

<b>LFC Requester:</b>	<b>Liu</b>
-----------------------	------------

**AGENCY BILL ANALYSIS  
2024 REGULAR SESSION**

**WITHIN 24 HOURS OF BILL POSTING, UPLOAD ANALYSIS TO:**

**Analysis.nmlegis.gov**

*{Analysis must be uploaded as a PDF}*

**SECTION I: GENERAL INFORMATION**

*{Indicate if analysis is on an original bill, amendment, substitute or a correction of a previous bill}*

*Check all that apply:*

**Original**     **Amendment**    \_\_\_\_\_  
**Correction**    \_\_\_\_\_ **Substitute**    \_\_\_\_\_

**Date** January 26, 2024

**Bill No:** HB227

<b>Sponsor:</b> <u>Lara and Moya</u>	<b>Agency Name and Code Number:</b> <u>New Mexico Public School Facilities Authority 940</u>
<b>Short Title:</b> <u>Phase in Class Load Limits</u>	<b>Person Writing:</b> <u>Alyce Ramos</u>
	<b>Phone:</b> <u>505-468-0299</u> <b>Email:</b> <u>aramos@nmpsfa.org</u>

**SECTION II: FISCAL IMPACT**

**APPROPRIATION (dollars in thousands)**

Appropriation		Recurring or Nonrecurring	Fund Affected
FY24	FY25		
	\$1,430.000	Recurring	General Fund

(Parenthesis ( ) Indicate Expenditure Decreases)

Conflicts with: HB215

**SECTION III: NARRATIVE**

**BILL SUMMARY**

Synopsis:

HB227 proposes amendments to Article 8 of the Public Finance Act at Sections 22-8-6 and 22-10A-20 NMSA 1978. Related to school plans the bill proposes that school districts along with local and state chartered charter schools include the proposed requirements related to class and teacher loads in each elementary or secondary class at each school site for each of those classes and any class load or teach load waivers granted by PED in the prior school year or those requested for the upcoming school year.

The bill proposes that the maximum class load for elementary school teachers at each individual school is twenty students for kindergarten and any teacher in a kindergarten class with a load of fifteen to twenty students in a full-time kindergarten class shall be entitled to the assistance of an

educational assistant. HB227 also proposes maximum individual class loads of twenty students for elementary school teachers at each individual school to be phased in by grade and year starting with grade 1, beginning with the 2024-2025 school year and ending with grade 6 in the 2029-2030 school year. Before the maximum class load for a specific grade is phased in, the maximum class load for elementary school teachers at an individual school site is twenty-two students for grades 2 and 3 and twenty-four students in grades 4 through 6.

HB227 changes “state superintendent” to “secretary” as the individual that can approve waivers to the individual school class load requirements. The bill also proposes to adjust the waiver criteria related to when a school plans alternatives for the increase of building capacity. In this situation, a school district is required to demonstrate a specific plan on how it will increase building capacity to meet the class load limits in the following school years.

As it relates to waivers, HB227 proposes certain requirements that a school district must follow such as providing a notification of the waiver, the content of the waiver and to whom the notification must be provided as well as conducting a public hearing in accordance with the Open Meetings Act associated with the waiver request. The waiver provision is also amended to adjust the number of students to twenty-two for kindergarten and grades 1-3 and twenty-four for grades 4-6 for which a waiver can be granted. Any waivers granted must be posted on PED’s website.

The bill provides for an appropriation of \$1.430M from the general fund to the Public School Capital Outlay Fund (PSCOF) for expenditures in 2025 and subsequent fiscal years to provide additional classroom space for school districts that demonstrate the need for additional classrooms to comply with the proposed load maximums.

## **FISCAL IMPLICATIONS**

As discussed in the significant issues section below, HB227 could result in school districts and individual schools requiring additional classroom spaces to meet lower classroom loading. Schools requiring additional classroom space may need to construct classroom additions, renovate existing spaces, convert support spaces or specialty spaces (art/music) into general classrooms, or use portables. These options will cost varying degrees of funding, which could be substantial to the school districts and/or the state.

It is difficult to estimate the potential funding need for classroom additions given the current unknowns and variables: number of classrooms needed per school, classrooms that could be renovated / converted, potential of classroom additions, etc. Based on current market conditions and economies of scale, smaller construction projects, including classroom additions, tend to have a higher total project cost per square foot than a new full school replacement project. The Public School Facilities Authority (PSFA) estimates that classroom additions could cost approximately \$1 million per classroom, based on recent existing classroom addition projects.

HB227 appropriates \$1,430,000 from the general fund to the Public School Capital Outlay Fund, for expenditure in FY 2025 and subsequent years, for the purpose of providing additional classroom space for public schools that demonstrate the need for additional classrooms to comply with the class loading maximums, required by the bill. The \$1,430,000 appropriation could potentially fund the construction of 1 to 2 classrooms, at one school, assuming 100% state funding. This amount is woefully insufficient to fund the quantity of classroom additions that may be needed across the state. At this time it is difficult to calculate the potential classroom need across the state, and therefore a potential dollar amount that would be needed to fund the

addition projects.

If the Public School Capital Outlay Council (PSCOC) is to support and fund the construction of new classroom additions to meet the mandate stipulated in HB227, a new funding program aimed at funding classrooms additions and renovations only, much like the current PSCOC Pre-kindergarten funding program (based on need, not the ranking), may need to be developed. The PSCOC currently has a Standards-based funding program to fund the replacement, renovation or addition to a public school facility, which has school eligibility thresholds and requirements, set annually based on availability of funding in the Public Schools Capital Outlay Fund (PSCOF). For FY24, the top 175 schools within the 2023 weighted New Mexico Condition Index (wNMCI) Ranking, or with a facility condition index score above 70%, were eligible to apply. Schools not within this threshold, would not be eligible to apply for the construction of additional classrooms, under the current Standards-based program.

Per Section 22-24-5.7, districts receiving PSCOC funding for capital projects, must fund the local match (a calculated percentage) of the total project cost; the state funds the state match (the remaining percentage). If school districts were to receive PSCOC funding for the purpose of constructing additional classrooms, the school districts would be responsible for funding the local match of a project. Depending on the individual school districts' state/local matches, the state could fund between 100% (Zuni) to 37% of the total project, through FY26, as the 2023 SB131 temporary provision for the local match reduction is in place. Following FY26, local matches may increase.

Currently, the PSCOF has decreased funding availability, due to increased construction costs and the large number of PSCOC funded projects. Therefore, the PSCOF could not support this additional funding need at this time.

### **SIGNIFICANT ISSUES**

HB227 would result in a maximum individual class load of 20 students for classes in grades kindergarten through 6<sup>th</sup> grade, which will be phased in one grade at a time from the 2024-2025 to the 2029-2030 school years. The following analysis applies to the classroom/space needs that would result from the passage of this bill. This analysis does not address additional issues, such as staffing, scheduling, operations, etc. that fall outside of the Public School Facilities Authority (PSFA) purview.

Per the Statewide Adequacy Standards, 6.27.30 NMAC, "general use classroom" is defined as "a classroom space that is or can be appropriately configured for instruction in at least the areas of language arts (including bi-lingual), mathematics and social studies." Furthermore, the net square footage requirements for specific grade levels are defined as follows (excluding storage), with a minimum of 650 net square footage:

- (1) Pre-Kindergarten - Kindergarten 50 net sf/student
- (2) Grades 1 - 5 32 net sf/student
- (3) Grades 6 - 8 28 net sf/student
- (4) Grades 9 - 12 25 net sf/student

Depending on the district and school, HB227 could require schools serving kindergarten through 6<sup>th</sup> grade to need additional classrooms to meet lower classroom loading, of 20 students per individual class. The demand for additional classrooms would vary by district and school, depending on several variables: vacant or available classrooms, enrollment by grade level, and projected enrollment growth. Final determination of classroom need per district/school depends

on the number of student distribution per grade level.

*Example:* A school may have more second graders one year and more first graders the next, requiring flexible spaces to accommodate shifts.

*Example:* Under the proposed class loading in the bill, a school with 44 first grade students will now require three classrooms, whereas under current loading the same school only requires two.

Elementary schools tend to be better utilized than middle and high schools, with less available space and classrooms that could be used as additional classroom space if needed, resulting in lower flexibility to create additional space. In some cases, the statewide declines in enrollment has led to vacant classrooms or classrooms used for non-instruction. Some schools have available seats in classrooms, which allows some flexibility to assign students to available seats, per grade level.

#### Schools Operating Under Capacity

The state has experienced a declining enrollment trend in many school districts across the state that has led to some underutilized schools with vacant classrooms or classrooms used for non-instructional purposes. In these situations, the districts and schools might be able to create or recapture the additional classrooms needed to accommodate the proposed loading in existing space. Most of these cases occur in high schools.

#### Schools Operating At Capacity

While many school districts in the state are experiencing enrollment declines, there are some districts that operate at capacity, or slightly over capacity, in many of their schools.

*Example:* Hobbs elementary schools utilize all their classrooms at 100% utilization throughout the school day with 98% seat occupancy. As a result, the district has little flexibility in creating additional space. To meet the proposed loading in HB227, the schools would need to create additional classroom space.

In the example below, College Lane Elementary has classrooms operating just above the proposed maximum load. The maximum class load would need to create additional classrooms for some grade levels.

College Lane Elementary - Hobbs - 6 Additional Classrooms Needed						
Grade Levels	2023-24 Enrollment	Existing Classrooms	Avg Student per CR	Proposed Load	Classrooms Needed w/ Proposed Load	Additional Classrooms Needed
KN	82	4	21	20	5	1
1st	85	4	21	20	5	1
2nd	79	4	20	20	4	0
3rd	100	4	25	20	5	1
4th	93	4	23	20	5	1
5th	108	4	27	20	6	2
Surplus		0				
<b>TOTAL</b>	547	24	23		30	6

#### Schools Operating At or Over Capacity

For schools with high classroom utilization, operating at or over capacity, this could put a burden on these schools to create the additional space. In these cases, the schools may need classroom

additions, renovation, convert support spaces or specialty spaces (art/music) into general classrooms, or the use of portables. This is especially true for schools without available space.

#### *Schools Districts with Mixed Capacity Schools*

For geographically large districts, one area may have more underutilized classrooms, while other areas do not. In some situations, each school within a district may have two to three available classrooms, but there may not be enough available classrooms in bulk in which the school can create additional space. In order to balance enrollment to better utilize available classrooms, districts may need to adjust attendance boundaries.

*Example:* A recent utilization study for the Las Cruces Public Schools revealed a total of 38 available classrooms within the Las Cruces Public Schools, but spread across the entire district. Most schools only have two available permanent classrooms.

#### *“Right-Sized” Schools*

Several school districts across the state have implemented “right-sizing” initiatives, which resulted in improved overall building utilization. These districts have closed or consolidated schools due to enrollment declines. To meet the proposed class loading in HB227, these districts may have to reopen buildings, which they have not already disposed of (Moriarty-Edgewood, Las Vegas City). If the former facilities have been demolished, repurposed for other purposes, or are no longer suitable to serve as educational space, the schools would need to create additional classroom space.

Several school districts across the state have “right-sized” their school facilities by replacing the original facilities, that were beyond expected life span and over capacity, with facilities that were designed and constructed to meet the needs of the current enrollment. These facilities are much smaller than the original school facilities, as calculated by the maximum allowable square footage calculator. The schools have the appropriate number of classrooms, to meet the current class loading requirements. If HB227 were to take effect, these new facilities may not accommodate the additional classroom need, and could require classroom additions.

This bill could also impact schools serving kindergarten through sixth grade, currently in design or under construction, since the facilities were planned using a target capacity and classroom need count under the existing loading figures. As a result, these projects could face a space deficit upon opening.

#### *Maximum Allowable Square Footage*

The PSCOC has established the maximum allowable square foot guidelines for entire facilities, based on the type of school and number of students. The maximum allowable square footage for new and existing schools is calculated using a formula that accounts for all required spaces and square footages for a school, to meet the needs of the projected enrollment. The current formula accounts for the current class loading and class needs. The passage of HB227 would require the formula to be modified to account for the mandated decreased class loading maximums (more classrooms), for the specified grades. This would result in higher gross square footages for schools serving kindergarten through sixth grade (primarily elementary schools and middle schools). PSCOC funded schools that have been designed and constructed within approximately the last decade, would likely be undersized and deficient in square footage and classroom space.

#### *PSCOC wNMCI Ranking*

Schools that would experience classroom deficiencies due to the implementation of HB227, would rise in the Public School Capital Outlay Council (PSCOC) annual wNMCI ranking, which

is used to prioritize schools in need of capital funding to correct deficiencies. The rise in the ranking would be attributed to the newly deficient square footage associated with the General Use Classrooms minimum requirements, as defined by the New Mexico Adequacy Standards. This could result in specific schools rising in the ranking.

### Portables

School districts have historically relied on installing portables as temporary classroom space, used for over capacity schools. However, this potential solution to additional classroom needs is problematic. The transfer and installation of portables is costly (could exceed \$100,000, depending on the distance required to transfer) and would require site work improvements (grading, sidewalks, ramps, etc.). Many school districts have made efforts in recent years to dispose of portables in their inventories, and may not have the availability needed to support the increased classroom need. Most school portables in the state have surpassed their functional life spans, and are in poor condition. The demand for portables may also outpace supply.

### **PERFORMANCE IMPLICATIONS**

HB227 includes an explicit plan to phase the decreased maximum individual class load of 20 students in grades kindergarten through sixth. The decreased class load would first apply to first grade, in the 2024-2025 school year. Second through sixth grades would phase in one at a time in successive order, until the 2029-2030 school year, when the change for sixth grade occurs.

The time and effort required to plan, design and construct the necessary amount of additional classrooms across the state would be substantial. Planning studies, including utilization, capacity, and space needs analysis, would be needed to determine the potential classroom needs for individual schools. If design and construction of additions is necessary, a project could take a minimum of 3 to five years to complete. Therefore, school districts may not be able to create the additional classrooms needed to support the updated class loading requirement, within the given timeframe, particularly for the lower grade levels, which must be implemented earlier.

### **ADMINISTRATIVE IMPLICATIONS**

#### **CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP**

HB227 conflicts with HB215, which proposed modification to the class loads in K-12 classes, without a phased approach or timeframe.

### **TECHNICAL ISSUES**

### **OTHER SUBSTANTIVE ISSUES**

### **ALTERNATIVES**

#### **WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL**

The maximum individual class load of 20 students for classes in grades kindergarten through 6<sup>th</sup> grade would not be required, and additional classrooms would not be needed to meet that demand.

### **AMENDMENTS**