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FISCAL IMPACT REPORT

ORIGINAL DATE 2/2/2007

SPONSOR Wirth LAST UPDATED 2/24/2007 HB 260/aHAFC

SHORT TITLE New Mexico School For The Arts Act SB _____

ANALYST Aguilar

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY07	FY08	FY09	3 Year Total Cost	Recurring or Non-Rec	Fund Affected
Total	\$750.0			\$750	Nonrecurring	General Fund
			\$375.0	\$375.0	Recurring	General Fund

(Parenthesis () Indicate Expenditure Decreases)

Duplicates SB 76

SOURCES OF INFORMATION

LFC Files

Responses Received From

Public Education Department (PED)

Office of Education Accountability (OEA)

SUMMARY

Synopsis of HAFC Amendment

The House Appropriations and Finance Committee amendment to House Bill 260 strikes the appropriation.

HB260/aHAFC establishes the maximum reimbursement the school will receive from the state for the cost difference between actual revenue received and the total cost of room and board.

The limits are as follows:

- FY09 \$375.0
- FY10 \$562.0
- FY11 and subsequent fiscal years \$750.0

HB260/aHAFC also provides that no funding for the school shall be made available until the school receives its charter authorization.

Synopsis of Original Bill

House Bill 260 appropriates \$750 thousand from the general fund 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.

House Bill 260 would create the New Mexico School for the Arts as a statewide residential charter school. Provisions contained in the bill exempt the school from prohibitions on charter school admissions and enrollment, directs that the school be chartered by the Public Education Commission (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, and directs that the state reimburse the school for the difference between accrual revenue received and the total cost of room and board.

FISCAL IMPLICATIONS

The appropriation of \$750 thousand contained in this bill is a nonrecurring expense to the general fund. Any unexpended or unencumbered balance remaining at the end of fiscal year 2008 shall revert to the general fund.

The bill provides for 3 percent of the appropriation (\$22.5) to be used by PED for administrative costs.

Beginning with the 2008-2009 school year the school will generate operational funding through the state equalization guarantee. Testimony before LESC indicates an anticipated total enrollment of 300 students with an initial population of 150 students. It is unclear as to the exact number of units to be generated by these students, however using an FY07 statewide average of 1.94 units per MEM, it is estimated that 150 students would generate approximately \$1 million annually. Of this amount PED would retain 2 percent for administrative costs or \$20 thousand. It is not clear if this amount would be sufficient for the school to operate given the specialized faculty and facilities required.

Supporters of the school have testified to LESC that they would be able to raise as much as \$850 thousand annually to assist the school, however from a budgetary perspective they cannot be considered until received.

House Bill 260 also provides for the school to charge students for the costs of room and board, adjusted on a sliding-fee scale based on a student's ability to pay. A survey of room and board costs conducted by LESC at the schools identified in the bill results in an average cost of room and board of \$5,133. Based on a 50 percent take-up rate at full enrollment, the annual cost of room and board would be approximately \$770 thousand. What portion of this amount the state would be liable for reduced payments resulting from the sliding-fee scale is unclear.

Because of the provision noted above requiring the state to reimburse the school annually for room and board costs, the LFC is concerned with including this type of continuing appropriation language in the statutory provisions, as earmarking reduces the ability of the legislature to establish spending priorities.

Under federal law, because the school will implement admission requirements it will not be eligible to receive Public Charter Schools Program grants which would be used for planning and design of charter school education programs.

SIGNIFICANT ISSUES

House Bill 260 establishes the New Mexico School for the Arts as a statewide, residential charter school to provide New Mexico students who have demonstrated artistic abilities and potential with expanded opportunities to pursue a career in arts. The bill provides that the schools shall offer intensive pre-professional and professional instruction in the performing and visual arts combined with a strong academic program.

The bill directs that the governing body of the school will conduct planning and outreach activities during the 2006-2007 and 2007-2008 school years in preparation for the school to open for the 2008-2009 school year.

As noted above, the bill appropriates funds in fiscal years 2007 and 2008 to provide financial support for initial start-up costs, including planning and outreach activities, for the school. PED notes that because the school charter is required to be approved by the PEC and the governing board be certified as a board of finance, it will not be eligible to receive funds until July 1, 2007 when the PEC gains the authority to charter schools (Section 22-8B-13(C)).

The bill allows the school to establish admission criteria and exempts the school from charter school enrollment requirements.

OTHER SUBSTANTIVE ISSUES

Initial concerns raised regarding the legality of establishing a charter school of this type were addressed by the Attorney General in an opinion issued in 2006 noted that the Legislature is not precluded from creating a statewide magnet school for the arts and that the in its role as a legislature “may formulate a wide variety of legislation to achieve its goals, including legislation that would allow a statewide magnet school to adopt competitive admissions requirements that limit enrollment to artistically talented students”

TECHNICAL ISSUES

The bill allows the governing board to submit written notification of intent to establish a charter school at least 90 days prior to submitting an application rather than the 180 days provided for in the Charter School Act. This may not be sufficient time for public input prior to the submission of the charter application.