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## FISCAL IMPACT REPORT

<b>SPONSOR</b> <u>Ezzell/Townsend/Block/Scott/Sanchez</u>	<b>LAST UPDATED</b> <u>3/11/2025</u>
	<b>ORIGINAL DATE</b> <u>2/16/2025</u>
<b>SHORT TITLE</b> <u>NMMI in Capital Outlay Act</u>	<b>BILL NUMBER</b> <u>Senate Bill 280</u>
	<b>ANALYST</b> <u>Carswell</u>

### APPROPRIATION\* (dollars in thousands)

FY25	FY26	Recurring or Nonrecurring	Fund Affected
	See Fiscal Implications	Recurring	Public School Capital Outlay Fund

Parentheses ( ) indicate a negative impact on the fund.  
\*Amounts reflect most recent analysis of this legislation.

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

Agency/Program	FY25	FY26	FY27	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
PSFA	No fiscal impact	Indeterminate but minimal	Indeterminate but minimal			

Parentheses ( ) indicate expenditure decreases.  
\*Amounts reflect most recent analysis of this legislation.

### Sources of Information

LFC Files

Agency Analysis Received From  
Public School Facilities Authority (PSFA)  
Higher Education Department (HED)

## SUMMARY

### Synopsis of Senate Bill 280

Senate Bill 280 (SB280) amends the definition of “constitutional special schools” in the Public School Capital Outlay Act to include the New Mexico Military Institute (NMMI), making it eligible for funding for public school capital outlay funding.

This bill does not contain an effective date and, as a result, would go into effect 90 days after the Legislature adjourns if enacted, or June 20, 2025.

## FISCAL IMPLICATIONS

SB280 would NMMI eligible for funding for school improvement and replacement projects through the Public School Capital Outlay Council (PSCOC). If the bill is enacted, the council and the agency that staffs it, the Public School Facilities Authority (PSFA), would have to

develop a methodology for applying statewide school facility adequacy standards to NMMI, for determining the institutional match required for projects, and for determining which NMMI facilities would be eligible for funding. Additionally, PSFA would have to assess the condition of all eligible facilities at NMMI to incorporate the school into PSCOC's ranking system. The ranking system is based on school facility conditions and determines eligibility for funding.

Currently, the constitutional special schools that are eligible for PSCOC funding—the New Mexico School for the Deaf and the New Mexico School for the Blind and Visually Impaired—are required to provide a 50 percent match for projects related to educational adequacy and a 100 percent match for support spaces. Those special schools typically receive their match from the Higher Education Department's capital outlay process because they are not able to issue bonds and collect property tax revenue like public school districts. NMMI could be expected to, at a minimum, provide the same match as the other special schools. It is also possible the council would assign a higher match to NMMI because the school has access to resources the other special schools do not. NMMI charges tuition and receives a higher percentage of annual land grant permanent fund distributions—2.36 percent compared to the 1.35 percent that goes to the other special schools.

Given the uncertainties associated with NMMI's incorporation into the public school capital outlay system, this fiscal analysis assumes the school would seek funding on par with what it has recently sought through the higher education capital outlay process and that it would be subject to a 50 percent match. Over the last three years, NMMI has on average requested roughly \$6 million in capital outlay through the Higher Education Department. This analysis, thus, assumes additional expenses to the public school capital outlay fund in the near term at half that amount.

The ultimate impact to the public school capital outlay fund would vary year to year based on the magnitude of projects NMMI might pursue before the council. Some years, there would likely be no impact as most districts and the special schools do not pursue projects, or are not eligible, every year. It would also be affected by the level of institutional match required and any limits the council might put on project eligibility.

## **SIGNIFICANT ISSUES**

The Public School Capital Outlay Act and the standards-based approach to determining state support for public school construction and improvement represent the state's response to the 1999 *Zuni* lawsuit. The lawsuit produced a court ruling that found the practice of locally funded school construction was unfair to property-poor districts and violated the state constitution.

The lawsuit led to the creation of the Public School Capital Outlay Council (PSCOC), the goal of which was to create a uniform and sufficient approach to facilities funding for public schools. Adequacy standards adopted by PSCOC set minimum requirements for public schools, including building condition, classroom and specialty space, food service, student health, and more. The standards are used to measure existing schools to determine building condition and deficiencies and to prioritize school replacement and improvement. PSCOC funds projects to replace systems within existing schools to extend the life of those facilities and replacement of schools that cannot be reasonably improved to meet adequacy standards. All school facilities are ranked annually according to their condition and adherence to adequacy standards. A school's rank on this list determines eligibility for PSCOC funding. Additionally, the PSCOC uses a state-local match formula to determine the state versus the district's responsibility for project costs.

PSCOC only funds public prekindergarten through 12<sup>th</sup> grade facilities. NMMI operates a junior college in addition to a secondary school. If SB280 were enacted, NMMI's eligibility for PSCOC funding would likely exclude its post-secondary educational spaces as the Public School Capital Outlay Act does not provide the council with authority to support higher education projects. NMMI also operates a new day school for sixth and seventh grades and is launching an eighth grade class in fall 2025. The middle school facility is currently leased, though NMMI may seek to purchase it in the future. PSCOC would have to determine how the middle school facilities would be treated; they are likely to not be eligible for capital improvement funding so long as they are leased, not owned.

PSFA and PSCOC currently apply the “special purpose schools educational facility adequacy standards” to projects at the School for the Deaf and School for the Blind and Visually Impaired. These standards differ from the statewide adequacy standards for conventional public schools and consider the specific requirements for the student populations with disabilities. NMMI does not currently follow either the statewide or special purpose adequacy standards, and it is unclear whether projects it may pursue in the future before PSCOC could adhere to the conventional adequacy standards or whether PSFA would have to develop adequacy standards particular to NMMI, given its unique mission and the historic nature of its campus.

PSFA notes it does not currently have any data on NMMI's facilities. If SB280 is enacted, PSFA would need to assess the campus in its entirety, collecting data on each building and building system to calculate their condition and incorporate the school into the statewide ranking system.

PSFA further states:

The Public School Capital Outlay Act was enacted to establish and ensure the equitable funding for capital (projects) for New Mexico school districts. However, the objectives of (the act) and NMMI may not align, as New Mexico school districts are constitutionally obligated to provide free education to all school-age children in the state. In contrast, NMMI has an admissions process and charges tuition ..., despite providing a significant number of scholarships to its cadets.

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