

Fiscal impact reports (FIRs) are prepared by the Legislative Finance Committee (LFC) for standing finance committees of the NM Legislature. The LFC does not assume responsibility for the accuracy of these reports if they are used for other purposes.

Current and previously issued FIRs are available on the NM Legislative Website ([www.nmlegis.gov](http://www.nmlegis.gov)) and may also be obtained from the LFC in Suite 101 of the State Capitol Building North.

## FISCAL IMPACT REPORT

ORIGINAL DATE 02/06/14  
 SPONSOR Candelaria & Stewart LAST UPDATED 02/27/14 HB 159/aSEC/aSFC/aSFI#1/  
 SHORT TITLE Education Technology Infrastructure Funding SB aHFI#1  
 ANALYST Gudgel

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

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY15	FY16	FY17		
\$10,000.0	\$10,000.0	\$10,000.0	Recurring	Public School Capital Outlay Fund – Education Technology Infrastructure
(\$10,000.0)	(\$10,000.0)	(\$25,000.0)	Recurring	Public School Capital Outlay Fund – Existing Programs

(Parenthesis ( ) Indicate Revenue Decreases)

### SOURCES OF INFORMATION

LFC Files

#### Responses Received From

Regulation and Licensing Department (RLD)  
 Public School Facilities Authority (PSFA)  
 Department of Information Technology (DoIT)

#### Responses Not Received From

Public Education Department (PED)

### SUMMARY

#### Synopsis of HFI Amendment #1

House Floor Amendment #1 to Senate Bill 159 will allow the Council to allocate up to \$15 million of the fund annually for a building system renewal initiative from fiscal year 2015 to fiscal year 2019. Funds allocated pursuant to the building system renewal initiative must be expended within three years of the allocation. The Senate did not concur with the House Floor Amendment and the House receded the amendment.

#### Synopsis of SFI Amendment #1

Senate Floor Amendment #1 to Senate Bill 159, as amended by SEC and SFC, changes the term “waiver” to “adjustments” in the title of the bill and the phrase “reduce or waive” in Paragraph B of Section 4 to “adjust” to clarify that the Council may adjust the required local match pursuant to current statutory provisions. The amendment appears to be technical in nature and does not make significant changes.

Synopsis of SFC Amendment

The Senate Finance Committee amendment to Senate Bill 159 as amended by SEC strikes the SEC amendments, narrows the definition of “education technology” to the physical hardware used to interconnect education technology equipment for school districts and school buildings “necessary to support broadband connectivity as defined by the council,” and eliminates Section 5, which established duties to be performed by the Public Education Department related to developing and implementing a statewide education technology plan.

Synopsis of SEC Amendment

The Senate Education Committee amendment to Senate Bill 159 amends Section 5 of the bill clarifying that the “department” is the Public Education Department.

Synopsis of Original Bill

Senate Bill 159, endorsed by the Legislation Education Study Committee, repeals the Technology for Education Act and amends sections of the Public School Capital Outlay Act to allow the Public School Capital Outlay Council (PSCOC) to expend up to \$10 million annually from FY14 through FY19 for an education technology infrastructure deficiency correction initiative. The bill also makes changes to the local match waiver provisions of the Public School Capital Outlay Act, allowing the PSCOC to consider awarding a waiver of the required local match when a school district has “made a good faith effort to use” all of its local resources and meets the other conditions currently in law. Current law reads the school district must use all of its local resources. The bill includes an emergency clause.

**FISCAL IMPLICATIONS**

The bill does not make an appropriation; however it allows the Public School Capital Outlay Council (PSCOC) to expend up to \$10 million of the Public School Capital Outlay Fund (PSCOF) to make award to schools for building system repair, renovation, and replacement initiatives in fiscal years 2014 through fiscal year 2019. Allowing the use of funds for an education technology deficiency corrections initiative will decrease the amount of funds available annually for standards-based projects.

In addition, the House Floor Amendment #1 also allows the PSCOC to expend up to \$15 million of the Public School Capital Outlay Fund to make award to schools for building system repair, renovation, and replacement initiatives in fiscal years 2014 through fiscal year 2018. Allowing the use of funds for building systems will decrease the amount of funds available annually for standards-based projects. **However, the Senate failed to concur with the House amendment and the amendment was withdrawn.**

The Legislature is also considering using the PSCOF for the purchase of school buses, building prekindergarten classrooms, and funding education technology. The Legislature should consider these issues simultaneously and analyze the merits of each use to ensure the state will continue to meet its constitutional obligations under the Zuni court decree.

PSCOF is the source of funding for the standards-based capital outlay program for public schools statewide, as well as the state match for the Public School Capital Improvements Act (SB9),

Lease Assistance Program, Master Plan Assistance, and other programs under the Public School Capital Outlay Act (Chapter 22, Article 24 NMSA 1978). Revenues to the fund are principally from supplemental severance tax bonds and allocations from the fund are authorized by the PSCOC.

The PSFA notes redirecting \$153 million of local and state share funds to educational technology infrastructure and equipment over a six year period could have a negative impact on construction employment. Over the next 18 months the PSCOC has \$388 million in funding commitments to projects in development and construction, representing 11,058 direct and indirect jobs in construction and related sectors.

The Legislature appropriated more than \$5 million during the 2013 legislative session to purchase computers needed for computer-based assessments.

### **SIGNIFICANT ISSUES**

The amount of state funds needed annually to support both of these initiatives is unknown at this time as it would depend on the number of applications received and the state/local match of the applicant districts.

The PSCOC currently provides standards-based roofing awards based on applicant's roofing condition index in order to avoid the consequential costs of failed roofs. It replaces a certain facility system to extend the life of the whole facility. The current standards based roofing awards will continue through FY15.

#### Education Technology

Similarly, this scenario introduces an expanded "education technology deficiency correction" initiative. The bill allows up to \$10 million of the Public School Capital Outlay Fund to be expended annually from FY14 through FY19 for an education technology deficiency correction initiative provided funding allocated must be expended within three years of its allocation. Changes in the bill require the PSCOC to establish, with the advice of the PED, minimum statewide adequacy standards for an education technology infrastructure deficiency corrections initiative, a methodology for prioritizing projects to correct deficiencies, and a methodology for determining a school district's share of the project costs by September 1, 2014.

Section 5 of the bill requires the PED to develop and implement a statewide plan for integration of education technology into public schools and coordinate and promote technology-related education activities with other entities; assist and approve school districts to develop and implement a strategic, long-term plan for utilizing education technology in schools; recommend funding mechanisms to maintain effective education technology infrastructure in the state; and to continue to assess and determine education technology needs for public schools in the state. **Section 5 is eliminated in its entirety by the SFC amendment.**

The original bill defines "education technology infrastructure" as the physical hardware used to interconnect education technology equipment for school districts and school buildings as defined in the Education Technology Equipment Act. The Education Technology Equipment Act defines "education technology equipment as the tools used in the educational process that constitute learning and administrative resources and may include:

- (1) closed-circuit television systems, educational television and radio broadcasting, cable television, satellite, copper and fiber-optic transmission, computer, network connection devices, digital communications equipment (voice, video and data), servers, switches, portable media such as discs and drives to contain data for electronic storage and playback, software licenses or other technologies and services, maintenance, equipment and computer infrastructure information, techniques and tools used to implement technology in schools and related facilities; and
- (2) improvements, alterations and modifications to, or expansions of, existing buildings or personal property necessary or advisable to house or otherwise accommodate any of the tools listed in Paragraph (1) of this subsection.

**The SFC amendment narrows the definition of “education technology to “the physical hardware used to interconnect education technology equipment for school districts and school buildings “necessary to support broadband connectivity as defined by the council.”**

**Building System Initiative (Failed)**

Pursuant to the House Floor Amendment, the Public School Capital Outlay Council (PSCOC) would have been allowed to make awards to public schools up to \$15 million between FY15 and FY19 for building systems repair, renovation or replacement, with projects to be identified by the PSCOC. However, the Senate failed to concur with the amendment and the House receded the amendment.

Over the past several years, the PSCOC has received fewer applications through the standards-based, in part because school districts do not have sufficient funds to make their local match for a PSCOC project. Individual districts have experienced difficulty passing new bonds and other property tax initiatives which are needed by districts to raise revenues for local matches required for PSCOC awards. In some cases, the bonding capacity of a school district is insufficient to produce the revenue a district needs for the local matching requirement. Additionally, the condition of schools statewide has increased substantially since the inception of standards-based awards. In many cases, the school district needs do not require the construction of a new building or a major renovation, but rather, smaller projects including electrical, plumbing, lighting, HVAC, etc.

Had the Senate concurred, the added flexibility of providing funding specifically for “building systems” would allow for districts to “fit” a project to their financial resources and address deficiencies that are greatly impacting their schools. Currently, there are a large number of school buildings which have “high value systems” and if they are not renewed, may degrade to the point where the result is a full facility renewal or replacement. Targeting funding for “building systems” will result in an efficient and use of available funding, improving the condition of New Mexico’s public school buildings. Renewal can add 10-15 years to a school facility’s useful life, having a positive impact on deferred maintenance backlog. An adequately funded systems renewal program, supplementing whole campus renewals, will increase the effectiveness of the standards-based program by incrementally improving certain schools and thereby moving those schools need of whole campus replacement back many years.

Since the inception of the standards based school program, the composition of New Mexico’s school facilities inventory has changed and a systems renewal program could maintain the

effectiveness of capital spending. There are currently a large number of schools, that if certain high value systems are not renewed, they will soon worsen to a point of requiring whole campus renewal or replacement. By correcting facility systems in a school that are “beyond expected life”, its progression to renewal or replacement can be slowed.

### **PERFORMANCE IMPLICATIONS**

The Public School Facility indicates their primary performance measure is the improvement in the statewide facility condition index (FCI) of public school buildings. Redirecting funds to education technology infrastructure and equipment over a five year period will cause the FCI to rise.

### **ADMINISTRATIVE IMPLICATIONS**

The PSCOC will be required to adopt new minimum adequacy standards and guidelines for administering the new education technology infrastructure initiative. The PSCOC will also be responsible for administering the new building systems program and the PSFA will be required to verify building system assessments submitted by school districts and rank each application pursuant to the methodology adopted by the PSCOC.

Additionally, PED will be required to comply with the new requirements in Section 5. This bill will also increase administrative duties for the Public School Facilities Authority.

### **DUPLICATE, RELATIONSHIP**

HB 260 is a duplicate.

HB 68 and HB 149 (duplicates) allow the PSCOC to allocate up to \$15 million from the fund for a “building system” renewal program.

HB 325 allows the PSCOC to allocate up to \$3 million total from the fund for security systems from FY15 to FY17.

As mentioned in Fiscal Implications, the Legislature should consider all initiatives that use Public School Capital Outlay Fund revenue simultaneously and analyze the merits of each use to ensure the state will continue to meet its constitutional obligations under the Zuni court decree.

### **TECHNICAL ISSUES**

Section 5 establishes requirements for the “department” but does not specify which department. It appears this should reference the “public school department.” This has been addressed with the Senate Education Committee Amendment.

#### PSFA notes:

There are several words and phrases within the added definition of education technology that could lead to the interpretation that items which are not capital in nature (such as disks) are allowable with capital dollars and may not be an appropriate use of supplemental severance tax bonds, if the expenditure is in conflict with the State Board of Finance’s disbursement rule (2.61.6 NMAC: Bond Project Disbursement).

By and large, the PSCOC is funded with supplemental severance tax bonds (SSTBs) with a term that does not extend beyond the fiscal year. Occasionally, the Board of Finance issues long term bonds or appropriations from STBs are made to the fund to support the various programs of the PSCOA. In these cases, there may be issues with funding technology equipment which may not have a useful life as long as the term the bonds.

## **OTHER SUBSTANTIVE ISSUES**

The purpose of the PSCOA is to ensure that, through a standards-based process for all school districts, the physical condition and capacity, educational suitability and technology infrastructure of all public school facilities in New Mexico meet an adequate level statewide. Technology infrastructure is the framework upon which digital networks operate. This infrastructure is the transmission media that includes the conduit, wiring, cabling, and hardware related to end-point terminations. It does not include the interconnecting hardware such as routers, aggregators/concentrators, repeaters, switches, or devices that control transmission paths or computers and other end user devices that are interconnected.

Additionally, the act requires the design, construction, and maintenance of school sites and facilities emphasize safety, functionality, and durability in order to meet the educational responsibility of establishing a learning environment where students can achieve success.

### DoIT Notes:

Broadband access (a core infrastructure requirement for modern technology) is not equitable and available statewide. Broadband communications are essential in modern technology. The study, planning, and implementation of broadband aligns with the New Mexico Broadband Program at DoIT. The program has two major objectives: to define broadband availability and enhance its adoption. DoIT is accomplishing these goals through several statewide projects - the department is collaborating with PED and others to assess broadband infrastructure adequacy across the state. DoIT regularly works with providers regarding services and bandwidth.

In developing adequacy standards, the process must consider some of the unique requirements associated with school size (small, medium, and large) and location (rural and urban). Many of our small and medium rural schools are especially challenged.

This bill supports the collaborative efforts of PSFA, PED, DoIT, and school districts. The bill is in alignment with recommendations as set forth in the recently released “New Mexico Broadband Assessment and Recommendations: Education, Healthcare, and Economic Development”.