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FISCAL IMPACT REPORT

ORIGINAL DATE 2/16/2007
 LAST UPDATED 3/16/2007 HB 843/aHEC/aSFC

SPONSOR Miera

SHORT TITLE Public School Lease Purchase Arrangements SB _____

ANALYST Aguilar

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Non-Rec	Fund Affected
FY07	FY08	FY09		
	\$0.1		Recurring	General Fund

(Parenthesis () Indicate Revenue Decreases)

Relates to HB 328 and SB 395

SOURCES OF INFORMATION

LFC Files

SUMMARY

Synopsis of SFC Amendment

The Senate Finance Committee amendment to House Bill 843 makes changes limiting the term of lease purchase agreements and the length of tax resolutions to fund those agreements twenty years.

Synopsis of HEC Amendment

The House Education Committee Amendment to House Bill 843 adds a requirement that before a school board adopts a resolution for the imposition of a property tax to obtain funds necessary for a lease-purchase agreement the board will consider at a public meeting requests from charter schools for funds needed for lease-purchase agreements. If the board agrees to the request, it shall distribute to the charter school proceeds from the tax impositions established in its determination.

The HEC amendment provides that charter schools cannot propose a tax or conduct an election pursuant to the Public Lease Purchase Act, but may receive revenue from such a tax proposed by the local school board for the district in which the charter school is located and approved by voters.

Synopsis of Original Bill

House Bill 843 provides the framework for school districts to acquire public school facilities through lease-purchase agreements and authorizes additional property taxes to be used to pay for these agreements.

This bill implements the provisions of Constitutional Amendment 2 approved by voters in the November 2006 general election.

The bill notes that its provisions shall be liberally construed to effect its purposes.

FISCAL IMPLICATIONS

If lease-purchase agreements are entered into, the tax exempt provisions contained in this bill would reduce state tax revenues. The reduction of revenue contained in this bill is a recurring expense to the general fund.

SIGNIFICANT ISSUES

Article IX Section 11D of the New Mexico Constitution was approved by the voters at the November, 2006 general election. It provides that a financing agreement entered into by a school district or a charter school for leasing of a building or other real property with an option to purchase for a price that is reduced according to the payments made by the school district or charter school pursuant to the financing agreement is not a debt if there is no legal obligation for the school district or charter school to continue the lease from year to year or to purchase the real property; and the agreement provides that the lease shall be terminated if sufficient money is not available to meet the current lease payments.

The Taxation and Revenue Department notes the amount of property taxes that would be generated under the proposed legislation would depend on the extent of voter approval of rates intended to finance lease purchase agreements. Net taxable value of property in New Mexico currently totals approximately \$43 billion. Hence a 10-mill rate imposed in all school districts would generate annual revenues totaling about \$430 million revenues – or 38 percent of the state's current \$1.14 billion in property tax revenues. Approximately \$330 million in property tax revenues currently fund various types of school district capital construction projects and debt service on such projects annually, as shown in the figure below.

The bill specifically:

- Requires a local school board to give notice and a copy of any proposed lease purchase agreement to the Public Education Department for a building or other real property payable in whole or in part from ad valorem taxes before initiating any proceedings for approval of such a lease purchase arrangement;
- Sets forth specific terms required for those agreements;
- Provides for a resolution of the local school board and factors to be considered by that board prior to entering into a lease purchase arrangement;
- Authorizes funding sources for the arrangement;
- Authorizes the local school board to impose a “lease purchase property tax” of \$10 per \$1000 valuation if approved by the voters;
- Authorizes local school boards to enter into lease purchase arrangements for refunding

prior lease purchases;

- Authorizes private investment in lease-purchase arrangements;
- Authorizes charter schools to enter into lease-purchase arrangements; and,
- Allows a school district to issue general obligation bonds for the purpose of making payments under a lease purchase arrangement.

TECHNICAL ISSUES

22-20-1 NMSA 1978 requires the Public School Facilities Authority to approve all school construction to ensure compliance with the state adequacy standards as well as the state construction and fire standards. Section 4 of this bill requires that the PED approve all lease purchase agreements; however, the Public School Facilities Authority or the PSCOC should also be a part of the required approval process. This would ensure that all lease purchase agreements equal or exceed the existing statewide adequacy standards.

PED notes the Section 7c of this bill allows the use of funds from the Public School Capital Improvement Act, Public School Buildings Act and the Educational Technology Equipment Act to make principal payments under this Act. The Legislature may wish to amend these Acts to include lease purchase agreements as an allowable expenditure. Currently HB 328 and SB 395 are proposing this amendment for the PSCIA and the PSBA.

OTHER SUBSTANTIVE ISSUES

Lease purchase arrangements may enable a district to do sole-source contracting. This is not a problem in-and-of itself but other state building officials (such as California) have reported lease purchase arrangements can cultivate a system with the potential for cronyism and nepotism; problems that may undermine the cost effectiveness and efficiency potential that underlies this financing option.

ATTACHMENT

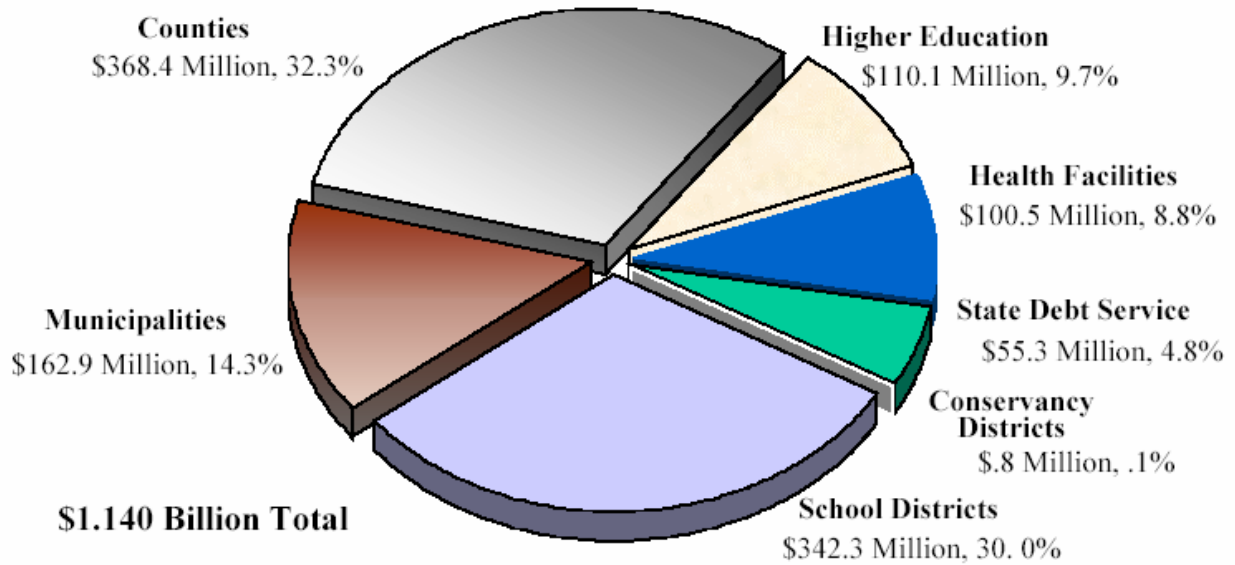
PA/csd

New Mexico Taxation & Revenue Department
2006 Property Tax Facts



Figure 2: 2006 Tax Year Estimated Revenue Distribution

Obligations by Recipient



Obligations by Recipient and Function

