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## FISCAL IMPACT REPORT

ORIGINAL DATE 02/07/13

SPONSOR Trujillo, CH LAST UPDATED 02/26/13 HB 268/aHEC/aHJC

SHORT TITLE School District Funding Match Waivers SB \_\_\_\_\_

ANALYST Gudgel

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

	FY13	FY14	FY15	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
<b>Total</b>		See Fiscal Implications				

(Parenthesis ( ) Indicate Expenditure Decreases)

For the Public School Capital Outlay Oversight Task Force and the Legislative Education Study Committee

### SOURCES OF INFORMATION

LFC Files

#### Responses Received From

Public Education Department (PED)

Public School Facilities Authority (PSFA)

### SUMMARY

#### Synopsis of HJC Amendment

House Judiciary Committee Amendment amended the title to more correctly reflect the contents of the bill, and reinstated the word “shall” in Section 22-24-5 NMSA 1978, limiting the Public School Capital Outlay Council to granting waivers of the local matching fund requirements only under the circumstances included in law.

#### Synopsis of HEC Amendment

House Education Committee Amendment eliminated the new language requiring districts to have student enrollment of less than 800 in order to be eligible for a waiver under 22-24-5 (B) 9(a) NMSA 1978. The amendment makes changes to the second waiver provision for districts with less than 800 students enrolled, extending the waiver to districts that have at least 50 percent of their students eligible for free or reduced-fee (FRL) lunch (currently 70 percent FRL required) and has a residential property tax rate of at least 5 mills (down from 7 mills).

Synopsis of Original Bill

House Bill 268 (HB 268) amends the Public School Capital Outlay Act, making consideration by the Public School Capital Outlay Council of a waiver of the local match requirement permissive rather than mandatory. The bill also changes eligibility for waivers for districts that have a residential property tax rate of 10 mills and don't have sufficient bonding capacity over four years to provide their local match to only be applicable to districts with student enrollment of less than 800 students.

**FISCAL IMPLICATIONS**

The Public School Capital Outlay Council (PSCOC) makes grants from the Public School Capital Outlay Fund (PSCOF) to school districts for standards-based projects. Standards-based projects require local school districts to match funds committed by the PSCOC based on a formula established in statute. The PSCOF consists entirely of proceeds from the sale of supplemental severance tax bonds. This bill limits the instances when the PSCOC can grant a waiver under the first waiver provision (residential property rate of 10 mills and insufficient bonding capacity to provide the local match) to districts with fewer than 800 students. The bill will not affect the amount of bonds annually certified but may affect the amount of funds available for standards-based projects, making more funds available for projects in the queue.

The original bill may have a negative effect on individual local school district's ability to fund capital projects. The bill eliminates the possibility of a waiver for the following 19 school districts and the charter schools located within their boundaries: Albuquerque, Bernalillo, Cobre, Cuba, Dexter, Gadsden, Gallup, Hatch, Jemez Valley, Las Vegas City, West Las Vegas, Los Alamos, Los Lunas, Pojoaque, Portales, Rio Rancho, Springer, and Tularosa. The only districts that will qualify for a waiver pursuant to this section will be Cuba, Jemez Valley, and Springer.

However, the amendment eliminates the language limiting the waivers under the first waiver provision and expands the districts that would be eligible for a waiver under the second waiver provision. The amendment expands the possibility of a waiver to the following districts: Corona, Elida, Eunice, Fort Sumner, Logan, Loving, Mesa Vista, Mora, Mosquero, Mountainair, Pecos, Questa, Roy, Tatum, Vaughn, and Wagon Mound.

**SIGNIFICANT ISSUES**

There are a number of school districts that have facilities far worse than the average facility in the state; however, some of these districts have a high local match requirement and relatively low bonding capacity and because of this have not requested standards-based funding. These districts, even if completely bonded, would not be able to raise sufficient revenue to cover their portion of a project.

The original bill reduced the number of school districts that may qualify for a waiver, as well as the charter schools that are located within the boundaries of those school districts. All locally chartered and state-chartered charter schools qualify for a waiver using the same criteria as the school district in which they reside. This would include a total of 19 school districts including 62 charter schools located within these school districts' boundaries.

The bill as amended restores the number of districts that are eligible for the first waiver provision

(residential property rate of 10 mills and insufficient bonding capacity to provide the local match) but expands the districts that are eligible for the second waiver provision from six districts to 22 districts.

## **OTHER SUBSTANTIVE ISSUES**

### PED Analysis Indicates

During the 2012 interim, the PSFA and the PSCOC presented policy briefs to the PSCOOTF which included consideration for expanding the waiver criteria, especially for districts with high property valuations with small student populations that have difficulty passing a bond or producing sufficient funds for their required match.

The Public School Capital Outlay Act is a funding mechanism established to ensure the physical condition, educational suitability, and technology infrastructure of all public school facilities in New Mexico meet an adequate level statewide through a standards-based funding process. This process uses a statewide assessment database which ranks the condition of every school building relative to the statewide adequacy standards. The schools with the greatest facilities needs will be addressed first according to the New Mexico Condition Index (NMCI). The database operates as an objective prioritizing and ranking tool to assist the Public School Capital Outlay Council (PSCOC) in allocating funds to school districts. The standards based process also requires school districts which receive awards to provide a local match that will be determined by the state match distribution formula.

Pursuant to the Act, the PSCOC currently has the ability to waive a school districts local match. The council may adjust the amount of local share if it determines that a school district has used all of its local resources. Before the council can make a waiver, the following criteria must be considered:

- (a) the school district has insufficient bonding capacity over the next four years to provide the local match and, for all educational purposes, has a residential property tax rate of at least ten mills;
- (b) the school district: 1) has fewer than an average of 800 students on the eightieth and one hundred twentieth days of the prior school year; 2) has at least seventy percent of its students eligible for free or reduced-fee lunch; 3) has a local share greater than fifty percent; and 4) for all educational purposes, has a residential property tax rate of at least seven mills; or
- (c) the school district: 1) has an enrollment growth rate over the previous school year of at least two and one-half percent; 2) pursuant to its five-year facilities plan, will be building a new school within the next two years; and 3) for all educational purposes, has a residential property tax rate of at least ten dollars (\$10.00) on each one thousand dollars (\$1,000) of taxable value, as measured by the sum of all rates imposed by resolution of the local school board plus rates set to pay interest and principal on outstanding school district general obligation bonds;