LEGISLATIVE EDUCATION STUDY COMMITTEE
BILL ANALYSIS
53rd Legislature, 1st Session, 2017

Bill Number *SB332 **Sponsor** Brandt

Tracking Number .206675.2 **Committee Referrals** SCORC/SFC

Short Title Replenish School Cash Balances

Original Date 2/27/17

Analyst Simon **Last Updated**

BILL SUMMARY

Synopsis of Bill

Senate Bill 332 (*SB332) would repeal Laws 2017, Chapter 3 (SB114), replace $26.1 million in general fund appropriations for capital projects whose expenditure period ended in FY16 with revenue from supplemental severance tax bonds, and delay $20 million in refunds from the film production tax credit.

FISCAL IMPACT

*SB332 would authorize the state board of finance to sell $26.1 million in supplemental severance tax bonds in FY17 and use those funds to restore general fund appropriations for completed capital projects. Those capital projects would not receive additional funds but the general fund appropriation used to fund those projects would be replaced with bond funds. *SB332 amends the Severance Tax Bonding Act to allow the transfer. This would free up $26.1 million in general fund dollars. Proceeds for supplemental severance tax bonds are generally transferred to the public school capital outlay fund and used to fund capital outlay projects authorized by the Public School Capital Outlay Council (PSCOC). To replace the public school capital outlay dollars, *SB332 authorizes the issuance of $26.1 million in severance tax bonds and appropriates the proceeds to the public school capital outlay fund.

*SB332 delays $20 million in tax refund payments for recipients of the film production tax credit and the film and television tax credit. The Taxation and Revenue Department (TRD) notes *SB332 would increase general fund revenue available in FY17 by $20 and decrease general fund revenue by $20 million in FY18. TRD indicates it will be subjected to late payment penalties for these delayed payments. TRD notes it is likely to process more than $30 million in film credit refunds prior to the enactment of *SB332, meaning the full $20 million would not be available in FY17.

*SB332 would repeal Laws 2017, Chapter 3 (SB114), which directed the secretary of public education to reduce the state equalization guarantee (SEG) distribution to school districts and charter schools to take credit for a portion of the $252.5 million in FY16 end-of-year cash balances. The amount of the credit will be based on audited FY16 end-of-year cash balances and legislative staff estimates the secretary will reduce SEG distributions by $46.1 million. SB114 directed the secretary to spread reductions to the SEG distribution equally between remaining SEG distribution payments. It is not known how much the Public Education Department has withheld since SB114 became effective and *SB332 does not require the secretary to distribute any SEG dollars previously withheld by the department. Any unexpended SEG dollars would revert to the general fund at the end of FY17.

*SB332 contains an emergency clause.

SUBSTANTIVE ISSUES

*SB332 would repeal legislation passed early in the 2017 regular legislative session as part of a package to ensure the state would remain solvent in FY17. The legislation reduced SEG distributions to school districts and charter schools to take credit for at least $250 million in school district and charter school operational cash balances that remained at the end of FY16 but did not reduce any school district or charter school FY16 operational cash balances below 3 percent of FY16 program cost. SB114 was part of series of bill considered early in the 2017 regular legislative session that resolved a projected $69.1 million deficit at the end of FY17. Following the enactment of the solvency package, legislative staff projected FY17 end-of-year cash reserves for the state would be 1.5 percent.

School districts use operational cash balances to fund state and federal grant programs that operate on a reimbursement basis and to maintain positive credit ratings. Statewide, unrestricted operational cash balances have grown significantly in recent years, from $141.2 million at the end of FY11 to $252.5 million at the end FY16. Prior to FY11, state law limited the amount of operational cash that could carry forward to the next fiscal year. Statewide, school districts' and charter schools' FY17 operating budgets included $252.5 million in cash balance, or 9.9 percent of statewide program cost in FY16.

Following the passage of SB114, many school districts and charter schools in New Mexico needed to adjust their FY17 operating budgets. A number of school districts throughout the state have considered layoffs, district-wide furlough days, or reducing the number of school days in order to balance the budget. Although the school district with the largest cash balance credit, Albuquerque Public Schools (APS), considered these measures, APS was able to balance its FY17 budget in other areas. It is not clear if school districts or charter schools will need to resort to these measures, but some school districts have announced cuts to staff travel, professional development, substitute teachers, and leaving vacant positions unfilled.

The New Mexico State Film Office notes film and television production accounted for $387.2 million in economic activity in New Mexico and raises the concern that suspension of the tax credit could lead productions to pull out of New Mexico and make the state less attractive to film and television producers in the future.

TECHNICAL ISSUES

TRD provides the following analysis regarding Government Accounting Standards Board rules and guidance:

> "The state follows modified accrual accounting processes. Consequently, certain credit transactions that occur during July and August are tied to the prior fiscal year. TRD believes payment of suspended refunds would fall into this category. The result would be twofold: FY2017 would be debited, on an accounting basis, for a $50 million film industry expenditure and FY2018 would be debited, on a cash basis, for a $70 million expenditure. [*SB332] is not clear on how to deal with the $50 million aggregate limit, it does not address how the statutory time limit for claims should be adjudicated."

RELATED BILLS

*SB332 repeals Laws 2017, Chapter 3, which was the Conference Committee Report for Senate Finance Committee Substitute for SB114, as twice amended, School District Cash Balances.

SOURCES OF INFORMATION

- LESC Files
- Taxation and Revenue Department
- New Mexico State Film Office

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