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## FISCAL IMPACT REPORT

ORIGINAL DATE 02/17/09  
 LAST UPDATED 03/17/09    **HB** \_\_\_\_\_

SPONSOR    SEC \_\_\_\_\_

SHORT TITLE    School Size Capital Funding & Consolidation    **SB** 255/SECS/aSFL#1

ANALYST Aguilar

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

	FY09	FY10	FY11	Total Cost in FY10 Dollars	Recurring or Non-Rec	Fund Affected
<b>Total</b>		* Annual Cost is Indeterminate Depending on the Number of Projects		** \$43,840.0	Nonrecurring	General Fund Public School Capital Outlay Fund Capital Improvements Fund School District Bonding Funds

(Parenthesis ( ) Indicate Expenditure Decreases)

\* For qualifying projects, the state would incur the increased cost of reducing a district's local match by 5 percent.

\*\* The total cost indicated is a mid-level projection and may increase as the number of qualifying projects are identified.

Relates to HB-250, SB-217, HB 158; HB 331

### SOURCES OF INFORMATION

LFC Files

#### Responses Received From

Public Education Department (PED)  
 Office of Educational Accountability (OEA)  
 Public School Facilities Authority (PSFA)

### SUMMARY

#### Synopsis of SFLS #1

Senate Floor Substitute #1 provides for only 20 "new" school construction projects to be completed under the provisions of this bill. After these 20 projects are complete, the provisions this bill would no longer be applicable.

## **FISCAL IMPLICATIONS**

See attachment #1

## **SIGNIFICANT ISSUES**

It is unclear why only 20 projects would have to be completed, what the intended effect would be to require such a small number of schools to comply with the provisions of this bill and whether specific projects in specific districts are pre-identified to be completed under the provisions of this bill.

A review of the 2009 New Mexico Condition Index indicates that potentially 135 schools would be affected, many of which are ranked in the top 150 and would appear to meet the requirements of this bill, but are already below the population threshold. It appears that primarily schools in the larger districts around the state (e.g. Albuquerque, Las Cruces, Los Lunas, Hobbs, Gadsden, Rio Rancho, Farmington, and Gallup) would be affected with the total impact unclear.

### Synopsis of SEC Substitute

The Senate Education Committee substitute for Senate Bill 255 codifies a set of procedures to be taken to consolidate schools, and provides for the PSCOC to consider the districts use of joint use facilities, and facilities in elementary and middle school built for 400 students or less. In addition, the committee substitute provides for additional funding for district projects under certain conditions.

CS/SB-255 also mandates that for elementary and middle school projects with student populations with high eligibility for free and reduced lunch, high mobility rates and high rates of English language learners, school projects will be constructed for no more than 400 students.

## **FISCAL IMPLICATIONS**

A Public School Facilities Authority analysis of the school size provisions contained in this committee substitute indicates an overall need of approximately \$300 million in FY09 dollars. Depending on the number of projects brought forward annually, it is unclear as to how soon the entire \$300 million would be needed. As time passes it is expected that the \$300 million would increase, perhaps significantly, as the cost of construction increases. Because of these factors, it is impossible to predict what the total impact would be. See attachment #1 for a copy of the PSFA analysis.

The committee substitute also provides for a 5 percent increase in the state share of a project award if the construction project for a new school will include in its design the joint use of community educational facilities.

CS/SB255/SEC also provides that PSCOC shall provide a 5 percent credit against the local share of a project built for 400 students with student populations with high eligibility for free and reduced lunch, high mobility rates and high rates of English language learners. This bill provides for continuing or mandated distributions. The LFC has concerns with including mandated distribution language in the statutory provisions, as earmarking reduces the ability of the legislature or the council to establish spending priorities.

The current standards-based process was developed as a result of the Zuni lawsuit, filed in 1999. The State of New Mexico was found to be in violation of its state constitutional requirement to establish and maintain “a uniform system of public schools sufficient for the education of, and open to, all of the children of school age in the state” in the way the state funded capital outlay expenditures. The judge ordered the state to establish a uniform funding system for capital improvements. In response, the state adopted legislation to phase in a new equalized standards-based system using a set of standard adequacy standards along with a state share formula. The newly adopted system was only to pay for those capital expenditures that meet the adequacy standards. The concept of usurping local board control by directing funding away from certain projects goes against the grain and the philosophical underpinnings of the standards-based system.

The ongoing assessment of the condition of school facilities statewide indicates a total need of approximately of \$4.1 billion for the life-cycle building renewal and repair needs of schools. This is the amount identified necessary to bring all schools in to the currently approved adequacy standards. Provisions contained in SB-255 establish limits on the number of students allowed per grade for school construction and renovation to be funded by the Public School Capital Outlay Council.

These provisions would also have the effect of changing the rankings of all schools in the New Mexico Condition Index (NMCI). A school district replacing a school may have to build more than one school in order to comply with these new changes. Under the PSCOA a school district is required to pay a certain percentage of the total project cost up to the current adequacy standards. The burden to build more than one school would ultimately be passed on to the taxpayers and the PSCOF, which is decreasing according to recent revenue estimates.

PED notes that revenue estimates indicate that approximately \$182 million will be available in Supplemental Severance Tax Bonds SSTBs for the next PSCOC award cycle. The latest PSCOC financial plan reveals that after funding all the additional programs from the fund, cost overruns, supplemental awards and emergency awards only \$27.1 million will be available for standards-based construction projects for the 2009-2010 award cycle. This is the lowest amount that the PSCOC will have available for new allocations since 2000.

## **SIGNIFICANT ISSUES**

SB-255 provides for the local school board to determine that the consolidation is in the best interests of the students served by each of the schools; prepare a feasibility study; hold a public hearing in each of the affected schools during which it must allow interested persons to submit their views, data, etc.; then, within twenty-one days of the last public hearing, decide whether or not to proceed with the proposed consolidation. If the board decides to proceed, it must forward its decision, the feasibility study and the record of the public hearings to the Secretary of Education who must approve the consolidation.

CS/SB-255 mandates that for elementary and middle school projects with student populations with high eligibility for free and reduced lunch, high mobility rates and high rates of English language learners, school projects will be constructed for no more than 400 students. By imposing size limitations on school districts as provided for in the bill, it appears that school districts will incur considerable operational impact, particularly with regard to operations and maintenance. Requiring the construction of more schools with smaller class sizes may require a district to hire more teachers, administrators, maintenance workers, counselors, etc. Operational

costs to operate and maintain more buildings will also increase. The costs to open a brand new school will also have a significant financial burden on a school district. The majority of these costs are associated with FF&E, technology, textbooks and hiring new staff.

Giving a school district an extra 5 percent of state funding for including the joint use of reasonably accessible community facilities in its design may be considered inequitable by certain school districts. Many rural school districts may not have access to any type of community facilities; therefore, they would never be eligible for the additional 5 percent of state assistance. Equity issues may arise as described below.

PED notes that the proposed smaller schools legislation, which would amend the Public School Capital Outlay Act by limiting eligibility for assistance to projects qualifying as “smaller schools,” must be analyzed within the framework of the case of The Zuni Public School District, et al. v. The State of New Mexico and Michael Davis, No. CV-98-14-II. The order entered by Judge Joseph L. Rich of the district court on October 14, 1999, held that “[t]he Defendants shall have until July 28, 2000, in which to establish and implement a uniform funding system for capital improvements for New Mexico school districts and for correcting existing past inequities, all to be within the mandates of Article XII, Section 1 of the New Mexico Constitution.” New Mexico’s efforts, primarily through the legislative process to comply with the Court’s directive, have been extensive and deliberate. New Mexico changed the way in which it funds public school capital outlay expenditures by making extensive amendments to the Public School Capital Outlay Act (PSCOA) and creating the standards-based process for accessing state capital outlay funds. It is the responsibility of the state to maintain the uniform system of free public education as directed by the courts. It should be noted that the Zuni lawsuit *is still pending* in the district court in Gallup and can be revived by the plaintiffs at any time. The proposed smaller schools legislation, which would place strict limitations on state assistance based on enrollment capacity, could subject the state to further challenges under theories of disparities and inequities.

It is unclear in the language of the bill how funding of projects that feature the grade limits outlined in the bill would be prioritized, i.e., whether or not the nine weighted categories underlying the standards based funding model would need to be revised.

SB 255 also encourages school districts to make use of existing community facilities like gyms and libraries before requesting funds from the state that would effectively duplicate facilities that already exist locally and that could conceivably be used by the school. A full analysis of existing community facilities within ten miles of a school, per the language of SB 255, is not currently available. Twelve school districts are known to make use of community space.

A 16 year old study on small school operating costs conducted by the Public Education Association of New York and referenced by Think New Mexico illustrates a U-shaped graph that on first glance would indicate considerable savings in the operational cost per student between small and large high schools. On closer analysis of those school sizes prevalent in New Mexico, the difference is only about 8 percent. This may not be significant when the total operational costs of one large school are compared to a number of small schools. Also the study, somewhat outdated, does not account for conditions in New Mexico and for the use of higher quality materials and energy efficient technology over time.

According to OEA, Think New Mexico has marshaled a great deal of national research to back up its claim that small schools are more successful than large schools. The challenge in New

Mexico, however, is that many of the state's schools are small and yet are still struggling with high dropout rates and low student achievement. For example, over seventy percent of New Mexico's high schools reported enrollments of less than 900 students which meet Think New Mexico's definition of a small high school. Many of these smaller high schools show lower levels of student proficiency on the New Mexico Standards Based Assessments (NMSBA) in reading and math; while, conversely, several of the state's largest high schools with enrollments between 1,000 and 2,000 students score highest in terms of student proficiency on those same tests. Think New Mexico's argument for small schools has merit, but equally clearly, many of New Mexico's schools are still struggling despite their small size.

## **TECHNICAL ISSUES**

PED notes that Section 1 of the bill that addresses consolidation of public schools is an arguably far different topic than the bill's provisions related to small school size covered in Section 2 of the bill. Consolidation of schools can mean combining two or more smaller schools into a larger school. This implicates Article IV, Section 16 of the New Mexico Constitution which provides in part, "The subject of every bill shall be clearly expressed in its title, and no bill embracing more than one subject shall be passed except general appropriation bills and bills for the codification or revision of the laws." The legislature may wish to consider striking one of the sections contained in this bill.

PA/mt:mc

## ATTACHMENT 1

### FISCAL IMPLICATIONS OF THE SENATE FLOOR AMENDMENT

The Public School Facilities Authority notes the following as it pertains to the Senate Floor Amendment:

In subsequent sections below, and based on the estimated additional square footage per student that may be required by limiting qualifying schools under the SB255 substitute to 400 students or less, the net additional capital cost per school would be estimated as follows:

**Additional cost per each qualifying elementary school: \$2,000,000**

**Additional cost per each qualifying middle or junior high school: \$2,640,000**

Additional capital cost estimates per school do NOT include potential cost reductions related to the use of community spaces, given that the number, type and location of such spaces is not currently known. The use of community spaces to offset some or all of the additional square footage per student that may be required for schools with 400 or less student populations is specified in the SB255 substitute. PSFA's cost estimate is also based on addressing additional space needs by adding additional classrooms to existing parcels of land for schools. If instead new schools were built, the additional capital costs would be higher per school by between \$6 and \$10 million. All assumptions and limitations on PSFA's cost estimate, as outlined below, remain unchanged.

Of the 20 qualifying schools specified in the SB255 substitute, PSFA's estimated weighting between ES and MS/JHS is ES at 69 percent and MS/JHS at 31 percent. *(Because there are 93 ES and 42 MS/JHS schools in New Mexico that are larger than 400 students AND have greater than 75 percent free and reduced lunch—meaning a total of 135 potentially qualifying schools.)*

Based on these estimated percentages, 14 schools are assumed to be ES and 6 schools are assumed to be MS/JHS.

So the estimated additional capital cost of the SB255 substitute would be:

**Each ES: (14 x \$2,000,000) = \$28,000,000**

**Each MS/JHS (6 x \$2,640,000) = \$15,840,000**

**The sum total of 14 ES and 6 MS/JHS would be \$43,840,000**

PSFA wishes to emphasize that this estimate is mid-level, and predicated on a range of assumptions outlined in subsequent sections below.

The SB255 substitute does not appropriate additional funds, but would increase costs of qualifying school projects currently ranked under the NMCI list by between \$2 and 2.64 million per project, based on the above assumptions. PSFA is unable to estimate recurring corresponding annual costs under the SB255 substitute because information from PED on specific qualifying ES, MS and JHS's to cross reference against ranking order on the NMCI ranked list was not immediately available. In short, insufficient information is currently available to estimate how many years it may take to complete projects at the 20 schools specified in the amendment.

## FISCAL IMPLICATIONS OF THE COMMITTEE SUBSTITUTE

The following analysis attempts to quantify:

- The additional square feet required to enhance all existing elementary and middle schools, as they are improved or modified, so each school will accommodate a maximum population of 400 students per the language of SB255;
- Of those schools which are larger than 400 students, how many are high poverty schools;
- And finally, to multiply this additional marginal cost times the number of schools affected, to determine a potential estimated cost that may underlie the provisions of SB255. Neither potential cost reductions from the use of community spaces, nor creating a new school on a separate site have been included in these estimates. The first would decrease the estimate and the second would increase the estimate.

### **Cost analysis per each affected elementary school:**

- For a 400 student school, PSFA Adequacy Planning Guidelines specify 140 Sq Ft per student
- For a 600 – 1,000 student school, PSFA Adequacy Planning Guidelines specify 115 Sq Ft per student
- The difference between these two school sizes is 25 Sq Ft per student
- So, the additional space premium required at each school site to maintain a maximum 400 student capacity would be 10,000 Sq Ft
- Average cost per Sq Ft for an elementary school is \$200.00
- So the cost premium would be: \$2,000,000 \*

\* Additional space costs (not including use of community spaces) for serving 400 students in a school facility designed for 400 students, as opposed to serving those 400 students in a school facility designed for 600 – 1,000 students (multiple 400 student schools located on the same site, sharing core facilities). If small site will not allow additions, premium will increase.

### **Cost analysis per each affected middle school:**

- For a 400 student school, PSFA Adequacy Planning Guidelines specify 160 Sq Ft per student
- For a 700 – 1,000+ student school, PSFA Adequacy Planning Guidelines specify 130 Sq Ft per student
- The difference between these two school sizes is 30 Sq Ft per student
- So, the additional space premium required at each school site to maintain a maximum 400 student capacity would be 12,000 Sq Ft
- Average cost per Sq Ft for a middle school is \$220.00
- So the cost increase would be \$2,640,000 \*

\* Additional space costs (not including use of community spaces) for serving 400 students in a school facility designed for 400 students, as opposed to serving those 400 students in a school facility designed for 700 – 1,000+ students (multiple 400 student schools located on the same site, sharing core facilities). If small site will not allow additions, premium will increase.

### **Cost analysis, number of schools affected by SB255 due to poverty level:**

PED data indicates that 316 schools (elementary, middle and junior high) have greater than 75 percent of their students on free or reduced cost lunch.\*\*

\*\* (PED was unable to immediately disaggregate elementary from middle and junior high schools, and was not immediately able to provide information on high mobility or high English language learning—the other two “high poverty” criteria mentioned in SB255.)

There are currently 571 elementary, middle junior high and combined schools in New Mexico, so about 55 percent of these schools would currently qualify as high poverty ( $316/571 = 55.3$  percent).

## ATTACHMENT 1

**Statewide 250 (32% of elementary, middle, junior high and combined schools) are currently above 400 student enrollment limits specified in SB255, based on PSFA FAD data.**

If we make the assumption that the average 55.3 percent high poverty percentage holds for these 250 schools that are currently above the 400 student enrollment limits specified in SB255, then 138 elementary, middle, junior high and combined schools would be subject to the high poverty 400 student per school limit, per language of SB255 ( $250 \times .553 = 138$ ).

The breakdown of those 138 schools would be:\*\*

- Elementary: 93 schools ( $168 \times .553 = 92.9$ )
- Middle/Junior High 42 schools ( $76 \times .553 = 42.3$ )
- Combined 3 schools ( $6 \times .553 = 3.3$ )

\*\*Number of school data is from FAD, and is outlined in this analysis under the “Significant Issues” section.

### **Overall Cost Analysis, number of high poverty schools that are above 400 students sorted by the marginal additional cost of serving those students in 400 student schools**

Elementary Schools: \$186,000,000 ( $93 \times \$2,000,000$ )

Middle/Junior High Schools: \$110,880,000 ( $42 \times \$2,640,000$ )

Combined Schools: \$7,920,000 ( $3 \times \$2,640,000$ ) using the additional marginal cost of middle schools

**Total (sum of the three categories): \$304,800,000**

**This \$304.8 million estimate would be the total additional space (square footage) cost in housing all elementary, middle, junior high and combined school students who are currently in schools larger than 400 students AND that meet the criteria for being high poverty (55.3%). It is an estimate, based on a number of assumptions, and on data currently available. Although it seeks to address all current elementary, middle, junior high and combined schools which have student populations above 400 AND are classified as high poverty, there are any number of factors which relate to how local districts would choose to address solutions to creating smaller schools, limitations of land parcel sizes and so on *which could increase* costs beyond this estimate of the potential underlying costs re SB 255. This estimate also does not take into account the cost reduction effect of the use of community spaces, simply because good statewide data on those facilities is currently unavailable. This and other factors *could decrease costs* below this estimate.**

### **SIGNIFICANT ISSUES REFLECTED BY THE AMENDMENTS**

First, the breakdown of current schools that would exceed the amended student population limits are:

- **Elementary Schools:** 41% (168 schools of 408 elementary schools) currently have over 400 students.
- **Middle & Junior High Schools:** 65% (76 schools of 117 elementary schools) currently have over 400 students.
- **Combined Schools:** 13% (6 schools —4 are k-12, 1 is a combination of three elementary, and 1 is k-8) currently have over 400 students.

**Statewide 250 (32% of all schools) are currently above the recommended student/school ratio.**

Second, Section 12 on page 17, lines 1-6 appears to limit to 400 students each, any elementary, middle or junior high schools which share a single parcel of land, while NOT limiting the student populations of elementary, middle or junior high schools which do NOT share a single parcel of land. It is unclear if this inconsistency was intended; or if this proposed language was meant to instead address a condition in which two or more schools in the rankings would be moved to share a single campus on a single parcel of land.