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FISCAL IMPACT REPORT

SPONSOR Munoz ORIGINAL DATE 2/26/17
LAST UPDATED _____ HB _____

SHORT TITLE Study Public School Cap Outlay Fund Formula SJM 27

ANALYST Liu

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY17	FY18	FY19	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total		Minimal			Nonrecurring	

(Parenthesis () Indicate Expenditure Decreases)

Relates to SB147

SOURCES OF INFORMATION

LFC Files

Legislative Education Study Committee (LESC) Files

Responses Received From

Public School Facilities Authority (PSFA)

SUMMARY

Synopsis of Bill

Senate Joint Memorial 27 requests the LFC, LESC, Public School Capital Outlay Council (PSCOC) and PED jointly conduct a thorough study of the capital outlay funding formula as it relates to the requirements of Article 12, Section 1 of the New Mexico Constitution. The memorial group will report its findings to the Legislature and governor before the second session of the 53rd Legislature.

FISCAL IMPLICATIONS

The bill does not make an appropriation. Costs of convening a work group between LFC, LESC, PSFA, and PED staff are expected to be minimal.

SIGNIFICANT ISSUES

Article 12, Section 1 of the New Mexico Constitution relates to free public schools, requiring the establishment and maintenance of "a uniform system of free public schools sufficient for the education of, and open to, all the children of school age in the state." This clause was interpreted

to extend to public school capital outlay funding in *The Zuni Public School District et al. v. The State of New Mexico*. The current public school capital outlay funding system in New Mexico was developed in response to this 1998 lawsuit when the court ordered the state to “establish and implement a uniform funding system for capital improvements...and for correcting existing past inequities.” Prior to the court ruling, the ability of school districts to fund public school capital outlay improvements varied across the state because of differences in taxable land values and bonding capacity.

In response to the court’s order, New Mexico changed the way in which the state funds public school capital outlay expenditures by making extensive amendments to the Public School Capital Outlay Act and created the Public School Capital Outlay Oversight Task Force (PSCOOTF) to develop the structure and goals of the newly created standards based program. It is the responsibility of the PSCOOTF to provide ongoing monitoring and oversight of the program and address any issues in order to maintain the uniform system in the way the state funds public school capital outlay expenditures. Between 1999 and 2001, New Mexico developed a public school capital outlay program that includes:

- Cost-sharing based on a funding formula that recognizes the differing ability of school districts to raise funds for capital outlay projects,
- Statewide adequacy standards that define the minimum acceptable level for the physical condition and capacity of school buildings to be educationally suitable and meet technology infrastructure needs,
- Ranking of projects based on the adequacy standards that identify schools with the most critical needs, and
- A permanent funding stream for public schools through the earmarking of a portion of the bonding capacity of the severance tax permanent fund for public school capital outlay projects.

School buildings are ranked annually from best to worst, and the worst facilities are allowed to apply for matching state funds to improve or replace these facilities. The state funds a share of the project up to the level of adequacy, contributing no less than 10 percent and up to 100 percent of the total cost of each funded project. School districts are able to build facilities in excess of the adequacy standards, generally referred to as “above adequacy,” but they must pay the entire cost of any above adequacy construction.

The Zuni lawsuit concerning the allocation of public school capital outlay is still active and was reopened in 2014. Gallup McKinley County Schools (GMCS) filed an amended complaint in 2015 and included PSCOC as a defendant. GMCS is primarily concerned that, because of the district’s low bonding capacity and high capital needs, the district cannot afford school construction above adequacy for facilities such as teacherages, auxiliary gyms, and additional playing fields.

During the 2015 Interim, the Public School Capital Outlay Oversight Task Force convened a subcommittee to study the capital outlay funding formula. The subcommittee contracted with the Bureau of Business & Economic Research (BBER) to conduct an assessment of the current capital outlay funding formula. BBER’s assessment concluded “while the formula is being correctly applied, there are reasonable concerns that the formula does not make the most effective use of state resources and does not provide predictability necessary for long-term planning.” The assessment identified two factors in the formula that could potentially be the source of the problems. First, is the per-student property tax valuation and the second is that the

formula does not account for differences in the per-student facility construction and maintenance costs. BBER proposed to continue the work and create alternative funding formula scenarios for approximately \$80 thousand, plus any fees and charges imposed by the University of New Mexico.

The original formula was developed and based on the premise of being:

- transparent, objective, and equitable;
- advantageous to districts that impose taxes above the statewide average;
- an approximately 50 percent state match of the total statewide effort with a 10 percent minimum state share; and
- recalculated annually to reflect changes in the financial capacity of school districts.

The current formula has three basic components to determine the participation percentages. These components consist of land valuations, membership and the amount of residential mills a school district has imposed.

	LAND VALUATIONS		MEMBERSHIP		RESIDENTIAL TAX MILL LEVIES	
	Increase	Decrease	Increase	Decrease	Increase	Decrease
DISTRICT SHARE	↑	↓	↓	↑	↓	↑
STATE SHARE	↓	↑	↑	↓	↑	↓

Note: The required state share for a PSCOC project is determined by a formula created in statute, 22-24-5 NMSA 1978. There are three main components used in the formula. The components include land valuations, membership and the amount of residential mills a school district has imposed. The chart above reflects how the state share percentage may change if one of the components within the formula changes. The chart only reflects the results if only one of the components changes. The results may differ if changes occur to more than one of the factors.

Under the current phase one formula, the 2016-2017 average state match is 43 percent and the average local match is 57 percent.

RELATIONSHIP

This bill relates to SB147, which seeks to replace the current capital outlay funding formula with a new formula over a period of five years.

OTHER SUBSTANTIVE ISSUES

Despite fiscal challenges, New Mexico’s education infrastructure has steadily improved in recent years. Since FY05, PSCOC has awarded approximately \$2.3 billion to fund lease assistance, deficiency-correction, and standards-based projects for school districts, charter schools, the New Mexico School for the Blind and Visually Impaired, and the New Mexico School for the Deaf. The facility condition index (FCI), a ratio of repair cost and improvement to a facility’s value, has improved from 66.7 percent in FY05 to 32.1 percent in FY16. A lower FCI indicates a building in better condition; however, PSFA has estimated maintaining the current FCI would

cost the state about \$169 million annually over the next six years. In FY16, PSCOC made 17 standards-based awards totaling \$150.1 million for planning and constructing school facility projects. PSCOC also provided \$15 million in lease assistance awards to charter schools, \$500 thousand in supplemental funding and emergency awards, and \$900 thousand in facilities master planning awards. However, only 70 percent of project funds were under contract within 15 months of award, a 10 percentage point decrease from FY15.

The average statewide weighted New Mexico condition index (wNMCI), a measure of how well school facilities meet educational needs, also improved from 40.5 percent in FY05 to 47.1 percent in FY16. The state uses the wNMCI to rank and prioritize projects based on relative need. Both the FCI and wNMCI scores indicate the need for school facility construction and repair has declined significantly, prompting PSCOC to shift its focus toward funding system initiatives that would extend building life rather than create new construction and design projects. Systems initiatives include roofing, electrical distribution, electronic communication, plumbing, lighting, mechanical, fire prevention, facility shell, interior finishes, and heating, ventilation, and air conditioning systems. Laws 2016, First Special Session, Chapter 2, removed funding restrictions for building system repair, renovation, or replacement initiatives identified by PSCOC, including a \$15 million cap on expenditures and the timeframe for expenditure between FY16 and FY20. PSCOC recently developed a systems initiatives scoring and ranking criteria pilot, which will be implemented in FY17.

The facility maintenance assessment report (FMAR), a tool introduced in FY13 to measure maintenance effectiveness, indicates the current statewide average maintenance score is 65.7 percent—an improvement from 60 percent in FY13 but still less than the threshold for a satisfactory FMAR score. PSFA estimates approximately 76 percent of schools in New Mexico are getting less than the standard life expectancy out of existing building systems. Additionally, districts in the highest property value quintile have, on average, 58 percent more space than recommended by adequacy standards and an FMAR score of 52 percent, signifying poor maintenance effectiveness and costly operation of underutilized space.

PSFA reports public school facilities in award year 2015-2016 reached 62 million gross square footage (GSF) statewide, an increase of about 476 thousand GSF from award year 2014-2015. According to PSFA, the state has increased public school facilities about 9.5 million GSF, or 18 percent, in the past 10 award years despite a 3.5 percent growth in student enrollment. In award year 2015-2016, student enrollment decreased slightly from 340.4 thousand to 339.6 thousand students, signaling a lower need for school facilities expansion in future award years.

Award Year	Total Square Footage	Student Enrollment
2005-2006	52,522,205	328,111
2006-2007	53,254,678	325,731
2007-2008	54,878,283	329,261
2008-2009	55,052,858	323,882
2009-2010	57,028,422	325,542
2010-2011	58,315,030	330,142
2011-2012	58,566,971	334,838
2012-2013	59,820,451	338,223
2013-2014	60,001,999	339,223
2014-2015	61,536,237	340,365
2015-2016	62,012,115	339,613

To invest and support digital learning, the Legislature established the broadband deficiency correction program (BDCP) during the 2014 legislative session to address education technology needs over the next five years. PSCOC expended \$5 million in FY16 and budgeted \$15 million for BDCP awards; however, project reversions are expected to be \$7.5 million by the end of the year. PSFA found 85 percent of schools were connected to fiber but 92 percent of schools needed wireless network upgrades. The study also indicated 77 percent of school Internet connection speeds were slower than 100 kilobytes per second (kbps) per user and estimated upgrading every school in New Mexico to that standard would cost up to \$8.6 million over current spending. To reach 1 megabyte per second per user (1,000 kbps), the state would have to spend up to \$130.6 million over current expenditure levels. PSFA recommends a statewide procurement strategy for broadband services, in conjunction with libraries and healthcare institutions of the state, to flatten prices for school districts and reduce geographic service disparities.

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