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

ORIGINAL DATE 2/08/07
SPONSOR Altamirano **LAST UPDATED** 2/19/07 **HB**

SHORT TITLE Higher Education Capital Outlay Act **SB** 653a/SEC

ANALYST Kehoe

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Non-Rec	Fund Affected
FY07	FY08		
Indeterminate	Indeterminate		Short-Term Severance Tax Bond Capacity (see Fiscal Impact)

(Parenthesis ( ) Indicate Expenditure Decreases)

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Non-Rec	Fund Affected
FY07	FY08	FY09		
Indeterminate	Indeterminate			Higher Education Capital Outlay Fund

(Parenthesis ( ) Indicate Revenue Decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY07	FY08	FY09	3 Year Total Cost	Recurring or Non-Rec	Fund Affected
Total						(See Administrative Implications)

(Parenthesis ( ) Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From
Higher Education Department (HED)

SUMMARY

Synopsis of SEC Amendment

Senate Education Committee amendment to Senate Bill 653 increases the membership of the higher education capital outlay council from 11 to 12 to include the director of the Legislative Education Study Committee, or the director's designee.

Synopsis of Original Bill

Senate Bill 653 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 authorizes the issuance of short-term severance tax bonds and appropriates the bond proceeds to the newly created fund.

FISCAL IMPLICATIONS

Senate Bill 653 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. Money in the fund would be appropriated to the proposed Higher Education Capital Outlay Council for the purpose of making grants to institutions for capital outlay projects approved by the Council.

The bill authorizes the Board of Finance to issue one-time short-term severance tax bonds with a term that does not extend beyond the fiscal year in which they are issued in an amount not to exceed $90 million upon certification by the higher education capital outlay council that the need exists. The proceeds from the sale of the bonds will be appropriated to the higher education capital outlay fund for the correction of outstanding health, safety and infrastructure deficiencies at public post-secondary educational institutions, but only after all other severance tax bonds and supplemental severance tax bonds to be issued in fiscal year 2007 have been issued.

Each year the legislature has an estimate of senior long term severance tax bond capacity and senior severance tax note capacity. The higher education projects would come from the severance tax bond notes which are used to bond additional capacity generated above and beyond the long-term senior amount and debt service amounts in FY07. For example, in FY07, the severance tax bond capital available is $135 million for long term bonding and $197 million for notes. The calculation assumes that all of the available capacity will be used. However, with excess revenues and vetoes last year, there was an additional $145 million that was transferred to the severance tax permanent fund. Except for 2006, the transfer has been very small in recent years. Revenue forecasters are estimating zero excess revenues at the end of the fiscal year in 2007, so the amount could be zero, but again, the amount available for these additional sponge notes in this bill would have to be determined by the excess amount in the fund above and beyond what is issued by statute and what needs to be set aside for the next two debt service payments at the end of the fiscal year.

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 653 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 653 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 653 states the Department of Finance and Administration is 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 2 and House Bill 7 each contain an appropriation of $43 million to correct higher education facility deficiencies statewide.

TECHNICAL ISSUES

Senate Bill 653 does not contain an emergency clause. Immediate enactment would allow all necessary actions for sale and issuance of the bonds by the end of the fiscal year.

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