

**MINUTES  
of the  
THIRTY-NINTH MEETING  
of the  
PUBLIC SCHOOL CAPITAL OUTLAY OVERSIGHT TASK FORCE**

**November 12, 2012  
Room 322, State Capitol  
Santa Fe**

The thirty-ninth meeting of the Public School Capital Outlay Oversight Task Force (PSCOOTF) was called to order by Representative Rick Miera, co-chair, on November 12, 2012 at 9:12 a.m. in Room 322 of the State Capitol.

**Present**

Rep. Rick Miera, Co-Chair  
Sen. Cynthia Nava, Co-Chair  
Tom Clifford  
Dr. Carl Foster  
Dr. Lisa Grover  
Robbie G. Heyman  
Rep. Larry A. Larrañaga  
Sen. Lynda M. Lovejoy  
Kilino Marquez  
Antonio Ortiz (designee for Sec. Hannah Skandera)  
Lilliemae G. Ortiz  
Sen. Sander Rue  
Sen. John M. Sapien (designee for Sen. Timothy Z. Jennings)  
Sen. John Arthur Smith

**Absent**

Sen. Vernon D. Asbill  
Rep. Donald E. Bratton  
Cecilia J. Grimes  
Leonard Haskie  
Rep. Ben Lujan  
Rep. W. Ken Martinez  
Judy Rabon  
Rep. Henry "Kiki" Saavedra

**Staff**

Raúl E. Burciaga, Legislative Council Service (LCS)  
Sharon Ball, LCS  
Tom Pollard, LCS  
Cassandra Jones, LCS

**Guests**

The guest list is in the meeting file.

**Handouts**

Handouts and other written testimony are in the meeting file.

## **Monday, November 12**

Representative Miera welcomed task force and audience members to the meeting.

### **Approval of Minutes**

Upon a motion by Representative Larrañaga, seconded by Dr. Foster, the task force voted unanimously to approve the minutes of the thirty-seventh and thirty-eighth meetings of the PSCOOTF.

### **Discussion of Draft Legislation**

Sharon Ball, researcher for the LCS, presented the committee with draft legislation that was requested by the Public School Capital Outlay Act (PSCOA) Funding Formula Work Group and the Lease Assistance and Charter School Facilities Work Group. She reminded the committee that the legislation is meant to serve as a starting point for discussion and alteration, and that some of the presented legislation would need to be combined before the task force considers it for endorsement.

### **190438.2**

Ms. Ball told the task force that this bill would allow the Public School Capital Outlay Council (PSCOC) to consider building systems, rather than entire buildings, when awarding capital outlay funding. She said that this practice would allow the PSCOC to address certain issues related to building systems, such as electrical distribution systems, plumbing systems and heating, ventilation and air conditioning systems, in order to extend the life of a school building. Robert Gorrell, director of the Public School Facilities Authority (PSFA), told the task force that there will likely be many schools that need to be replaced in coming years due to the fact that many of them were built around the same time. He said that by addressing certain building systems and extending the usefulness of some of those buildings, the PSCOC can stagger replacements in order to address the most deficient schools first.

Members of the task force discussed the proposed legislation and made suggestions for changes before task force endorsement is considered. Several task force members discussed the importance of specifically including technology systems in the bill. Mr. Gorrell answered questions about the process of implementation of the proposed legislation. Members of the task force discussed changing the legislation to create a separate fund specifically for systems maintenance. Members of the task force also considered tightening language in the proposed legislation in order to provide sufficient guidance to the PSCOC for administering the funds. Several members of the task force expressed concern over systems funding as a mechanism for avoiding replacement of school buildings that need to be replaced. Mr. Gorrell told the task force that building replacement would be determined by standards-based assessments, which would require that buildings be replaced when certain criteria are met. Mr. Gorrell explained that these standards would be established by PSCOC rule. Members of the task force suggested including a sunset date in the proposed legislation in order to evaluate the effectiveness of funding for building systems.

### **109439.3**

Ms. Ball told the task force that this proposed legislation would give the PSCOC more discretion to determine when a school district should be eligible for a waiver of its required funding match. The bill would relax some waiver requirements that are currently in law and would also give the PSCOC more discretion in some cases when a local school district does not meet all of the waiver requirements. Mr. Gorrell told the task force that there are currently 11 school districts above 65 percent of the weighted New Mexico Condition Index (wNMCI) that have not been applying for PSCOC assistance because of their inability to come up with their local match.

Members of the task force expressed concern over relaxing requirements and giving the PSCOC more flexibility. Members suggested that the PSCOC should be given the power to decide when a district is eligible and that waiver requirements should be removed from statute. Some members discussed relaxing waiver requirements further while requiring local school districts to meet all requirements in order to be eligible for a waiver. Members of the task force requested that staff do additional analysis of potential changes in statute and the effect those changes would have on various school districts, particularly those above 65 percent of the wNMCI.

Task force members discussed including a population requirement, raising it from the number currently in statute. Members of the task force discussed at some length the state's responsibility to provide an adequate education for all students. In response to questions from task force members, Mr. Gorrell clarified that charter schools are also eligible for local match waivers.

### **190619.2**

Ms. Ball told the task force that this legislation would require that a school district offer available school facilities to a charter school located geographically within the school district and would require that charter schools accept available facilities offered by a school district. School districts and charter schools that do not meet these requirements would be ineligible for PSCOA grants. Ms. Ball told the task force that current law requires that school districts offer available space to charter schools, but it does not offer any penalties for those that do not. The PSCOOTF Lease Assistance and Charter School Facilities Work Group directed Ms. Ball to draft legislation that would provide consequences when this requirement was unmet.

Members of the task force discussed whether the proposed consequences would be too severe. They also discussed potential issues in the event that a charter school is located within a certain geographic location within a school district but is offered space in a different location. Task members suggested that a charter school should be required only to accept space within its community rather than in the entire district, and only if the space is functional for its specific program goals. Members of the task force requested that staff look at best practices in other states and report back to the task force at a later date. Members also discussed the importance of allowing charter schools to occupy any state facilities with available space, not just available

school buildings.

### **190444.3**

Ms. Ball told the task force that this legislation would require that a chartering authority revoke the charter of a charter school whose facilities do not meet designated facilities standards within two years of occupancy or relocation. Ms. Ball clarified that charter schools are required by current statute to be in facilities that meet the average wNMCI within 18 months of opening or relocating. This bill amends the time frame to two years in order to better align with the school calendar and offers penalties for charter schools that do not meet the requirement.

Members of the task force discussed the differences between traditional school facilities requirements and charter school facilities requirements. Members of the task force noted that this same section of law was changed in recent years and suggested that perhaps more time is needed to assess the effectiveness of the changes. Members of the task force also discussed the importance of making facilities funding that is available to traditional schools available to charter schools. Some members of the task force opined that providing adequate facilities should be the responsibility of the charter school authorizer. Members of the task force suggested that rather than imposing penalties, perhaps more facilities assistance should be offered to charter schools.

### **190441.2**

Ms. Ball told the task force that this legislation would remove the Consumer Price Index (CPI) adjustment from the PSCOC lease assistance program. Mr. Gorrell told the task force that the CPI adjustment has not kept pace with the market. In 2012, the PSCOC chose not to enforce the CPI increase for the lease assistance program, which it feels it has the authority to do because of ambiguities in current law. In previous meetings, members of the task force and of the work groups expressed concern about the PSCOC's decision and suggested that current statute be tightened or that the CPI requirement be removed.

Members of the task force expressed concern about removing the requirement entirely and suggested that perhaps the PSCOC should be given the authority to make adjustments as it sees fit, up to the amount of the CPI.

### **190440.2**

Ms. Ball told the task force that this bill would temporarily increase the SB 9 funds. Proposed legislation would increase the guaranteed minimum in SB 9. Ms. Ball told the task force that the guarantee could also be increased or that the task force could choose to increase both the guarantee and the guaranteed minimum. Members of the task force requested that staff provide examples and analysis of each of the proposed increases at a later date. Members of the task force discussed how SB 9 funds are distributed to charter schools in various school districts. Task force members also discussed the importance of increasing SB 9 funds in order to assist the schools with technology and technology infrastructure in order to prepare for the coming changes in common core testing.

Representative Miera directed staff to prepare draft legislation and analysis of draft legislation per task force instructions throughout the meeting.

**Adjournment**

There being no further business before the committee, the thirty-ninth meeting of the PSCOOTF adjourned at 12:49 p.m.