

**LEGISLATIVE EDUCATION STUDY COMMITTEE
BILL ANALYSIS**

Bill Number: SB 164

51st Legislature, 1st Session, 2013

Tracking Number: .190582.1

Short Title: Equalization Guarantee at School for the Arts

Sponsor(s): Senator Nancy Rodriguez

Analyst: Mark Murphy

Date: February 7, 2013

Bill Summary:

SB 164 amends the *New Mexico School for the Arts Act* to allow the use of public funds, but prohibit the use of State Equalization Guarantee (SEG) Distributions, for outreach activities and student room and board costs beginning with the 2013-2014 school year.

Fiscal Impact:

SB 164 does not contain an appropriation.

According to the Legislative Finance Committee (LFC) Fiscal Impact Report (FIR), the bill:

- has no immediate fiscal impact;
- would allow NMSA to seek public funding for outreach and room and board costs beginning with school year 2013-2014; and
- would allow NMSA to obtain below-the-line General Fund appropriations, direct legislative appropriations, or other funding from public sources to pay for outreach activities and room and board costs.

Fiscal Issues:

The LFC FIR states that:

- when consideration was given to create NMSA, the school specifically committed to the Legislature that funding for outreach and room and board costs would not come from state resources in the future, but that the school would instead seek funding from private sources;
- NMSA raises more than \$100,000 annually from private donors to provide financial aid for student room and board;
- during school year 2012-2013, the cost of providing room and board to six students totaled approximately \$100,000;
- during school year 2012-13, NMSA received donations from the following donors to support the residential program:
 - \$25,000 from the Thaw Charitable Trust;
 - \$25,000 from the Thornburg Charitable Foundation; and

- \$50,000 from two anonymous donors in the amount of \$25,000 each;
- for school year 2013-2014, NMSA anticipates that the number of students in residence will increase to 20 students and that the school will not likely be able to raise sufficient private funding or charge sufficient room and board to cover increased residential costs;
- NMSA raises more than \$1.0 million annually to provide for art classes and outreach;
- outreach costs during school year 2012-2013 are estimated at \$30,000 to \$32,000;
- NMSA indicates that the school generated the following amounts in private funding:
 - \$1.1 million in school year 2010-2011;
 - \$1.2 million in school year 2011-2012; and
 - an estimated \$1.4 million in school year 2012-2013; and
- NMSA also earns income through the sales of DVDs, artwork, and tickets.

According to data from the Public Education Department (PED), NMSA has received the following amounts through the SEG distribution:

- approximately \$1,194,501 in school year 2010-2011;
- approximately \$1,819,587 in school year 2011-2012; and
- an estimated \$1,632,194¹ in school year 2012-2013.

Substantive Issues:

In 2008, LESC-endorsed legislation was enacted (Laws 2008, Chapter 15) to create the *New Mexico School for the Arts Act*. Among its provisions, the act requires that:

- as part of the admissions process the school “conduct outreach activities throughout the state to acquaint potential students with the programs offered by the school”;
- the school charge residential students a fee to cover the costs of room and board on a sliding-fee scale based on a student’s ability to pay;
- the school separately account for:
 - the costs of outreach activities;
 - the costs of room and board; and
 - the revenue received from private sources to pay those costs;
- the school not use state funds to pay for outreach or room and board costs; and
- failure of the school to secure adequate funding for outreach or room and board costs be considered grounds for the denial or revocation of a charter.

Background:

According to the January 2007 *LESC Report to the First Session of the Forty-Eighth Legislature*, during the 2006 legislative session, identical bills to enact the *New Mexico School for the Arts Act* were introduced in the House and the Senate to establish a residential public high school for the arts in Santa Fe. After neither of these bills passed, the Legislature introduced two other identical measures to fund a feasibility study of the creation of a publicly funded statewide

¹ Based on preliminary final-funded run data that does not reflect the final 2012-2013 unit value.

residential high school for the arts. Again, neither measure passed; however, the Chair of the House Education Committee suggested that the LESC examine this issue during the 2006 interim.

Initial testimony came from a variety of sources, including the National Dance Institute (NDI), which explained that the idea of establishing a statewide school for the arts in New Mexico originated with a number of parents whose children currently attend NDI. Part of the rationale, according to this testimony, was that a school for the arts would not only provide artistically talented students with an opportunity to pursue an arts career but also serve as a vehicle to promote economic development in the state. Seeing the interest in and support for the concept, the Chair of the LESC, with the consensus of the committee, appointed an 18-member subcommittee to study the feasibility of creating a statewide, residential high school for the arts, as well as to examine issues such as admissions criteria, the cost of establishing the school, funding sources, and governance.

Through a series of meetings held in conjunction with the LESC meetings, this subcommittee examined the various aspects of a public high school for the arts; and then, at the December LESC meeting, the subcommittee presented its recommendations. Fundamentally, the subcommittee recommended that the NMSA be established as a state-chartered statewide, residential charter high school to serve the needs of New Mexico students who have demonstrated artistic abilities and potential. Among the more particular points, the subcommittee recommended that the NMSA:

- provide its students with intensive pre-professional and professional instruction in the performing and visual arts combined with a strong academic program leading to a high school diploma;
- offer a rounded arts program that includes concentrations in the visual arts, music, theater, film, and dance; and
- conduct outreach programs so that students, parents, and teachers throughout the state are made aware of the nature and purpose of the school and of the opportunities that the school provides.

The subcommittee also recommended that funds be appropriated to support planning and outreach activities during the year prior to the opening of the school.

Finally, an opinion of the Attorney General, supplemented by a subsequent advisory letter, resolved one of the fundamental questions surrounding the proposal for a statewide residential high school for the arts that applies admissions criteria: whether it would be constitutional. In response to a request from the sponsor of the 2006 legislation, the Attorney General concluded in late December 2006 that the Legislature has the authority to create such a school without amending the state constitution; and an advisory letter issued in late January 2007 concurred.

Committee Referrals:

SEC/SFC

Related Bills:

SB 302 *Home & Charter School Student Program Units*