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LEGISLATIVE EDUCATION STUDY COMMITTEE
BILL ANALYSIS
56th Legislature, 1st Session, 2023

Bill Number	<u>HB99/aHTRC</u>	Sponsor	<u>Romero, A.</u>
Tracking Number	<u>.223328.3</u>	Committee Referrals	<u>HTRC/H AFC</u>
Short Title	<u>Transfer Excess Oil & Gas Fund to Arts School</u>		
Analyst	<u>Bedeaux</u>	Original Date	<u>1/25/23</u>
		Last Updated	<u>2/27/23</u>

BILL SUMMARY

Synopsis of House Taxation and Revenue Committee Amendment

The House Taxation and Revenue Committee Amendment to House Bill 99 (HB99/aHTRC) removes the original bill's \$2 million distribution from the excess oil and gas school tax fund.

Synopsis of Original Bill

House Bill 99 (HB99) creates the New Mexico School for the Arts (NMSFA) dormitory fund in the state treasury. The fund shall be administered by the New Mexico School for the Arts, and money in the fund shall be used to pay the expenses of providing room and board to student residents. The fund shall include a reserve to cover unforeseen repairs, maintenance, and operational expenses of the dormitory.

HB99 would transfer \$2 million annually from the excess oil and gas school tax fund to the New Mexico School for the Arts dormitory fund. The distribution would occur after the annual distribution to the tax stabilization reserve but before the distribution to the Early Childhood Education and Care Department (ECECD).

FISCAL IMPACT

HB99/aHTRC does not contain an appropriation.

According to a [presentation](#) from NMSFA to LESC in December 2022, the school is seeking funding to support a 7-day-per-week residential education program for 60 students. The original version of this bill included a \$2 million distribution for that purpose.

While HB99/aHTRC would create a new fund in the state treasury, the bill does not appropriate any money to the fund. The House Appropriations and Finance Committee Substitute for House Bills 2 and 3 (HB2/HAFCS) also does not include an appropriation to the NMSFA dormitory fund.

SUBSTANTIVE ISSUES

NMSFA is the only state-chartered charter school with an authorizing act in New Mexico law. Enacted in 2008, Article 15 of Chapter 22, NMSA 1978, contains the authorizing statutes of the school. The school's presence in statute places it in an awkward middle-ground between other state-chartered charter schools and constitutional special schools, including the New Mexico School for the Blind and Visually Impaired and the New Mexico School for the Deaf.

[Section 22-2F-8 NMSA 1978](#) specifically prohibits NMSFA from using SEG funds to pay for its room and board costs and outreach activities, but permits the school to use “other private or public funding sources” for this purpose. However, administrative rule at [Section 6.80.4.17 NMAC](#) appears to require NMSFA to pay “all or part of the cost of room and board from a foundation or other private funding sources” and “not use money received from the state other than the charter school stimulus funds [to pay for room and board].” If HB99/aHTRC is enacted, the Public Education Department (PED) would need to amend its administrative rules to reflect the Legislature's intent to allow public funds to pay for the residential program.

Statute establishes NMSFA as a “statewide *residential* state-chartered charter high school,” but the school does not receive operational support from the state to run a residential program. The constitutional special schools, also considered “statewide” schools providing specialized residential education programs to students from across New Mexico, receive direct distributions from the land grant permanent fund each year. According to [data](#) from LFC, in FY22, these constitutional special schools each received approximately \$14.6 million. In contrast, NMSFA received only \$3.2 million from the SEG in FY23 to support the school's day-to-day operations. NMSFA receives considerable grants from private philanthropists in arts education, but the total amount of these grants is unknown.

TECHNICAL ISSUES

HB99/aHTRC creates the NMSFA dormitory fund in the state treasury to be administered by the school itself. However, according to a [list of funds](#) published by LFC, not a single fund in the state treasury is administered by a public school district or a charter school. The Legislature should amend the bill to establish the fund to be administered by the Public Education Department or DFA.

SOURCES OF INFORMATION

- LESC Files
- Early Childhood Education and Care Department (ECECD)

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