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FISCAL IMPACT REPORT

ORIGINAL DATE 03/03/08

SPONSOR Miera LAST UPDATED 03/06/09 HB 780/aHEC

SHORT TITLE Schools for Blind & Deaf Deficiencies SB _____

ANALYST Kehoe

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Non-Rec	Fund Affected
FY09	FY10		
NFI	NFI		Severance Tax Bond Capacity (See Fiscal Summary Narrative)

(Parenthesis () Indicate Expenditure Decreases)

Duplicates Senate Bill 628 and relates to Senate Bill 250

SOURCES OF INFORMATION

LFC Files

Responses Received From

Department of Finance and Administration (DFA)

Public Education Department

Higher Education Department (HED)

SUMMARY

Synopsis of HEC Amendment

The House Education Committee amendment provides a technical change to the title of the bill and inserts an emergency clause provision.

Synopsis of Original Bill

House Bill 780 amends the Public School Capital Outlay Act (Section 22-24-5.6) to allow the Public School Capital Outlay Council to allocate funds from the public school capital outlay fund to correct facility deficiencies at the New Mexico School for the Deaf (NMSD) and the New Mexico School for the Visually Impaired (NMSVI). The bill also clarifies the two special schools are within a school district, and contains a “temporary provision” requiring the Public School Capital Outlay Task Force to study reasonable alternatives to determine the local matching funds that may be applicable to the constitutional special schools.

FISCAL IMPLICATIONS

House Bill 780 does not contain an appropriation. Any allocations authorized in this bill for the purpose of correcting deficiencies at NMSD and NMSVI are authorized from the public school capital outlay fund (PSCOF). PSCOF is capitalized from supplemental severance tax bonds (SSTB) currently dedicated for projects authorized within the Public School Capital Outlay Act. Other funds obligated from the fund, an estimated 15 percent annually include: Capital Improvements Act (SB-9), lease payment assistance, Construction Industries Division (CID) reimbursements, PSFA operating budget, assistance for master facility plans, and emergency allocations. Recent revenue estimates indicate \$182.9 million in SSTB capacity will be available in FY10 for public school construction. Any unexpended or unencumbered balance remaining at the end of each fiscal year shall revert to the PSCOF.

Utilizing the same life, health, and safety categories required of public schools, a deficiency correction assessment was conducted on the campuses of the two special schools during the 2008 interim. Led with the support and expertise of consultants, HED and PSFA, the preliminary assessment indicates the backlog of deficiencies at NMSD totals over \$12 million. Of the amount, \$2.6 million could address identified life, health, and safety deficiencies within a 12-month timeframe. The backlog of deficiencies at NMSVI totals over \$9.6 million, of which \$5.7 million could address identified life, health, and safety deficiencies within a 12-month timeframe.

According to PSFA, “the current financial plan for the use of PSCOF by the Public School Capital Outlay Council indicates that current revenues will only support previously awarded projects and may allow only a limited number of new planned projects under the standards-based capital outlay process. Barring new sources of funds to the PSCOF, construction dollars for new projects are not projected to be available until FY2011 or FY2012.”

If funds from current senior severance tax bonds are authorized by the Legislature in 2009 for the two special schools, the money should be directed to the public school capital outlay fund (PSCOF), pursuant to the Public School Capital Outlay Act. Directing the money to PSCOF will assure the oversight, assistance, and accountability provided by PSFA.

SIGNIFICANT ISSUES

The New Mexico School for the Deaf (NMSD) and the New Mexico School for the Visually Impaired (NMSVI) are two special schools constitutionally created for the purpose of providing an education at grade levels kindergarten through grade 12 for students with special needs. The two special schools currently compete with two-year and four-year higher education institutions for capital funding.

In 2005, Following testimony by the two schools and the Higher Education Department (HED) , the Public School Capital Outlay Task Force (PSCOTF) concluded that a deficiency corrections program similar to the one administered by the Public School Facilities Authority (PSFA) for public schools would be beneficial to address the backlog of deficiencies at the campus’ of the two special schools.

In 2006, a new section of the Public School Capital Outlay Act was enacted to allow the two special schools to be considered for capital funding by the Public School Capital Outlay Council (PSCOC) under certain conditions. The conditions included a review of the existing five-year

facilities plan, a condition assessment of outstanding health, safety or infrastructure deficiencies, and development of a plan to correct the deficiencies. However, the provision required legislative funding to the public school capital outlay fund to address the deficiencies. However, the \$40 million requested was not authorized in the legislation. PSFA concluded without the funds, PSFA could not implement the provisions without additional financial assistance for the deficiency program for the two schools.

The Legislature appropriated direct funds for the two special schools in 2006, 2007, and 2008, but the funds were not directed to the public school capital outlay fund pursuant to the Public School Capital Outlay Act. Directing the appropriations to the fund may have expedited PSFA ability to assist the two special schools in meeting the provisions enacted in 2006.

In 2007 and 2008, the two special schools and their hired consultants with the support of HED worked with PSFA to conduct a deficiency correction analysis utilizing the same life, health, and safety categories required of public schools. The fiscal impact narrative addresses the funds needed at each campus to address the most critical deficiencies.

OTHER SUBSTANTIVE ISSUES

The Department of Finance and Administration indicates “a legal issue is raised in the bill that surrounds the oversight relationship of PSFA and the constitutionally-created special schools. The question remains as to if the expansion of the definition of "school district" to include the two special schools is all that is needed to make the oversight and grant awards legal.”

DUPLICATION, RELATIONSHIP

Senate Bill 628 duplicates this bill.

House Bill 250 appropriates the fiscal year 2009 severance tax bond capacity balances for the purpose of funding public school capital outlay.

LMK/mt:svb