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FISCAL IMPACT REPORT

SPONSOR Pinto ORIGINAL DATE 3/17/15
LAST UPDATED 3/19/15 HB _____
SHORT TITLE Study School Funding Issues SM 135
ANALYST Chavez

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY15	FY16	FY17	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total		See Fiscal Implications				

(Parenthesis () Indicate Expenditure Decreases)

Relates to HB 162, HB 417, HB 492
Duplicates HM 133

SOURCES OF INFORMATION

LFC Files

Responses Received From

Public School Facilities Authority (PSFA)
Public Education Department (PED)

SUMMARY

Synopsis of Bill

Senate Memorial 135 requests LFC, the Legislative Education Study Committee (LESC), the Public Education Department (PED), the Department of Finance and Administration (DFA), the Public School Capital Outlay Council (PSCOC) and representatives of the Public School Facilities Authority (PSFA) along with other organizations to study the provisions of federal and state laws related to federal Impact Aid, the affect of federal "sequestration" and the "sparsity factor" in the public school funding formula, in relation to the changes to federal and state law since the implementation of standards-based funding for capital outlay.

Results of the study should be reported to LFC, LESL, and the governor before the 2016 legislative session.

FISCAL IMPLICATIONS

The administrative costs of performing the study requested by this memorial should be absorbed by existing resources.

Currently the state takes credit for \$43.2 million in federal Impact Aid revenues received directly by school districts and charter schools. The following table shows impact aid payments received by school district and taken credit for in the FY14 SEG calculation:

IMPACT AID PAYMENTS BY DISTRICT		
June 1, 2013 through May 31, 2014 Credits		
		STATE CREDIT
SCHOOL	OPERATIONAL	OPERATIONAL
DISTRICT	@ 25%	@ 75%
ALAMOGORDO	\$172,012.57	\$516,037.70
ALBUQUERQUE	\$8,078.49	\$24,235.47
BERNALILLO	\$847,964.12	\$2,543,892.35
BLOOMFIELD	\$94,541.34	\$283,624.01
CENTRAL	\$4,260,144.24	\$12,780,432.72
CLOVIS	\$27,321.99	\$81,965.96
CUBA	\$157,754.50	\$473,263.49
DULCE	\$669,479.04	\$2,008,437.12
ESPANOLA	\$32,136.16	\$96,408.49
GALLUP	\$5,672,193.11	\$17,016,579.34
GRANTS	\$267,071.93	\$801,215.78
JEMEZ MOUNTAIN	\$44,195.35	\$132,586.04
JEMEZ VALLEY	\$268,395.41	\$805,186.23
LOS ALAMOS	\$58,826.56	\$176,479.69
LOS LUNAS	\$25,112.86	\$75,338.58
MAGDALENA	\$79,705.94	\$239,117.83
MAXWELL	\$74.70	\$224.11
PENASCO	\$5,951.21	\$17,853.62
POJOAQUE	\$266,901.91	\$800,705.72
PORTALES	\$2,387.18	\$7,161.54
RATON	\$471.52	\$1,414.55
RUIDOSO	\$126,521.07	\$379,563.20
TAOS	\$4,829.25	\$14,487.74
TULAROSA	\$75,419.57	\$226,258.70
ZUNI	\$1,246,519.81	\$3,739,559.42
	\$14,414,009.79	\$43,242,029.38

SIGNIFICANT ISSUES

A key feature of New Mexico’s Public School Finance Act’s operational funding scheme is the state equalization guarantee distribution, which is a formula that is meant to apportion federal and local revenue for schools equitably among the state’s school districts.

Impact Aid is a federal program that provides revenue to local governmental entities including school districts in lieu of property taxes not received from federal lands. These lands include property owned by the U.S. Forest, the Bureau of Land Management, National Laboratories, Indian reservations, and any other federally owned property. School districts directly receive 100 percent of federal Impact Aid payments. The objective of the Public School Finance Act is to equalize educational opportunity at the highest possible revenue level and guarantee each public school student equal access to programs and services appropriate to educational need, despite geographic location or local economic conditions. This is accomplished by accumulating revenue at the state level and distributing appropriations to districts based on a program cost

determined through the Public School Funding Formula. Because New Mexico is an equalized state, all revenue sources are considered in meeting the annual program cost. As a result, the state takes credit for 75 percent of federal Impact Aid payments to the districts, the local 0.5% mil levy and federal forest reserve payments to the districts. This ensures that total district revenue received through the state equalization guarantee (SEG) remains consistent with the amount calculated to meet student need and that each public school student receives equal access to programs and services appropriate to educational need. There are four parts to Impact Aid: basic payment, Indian set-aside, special education add-on, and construction funds. The state takes credit for the basic payment portion of Impact Aid only. The “Indian set-aside” portion of Impact Aid is a payment to school districts based on the number of Native American students enrolled and receiving educational services.

The “sparsity factor” referenced in the memorial refers to rural size program units pursuant to Subsection C of Section 22-8-23 NMSA 1978 (the School Finance Act) wherein a school district with over 10,000 MEM with a ratio of MEM to senior high schools less than 4,000:1 is eligible for additional program units. Gallup McKinley County Schools was historically the only school district that qualified for rural size program units pursuant to Subsection C; FY11 was the last year GMCS received rural isolation units. As a result of building Tse’Yi’ Gai High School, the school district began losing rural isolation units in FY10. PED notes at this time, there are no school districts that qualify for this adjustment.

The memorial also requests the work group study federal sequestration of funds. A June 2013 LESC brief reported USDE federal FY13 education funding reductions due to sequestration included a nearly \$20.7 million net reduction for New Mexico for commonly reported elementary, secondary, and vocational programs. A December 2014 LESC brief reported that in December 2013 the President signed the *Bipartisan Budget Act* which extended sequestration through 2023 but established a new set of discretionary spending limits for federal FY 2014 (\$1.012 trillion) and for federal FY 2015 (\$1.014 trillion). The brief also noted that funding for New Mexico was reduced by 4.1 percent from FY14 to FY15; however, as spending caps for the sequestration process will increase every year, the total amount of federal funding received for education is expected to increase in subsequent years despite sequestration.

It is also important to note that in January 2015 PED received a letter from the US Department of Agriculture indicating that, as a result of the expiration of the Secure Rural Schools Act (SRS) in September 2014, payments of SRS funds will be reduced from \$9.5 million in FY14 to an expected \$662.8 thousand for FY15. SRS funds are used for public schools and roads.

PSFA analysis indicates the memorial does not include the Public School Capital Outlay Oversight Taskforce (PSCOOTF) as participants in the study. PSFA adds, “to coincide with its duties to monitor the progress and effectiveness of programs administered pursuant to the Public School Capital Outlay Act (Act) the PSCOOTF oversee the work of the public school capital outlay council and the public school facilities authority as they perform functions pursuant to the Act, and particularly as they implement the statewide-based process for making grant awards, the PSCOOTF should be included as a participant of the study, as well as listed as a recipient of the results of the study.”

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

HB 162 amends the School Finance Act to prohibit the state from taking credit for federal

revenue payments made to a school district located entirely within the boundaries of recognized Indian reservation or pueblo land grants when calculating the state equalization guarantee distribution (or public school funding formula distributions).

HB 492 amends the Public School Finance Act to reduce the amount of federal revenue the state is able to take credit for in the public school funding formula over the next five years.

HB 417 amends the rural size program unit in the School Finance Act.

OTHER SUBSTANTIVE ISSUES

Section 6 of Article XII of the New Mexico Constitution guarantees “A uniform system of free public schools sufficient for the education of, and open to, all the children of school age in the state shall be established and maintained.” The current standards-based public school capital outlay program is the result of the *Zuni* lawsuit filed in the late 1990’s by Gallup, Zuni, and Grants-Cibola County public schools. The litigant school districts argued that the “education clause” of the New Mexico Constitution applied to public school capital outlay funding, requiring the state to ensure sufficient, uniform capital outlay funding. The case was decided in favor of the litigant school districts and the current standards-based program was implemented in the early 2000’s, and approved by the court.

The litigant districts requested a review of the current standards-based program in 2014, alleging that the types of facilities currently included in the adequacy standards are not broad enough. They have requested the PSCOF be used to make existing debt service payments and the inclusion of space not currently included in the definition of adequacy, including teacherages and administrative space. The litigant districts agreed to postpone a November trial setting on the merits of their requests to allow the Legislature an opportunity to address their concerns.

Additionally, two lawsuits were filed in March and April 2014 against PED regarding sufficiency of state funding for public schools in New Mexico. The lawsuits were combined in January 2015 and are currently in the discovery process.

According to the Indian Affairs Department analysis for related legislation:

According to a presentation entitled “Impact Aid-Title VIII: A 50 State Comparison” presented by the Indian Affairs Department in 2011: Impact Aid is a means to provide federal funds to public schools on Indian reservations. There are two reasons for Impact Aid: lack of local tax revenue and the unique needs of a predominantly Native American population-specifically to strengthen education programs in general. Impact Aid funds can be used for salaries for teachers and teacher aides; purchasing of text books, computers, and other equipment; after-school programs; remedial tutoring; advanced placement classes; and special enrichment programs. There are 89 public school districts in New Mexico. 23 public school districts have significant Native American student populations. 20 public school districts apply for Impact Aid funds. Some public school districts have opted not to apply for Impact Aid funds.

According to the National Indian Impacted Schools Association: Many local school districts across the United States include within their boundaries parcels of land that the federal government either owns or has removed from the local tax rolls-including Indian lands. These school districts face special challenges; they must provide a quality education to the children

living on Indian and other federal lands, while sometimes operating with less local revenue than other school districts have, because the federal property is exempt from local property taxes.

Since 1950, Congress has provided financial assistance to these local school districts through the Impact Aid Program. Impact Aid was designed to assist local school districts that have lost property tax revenue due to the presence of tax-exempt federal property, or that have experienced increased expenditures due to the enrollment of federally conducted children, including children living on Indian lands. The Impact Aid law assists local school districts with concentrations of children residing on Indian lands, military bases, low-rent housing properties, or other federal properties. To a lesser extent, the Act also supports school districts with children who have parents in the uniformed services or employed on eligible federal properties but who do not live on federal property.

Impact Aid is often an extremely important source of revenue for school districts that serve children living on Indian reservations and other Indian lands, because these districts frequently have a very small local property tax base from which to raise revenue for schools. School districts may use their Impact Aid payments for whatever they choose, such as teacher salaries, utilities, facilities maintenance, and supplies, in accordance with their local and state requirements. Districts may even use the funds for capital improvements. The only limitations on the use of Impact Aid funds are those payments made for children with disabilities; these funds must be used for the increased costs of educating these children.

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