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FISCAL IMPACT REPORT

ORIGINAL DATE 02/07/12
LAST UPDATED 02/09/12 **HB** _____

SPONSOR Nava

SHORT TITLE Schools For Deaf & Blind Capital Outlay **SB** 196/aSEC

ANALYST R. Gudgel

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY12	FY13	FY14	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total		See Fiscal Implications				

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From

Higher Education Department (HED)
New Mexico School for the Deaf (NMSD)
Public School Facilities Authority (PSFA)
Public Education Department (PED)

SUMMARY

Synopsis of SEC Amendment

Senate Education Committee amendment to Senate Bill 196 adds the work offset after appropriation on page 13, line 19 to clarify that the Public School Capital Outlay Council may adjust or waive the amount of any direct appropriation offset to the local share if the constitutional special school has insufficient or no local resources available.

Synopsis of Original Bill

Senate Bill 196 amends the Public School Capital Outlay Act (PSCOA) to include the New Mexico School for the Deaf and the New Mexico School for the Blind and Visually Impaired (constitutional special schools) in the definition of a “school district” to allow the constitutional special school to be eligible for standards based capital outlay awards. The bill establishes the local match for the special schools at 50 percent for projects that qualify under the educational adequacy category and 100 percent for projects that qualify in the support spaces category. The bill creates a waiver provision whereby the Public School Capital Outlay Council (PSCOC) may adjust or waive the amount of any direct appropriation to or local share required for the schools if the school has insufficient or no local resources available. The bill allows the PSCOC to apply the adequacy standard to the constitutional 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 constitutional special schools have historically been included in the higher education general obligation bond issue and receive some funding if the higher education general obligation bond issues is successful. The FY11 general obligation bond issues failed.

The bill does not contain an appropriation, but would redirect funds in the Public School Capital Outlay Fund set aside for public school standards-based capital outlay projects to standards-based capital outlay projects at the special schools. Projects at the constitutional special schools may not require a local match if the PSCOC waives the local match provisions pursuant to the provisions in this bill.

Currently, adequacy standards have been applied to the special schools and the special schools have been ranked alongside public schools. The New Mexico Condition Index Preliminary Ranking includes 11 facilities at the constitutional special schools in the top 104 worst schools, while the remaining 15 facilities are ranked between 214 and 715 out of a total of 736 ranked facilities. The ranking of the facilities indicates a clear immediate need for capital funding at the constitutional special schools.

It is important to note that expanding the recipients will not reduce funding for current standards-based projects, but may have the effect of decreasing the total amount of funding available to public schools for standards-based awards. The Public School Capital Outlay Fund derives its revenues from supplemental severance tax bonds (SSTBs) proceeds. Originally the revenue stream was dedicated for projects under the deficiencies correction program and the standards-based program. However, in recent years many other initiatives have been included in the Public School Capital Outlay Act, i.e. roofing projects, lease assistance, facility master planning, Construction Industries Division (CID) reimbursements, demolition allocations and emergency allocations. The annual uses from the fund have increased, which means the additional programs reduce available revenues for standard-based projects. It is estimated that the state's cost of maintaining the conditions of school buildings is \$130 million per year.

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. The PSFA has drafted adequacy standards that were presented to the PSCOC for adoption in December. At the December 12, 2011 PSCOC meeting, the PSCOC adopted approval of the Administration, Maintenance & Standards Subcommittee recommendation to approve the draft adequacy standards for the constitutional special schools, subject to technical corrections, to go out to public comment at a date to be determined in February 2012 and brought back for 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, as approved at the November 3, 2011 PSCOC meeting.

The PSFA has completed the assessments of the facilities of the two constitutional special schools and have added the schools to the current NMCI ranked list based on the criteria outlined above (see PSFA website for 2012-2013 Preliminary NMCI Ranking).

In addition to creating adequacy standards for 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 amount awarded pursuant to the resolutions was approximately \$13 million.

ADMINISTRATIVE IMPLICATIONS

The Public School Capital Outlay Council has already approved the draft adequacy standards. The Council intends to adopt adequacy standards for the constitutional special schools at the Council's March meeting, after an opportunity for public comment.

TECHNICAL ISSUES

The definition of "constitutional special schools support spaces" references "school district administration." This reference should probably be to constitutional special schools administration rather than school district administration.

RSG/lj:svb