Bill No: **HB 332a**   **49th Legislature, 1st Session, 2009**

Short Title: **Public School Facility Insurance Coverage**

Sponsor(s): **Representative Rick Miera and Others**

Analyst: **Peter B. van Moorsel**   Date: **March 17, 2009**

AS AMENDED

The House Appropriations and Finance Committee amendments:

- **require that the policy established in rule relating to the use of school facilities by private persons relate only to liability and risk issues and not affect the rights and responsibilities of local school boards to determine how, when, and by whom school district facilities are used;**
- **create a new section of the *Public School Code* to:**
  - ➢ **require the local school board of a public school district that is not a participant under the *Public School Insurance Authority Act* to establish by rule a policy to be followed by the public school district relating to the use of volunteers and to the use of school facilities by private persons; and**
  - ➢ **permit the local school board to insure, by negotiated policy, self-insurance or any combination thereof, against claims of bodily injury, personal injury, or property damage related to the use of school facilities by private persons; provided that the coverage shall be for no more than $1.0 million for each occurrence;**
- **strike the appropriation from the bill; and**
- **change the effective date of the bill to July 1, 2010 (from July 1, 2009).**

<u>Original Bill Summary</u>:

HB 332 amends the *Public School Insurance Authority Act* to enable the New Mexico Public School Insurance Authority (NMPSIA) to:

- promulgate rules to establish a policy to be followed by participating members relating to the use of volunteers and the use of school facilities by private persons; and
- insure, by negotiated policy, self-insurance or any combination thereof, participating members against claims of bodily injury, personal injury, or property damage related to the use of school facilities by private persons. The coverage is subject to the following provisions:
  - ➢ no more than $1.0 million shall be paid for each occurrence; and
  - ➢ the coverage shall apply only if the participating member was following the policy adopted by NMPSIA.

HB 332 also appropriates funds to the Public School Insurance Fund for insurance claims arising from the use of school facilities by private persons.

Original Fiscal Impact:

$200,000 is appropriated from the General Fund to the Public School Insurance Fund for expenditure in FY 10. Unexpended or unencumbered funds revert to the General Fund.

The NMPSIA analysis reports that, historically, losses incurred due to claims resulting from the use of school premises by outside groups have averaged $100,000 per year, and that annual premiums for this additional coverage are estimated to cost between $50,000 to $100,000. NMPSIA adds that it is difficult to accurately project the exact cost, as districts have not reported all after-school use of facilities to NMPSIA.

NMPSIA also notes that, if statewide usage of school facilities by private persons increases, the amount appropriated in HB 332 may be insufficient. NMPSIA therefore recommends an amendment that would make the requirement for NMPSIA to provide the insurance contingent on the availability of funds.

Issues:

According to NMPSIA, schools that allow building use by outside groups may obtain coverage in one of two ways:

- the school district is named as an additional insured person on the user's policy, (i.e., Boy Scouts, Lions Club); or
- limited additional premises liability insurance is provided through NMPSIA and billed to the user through a Tenant User Liability Insurance Policy (TULIP). Examples of TULIP purchasers are private individuals requesting to use school facilities for wedding receptions or potluck dinners. NMPSIA reports, however, that participation in the TULIP program is low and that a limited number of insurance companies are interested in writing this coverage.

Related Bill:

SB 226a *School Facility Private Use Liability* (identical)