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FISCAL IMPACT REPORT

ORIGINAL DATE 02/22/11

SPONSOR SEC _____ LAST UPDATED _____ HB _____

SHORT TITLE Post-Secondary School Building Moratorium SB 173/SECS

ANALYST Haug

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Non-Rec	Fund Affected
FY11	FY12	FY13		
	See Fiscal Implications		Nonrecurring	General Fund, various bonding funds, and other construction sources

(Parenthesis () Indicate Revenue Decreases)

Relates to HB 120.

SOURCES OF INFORMATION

LFC Files

Responses Received From

Higher Education Department (HED)

SUMMARY

Synopsis of Bill

The Senate Education Committee Substitute for Senate Bill 173 places a moratorium on the construction or opening of new educational sites or new buildings from January 1, 2011 to January 1, 2017 with a specified list of exceptions that differ for constitutionally specified higher education institutions and community colleges/technical vocational institutes.

FISCAL IMPLICATIONS

Senate Bill 173 does not contain an appropriation.

The provisions contained in this bill could have the effect of saving the state, property owners, and local bonding districts an indeterminate but considerable amount of capital outlay money as a result of delaying or canceling a number of higher education building projects.

Another potential effect would be to stabilize the number of square footage accounted for in the higher education funding formula for Instruction and General (I&G) appropriations. With

general fund revenue to the institutions falling for the last few years the increase in square footage has had the effect of diluting funding for higher education.

SIGNIFICANT ISSUES

Subsection A applies to the constitutional institutions, including the branch campuses. These institutions would be precluded from constructing new buildings or opening new educational sites unless:

the site was the result of a project that received final approval by NMHED and was funded prior to January 1, 2011;

the site is a research or similar facility that receives no state funds for construction or building renewal and replacement;

the site is a dormitory, student union or other student services building for which the institution does not receive state funds for construction or renewal and its operations are not funded through the higher education funding formula, including building renewal and replacement;

the institution demonstrates that the facility will not require any state funding through the funding formula for operations or for capital outlay funded by the legislature during the moratorium;

HED and the State Board of Finance certify that a particular building must be replaced because of serious health and safety concerns or built because of significant enrollment growth.

Subsection B would preclude, under any circumstances, an institution from building, renovating or occupying any building at a location that prior to January 1, 2011 was not a location or address at which the institution's students were taught.

Subsection C applies specifically to independent community colleges and technical vocational institutes and precludes construction or opening at any location, educational buildings for which the institution expects to receive any state funding through the funding formula for operations, including building renewal and replacement funding, or for capital outlay funded by the legislature.

Exceptions are:

the construction was begun prior to January 1, 2011;

it is a workforce training center for customized training as provided in the Workforce Training Act; or

HED and the State Board of Finance certify that a particular building must be replaced because of serious health and safety concerns or built because of significant enrollment growth;

The HED reports:

A priority recommendation from the HED State Master Plan for Higher Education is to impose a moratorium on the construction or addition of new public postsecondary institution locations that would require recurring state funding.

According to the Capital Projects Coordinator for the HED, HED has a structured process for the evaluation of capital projects in place. In this process, eight (8) significant criteria relating to the postsecondary institutions has been determined and defined. Postsecondary educational institutions and other constitutionally created higher education institutions must develop and approve a five-year plan for funding and infrastructure renovation and expansion projects designated by HED as the highest priority of significant needs. HED Capital Projects Committee ranks and rates the institutions' proposed capital projects based on the eight criteria. Should CS/SB173 be enacted, HED and the New Mexico State Board of Finance would need to revise these criteria by adhering to the moratorium exceptions specified in the legislation. In doing so, the Legislative Education Study Committee's (LESC) analysis states, capital outlay costs and subsequent operational costs associated with expanding higher education sites and building new facilities beyond those already in existence would be controlled.

PERFORMANCE IMPLICATIONS

A significant issue that was discussed in front of legislative committees and the government restructuring task force during the 2010 interim was the proliferation of campuses used to take advantage of funding opportunities through the formula. Currently there are 24 public institutions of higher education in New Mexico with approximately 54 sites. By stopping this expansion, it will give policy makers the opportunity to determine what a system of higher education in New Mexico should look like and how it should serve its citizens.

RELATIONSHIP

Senate Education Committee Substitute for Senate Bill 173 is related to House Bill 120.

TECHNICAL ISSUES

“Independent community college” is not a statutorily-defined term. The Legislature may wish to consider replacing references to independent community college to specifically cite the “Community College Act” and the “Technical and Vocational Institute Act”

OTHER SUBSTANTIVE ISSUES

According to the HED:

CS/SB173 provides certain exceptions under which buildings may be constructed or renovated for the instruction of students. One of the stipulations is that new or renovated buildings receive no state funds for construction or are not funded through the higher education funding formula. This includes capital outlay funded by the Legislature. While the legislation seeks these restrictions for five and a half years, it is uncertain how these buildings might be funded after the moratorium. According to the bill, institutions of

higher education could still receive state funding after January 1, 2017 for buildings constructed or renovated during the moratorium because they could seek Instruction and General (I&G) appropriations in the future. It cannot be determined if CS/SB173 will provide the State of New Mexico with long-term cost savings unless it is stipulated that institutions of higher education do not require and agree to never receive state funds for construction or building renewal and replacement for capital outlay projects under the moratorium.

Another scenario to consider is the students living in remote areas of the state where they do not have access to programs provided by the institutions of higher education. Learning sites exist as a means for these students to have available geographic options to an education at one of New Mexico's public postsecondary institutions. Under CS/SB173, should an institution make a determination that a need for educational services exist outside their Geographic Areas of Responsibility (GAR), they would be unable to provide these services and students may have to go without necessary courses.

CS/SB173 also impacts the institutions ability to use state funded buildings that are not currently in use for the instruction of postsecondary students. This could be problematic for institutions of higher education seeking to fill an educational need for students. In the case of Dual Credit, CS/SB173 might limit the ability for a high school to request an institution provide a college-level course to its students at an available space on the high school campus. The bill could restrict the institution from providing that course because it does not allow an institution of higher education to occupy any building at a location, prior to January 1, 2011, at which the institution's students were not previously taught.

General Obligation Bonds (GO Bonds) come before the voters of New Mexico every two years. They allocate money to provide needed expansions, improve aging infrastructures, and fund equipment and materials for every higher education institution in New Mexico. Bond issues are paid for by property tax assessments. CS/SB173 would restrict institutions from proposing GO Bonds under the moratorium, even if new building construction or building renovation may have been promised to the community.

The University of New Mexico (UNM) is the only university in the state with a hospital. A moratorium for the UNM Health Sciences Center could affect the level and health care provided to people needing services. According to an official at UNM, several clinics and additions to the hospital are currently in the planning process which could provide additional and higher quality access to patients. Under CS/SB173, those clinics would not be allowed to be built.

ALTERNATIVES

The HED proposes:

HED currently does not have resources to do extensive facility and space utilization assessments at institutions of higher education. By providing HED with the ability to collect better data on student and program growth, the Department might be able to better evaluate all requests for capital outlay and reduce redundancies. With additional resources, HED could create a transparent process for institutions of higher education to request capital outlay during times of fiscal constraint, possibly eliminating the ad hoc

funding of campuses that has occurred outside of HED's higher education capital project prioritization process. It would also be important for HED to complete proper forecasting for capital outlay projects by evaluating and making a determination whether or not the state could support not only the construction, but the operational costs of new and renovated buildings in the long term.

HJA/svb:bym