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FISCAL IMPACT REPORT

ORIGINAL DATE 09/21/11

SPONSOR Nava LAST UPDATED _____ HB _____

SHORT TITLE Severance Tax Bonds For Certain Schools SB 32

ANALYST Gudgel

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY11	FY12	FY13		
	(\$25,000.0)*		Nonrecurring	Public School Capital Outlay Fund

(Parenthesis () Indicate Revenue Decreases)

*Bill designates a portion of the Public School Capital Outlay fund for the New Mexico School for the Deaf and the New Mexico School for the Blind and Visually Impaired for outstanding deficiencies correction.

SOURCES OF INFORMATION

LFC Files

Responses Received From

Public School Facilities Authority (PSFA)

Responses Not Received From

New Mexico School for the Blind and Visually Impaired

New Mexico School for the Deaf

SUMMARY

Synopsis of Bill

Senate Bill 32 amends the Public School Capital Outlay Act to designate \$25 million of the proceeds in the Public School Capital Outlay Fund from the FY11 sale of supplemental severance tax bonds to correct deficiencies at the New Mexico School for the Blind and Visually Impaired and the New Mexico school for the Deaf. The funds shall be expended pursuant to Section 22-24-5.6, the outstanding deficiencies correction process established in 2006 for the special schools.

FISCAL IMPLICATIONS

During FY11, approximately \$90.3 million in proceeds from supplemental severance tax bonds were originally available for use for public school. With the failure of the higher education

general obligation bond issue, the allocation to public schools was increased to approximately \$154.6 million. The special schools were included in the FY11 higher education general obligation bond that failed.

The bill does not contain an appropriation, but redirects proceeds currently set aside for previously awarded public school standards-based capital outlay projects to a deficiencies correction program for the two special schools.

Based on current PSFA cash flow projections, redirecting \$25 million from the Public School Capital Outlay Fund for these uses will begin delaying approval of construction funds for currently approved standards-based capital outlay projects for other public schools beginning in January 2013. In addition, it would limit the Public School Capital Outlay Council's ability to make new project awards for 2012-2013 for standards-based capital outlay and roof projects.

PSFA indicates the following projects may potentially be impacted by delay of awards and possible cost escalations from inflation:

- P11-001 - Alamogordo - Yucca ES Renovation - \$3,732,500
- P11-008 - Gallup - Jefferson ES - \$ 8,825,050
- P11-009 - Gallup - Lincoln ES - \$8,360,629
- P11-011 - Las Cruces - Las Cruces HS - \$28,070,000 (PHIII)
- P11-014 - Los Alamos - Aspen ES - \$3,766,781
- P11-015 - Los Lunas - Los Lunas HS - \$15,133,949 (PHIII) \$15,133,949 (PHIV)

Public school physical plant improvements have stalled over the past two years due to limits on funding and, this year, have begun to worsen. The average FCI for all school buildings in New Mexico, excluding NMSD and NMSBVI, has been flat at about 36 percent over the past two years, and increased to 38 percent this year. (If a building costs \$100k and has an FCI of 38 percent, that building needs \$38k in repairs—lower FCI's are better). Average annual investment in facilities required by the state to keep facilities condition from worsening is about \$134 million. Current unfunded needs for public school facilities in New Mexico, excluding NMSD and NMSBVI, total about \$4.05 billion. Any additional funding burden imposed on the Public School Capital Outlay Fund would have the effect of accelerating FCI levels, meaning that the overall condition of school facilities would worsen.

SIGNIFICANT ISSUES

The New Mexico School for the Blind and Visually Impaired (NMSBVI) and the New Mexico School for the Deaf (NMSD) are created as state educational institutions in the New Mexico Constitution. Historically, these schools' capital needs have been underfunded. While both schools serve school age children, they are not currently eligible for standards-based funding under the Public School Capital Outlay Act (PSCOA). The special schools receive a modest amount of funding through the higher education funding formula that generally only covers minor repairs. In the past, they have been eligible for deficiencies correction funding pursuant to the PSCOA. The special schools are traditionally included in the higher education general obligation bond issue rather than the public school general obligation bond issue, and may be included in legislative capital outlay bills.

History of Legislative Action

During the 2005 interim, the Public School Capital Outlay Oversight Task Force (PSCOOF) heard testimony from the Higher Education Department and the special schools requesting the task force to consider allowing the special schools to qualify for funding under the standards-based process established in the Public School Capital Outlay Act for the 89 public school districts as a result of the judge's findings in the *Zuni* lawsuit in 2000. In 2006 the legislature enacted a PSCOOF-endorsed measure that included the special schools in the deficiencies correction program.

The 2009 legislature passed additional amendments to the PSCOA to clarify the special schools inclusion in the deficiencies correction program and to request the PSCOOF to study "reasonable alternatives for determining local matching funds" for the special schools. After hearing testimony from the PSFA regarding the necessity for the PSCOC to establish adequacy standards for the special schools, the task force agreed by consensus to wait for the PSFA's report on the development of adequacy standards to begin a formal study of the issue of a local match, but it requested the staff to begin to examine the issue for later task force consideration.

Current Actions by PSCOC/PSFA to Date Regarding Adequacy Standards

PSCOC and PSFA have been in the process of drafting adequacy standards for the special schools for more than two years. PSFA conducted a nationwide search for adequacy standards for special schools and was unable to locate any standards for schools that serve special student populations. Both the PSCOOF and the PSCOC have directed the PSFA to have draft standards completed by December of 2011. Once draft standards have been adopted, the special schools will be eligible for public school capital outlay funding to address adequacy needs of the schools.

In addition to creating adequacy standards for to special schools, the PSCOC adopted a resolution at the August council meeting to reopen the deficiency correction program for the special schools if the PSCOC does not adopt adequacy standards for the special schools by the December meeting of the PSCOOF. The resolution authorized the special schools to submit applications for up to two projects of their choice until December 2012 for full or partial funding consideration by the PSCOC. These projects shall be based on those projects that were previously identified in the facility master plans and validated assessments of the building condition and structure, exterior envelope, interior surfaces and finishes, building systems, including plumbing fixtures, and compliance with building codes which are necessary to provide an adequate education program for special needs students or needed as indicated by other available data. The total combined award amount available for projects pursuant to the resolution shall not exceed \$8 million dollars. The resolution allows the PSCOC consider other available funding and reduce the total award amount for each project accordingly.

Under either provision, it is the intent of the PSCOC that the special schools will be able to submit an application and be eligible for funding, either under the provisions of the deficiencies correction resolution or under the adequacy standards process by December 2011 or January 2012. It may be premature to mandate that \$25 million be allocated to the special schools as the PSCOC has a process in place to ensure that the special schools can submit applications and be eligible for funding at the end of the year.

It is important to note that the PSCOC awards funding on a "just-in-time" basis. The PSCOC funds only planning and design until a project is ready to bid and only then awards construction

dollars. This allows construction funding to be committed only when a project is “shovel ready”. While the special schools have capital needs of approximately \$40 million, the schools have submitted to the council a prioritized list of projects that generally agrees with the facility condition index assessment completed by PSFA: the schools have identified several projects that clearly need to be addressed based on the PSFA assessed condition of the structures. It is unlikely that the schools could manage all of these projects at one time, and that the projects will require \$25 million.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

SB10 and HB34 relate in that each bill contains appropriations to the PSCOF for NMSD in the amount of \$1.85 million and NMSBVI in the amount of \$0.85million for capital improvements.

OTHER SUBSTANTIVE ISSUES

Section 21-5-13 empowers the board of regents of the New Mexico School for the Blind and Visually Impaired to authorize to issue and sell building improvement bonds after determining by resolution that it is necessary to erect, alter, improve, furnish or equip any building or buildings, structure or structures at said institute, or acquire any land for the use thereof, or to retire the whole or any part of any series of bonds previously issued in conformity with law. This provision appears to have been enacted in 1949.

ALTERNATIVES

Amend the new language on page 2, line 1 to read “provided that **up to** twenty-five million dollars...” This would address concerns raised about delaying would allow the PSCOC to award up to \$25 million to the special schools rather than mandating the entire amount be awarded to the special schools, and would alleviate concerns raised about delaying projects already awarded funding for planning and design.

RSG/svb