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FISCAL IMPACT REPORT

SPONSOR HECS DATE TYPED 03/10/05 HB 1091/HECS

SHORT TITLE Change School Calculation of MEM SB _____

ANALYST Chabot

APPROPRIATION

Appropriation Contained		Estimated Additional Impact		Recurring or Non-Rec	Fund Affected
FY05	FY06	FY05	FY06		
			\$20.0	Non-Recurring	General Fund

(Parenthesis () Indicate Expenditure Decreases)

Relates to HB 854, HB 1083, SB 125, SB 274 and SB 1056
 Relates to Appropriation in the General Appropriation Act

SOURCES OF INFORMATION

LFC Files

Response Received From

Public Education Department (PED) in responses to original HB 1083 and HB 1091
 Public School Facilities Authority (PSFA)

SUMMARY

Synopsis of Bill

House Bill 1091 amends Section 22-8-25 NMSA 1978 (State Equalization Guarantee Distribution—Definitions—Determination of Amount) to delete the requirement that a portion of local and federal revenue be used for capital outlay and have PED calculate program units for charter schools or school districts implementing formula-based programs for the first time based upon current 40th day memberships. In addition, it changes the calculation of MEM for school districts on the average of the prior year 80th and 120th day attendance. For school districts with 200 or less it is the average of the prior year 80th day and 120th day attendance or the 40th day of the current year whichever is greater. The committee substitute combines features from HB 1083 and HB 1091.

Significant Issues

The statutory requirement for public school districts to designate an amount of state aid equal to 20 percent of local and federal revenue for capital outlay purposes is to assist the state in efforts to ensure all schools meet the minimum levels of adequacy.

From discussion with the department, but not included in its analysis, New Mexico is certified as an equalized state under Section 8009 of Title VIII—Public Law 103-381. This means the per pupil expenditure at the 95th percentile compared to the 5th percentile does not vary by more than 25 percent. This allows New Mexico to deduct from state aid to the school district an amount based upon the impact aid receipts. New Mexico currently uses approximately \$58 million as a credit from federal sources in determining the unit value under the State Equalization Guarantee (SEG).

PFSA is concerned that removing the requirement to use 20 percent for capital outlay will cause capital improvements needs of schools to compete against other operational needs of the district. This may affect districts' ability to meet match requirements for the Public School Capital Outlay Council (PSCOC) funded projects and limit a major funding source for completing projects beyond the Statewide Adequacy Standards. However, there is nothing in the bill that would preclude a public school district from using the 20 percent for capital outlay needs.

PED assesses not using the 40th day information except for growth calculations and new formula-based programs will encourage school districts to retain student membership beyond the 40th day reporting program. This is a Governor's initiative to keep students in school.

PERFORMANCE IMPLICATIONS

This bill could indirectly be related to performance measures on student proficiency which may improve because students stay in school.

PSFA will begin performance-based budgeting in FY06 and has a measure tied to the statewide public school facility condition index. If public school districts are unable to meet match requirements and make needed repairs, it will impact PSFA ability to meet performance goals relating to improving the condition of school facilities.

FISCAL IMPLICATIONS

PED indicates that over the past four years, approximately \$14.7 million has been budgeted for public school capital outlay from the following sources: \$2 million has been budgeted for capital outlay from the .5 mill levy, \$12.7 million from impact aid funds, and \$119 thousand from the forest reserves. While these funds may still be available, the statutory requirement to use them for capital outlay purposes will be removed.

PFSA states there may be a negative impact to the Public School Capital Outlay Fund if the local match requirements are reduced or waived. Increasing capital expenditures from funds generated for maintenance may affect districts' ability to adequately maintain facilities. Federally impacted lands typically have low assessed valuations which limit bonding capacity.

Changes to the public school funding formula modify the distribution of SEG to school districts and charter schools. PED assesses some charters and school districts would potentially lose some funding if membership continues to drop after the 40th day reporting period.

PED would have to reprogram the Accountability Data System to perform the required calculations and estimates the cost at \$20 thousand.

OTHER SUBSTANTIVE ISSUES

The Executive, LESC and LFC have recommended a public school funding formula study in FY2006; HB 2 as amended has a \$200 thousand appropriation to the Legislative Council Service to study the formula. If possible, changes to the funding formula should wait until the study is complete and changes proposed to the Legislature during the 2006 session.

PFSA adds the following issues:

The most updated assessment of New Mexico school facilities performed by 3D International shows a total estimated current cost for the life cycle building renewal and repair needs of \$2.28 billion. The funding model to address this serious backlog of capital needs is predicated on an average 50 percent local matching share to bring all public school facilities throughout the State up to adequacy.

The Public School Capital Outlay Task Force was created in part in response to the Zuni lawsuit, filed in January 1998, which challenged the constitutionality of the state's process for funding public school capital outlay in the state that was in effect at the time. In 1999, the judge of the eleventh judicial district court found that the state was in violation of the uniformity clause of the New Mexico constitution (Article XII, Section 1) in the manner in which it funded capital outlay for schools. The state was given until July 28, 2000 to correct past inequities and to establish and implement a uniform system of funding for future capital improvements. The court extended the time frame to await the work of the 2000 task force after its creation.

Laws of 2001, Chapter 338 enacted various recommendations of the Public School Capital Outlay Task Force. The legislation established a framework for public school capital outlay and provided one hundred percent state funding for correcting health and safety deficiencies at all public schools in New Mexico, continued funding of the backlog of critical capital outlay needs of school districts that had capped their own resources for public school capital improvements; and implemented a long-term public school capital improvement process beginning September 1, 2003 that guarantees all school districts an adequate physical space, adequate educational suitability and adequate technological infrastructure. The legislation also increased the funding for maintenance and repair of schools so that the state investment in school facilities is safeguarded. Finally, it established a permanent revenue source for public school capital outlay using supplemental severance tax bonds.

As of September, 2004, Laws of 2004, Chapter 125, required PSCOC to make public school construction grant awards compliant with the new standards-based process adopted by PSCOC in September 2003. PSCOC awarded \$198.5 million for statewide public school construction in FY2004-05. Of the \$198.5 million, \$124.7 million was awarded for 39 projects in the top of 100 ranked for schools of greatest need as listed in the New Mexico Condition Index (NMCI) rankings. Of the total awarded, \$73.8 million was allocated to complete projects partially funded in the prior award cycle. Although no longer required by law, the awards provided \$109.4 million to Impact Aid districts, including Albuquerque.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL?

The calculation of units under the funding formula will not change and the provisions for using a portion of impact aid and property tax levy for capital outlay will continue.

POSSIBLE QUESTIONS

1. What will be the impact on capital outlay matching funds available to a public school district?
2. What has been the historic average of per student funding calculations under the federal equalization determination?
3. Can this change to the funding formula be held in abeyance until a formula study is completed and recommendations made to the 2006 Legislature?

GAC/yr:lg