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## FISCAL IMPACT REPORT

ORIGINAL DATE 02/09/11

SPONSOR Stewart LAST UPDATED \_\_\_\_\_ HB 120

SHORT TITLE New School and School Building Moratorium SB \_\_\_\_\_

ANALYST Gudgel

### APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Non-Rec	Fund Affected
FY11	FY12		
	NFI		

(Parenthesis ( ) Indicate Expenditure Decreases)

### ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY11	FY12	FY13	3 Year Total Cost	Recurring or Non-Rec	Fund Affected
<b>Total</b>		See Fiscal Implications				

(Parenthesis ( ) Indicate Expenditure Decreases)

House Bill 120 is committee sponsored legislation for the Legislative Education Study Committee.

### SOURCES OF INFORMATION

LFC Files

#### Responses Received From

Public Education Department (PED)

Public School Facilities Authority (PSFA)

### SUMMARY

#### Synopsis of Bill

House Bill 120 places a moratorium on new schools and new school construction. The bill prohibits a chartering authority from accepting or approving a new charter school between January 1, 2011 and January 1, 2017. The bill also prohibits the construction of new public schools and opening of new public schools unless the construction or opening was approved prior to January 1, 2011, or the Public School Facilities Authority (PSFA) certifies to the Public School Capital Outlay Council (PSCOC) a need because of health and safety or adequacy standards to the Public School Capital Outlay Council, and the Council approves the construction or opening.

## **FISCAL IMPLICATIONS**

The Public School Capital Outlay Fund (PSCOF) is made up of supplemental severance tax bond proceeds earmarked for school construction. A moratorium on new charter schools would reduce requests for lease assistance funds for charters in their first year of operation through the PSCOC.

By statute, the PSOCOC is required to make lease assistance grants to districts and charter schools in either the amount of the actual lease payments or \$700 dollars per MEM, adjusted for inflation. The per MEM lease assistance reimbursement during the 2010-2011 school year was \$721.81/MEM. The PSCOC awarded \$9.9 million in lease assistance for the 2010-2011 school year, \$9.7 million of which went to charter schools. Over the last 3 years, lease assistance funding has increased almost \$2 million. As lease assistance continues to grow, funds available for standards-based awards decrease.

There will also likely be some decrease in operational costs in districts that are building new facilities that are not justified by current adequacy standards or enrollment growth trends. The PSFA estimates the marginal operating cost per square foot per year to be \$6 dollars. This means that for every new school built there is an additional \$6 per square foot per year burden on a district's operating budget.

The Public Education Department indicates \$32 million in federal Charter School Program Grant funding may be jeopardized between FY11 and FY17. The grant program provides assistance to start-up charter schools during their first three years of operation. PED receives a portion of these funds for providing management and monitoring of the grant program. PED reports they might lose \$1.2 million total until the moratorium expires in FY17. It is unclear from information provided by the department how the funds will be jeopardized, and when start-up assistance would be necessary if there are no new start-up charters.

## **SIGNIFICANT ISSUES**

- Section 22-8B-4.2 requires all new charter schools to be housed in a public building, or subject to a lease purchase arrangement after July 1, 2015. The lease assistance reimbursement program is viewed as the primary vehicle that will be used by charter schools to meet the requirements of Section 22-8B-4.2.
- PED notes that a moratorium might have the effect of usurping local community decisions in the event the community passed a bond approving construction of a new facility using local tax dollars.
- A moratorium on charter schools will also likely decrease the amount of state equalization guarantee that is distributed to charter schools for enrollment growth and small school size adjustment units, and not further diluting the unit value.

## **ADMINISTRATIVE IMPLICATIONS**

PSFA is statutorily responsible for approving all public school construction projects and will need to require proof from districts that the project was approved and funding available prior to January 1, 2011.

**CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP**

SB2 is Related/Conflicting. SB 2 could be in conflict with this bill because it gives districts an incentive to construct additional smaller schools to replace larger schools.

**TECHNICAL ISSUES**

The moratorium does not affect repairs and renovations of existing buildings, though it is questionable whether the replacement of an existing school with a new school will be allowed when it is found to be more cost effective under Paragraph B.

It is unclear how this bill will affect projects approved and funded between January 1, 2011 and the effective date of the bill.

Paragraph B, page 2, line 2, references new construction or new school openings that have been approved, however the section does not specify the who the approving authority is.

**OTHER SUBSTANTIVE ISSUES**

Public school physical plant improvements have stalled over the past two years due to limits on funding, and in FY11 have begun to worsen. The average FCI for all school buildings in New Mexico has been flat at about 36 percent over the past two years, and increased to 37 percent this year (if a building costs \$100 thousand and has an FCI of 37 percent, the building needs \$37 thousand in repairs – thus, a lower FCI is better. The average annual investment in facilities required by the state to deep facilities condition from worsening is about \$125 million, while unfunded needs for public school facilities total about \$4.05 billion. Funding burdens imposed on the Public School Capital Outlay Fund have the effect of accelerating FCI levels or decreasing facility conditions.

**ALTERNATIVES**

PED suggests a study should be completed on existing public school facilities and mandate that school districts make the unused space available at no cost to the charter schools other than for maintenance of the facilities. The existing underutilized space in public schools could represent a savings to the state as new charter schools would not have to build or lease new facilities, but would be housed in facilities already paid for by taxpayers.

RSG/bym