

**LEGISLATIVE EDUCATION STUDY COMMITTEE  
BILL ANALYSIS**

**Bill Number:** SB 196a

**50th Legislature, 2nd Session, 2012**

**Tracking Number:** .187790.6

**Short Title:** Schools for Deaf & Blind Capital Outlay

**Sponsor(s):** Senators Cynthia Nava and Nancy Rodriguez and Lynda M. Lovejoy

**Analyst:** David Craig

**Date:** February 11, 2012

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**FOR THE PUBLIC SCHOOL CAPITAL OUTLAY TASK FORCE AND  
THE LEGISLATIVE EDUCATION STUDY COMMITTEE**

**AS AMENDED**

**Senate Education Committee Amendment clarifies that the Public School Capital Outlay Council (PSCOC) is allowed to waive the direct appropriation offset for the special schools. See “Original Technical Issues,” below.**

**Bill Summary:**

SB 196 amends the *Public School Capital Outlay Act* to:

- make the New Mexico School for the Blind and Visually Impaired (NMSBVI) and the New Mexico School for the Deaf (NMSD) eligible for public school capital outlay funding under the public school standards-based capital outlay process;
- establishes a local match for NMSBVI and NMSD of 50 percent for educational facilities and 100 percent for support spaces;
- allows the PSCOC to adjust or waive the local share if the NMSBVI and NMSD do not have local resources; and
- requires the PSCOC to adopt and apply appropriate adequacy standards; and
- provide funding on a building-by-building basis until July 1, 2018, after which the NMSBVI and NMSD awards will be based on the entire campus.

**Fiscal Impact:**

SB 196 does not contain an appropriation.

**Fiscal Issues:**

According to the Public School Facilities Authority (PSFA):

- the PSFA currently “is administering a program to correct prioritized life, safety and health deficiencies at the two constitutional special schools, pursuant to provisions in the *Public School Capital Outlay Act*;

- corrective work for prioritized deficiencies is underway through Severance Tax Bond appropriations and proceeds from the Public School Capital Outlay Fund totaling \$21.0 million”; and
- the total fiscal implications of the bill are not known at this time, although the PSCOC has provided funding for the NMSBVI and NMSD to develop facility master plans that will fully define need and priorities.

### **Substantive Issues:**

The NMSBVI and NMSD currently rely on funding from the higher education funding formula termed “Building Removal and Replacement.” However, because the recent Higher Education General Obligation Bond (GOB) question failed on the November election ballot, the two schools have not been granted funding.

According to PSFA, at the December 12, 2011 meeting, the PSCOC approved:

- the Administration, Maintenance & Standards Subcommittee recommendation to approve the draft adequacy standards for the two constitutional special schools, subject to technical corrections, and a public hearing in February 2012 before final approval at the March 2012 PSCOC meeting;
- final rules will be subject to legislative changes to incorporate the constitutional special schools into the standards-based capital outlay process;
- the creation of a local match for the two constitutional special schools be set at 50 percent for educational adequacy and 100 percent for support spaces, and that the local match be provided from GOBs, direct legislative appropriations, senior severance tax bonds or other sources;
- provisions to be made to exempt appropriations from the legislative appropriation offset and to provide for waivers or advances in cases of non-appropriation or failure of general obligation bonds;
- provisions to keep the educational and support facilities separate so that constitutional special schools are treated similar to traditional public schools;
- provisions to allow adequacy standards for constitutional special schools to be applied on a building-by-building basis instead of on the whole campus as is the policy with traditional schools and charters; and
- after a period of time, possibly six years, that the special schools be evaluated as campuses similar to traditional schools. This exception would allow the worst facilities at each school to be ranked against all other schools in the state for this fixed period of time.

### **Original Technical Issues:**

The bill defines constitutional special schools as NMSBVI and NMSD. The constitution names other schools as special schools including, but not limited to, the New Mexico Military Institute.

Among significant issues, PSFA states that:

- the *Public School Capital Outlay Act* creates the criteria for the PSCOC to consider when adjusting the local match;
- the act does not allow the waiver of the direct appropriation offset, which is required to be maintained by the Special Master in the Zuni lawsuit;

- it is unclear if language on page 13, line 19 allows the PSCOC to waive direct appropriation offset; and
- as the schools lack bonding capacity, an amendment to add offset after the direct appropriation on page 13, line 19 is recommended.

**Background:**

The Public School Capital Outlay Oversight Task Force (PSCOOTF) heard testimony during the 2011 interim that concerned the following fiscal issues:

- approximately 35 percent of total NMSD facilities are eligible for the proposed match and approximately 65 percent will need to find other methods of finance;
- the NMSD receives direct legislative appropriations from the Land Grant Permanent Fund (LGPF) and that are used almost completely to fund operational expenditure;
- it is possible for the NMSD and NMSBVI to use LGPF direct appropriations on capital outlay, but the *Public School Finance Act* requires districts to prove operational funding has been met before it can use operational funding for capital outlay; and
- in 2009, the Legislature appropriated \$16.2 million in capital outlay to the NMSBVI and \$21.6 million to the NMSD.

**Related Bills:**

None as of February 11, 2012.