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**LEGISLATIVE EDUCATION STUDY COMMITTEE  
BILL ANALYSIS  
53rd Legislature, 1st Session, 2017**

<b>Bill Number</b>	<u>SJM27</u>	<b>Sponsor</b>	<u>Munoz</u>
<b>Tracking Number</b>	<u>.206364.1</u>	<b>Committee Referrals</b>	<u>SRC/SEC</u>
<b>Short Title</b>	<u>Study Public School Cap Outlay Fund Formula</u>	<b>Original Date</b>	<u>2/21/17</u>
<b>Analyst</b>	<u>Rogne</u>	<b>Last Updated</b>	

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## BILL SUMMARY

### Synopsis of Bill

Senate Joint Memorial 27 (SJM27) requests a thorough study of the New Mexico public school capital outlay funding formula by the Legislative Finance Committee (LFC), the Legislative Education Study Committee (LESC), the Public School Capital Outlay Council (PSCOC), and the Public Education Department (PED). SJM27 requests the working group report its findings to the Legislature and the governor before the second session of the Fifty-Third Legislature.

## FISCAL IMPACT

Legislative memorials do not carry appropriations.

## SUBSTANTIVE ISSUES

Public school capital outlay funding, used to purchase capital assets like buildings, is both a local and state responsibility in New Mexico. The current standards-based public school capital outlay program was developed and established partially in response to a 1998 lawsuit filed in state district court by the Zuni Public Schools and later joined by the Gallup-McKinley County Public Schools and the Grants-Cibola County Public Schools. State district court Judge Joseph Rich found, in a partial summary judgment rendered in October 1999, that through its public school capital outlay funding system, which relied primarily upon local property tax wealth to fund public school capital outlay, the state was violating that portion of the state constitution that guarantees establishment and maintenance of a “uniform system of free public schools sufficient for the education of, and open to, all children of school age” in the state. The court ordered the state to “establish and implement a uniform funding system for capital improvements... and for correcting past inequities” and set a deadline at the end of the 2001 legislative session. The court appointed a special master to review the state’s progress.

In 2001, the Legislature established the Deficiencies Corrections Program to identify and correct serious deficiencies in all public school buildings and grounds that may adversely affect the health or safety of students and school personnel. The following year the court-appointed special

master reported the state was making a good faith effort to comply with the court's order and "has made great strides." Nonetheless, lower wealth districts were concerned that the new system would actually exacerbate facilities disparities among districts. The additional state funding would not change the low-wealth districts' limited bonding capacity, but might enable higher wealth districts to use their bonding capacity for superior facilities.

In 2003, the Legislature enacted a state share funding formula to take into account the availability of school district revenues from both bond levies and direct mill levies that support capital outlay. Relying primarily on the relative property tax wealth of a school district as measured by assessed property tax valuation per student, the funding formula calculation also takes into account the total mill levy applicable to residential property of the district for education purposes. The formula recognizes that the maximum state share of the most property-poor districts in the state can be a total of 100 percent. Also in 2003, the PSCOC developed the weighted New Mexico Condition Index (wNMCI), which ranks every facility in every school district based upon relative need, from the greatest to the least. Each year, the PSCOC updates and publishes the wNMCI-ranked list, which includes the estimated cost of repair or replacement of each need on the list.

Although the quality of school facilities has improved significantly since the lawsuit, litigant school districts are still concerned the system is inequitable. These alleged ongoing disparities led Gallup-McKinley County Schools (GMCS) two years ago to reopen the Zuni lawsuit – which had never been closed – and seek judicial intervention to cure what the school district characterizes as ongoing disparities in the current public school capital outlay funding system. For example, GMCS is concerned that property-wealthy school districts are able to build public school facilities significantly above adequacy without taxing themselves to the same extent that voters in GMCS tax themselves.

During the 2015 interim, the Public School Capital Outlay Oversight Task Force (PSCOOTF) convened a subcommittee to study the capital outlay funding formula. The subcommittee contracted the Bureau of Business & Economic Research (BBER) at the University of New Mexico to conduct an assessment of the current capital outlay funding formula. This assessment was presented to PSCOOTF at their June 2016 meeting. BBER's assessment concluded: "While the formula is being correctly applied, there are reasonable concerns that the formula does not make the most effective use of state resources and does not provide predictability necessary for long-term planning." The assessment identified two factors in the formula that could potentially be the source of the problems. First, the per-student property tax valuation; property tax valuation may not be the best measure of a district's "ability to pay," and property valuations are subject to significant fluctuations when commodities such as oil and gas extraction comprise a large share of property valuation. Second, the formula does not account for differences in the per-student facility construction and maintenance costs. BBER proposed to continue the work and create alternative funding formula scenarios for an approximate cost of \$80,000 plus any fees and charges imposed by the University of New Mexico.

## **ADMINISTRATIVE IMPLICATIONS**

The Public School Facilities Authority (PSFA) noted that should a consultant contract need to be executed with BBER, it is indeterminate who would be required to fund the contract or if that would be a shared cost between the LFC, LESC, PSCOC, and PED.

**RELATED BILLS**

Relates to SB147, School Capital Outlay State-Local Matches, which seeks to replace the current capital outlay funding formula with a new formula over a period of five years.

**SOURCES OF INFORMATION**

- LESC Files
- Public School Facilities Authority

**MCR/rab**