

**LEGISLATIVE EDUCATION STUDY COMMITTEE
BILL ANALYSIS**

Bill No: SB 310a

49th Legislature, 1st Session, 2009

Short Title: Higher Education Capital Outlay Act

Sponsor(s): Senator Pete Campos

Analyst: Peter B. van Moorsel

Date: March 12, 2009

AS AMENDED

The Senate Education Committee amendments:

- **add a section that authorizes the State Board of Finance to issue and sell up to \$90.0 million in short-term severance tax bonds (STBs) to generate funds for the Higher Education Capital Outlay Fund for the correction of outstanding health, safety, and infrastructure deficiencies at public postsecondary educational institutions; and**
- **require that the above STBs may not be issued:**
 - **until all other STBs and supplemental STBs authorized for FY 09 have been issued; and**
 - **unless the balance in the Severance Tax Bonding Fund is sufficient to pay the debt service on new and outstanding STBs as well as the principal and interest payments on the outstanding bonds payable from the fund on the next two semiannual payment dates.**

Original Bill Summary:

SB 310 creates the *Higher Education Capital Outlay Act* to establish procedures for addressing the capital outlay needs of public postsecondary institutions.

Among its provisions, SB 310 creates an 11-member Higher Education Capital Outlay Council consisting of:

- the Secretary of the Department of Finance and Administration or designee;
- the Governor or designee;
- the Director of the Legislative Finance Committee (LFC) or designee;
- the Director of the Legislative Council Service or designee;
- the Secretary of Higher Education or designee;
- a representative of a four-year institution appointed by the Council of University Presidents;
- a representative of a two-year institution appointed by the New Mexico Association of Community Colleges;
- two members appointed by the President Pro Tempore of the Senate; and
- two members appointed by the Speaker of the House of Representatives.

SB 310 also requires the council, in conjunction with the Higher Education Department (HED):

- to review the existing five-year facilities plans of public postsecondary institutions; conduct an assessment of outstanding health, safety, and infrastructure deficiencies in those facilities statewide; and develop a plan to correct the deficiencies;
- after correcting the deficiencies, to develop criteria for assessing, evaluating, and prioritizing other critical capital outlay needs of each institution; and
- by December 15 of each year, to provide a report to the Governor, LFC, and the Legislature.

Finally, SB 310 creates the Higher Education Capital Outlay Fund to fund projects approved by the council.

Original Fiscal Impact:

SB 310 does not contain an appropriation.

Issues:

According to HED’s analysis of SB 310:

- the department’s Finance and Capital Outlay Division uses its own system and database for reviewing capital outlay requests and for prioritizing projects; and
- the department is working to improve its capital outlay process by establishing criteria to evaluate higher education capital outlay requests. These criteria include:
 - the alignment of the college’s five-year plan to the college’s mission;
 - the college’s enrollment history,
 - the utilization and safety of existing facilities;
 - the timeline for project completion; and
 - the availability of funding from other sources.

The New Mexico Independent Community Colleges (NMICC) analysis of SB 310 identifies an issue with the membership of the Higher Education Capital Outlay Council. The proposed membership of the council includes one member who will be a representative of a two-year institution, appointed by the New Mexico Association of Community Colleges (NMACC). The NMACC represents the 10 branch community colleges in New Mexico but not the eight community colleges that have independent local governing boards¹. In order to provide representation for these colleges, NMICC recommends amending SB 310 to include a twelfth member of the council who would be appointed by the NMICC.

Background:

- Current law authorizes HED to determine funding and to recommend institutional capital project priorities for New Mexico’s four- and two-year public postsecondary institutions. The department also provides financial oversight of the constitutionally created special

¹ The eight NMICC members are Central New Mexico Community College, Clovis Community College, Luna Community College, Mesalands Community College, New Mexico Junior College, Northern New Mexico College, San Juan College, and Santa Fe Community College.

schools: the New Mexico Military Institute (NMMI), the New Mexico School for the Deaf (NMSD), and the New Mexico School for the Blind and Visually Impaired (NMSBVI).

- According to the LFC, the Legislature authorizes the funding of larger, more costly capital improvements for higher education projects from general obligation bond capacity available only in even-numbered years. Local funds, which are usually local general obligation bonds issued by the two-year colleges, have contributed significantly toward capital needs at their campuses to pay for campus improvements, such as child-care 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, the University of New Mexico Hospital, other revenue-generating facilities, or for capital improvements.
- Current funding for the institutions of higher education includes a factor for building renewal and replacement (BR&R). In 2005 the BR&R factor was expanded to include the NMSD and the NMSBVI.
- In 2006, legislation was enacted to amend the *Public School Capital Outlay Act* to require the Public School Facilities Authority to verify outstanding health, safety, and infrastructure deficiencies at the NMSD and the NMSBVI; to allow these institutions to be eligible for grant assistance to correct the deficiencies; and to allow the Public School Capital Outlay Council to allocate funds, if dollars are available, to correct the deficiencies.
- In 2006, the Legislature appropriated from General Obligation Bonds:
 - \$3.0 million to the NMSBVI to purchase land and plan/design/construct/equip a facility to house the early childhood program in the Albuquerque campus; and
 - \$7.0 million to the NMSD to renovate the Dillon and Connor halls at the Santa Fe campus.
- In 2008, the Legislature appropriated from General Obligation Bonds:
 - \$3.0 to the NMSD to plan, design, construct, equip, and furnish Dillon Hall; and
 - \$5.0 million to NMMI for renovations, including improvements related to code compliance, at Pearson Auditorium.

Related Bills:

SB 628 *Schools for Blind & Deaf Deficiencies*

*HB 780a *School for the Blind Deficiency Corrections*