follows: “. . . charter schools division and the commission that includes. . . .” This would eliminate the requirement to submit an annual report to both the charter schools division and the commission.

On Page 5, Lines 6 and 8: recommend the word “charges” be replaced by “rates”.

Page 5, Lines 6 through 9, the bill’s sponsor may consider redirecting the approval process for room and board charges to the PED Administrative Services Division instead of the PEC (reference Administrative Implications section above).

LB:PME/bb