MINUTES
of the
SEVENTY-SECOND MEETING
of the
PUBLIC SCHOOL CAPITAL OUTLAY OVERSIGHT TASK FORCE

August 20, 2019
State Capitol, Room 322
Santa Fe

The seventy-second meeting of the Public School Capital Outlay Oversight Task Force (PSCOOTF) was called to order by Senator Mimi Stewart on August 20, 2019 at 9:09 a.m. in Room 322 of the State Capitol in Santa Fe.

Present
Rep. Eliseo Lee Alcon
Carl Foster
Mike Hyatt
Rep. Patricia A. Lundstrom
Antonio Ortiz
Olivia Padilla Jackson
Sen. Mary Kay Papen
T.J. Parks
Mike Phipps
Stan Rounds
Sen. William E. Sharer
Sen. Benny Shendo, Jr.
Sen. John Arthur Smith

Absent
Sen. William P. Soules, Chair
Rep. G. Andrés Romero, Vice Chair
Sen. Craig W. Brandt
Martha "Marty" Braniff
Rep. Jack Chatfield
Rep. Brian Egolf
Greg Ewing
Rep. David M. Gallegos
Kirk Hartom
Sen. Stuart Ingle
Cindy Montoya
Richard A. Perea
Eugene Schmidt
Ryan Stewart

Advisory Members
Sen. Michael Padilla
Sen. Cliff R. Pirtle
Sen. Mimi Stewart
Rep. Christine Trujillo
Rep. Linda M. Trujillo

Rep. Harry Garcia
Sen. Daniel A. Ivey-Soto
Sen. Gay G. Kernan
Sen. George K. Munoz
Sen. Sander Rue
Sen. Pat Woods

Staff
Raúl E. Burciaga, Director, Legislative Council Service (LCS)
Jeff Eaton, Research and Fiscal Policy Analyst, LCS
Tabitha Enriquez, Research Intern, LCS

Guests
The guest list is in the meeting file.

Handouts

Handouts and other written testimony are in the meeting file.

Tuesday, August 20

Welcome and Approval of Minutes

Senator Stewart welcomed task force members, staff and guests. Task force members introduced themselves. Upon a motion duly made and seconded, the minutes of the July 29, 2019 meeting were approved without objection.

Public School Capital Outlay Council (PSCOC) Financial Plan

Jonathan Chamblin, executive director, Public School Facilities Authority (PSFA), and Randy Evans, chief financial officer, PSFA, presented the PSCOC financial plan and budget projections for fiscal year (FY) 2019 through FY 2024.

Mr. Evans began by providing an overview of the PSCOC and the PSFA. He explained that the current standards-based public school capital outlay program and the Public School Capital Outlay Fund (PSCOF) were developed and established in response to the 1998 *Zuni* lawsuit. The public school capital outlay process seeks to establish and implement a uniform funding system for capital improvements, he said. The PSCOC consists of nine members who manage the allocation of the PSCOF to public school facilities statewide, Mr. Evans explained. The PSFA provides funding administration, project management, facility information management and staff support to the PSCOC, he said.

Mr. Evans explained that the PSCOF has a dedicated funding stream from supplemental severance tax bonds (SSTBs), which are issued by the Board of Finance Division of the Department of Finance and Administration and paid for by revenue derived from taxes levied on natural resource products. These funds are then used for standards and system awards; the Public School Capital Improvement Act, known as SB 9; lease payment assistance awards; Broadband Deficiencies Correction Program (BDCP) awards; pre-kindergarten (pre-K) capital appropriations; and the PSFA's operating budget. Mr. Evans pointed out that any unexpended funds remain in the PSCOF for future capital projects.

Mr. Evans reported that the PSFA's operating budget for FY 2020 is $4,688,000, which is $483,800 less than FY 2019. To compensate for the budget shortfall, the PSFA's operating costs will be reduced and six full-time employee positions will remain vacant. As a short-term fix, the PSFA will make an emergency supplemental request of $500,000 in the 2020 legislative session, he said. This funding will allow the PSFA to restore its operating costs and fill vacant staff positions for the second half of FY 2020.

As a long-term fix to mitigate future risks, the PSFA would like to move from a three-year rolling average to a five-year rolling average, Mr. Evans said, which will level out the PSFA's operating budget. Under a three-year average, the PSFA's operating budget would exceed the 5% statutory limit in FY 2020 and FY 2021, but with a five-year average, the operating budget can be maintained under the 5% statutory limit, Mr. Evans said. Based on a five-year average, the PSFA is requesting a budget appropriation of $5,804,597 for FY 2021, which will allow the PSFA to fill five of the eight currently vacant positions for FY 2021, he said.

Mr. Evans then explained how the PSFA offers value through regional project management services. He reported that the PSFA has been able to catch errors and unnecessary charges to save the state and school districts $242,639.

In response to questions, Mr. Chamblin stated that:

- the PSFA has over 400 new active construction projects statewide; 248 standards, systems and security projects were awarded last year and another 211 security projects were awarded in July 2019;
- the state awarded $16 million last year and $8.5 million this year for security projects; in FY 2020, 11 standards-based awards were made, totaling $13 million of state obligation, with a future state obligation of $136 million; and the systems program, which typically runs at $20 million to $25 million per year, had 24 awards in FY 2019, which represents $15 million of state funding obligation;
- the PSCOC's goal is to make approximately $125 million to $150 million in awards every year to all of the programs: standards, systems, security, lease assistance, broadband and pre-K;
- the PSFA is not receiving much bid participation from local and state contractors; there is enough work statewide, specifically in the Albuquerque area and in the oil market in southern New Mexico, but with competition from Texas, the PSFA is not getting enough bidders or truly competitive bids; and
- the PSFA will write an op-ed article about recent security awards and offsets for the *Albuquerque Journal* to clarify the state's position and explain the process to the public.

The task force discussed whether maintenance workers' salaries could be drawn from SB 9 funds and concluded that the language in SB 9 would need to be explicitly changed if maintenance workers' salaries are to be included.

A member requested that the task force refer to House Bill 33 (1983) and SB 9 by their titles, the Public School Buildings Act and the Public School Capital Improvements Act, respectively.

Evaluation of the First-Year Implementation of the Phase 2 Funding Formula

Mr. Chamblin presented an update on the capital funding formula for public schools in New Mexico and explained the history of the funding formula. He said that in response to the *Zuni* lawsuit, the state formulated a new "standards-based" capital funding program between

1999 and 2004. During this time, administrative and oversight bodies were selected; the statewide adequacy standards were created; SSTB proceeds were assigned as the source of funding for the PSCOF; and the Phase 1 state-local match calculation was formulated, he said.

Mr. Chamblin said that in 2001, the state created the Deficiencies Correction Unit to identify and correct serious life, health and safety deficiencies in schools statewide. These projects were 100% state funded. In 2003, the legislature enacted the creation of the PSFA and the Phase 1 state-local funding formula, he explained, adding that the goal of the capital funding formula is to create a uniform and equitable system for capital improvements. The funding formula measures a school district's ability to pay for capital improvements for its facilities, Mr. Chamblin said. The state's match percentage is then reduced or increased, depending on the district's capacity to raise funds locally, he explained, and added that this adjustment allows the state to fund more projects by shifting more of the project cost to districts that can afford it.

In 2015, the PSCOOTF contracted with the University of New Mexico's Bureau of Business and Economic Research (BBER) to conduct a detailed assessment of the Phase 1 funding formula. Mr. Chamblin said that the BBER study found that while the formula was being correctly applied, the formula did not efficiently leverage state resources and did not provide the predictability that is necessary for long-term planning. The BBER study concluded that the Phase 1 funding formula had two problematic factors: 1) property tax valuations are subject to fluctuations and may not be the best measure of a district's ability to pay; and 2) the funding formula does not account for different facility construction and maintenance costs in different parts of the state.

Mr. Chamblin said that to address the issues with the Phase 1 funding formula, the legislature enacted Senate Bill 30 in 2018, which introduced the Phase 2 funding formula. The new funding formula adjusts the state-local match to more accurately reflect each school district's ability to pay for public school capital outlay projects and changes the proportion of state and local funding to potentially allow the state to fund more projects each year. Mr. Chamblin explained that between FY 2020 and FY 2024, the new funding formula will be gradually phased in as the old funding formula is gradually phased out.

Mr. Chamblin explained that the Phase 2 funding formula is based on three calculations. It first measures the local school district's capacity to raise funds, he said, then it measures the district's facility needs and, finally, it compares the first two calculations to see if the district can keep up with facility needs over time. Mr. Chamblin explained that the PSCOC may adjust the local share amount if it determines that a school district has made a good faith effort to use all of its local capital funding resources. Local match reduction waivers are granted to small districts, growth districts and districts with a high mill levy and insufficient bonding capacity, he said.

On the topic of direct appropriations and offsets, Mr. Chamblin explained that offsets reduce state award amounts based on the amount of direct legislative appropriations that the district has accepted, adding that after the *Zuni* lawsuit, the legislature enacted offsets to better equalize state funding of capital requests across all of New Mexico's school districts. Mr. Chamblin pointed out that offsets apply to all PSCOC award allocations after January 2003. He added that the Public Education Department (PED) tracks direct appropriations and offsets for all of the school districts.

Mr. Chamblin presented a summary of the Phase 2 funding formula implementation and reported that 62 school districts decreased the state match, 24 districts increased the state match and three districts experienced no change in FY 2020.

The task force requested the names of the school districts that have experienced a change in the state-local match due to the Phase 2 formula. The task force discussed the use of capital outlay funds for noneducational spaces and how those funds are treated differently when calculating offsets versus the Phase 2 funding formula, and members expressed interest in seeing past examples of offsets.

Broadband Program Update

Ovidiu Viorica, senior technology projects manager, PSFA, and Richard Govea, technology projects manager, PSFA, presented an update on the BDCP in public schools.

Mr. Viorica defined broadband as a transmission technique that sends or receives zeros and ones at a certain speed. He stated that 1 megabit per second (Mbps) means that one million zeros and ones are being sent or received every second. Broadband is currently defined as at least 25 Mbps download speed and 3 Mbps upload speed.

Mr. Viorica said that the BDCP, established in 2014, allows the PSCOC to expend up to $10 million annually to correct broadband deficiencies in public schools. He reported that for each of the last three years, the PSCOC has used approximately $2 million from the PSCOF. Senate Bill 64 (2017) removed the original cap of five years, allowing schools to plan longer term improvements, he said.

Mr. Govea explained that the federal universal service Schools and Libraries Program, known as the E-Rate Program, provides funding to K-12 schools and public libraries, helping them to obtain wide area network (WAN) services and network equipment upgrades. He said that matching E-Rate funding with PSCOC funding covers 80% to 100% of the cost and takes the financial burden off of the schools.

Mr. Viorica pointed out that 2016 was the first year of BDCP projects and that E-Rate funding more than doubled. He believes that the need for funding will decrease as the infrastructure is brought up to par, he said.

E-Rate is a federal program, and a consultant is on contract to assist school districts with process, guidance and filing forms. Mr. Govea reported that the process can take one to three years for full implementation. The PSFA offers technical consultations, procurement assistance and project management to school districts.

Mr. Govea reported that between 2016 and 2018, 130 projects have been funded. Currently, 80 projects are still open and 50 projects have been closed out. Mr. Govea stated that $60 million worth of upgrades have been made in schools statewide.

Mr. Viorica explained that network equipment must be upgraded every five years, and the PSFA expects to do batches of 200 schools every year for five years and then start the process over again.

Mr. Viorica said that the network capacity available to schools is growing. He reported that in 2016, WAN bandwidth was under 500 gigabits per second (Gbps); in 2018, it was over 1,000 Gbps; and in 2019, it was over 3,000 Gbps. Mr. Viorica stated that the average broadband speed available per student in 2015 was under 100 kilobits per second (Kbps), but in 2019 it was over 500 Kbps. He pointed out that progress has been made in the last few years but bandwidth is still at one-half of the recommended speed.

Mr. Viorica pointed out that the West Central Consortium has provided a good model for other school districts. He said that seven school districts and libraries connected together in a regional WAN to share internet service and lower costs. Mr. Viorica said that the North Central Consortium, a collaboration of 20 school districts and libraries, is currently in the procurement phase. He noted that these consortiums can work together on specialized tasks and eliminate duplication of efforts in procurement, contracting and federal funding applications.

Mr. Viorica discussed network management and cybersecurity. He provided real-world examples of hacking and warned the task force that school networks are not secure. He said that schools are hacking targets and do not have adequate resources to deal with cybersecurity threats; the BDCP's focus is on infrastructure, and cybersecurity is not covered under the current program.

The task force discussed past funding for the BDCP and projections for the future.

Teacher Housing Needs in New Mexico

Mr. Chamblin presented an overview of teacher housing needs in New Mexico and explained that school districts provide subsidized teacher housing, or teacherages, when there is a lack of available housing or a lack of affordable housing near school campuses or when school districts need to incentivize teacher relocation to school districts in remote areas of the state. A school district pays for maintenance and repair of the housing through its operational budget.

The PSFA surveyed all school districts in February and March 2019 on the location, size and condition of their teacherages, Mr. Chamblin said. He provided a summary of the data and reported that there are currently 736 housing units statewide, of which 602 are permanent and

134 are modular. Based on condition, 349 housing units were rated as good, 200 as marginal and 187 as poor, he said.

Mr. Chamblin stated that an assessment of the existing housing stock shows that 343 units are over 50 years old, with 100 of these units reported to be in poor condition. The PSFA estimates that it will cost about $8 million to replace these units, he said. Based on waiting lists and estimated demand, 14 school districts have requested a total of 89 new housing units, Mr. Chamblin reported, and he said that it will cost approximately $15 million to build this housing.

Mr. Chamblin provided examples, floor plans and photos of existing teacher housing, which he described as simple, efficient and durable structures. He said that a two-bedroom unit averages 900 to 1,000 square feet and a three-bedroom unit averages 1,000 to 1,200 square feet.

Mr. Chamblin said that new housing sites need infrastructure, such as stormwater control, wastewater systems, utilities and roadway access. Building exteriors must be durable and energy efficient and use common building materials, and building interiors should be simple, durable and easily replaceable, he said.

Mr. Chamblin pointed out that Senate Bill 280 (2019) and the potential retroactive standards-based program could provide additional funds for new and renovated teacher housing.

In response to questions, Mr. Chamblin stated that rents for teacherages are subsidized and range from $200 to $700 per month. Task force members discussed the condition and maintenance of teacherages, the need for additional funding and the difference between replacement and repair costs.

School District Impacts of the Closure of the San Juan Generating Station (SJGS)

Terrian Benn, superintendent, Central Consolidated School District (CCSD), introduced Candice Thompson, director of operations, CCSD, and Kyle Archibeque, director of finance, CCSD. Ms. Benn also invited Arvin Trujillo, chief executive officer, Four Corners Economic Development (4CED), to join the presentation. Together, they explained the social, emotional and economic impacts on the CCSD of the closure of the SJGS.

Ms. Benn began by sharing information about the CCSD. The school district has eight elementary schools, three middle schools, three high schools, one early college high school, one alternative high school and area preschools. Ms. Benn reported that the CCSD has 1,200 staff members and 5,612 currently enrolled students, which is 200 fewer students than last year.

Ms. Benn noted that the region's economy is dependent on the coal, oil and gas industries. She then turned the presentation over to Mr. Archibeque, who provided the task force with an overview of the SJGS and Public Service Company of New Mexico (PNM). He said that the SJGS currently provides power to an estimated two million customers through PNM, Tucson Electric Power and the Farmington Electric Utility System.

Mr. Archibeque explained that in 2015, PNM shut down two of the four units at the SJGS and installed over $150 million of pollution control equipment in the remaining two units to comply with the federal Clean Air Act of 1963. With the understanding that the SJGS would continue operating through 2053, the CCSD and San Juan College issued $40 million of educational bonds secured by property tax revenues generated primarily by the SJGS and the San Juan Mine. In 2017, PNM announced that it would close the SJGS in 2022, about 20 years earlier than the end of its useful life. As a result, Mr. Archibeque reported, the SJGS is one of the most technologically advanced, operationally sound and cleanest coal-fired plants being retired in the United States.

A national survey found that New Mexico has one of the lowest monthly average electricity costs, Mr. Archibeque said. The closure of the SJGS will increase rates paid by customers, which undermines the state's ability to attract new businesses or keep them from leaving the state, he said. If businesses leave, the state's budget and funding for education will be severely impacted, he added. The CCSD has already seen a decrease in its student population and expects this trend to continue with the closure of the SJGS, he said, and the district will have to let go of staff or close schools. The closure of the SJGS and the mine may cause many people to leave the state, which will increase property tax rates in affected communities and school districts, he said.

Ms. Thompson provided information on school program, facility and infrastructure needs. She gave examples of how the CCSD has been aiding students, families and teachers and reported that more families are being separated, causing increased emotional issues within the community.

Mr. Archibeque reviewed the results of economic impact studies from 4CED and Economic Modeling LLC (Emsi). He stated that the closure of the SJGS will cause a loss of over 1,600 direct jobs and will indirectly affect up to 5,000 residents. Mr. Archibeque said that the 4CED report concluded that workers in San Juan County will lose $56.6 million per year in wages and $20 million per year in benefits. The report found that the CCSD will lose $3.6 million in property taxes and up to $1.5 million in student funding.

Mr. Archibeque discussed the tax impacts on San Juan County government. He reported that the county expects a loss of $3.8 million per year in property taxes. He added that the closure of the San Juan Mine will reduce statewide severance tax revenues from $16 million in FY 2014 to $3 million annually. Mr. Archibeque said that the Emsi reports from 2017 and 2018 both showed that the CCSD will lose more than 1,457 jobs, $105 million in earnings and $19.9 million in state tax revenue if the SJGS closes.

Mr. Archibeque reported that the CCSD's legal capacity to issue additional debt is $18 million but that its tax rate capacity is only $4.2 million. He noted that if assessed property values are higher than projected, capacity could be higher.

In response to questions, the panel stated that:

- the CCSD has 110 teacherages; Ms. Benn said that there are 15 people on the waiting list for housing; and
- the community needs a plan for this painful transition; the panel expressed the need for economic development and time to explore future opportunities.

The task force discussed the CCSD's need for a revenue stream and its current bond debt, which is $35 million. The task force also discussed federal impact aid funding and the need to replace the tax base in the CCSD. A member noted a need for funding for social issues.

Recap of Potential Facility Space Needs for Early Childhood Education

Mr. Chamblin and Martica Casias, deputy director, PSFA, presented an overview of potential facility space needs for pre-K programs. Ms. Casias explained that under the Pre-Kindergarten Act, funding for pre-K programs must be equally divided between the PED and the Children, Youth and Families Department (CYFD). She pointed out that licensing regulations require a minimum of 35 square feet of indoor educational activity space per child, but the PED and the CYFD require 50 square feet of learning space per child.

The PED administered the pre-K capital funding program from school years 2006 to 2016. The PSFA took over administration of the program in 2018. Ms. Casias reported that since 2006, 75 pre-K awards totaling $26 million have been made to 36 school districts and one charter school. She explained that the awards only fund new or renovated classroom space for existing or planned pre-K programs; they do not apply to portable units, furniture, fixtures or equipment.

Ms. Casias stated that in addition to classroom space, pre-K programs require sites that have parent parking, monitored entry and a nearby enclosed playground. She explained that elementary schools are ideal locations for pre-K programs because they offer access to shared playgrounds, parking, cafeterias, gyms and libraries. Ms. Casias pointed out that these locations can offer continuity to pre-K students as they transition into elementary school. She added that many of the elementary schools also have existing developmental disabilities waiver programs for students.

Ms. Casias described a typical pre-K classroom floor plan and the minimum amount of space needed to accommodate various activity centers. She said that a classroom of 20 students would need 1,000 square feet of learning space, plus 80 square feet for an attached or nearby restroom with pre-K toilets. Ms. Casias noted that these classrooms could be reassigned between pre-K and kindergarten.

Mr. Chamblin then discussed the PSFA's kindergarten and pre-K enrollment projections. He explained that the number of statewide births is correlated to kindergarten enrollment five years later, less an average of 2,831 students each year. This difference is most likely due to private school attendance, homeschooling, other educational alternatives or out-migration. Based on the PSFA's estimated statewide PED pre-K enrollment projection of 4,342 new students, 98 new classrooms and 103 renovated classrooms are needed.

Mr. Chamblin said that these needs could be met by filling the existing classrooms to capacity, renovating underutilized public school spaces into pre-K classrooms and building new classrooms. He explained that the upfront costs associated with modifying existing spaces makes renovation more expensive than new construction but that renovations save money over the long term through reduced maintenance costs.

As an alternative to building new classrooms, Mr. Chamblin said, the PSCOC has three portable units available for use. If the portable units are used, the total estimated cost would be reduced from $74,471,400 to $73,614,600. The PSFA estimates a cost to the state of $42.5 million to meet maximum anticipated demand.

Mr. Chamblin reported that Senate Bill 230 was passed during the 2019 legislative session. He said that the PSFA plans on updating the statewide adequacy standards to integrate pre-K into the standards-based process and that the draft of the statewide adequacy standards is currently out for public comment.

Adjournment

There being no further business before the task force, the meeting adjourned at 3:06 p.m.