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FISCAL IMPACT REPORT

ORIGINAL DATE 02/10/09
 LAST UPDATED 02/21/09 **HB** _____

SPONSOR Campos

SHORT TITLE Higher Education Capital Outlay Act **SB** 310/aSEC

ANALYST Kehoe

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Non-Rec	Fund Affected
FY09	FY10		
Indeterminate	Indeterminate	Recurring	Short-Term Severance Tax Bond Capacity (see Fiscal Impact)
\$0.1	\$0.1	Recurring	General Fund

(Parenthesis () Indicate Expenditure Decreases)

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Non-Rec	Fund Affected
FY09	FY10	FY11		
Indeterminate	Indeterminate	Indeterminate	Recurring	Higher Education Capital Outlay Fund

(Parenthesis () Indicate Revenue Decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY09	FY10	FY11	3 Year Total Cost	Recurring or Non-Rec	Fund Affected
Total	\$0.1	\$0.1	\$0.1	Indeterminate	Recurring	General Fund

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From

Higher Education Department (HED)

New Mexico Association of Independent Community Colleges (NMICC)

SUMMARY

Synopsis of SEC Amendment

The Senate Education Committee amends Senate Bill 310 as follows:

Items 1 and 2 amend the title to include “authorizing the issuance of short-term severance tax bonds”, and make a technical adjustment.

Item 3 inserts a new section of the bill authorizing the Board of Finance to issue short-term severance tax bonds in an amount not to exceed \$90 million for the purpose of correcting outstanding health, safety and infrastructure deficiencies at public post-secondary educational institutions.

Synopsis of Original Bill

Senate Bill 310 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.

FISCAL IMPLICATIONS

Senate Bill 310, as amended, 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 Department 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 2009 have been issued. Each year the legislature has an estimate of senior long term severance tax bond capacity and senior severance tax note capacity.

In FY09, the long term severance tax bonding capacity is \$197 million and an additional \$188.7 million for overnight notes (sponge capacity). Of this combined \$385.7 million, only approximately \$134 million remains available for capital projects. Revenue forecasters indicate there could be a revenue shortfall that prevents the state from reaching full capacity in fiscal year 2009. Therefore, the excess amount authorized in this bill could be zero, but again, the amount available for these additional notes would have to be determined by the excess amount in the fund above and beyond statutory capacity and what needs to be set aside for the next two debt service payments.

The bill 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.

In the last several years, capital improvements for higher education facilities have been financed through 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.

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.

ADMINISTRATIVE IMPLICATIONS

Senate Bill 310 does not contain an appropriation for operation costs. However, the Higher Education Department and New Mexico Independent Community College both indicate establishment of the Council and implementation of the planning and review functions outlined in the bill will require significant administrative costs.

OTHER SUBSTANTIVE ISSUES

While only in its second year as a cabinet, the cabinet secretary of HED and staff swiftly taken charge of developing guidelines and a transparent process to hear capital requests from 30 institutions of higher education and special schools. HED recommendations for the last two years were developed based on public hearings, data provided by the institutions and special schools, and responses to questions asked of each applicant. Many of the questions related to enrollment growth, facility condition levels, project readiness, square footage per full-time-

equivalent student, energy-efficiency standards, and other funds available for the projects. The secretary's statement of values and general criteria or prioritizing capital outlay requests has provided for a more quantifiable method for recommending capital funding to the Legislature.

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?

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