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FISCAL IMPACT REPORT

ORIGINAL DATE 02/19/09
 SPONSOR Miera LAST UPDATED 3/3/2009 HB 465/aHEC/aHTRC
 SHORT TITLE Public School Improvement Definitions SB _____
 ANALYST Aguilar

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY09	FY10	FY11	3 Year Total Cost	Recurring or Non-Rec	Fund Affected
Total		(Indeterminate) (Could be Significant)			Recurring	Public School Capital Outlay Fund School District SB-9 Levy

(Parenthesis () Indicate Expenditure Decreases)

Relates to HB-463; HB-464, HB-378

SOURCES OF INFORMATION

LFC Files

Responses Received From

- Taxation and Revenue Department (TRD)
- Public Education Department (PED)
- Public School Facilities Authority (PSFA)

SUMMARY

Synopsis of HTRC Amendment

The House Taxation and Revenue Committee amendment to House Bill 465 as amended, clarifies that the distribution of local property tax receipts in FY09 and FY10 when used for the operating costs associated with the salary expenses of school district personnel can only be used for existing positions and not for expansion.

Synopsis of HEC Amendment

The House Education Committee Amendment to House Bill 465 includes language referencing an additional section of NMSA 1978 ensuring that funds can be used as intended in the bill for property insurance and salaries of school district personnel. Adding the language eliminates a potential conflict.

SIGNIFICANT ISSUES

FY09 statewide budgeted amounts for risk liability insurance were approximately \$44.2 million. If all districts chose to use SB-9 funds to pay for insurance costs, a significant reductions in buildings maintenance could be expected.

Synopsis of Original Bill

House Bill 465 amends the Public School Capital Improvements Act to expand the definition of “capital improvements” to include the purchasing or repairing of maintenance equipment, participating in the facility management system as required by the Public School Capital Outlay Act and including payments under contracts with regional education cooperatives.

This bill also allows for the distribution from local 2 mill property tax receipts in FY2009 and FY2010 to be expended for school district or charter school operating costs related to purchasing property insurance, and facility maintenance, including the salary expenses of school district maintenance personnel.

HB-465 declares an emergency

FISCAL IMPLICATIONS

The bill adds language to allow school districts to use their SB-9 funds for purchasing of maintenance equipment and participating in the facility information management system. The original intent of SB-9 funds was specifically for maintenance of school district buildings. These added items to the definition section are in alignment with the original intent of these funds. Currently, school districts are purchasing maintenance equipment with their SB-9 funds. Adding this section will solely clarify that this is in fact an appropriate use of the funds.

It is not clear whether the use of these funds is appropriate since bond proceeds will be used to pay for operating costs. This bill sets a precedent that may be difficult to rescind at the end of the two year period.

House Bill 465 proposes to allow the local ad valorem property tax funds to be used for purchasing risk liability insurance and for operating costs related to facility maintenance, including salary expenses of school district maintenance personnel. The expansion is proposed for fiscal years 2009 and 2010. This is a temporary provision requested by school districts to relieve some of the financial strain on their current operational budgets. If this section of the bill is enacted into law it is important to note that school districts will only be allowed to use their local ad valorem funds for these operational uses because the state match funds are also funded through SSTBs, which have restriction in NMAC rule (2.61.6).

According to the February 2009 revenue estimate, FY10 recurring revenue will only support a base expenditure level that is \$575 million less than the FY09 appropriations before the 2009 solvency reductions. All appropriations outside of the general appropriation act will be viewed in this declining revenue context.

SIGNIFICANT ISSUES

District facility maintenance programs are at risk. These programs rely on each district's diminishing operational funds for maintenance salaries and predominantly SB-9 funds for maintenance contracts, equipment, material and training. If SB-9 funds are temporarily diverted to insurance premiums and salaries, the impact on school building maintenance and the learning environment could be catastrophic.

The fiscal implications are significant—not in initial added cost to the state, but in the potential impact on school facility maintenance programs, which are primarily funded from district SB-9 funds. If school districts are allowed to use their SB-9 funds for property insurance premiums and maintenance salaries, these already limited funds would be diverted from their current primary use for the purchase of needed maintenance contract services and materials to keep facilities fully functional.

According to PED budget data, the property tax liability for all districts totals over \$44.0 million, maintenance salaries total approximately \$100.0 million, and statewide SB-9 revenue totals \$204.6 million. If SB-9 funds are used to pay insurance premiums and maintenance salaries there will be insufficient SB-9 funds remaining for districts to properly equip or supply their maintenance staff or pay maintenance contractors to properly conduct maintenance operations. Not only would classroom conditions suffer, but this action would yield a potentially long-term cost impact because of the resultant premature deterioration of the school facility infrastructure and an accelerated expense of facility system replacement across the state.

PA/mc:svb:mt