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FISCAL IMPACT REPORT

SPONSOR Carraro ORIGINAL DATE 02/15/07
LAST UPDATED _____ HB _____
SHORT TITLE Elimination of School Portable Buildings SB 935
ANALYST Hanika Ortiz

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Non-Rec	Fund Affected
FY07	FY08		
	\$160,000.0	non-recurring	Public School Capital Outlay Fund

(Parenthesis () Indicate Expenditure Decreases)

Relates to Appropriation in the General Appropriation Act

SOURCES OF INFORMATION

LFC Files

Responses Received From

Public Education Department (PED)

SUMMARY

Synopsis of Bill

Senate Bill 935 appropriates \$160 million from the general fund to the Public School Capital Outlay Fund and adds a new section to the Public School Code to phase out the use of portable buildings for classrooms by public schools:

- 1) kindergarten through third shall be phased out by August 8, 2009;
- 2) fourth through sixth shall be phased out by August 8, 2010;
- 3) seventh through ninth shall be phased out by August 8, 2011;
- 4) Tenth through 12th shall be phased out by August 8, 2012.

This section also requires the PED to oversee the elimination of the portable buildings used as classrooms; and, may approve the temporary use of portable buildings not to exceed two years from the date first used as a classroom.

FISCAL IMPLICATIONS

Senate Bill 935 appropriates \$160 million from the general fund to the Public School Capital

Outlay Fund (PSCOF) for expenditures in FY08 and subsequent years for the first year of phased elimination of the portable buildings. Any expended balance at the end of any fiscal year shall not revert to the general fund.

According to the Public School Facilities Authority (PSFA) there are approximately 2,948 portable buildings totaling 3,698,615 square feet being used by school districts throughout the state. PED estimates that using a conservative average of \$170 per square foot to build a bricks-and-mortar classroom to replace the existing portable classrooms will cost approximately \$628,764.5.

The Eleventh Judicial Court ordered the state to establish and implement a uniform funding system for capital improvements of New Mexico school districts as a result of the Zuni lawsuit that found the state in violation of its constitutional "uniformity clause" in the way it funded facilities. In response to the judges' order many changes were made to the PSCOA. One of the changes was the implementation of the state and local share formula that is based upon a district's local tax efforts, wealth and membership. This bill addresses the replacement of portable buildings and allows for allocations without a local match. The majority of school districts that own portable buildings are high-growth districts. PED believes that earmarking funds to these schools may pose an equity issue and jeopardize the uniform system developed by the Public School Capital Outlay Oversight Committee in response to the Zuni lawsuit.

Currently, all capital outlay grant awards made by the PSCOC are being reduced by a percentage of direct appropriations for capital outlay projects received by that school district. The amount of the reduction will be determined by the state-local match formula, and will equal the direct legislative appropriation percentage amount for the school district multiplied by the amount of the direct appropriations for individual school projects. This offset was implemented as a direct result of the Zuni lawsuit to mitigate the disequalization effect of direct legislative appropriations to individual schools. PED asks if the funds allocated within this bill are subject to this offset. It may be a suggestion to add language to exempt them from this statutory provision.

SIGNIFICANT ISSUES

The PED reports in the current standards-based system, school districts are ranked in a database and the state goes down the list and funds as many needs as available revenues will allow. There are currently nine categories used to rank a school building and each category is weighted differently. Currently, space or growth is the second-highest weighted category. In essence, high growth and overcrowding will be reflected in the ranking of this database. The current ranking system is addressing the growth problem and as is reflected by the schools that are rising to the top.

The PED further reports that portable buildings that meet code also meet the statewide adequacy standards. The only point in time that they do not meet the adequacy standards is when there are immediate life, health and safety issues within the portable or when the portable building exceeds its useful life of 15 years.

TECHNICAL ISSUES

PED notes that Section 1, B, line 6 of page 2 states that the PED shall oversee the elimination of

portable buildings used as classrooms. However, pursuant to 22-24-9 NMSA 1978, the Public School Facilities Authority serves as staff to the Public School Capital Outlay Council (PSCOC), which provides assistance and oversight functions of the PSCOC Act. The appropriation in this bill is to the PSCOF; therefore, the word “Department” should be changed to either “PSFA” or “PSCOC”.

OTHER SUBSTANTIVE ISSUES

No one can predict with absolute certainty how many children will attend New Mexico public schools 10 years from now or what facilities the state will need. And population swings in individual communities are even more dramatic and less predictable than in the state as a whole. That uncertainty alone makes portable classrooms an important part of the mix for school facility planners. In addition, portables offer other equally important advantages. Generally speaking, they can be put into place faster than permanent buildings, allowing school districts to respond more easily to rapidly changing or unexpected needs. They are also usually less expensive to put into place, sometimes considerably so.

ALTERNATIVES

A state-sponsored task force studying the cost and safety differences between permanent construction as opposed to portable buildings for school classroom use before this bill is considered.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

The state will continue to address growth issues and old portable buildings through the current standards-based system, which identifies growth within the ranking system.

AHO/mt