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## FISCAL IMPACT REPORT

ORIGINAL DATE 02/04/11

SPONSOR Campos LAST UPDATED \_\_\_\_\_ HB \_\_\_\_\_

SHORT TITLE Higher Education Capital Outlay Act SB 136

ANALYST Aguilar

### APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Non-Rec	Fund Affected
FY11	FY12		
≤\$90,000.0		Nonrecurring	Higher Education Capital Outlay Fund

(Parenthesis ( ) Indicate Expenditure Decreases)

Relates to SB 131.

### ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY11	FY12	FY13	3 Year Total Cost	Recurring or Non-Rec	Fund Affected
<b>Total</b>		\$200.0	\$200.0	\$400.0	Recurring	Higher Education Capital Outlay Fund

(Parenthesis ( ) Indicate Expenditure Decreases)

### SOURCES OF INFORMATION

LFC Files

#### Responses Received From

Public School Facilities Authority (PSFA)

Higher Education Department (HED)

### SUMMARY

#### Synopsis of Bill

Senate Bill 136 appropriates \$90 million from severance tax bond proceeds to the higher education capital outlay fund for the purpose of correcting outstanding health, safety and infrastructure deficiencies at public post-secondary educational institutions.

The bill establishes the higher education capital outlay council, creates the higher education capital outlay fund and provides for the assessment, prioritization and funding of future critical capital outlay projects.

**FISCAL IMPLICATIONS**

The appropriation of up to \$90 million contained in this bill is a nonrecurring expense to the state’s severance tax bonding capacity. Bond proceeds are appropriated to the higher education capital outlay fund. Any unexpended or unencumbered balance remaining at the end of fiscal year 2011 shall not revert to the general fund but shall remain in the fund to be used to fund higher education capital outlay projects, subject to approval by the council.

This bill creates a new fund and provides for continuing appropriations. The LFC has concerns with including continuing appropriation language in the statutory provisions for newly created funds, as earmarking reduces the ability of the legislature to establish spending priorities.

**SIGNIFICANT ISSUES**

The December 2010 estimate for the New Mexico’s core bonding programs indicates FY11 capacity to sell Severance Tax Notes is currently 84.2 million. This, combined with the Severance Tax Bond estimate (\$180.5 million), is projected to fund new statewide capital projects (\$237.8 million) and statewide water projects (\$26.5 million). Provisions contained in this bill create a “new” use of senior Severance Tax Bond (STB) capacity that could require a corresponding decrease in the water projects and or statewide capital projects.

<b>Core Bonding Programs</b>						
<b>Sources &amp; Uses of Funds by Fiscal Year</b>						
<b>Bonding Capacity Available for Authorization</b>						
<b>DFA December 2010 Estimate</b>						
<b>Sources of Funds (millions)</b>	<b>2011</b>	<b>2012</b>	<b>2013</b>	<b>2014</b>	<b>2015</b>	<b>Five-Year</b>
General Obligation Bonds	-	306.3	-	184.3	-	490.6
Severance Tax Bonds	180.5	180.5	180.5	180.5	180.5	902.5
Severance Tax Notes	84.2	67.3	63.2	60.3	50.2	325.2
<b>Subtotal Senior STBs</b>	<b>264.7</b>	<b>247.8</b>	<b>243.7</b>	<b>240.8</b>	<b>230.7</b>	<b>1,227.7</b>
Supplemental Severance Tax Bonds	-	-	-	-	-	-
Supplemental Severance Tax Notes	147.7	144.8	168.0	183.0	186.7	830.2
<b>Subtotal Supplemental STBs</b>	<b>147.7</b>	<b>144.8</b>	<b>168.0</b>	<b>183.0</b>	<b>186.7</b>	<b>830.2</b>
<b>Total Sources of Funds</b>	<b>412.4</b>	<b>698.9</b>	<b>411.7</b>	<b>608.1</b>	<b>417.4</b>	<b>2,548.5</b>
<b>Uses of Funds (millions)</b>	<b>2011</b>	<b>2012</b>	<b>2013</b>	<b>2014</b>	<b>2015</b>	<b>Five-Year</b>
<b>Projects approved by referendum</b>	-	306.3	-	184.3	-	490.6
<b>New Statewide Capital Projects</b>	237.8	198.2	194.9	192.7	184.6	1,008.2
Authorized but Unissued STB Projects*	0.4	-	-	-	-	0.4
10% Water Projects	26.5	24.8	24.4	24.1	23.1	122.9
5% Colonias Projects	-	12.4	12.2	12.0	11.5	48.1
5% Tribal Projects	-	12.4	12.2	12.0	11.5	48.1
Educational Capital	147.7	144.8	168.0	183.0	186.7	830.2
<b>Total Uses of Funds</b>	<b>412.4</b>	<b>698.9</b>	<b>411.7</b>	<b>608.1</b>	<b>417.4</b>	<b>2,548.5</b>

\* Currently, authorized but unissued projects total \$16.6 million. However, as a result of SB182 (Laws 2010, Chapter 105), which deauthorized several STB projects and reassigned only some of the associated proceeds to other capital projects, \$16.4 million of existing proceeds are currently available in the event those authorized but unissued projects become ready.

The bill requires that after reviewing existing five-year facilities plans and the facilities condition assessment for all institutions, the council, in conjunction with the higher education department, shall verify the assessed outstanding health, safety or infrastructure deficiencies and shall develop a plan to correct the deficiencies.

The council may approve allocations from the fund for deficiencies correction to the applicable governing board for the purpose of correcting the deficiencies. The council shall monitor the construction and establish such other guidelines and conditions as it deems necessary to ensure that the allocations from the fund pursuant to this section are expended in the most prudent manner possible and consistent with the original purpose.

The bill provides that once deficiencies have been corrected, the council shall develop criteria for assessing other capital outlay needs of each institution. Eligibility requires institutions have a five-year facilities plan. The council will prioritize needs and make grant awards subject to available funding. Emergency situations threatening the health or safety of students or faculty may be funded outside the established process. Again, the council may establish such other guidelines and conditions as it deems necessary to ensure that the allocations are expended in the most prudent manner possible. The council will present a summary report of activities of the prior fiscal year on December 15 each year to the governor, legislature and legislative finance committee.

Many of the functions and processes outlined in the bill are already in place at the higher education department. This oversight is provided by the department's Institutional Finance and Capital Outlay Division. In addition, the department has established a Capital Projects Committee that reviews capital projects based on criteria/regulations set specifically for New Mexico's higher education institutions. The department has developed an improved process that has specific criteria set for evaluating higher education capital outlay on an annual basis. This criteria includes relation to the mission of the college and the alignment of the institution's five-year plan, the enrollment history, the space utilization, green building plan/strategy, the Facility Condition Index (FCI) that pertains to deferred maintenance, timeline for project completion and funding from other sources.

### **ADMINISTRATIVE IMPLICATIONS**

Proceeds from the sale of severance tax bonds and notes to capital projects typically occur on a reimbursement basis. While this is not in itself problematic, it warrants a discussion how higher education institutions will “pay” for projects to be reimbursed later from the higher education capital outlay fund or if another process similar to the Public School Capital Outlay Council (PSCOC) standards based process could be considered.

In FY03, the Deficiencies Correction Unit (DCU) contracted with over 19 firms at a cost of approximately \$275 thousand dollars to identify deficiencies statewide in K-12 school facilities. Funding to correct deficiencies was initially \$200 million. At that time, DCU staff consisted of 12 FTE to support the assessment prioritization and development of projects for consideration by the Public School Capital Outlay Council. As projects came online additional project management and support staff were required for successful implementation.

This new council may consider using existing staff from the council member's own organizations, particularly staff from HED. It is important to note that high level of communication, organization, time and financial resources of staff and council, in the first months of inception, will be critical to success of the new initiative.

**TECHNICAL ISSUES**

Only one specified higher education member of the Capital Projects Council is included, which may limit the knowledge and understanding of critical indicators that support approval/rejection of higher education capital outlay projects.

HJA/svb