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FISCAL IMPACT REPORT

SPONSOR Nava **ORIGINAL DATE** 02/13/11
LAST UPDATED 03/02/11 **HB** _____
SHORT TITLE Public School Facility Opportunity Program **SB** 346/aSEC/aSFC
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 |
|--------------|------|----------------------------|------|----------------------|-------------------------|---|
| Total | | See Fiscal Implications | | | | Public School Capital Outlay Fund |

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From

Public School Facilities Authority (PSFA)

Public Education Department (PED)

SUMMARY

Synopsis of SFC Amendment

SFC amendment is the same technical cleanup that SEC made, it inserts “facility” after “school” on page 10, line 7. This amendment is a duplicate of the SEC amendment.

Synopsis of SEC Amendment

SEC Amendment is technical clean up that inserts “facility” after “school” on page 10, line 7.

Synopsis of Original Bill

Senate Bill 346 amends the Public School Capital Outlay Act to create the Public School Facility

Opportunity Program (PSFOP). The bill expands the purposes that the Public School Capital Outlay Fund (PSCOF) is to be used for. The Public School Capital Outlay Council (PSCOC) will be required to develop a “public school facility opportunity program to provide additional state support from the PSCOF to qualifying districts that have low total assessed property valuations for facilities such as performing arts centers and auxiliary gymnasiums that are generally not included in PSCOC adequacy standards.

FISCAL IMPLICATIONS

In recent years PSCOF has been an attractive target as a source of revenue to fund an ever growing list of initiatives for PSFA, schools and school districts. These include, among others, an expanded and inflation-adjusted state match to the local 2 mill levy, increased lease payment assistance to schools tied to the annual increase in the consumer price index with statutory caps on total expenditures removed, master plan assistance, building demolition, and reimbursements to the Construction Industries Division and the State Fire Marshal for inspection services. Combined, these initiatives reduce funding for the core agency mission of building and repairing schools.

Senate Bill 346 will further reduce funding available for standards-based awards by allowing grants from the PSCOF for the new “public school facility opportunity program” (PSFOP). The bill does not specify an annual amount or percentage of the PSCOF that can be allocated toward the PSFOP. The PSCOC will be required to evaluate and prioritize applications under the standards-based capital outlay process. The intent is that only schools that are eligible for standards based awards would be eligible for PSFOP funding.

Public school and physical plant improvements have stalled over the past 2 years due to limits on funding, and have begun to worsen in FY11. The average FCI for school buildings in New Mexico has been flat at approximately 36 percent over the past 2 years, and increased to 37 percent this year (if a building costs \$100 thousand and has an FCI of 37 percent, that building needs \$37 thousand in repairs – a lower FCI indicates less repairs needed). Average annual investments in facilities required by the state to keep facilities condition from further declining is approximately \$134 million. Currently, unfunded needs for public school facilities in New Mexico total about \$4.05 billion.

Additional funding burdens placed on the PSCOF will accelerate FCI rankings, meaning overall condition of school facilities will worsen.

SIGNIFICANT ISSUES

Senate Bill 346 is not endorsed by the Public School Capital Outlay Oversight Task Force.

Senate Bill 346 requires the Public School Capital Outlay Council (PSCOC) to establish a Public School Facilities Opportunity Program (PSFOP). A school district may qualify for grant assistance under the PSFOP if the PSCOC determines that the district:

1. Meets all qualifications to apply for grant assistance pursuant to Section 22-24-5;
 2. Has a participation percentage greater than 70 percent;
 3. Has had a property tax rate of at least 9 mills for the previous 4 years;
 4. At least 70 percent of the students in the district are eligible for free or reduced-fee lunch;
- and

- The district will not have available funds for the next 4 years that can be used for the purpose of exceeding statewide adequacy standards.

Based on these criteria, there are currently 10 school districts that would be eligible to apply for funding under the PSFOP:

| RURAL SCHOOL OPPORTUNITY FUND TEST | | | | | | | | |
|--|-------------------------|---|--------------------------------------|--------------------------------------|--------------------------------------|-------------------|--|--------------------------------------|
| (Based on criteria in SB-378 2009 Legislature) | | | | | | | | |
| | | | | | | | The district is eligible if: | |
| | | | | | | | the percent of free or reduced fee lunch is equal to or greater than | 70% |
| | | | | | | | the state share is equal to or greater than | 0.70 |
| | | | | | | | the Mill levy is equal to or greater than | 9.00 |
| DISTRICT | Current Year | 2007 Final Res. 2008 Final Res. 2009 Final Res. 2010 Final Res. | | | | Four Year Average | Eligible for Assistance? | |
| | % Free or Reduced Lunch | 2010-2011 State Share 3 Year Avg. | Mill Levy for Ed Incl Ed. Tech Mills | Mill Levy for Ed Incl Ed. Tech Mills | Mill Levy for Ed Incl Ed. Tech Mills | | | Mill Levy for Ed Incl Ed. Tech Mills |
| Belen | 73% | 72% | 9.858 | 9.890 | 9.865 | 9.779 | 9.848 | Yes |
| Gadsden | 93% | 90% | 16.612 | 16.607 | 16.628 | 16.650 | 16.624 | Yes |
| Gallup | 78% | 85% | 10.333 | 10.597 | 10.604 | 10.619 | 10.538 | Yes |
| Grants | 75% | 81% | 10.370 | 10.581 | 10.776 | 9.624 | 10.338 | Yes |
| Hagerman | 81% | 81% | 9.750 | 9.595 | 9.548 | 9.828 | 9.680 | Yes |
| Hatch | 95% | 89% | 11.108 | 12.971 | 12.840 | 12.797 | 12.429 | Yes |
| Las Vegas West | 82% | 78% | 11.337 | 11.348 | 12.645 | 11.160 | 11.623 | Yes |
| Tucumcari | 84% | 80% | 9.469 | 9.452 | 9.476 | 9.484 | 9.470 | Yes |
| Tularosa | 70% | 81% | 10.789 | 10.679 | 10.706 | 10.370 | 10.636 | Yes |
| Zuni | 88% | 100% | 19.105 | 14.119 | 16.433 | 17.354 | 16.753 | Yes |

Qualifying schools that are eligible to apply for funding under the standards based capital outlay process would be able to renovate existing facilities or build not schools with facilities and square footage that exceeds allowable square footage under the Adequacy Planning Guide established by the PSCOC.

PSFA staff estimate that the PSCOC has over \$385 million in funding commitments to projects already in development and construction. If passed, the next PSCOC standards-based award cycle in which PSFOP funds would be awarded would likely be late July 2012.

Similar legislation has been introduced during the 2008 and 2009 legislative sessions and has been vetoed by the Governor due to concerns over differentiating certain districts from other non-qualifying districts which may effectively undermine the systematic mechanisms inherent in the existing standards-based process.

The Public Education Department provided the following analysis:

The current standards-based process was developed due to the Zuni lawsuit filed in 1999. The court found New Mexico to be in violation of its state constitutional requirement to establish and maintain a “uniform system of public schools sufficient for the education of, and open to, all of the children of school age in the state in the way the state funded capital outlay expenditures.” The judge ordered the state to establish a uniform funding system for capital improvements...The concept of the PSFOP goes against the grain and the philosophical underpinnings of the new standards-based system. The criteria used in the PSFOP does not address all school-age children within the state and is for expenditures above the adequacy standards, which was a cornerstone of the new “equalized” standards-based system.

ADMINISTRATIVE IMPLICATIONS

The PSCOC will be required to develop criteria to evaluate and prioritize applications for grant assistance under the PSFOP. This will include developing rules, standards and an application process.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

HB120 is related. HB120 prohibits new school construction until 2017.

HB145 is related. HB145 creates a new program and funding awards process for installation of cost effective high performing technologies in schools.

SB2 is related. SB2 establishes a funding priority for small schools. The bill also establishes a funding credit for the use of community educational facilities similar to those facilities suggested in this bill.

TECHNICAL ISSUES

Page 10, Section M, line 7 refers to the “public school opportunity program”, however page 11, line 20 establishes the “public school **facility** opportunity program.”

OTHER SUBSTANTIVE ISSUES

The stated purpose of the Public School Capital Outlay Act is to ensure that the physical condition and capacity, educational suitability and technology infrastructure of all public school facilities meet an adequate level statewide, and that the design, construction and maintenance of school sites and facilities encourage, promote and maximize safe, functional and durable learning environments in order for the state to meet its educational responsibilities and for New Mexico's students to have the opportunity to achieve success.

The legislation indicates that most school districts around the state either contain enough taxable property with sufficient assessed valuation or have other additional local resources available so that public school facilities can exceed the statewide adequacy standards. There are, however, a few school districts that, due to a scarcity of local resources, are unable to offer the quality of education to their students that other districts with more resources are able to provide. The legislature implemented the Public School Capital Outlay Act to bring all public schools up to statewide adequacy standards. There are still districts that are unable to exceed statewide adequacy standards because of low total assessed property valuation and lack of other available local resources. These districts are unable to provide to their students the same quality of school facilities as students in districts that have adequate resources and are able to exceed adequacy standards.

RSG/svb:bym