

**MINUTES**  
**of the**  
**FIRST MEETING**  
**of the**  
**PUBLIC SCHOOL CAPITAL OUTLAY ACT POLICY AND FUNDING FORMULA**  
**ISSUES WORK GROUP**  
**of the**  
**PUBLIC SCHOOL CAPITAL OUTLAY OVERSIGHT TASK FORCE**

D

**October 16, 2012**  
**Room 322, State Capitol**  
**Santa Fe**

The first meeting of the Public School Capital Outlay Act (PSCOA) Policy and Funding Formula Issues Work Group of the Public School Capital Outlay Oversight Task Force (PSCOOTF) was called to order by Representative Rick Miera, co-chair, on October 16, 2012 at 9:15 a.m. in Room 322 of the State Capitol.

**Attendees**

Rep. Rick Miera, Co-Chair, PSCOOTF  
Rep. Donald E. Bratton  
Craig Cook  
Shirley Crawford  
Steve Crespin  
Carl Foster  
Cecilia Grimes  
Lisa Grover  
Joe Guillen  
Leonard Haskie  
Bruce Hegwer  
Robbie Heyman  
Rep. James Roger Madalena  
Janet Peacock  
Mike Puelle  
Rep. Henry Kiki Saavedra  
Sen. John Arthur Smith  
Karin Williams

**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.

## **Tuesday, October 16**

### **Welcome and Introductions**

Representative Miera welcomed the work group and members of the audience. Members of the work group, staff and audience introduced themselves.

### **Work Group Issues for Consideration**

Ms. Ball briefly introduced issues for consideration by the work group and reminded the group that the anticipated outcome of the meeting would be to develop ideas for legislation to correct PCSOA policy and funding formula issues. She referred the work group to a handout created by the Public School Facilities Authority (PSFA) that outlines various policy considerations and possible actions. Policy considerations for the lease assistance program and leases include:

- setting an annual award maximum and removing the Consumer Price Index adjustment from statute;
- creating standardized leases; and
- standardizing intergovernmental land leases for buildings and renewing of land leases for school facilities.

### **PSCOA Policy and Funding Formula Issue Brief**

Robert Gorrell, director of the PSFA, and Jeff Eaton, chief financial officer for the PSFA, referred the work group to a brief prepared by the PSFA regarding the PCSOA policy and funding formula issues. He outlined the following funding formula issues:

- the Public School Capital Outlay Council (PSCOC) bases adequacy on the adopted adequacy standards and total allowed space that includes circulation and other tare with the Adequacy Planning Guide (APG);
- the total gross square footage (GSF) per student figures of the APG may be too generous for small population schools;
- high-population schools allow facility scale advantages;
- scale advantage frees local resources, which has led to some PCSOA projects being built above adequacy;
- small rural population districts have an insufficient local match in certain instances; and
- the PSCOC has the statutory authority to determine that a district is "recalcitrant", but that word lacks definition by the PCSOA and the PSCOC.

Mr. Gorrell outlined possible policy options for task force consideration.

1. Decrease APG GSF per-student allowance for schools.

The presenters told the work group that the APG treats schools with large and small populations the same. By adjusting the APG GSF per-student allowance, issues specific to large and small schools could be taken into account.

2. Decrease state share for districts with high population densities.

The presenters told the work group that the current state-local share formula does not use population density as a factor in calculating the state-local match, which is a concern because rural districts cannot use facility space as efficiently as districts that have densely populated areas. This policy option would take population density into consideration.

3. Adjust funding on projects with "above adequacy" spaces.

The presenters told the work group that \$180 million has been expended on PSCOC awards since 2004 to exceed the adequacy standards, which happens when a school district chooses to use locally generated revenue to build larger facilities than what the state considers to be adequately sized. This policy option would reduce the state's funding share by the same amount that a district uses to build facilities above the adequacy standards. The reduction would be triggered when a project's cost exceeds adequacy by \$1 million.

4. Relax restrictions on eligibility for a waiver of a local match.

The PSCOA allows for a waiver of the local match requirement on standards-based capital outlay if a district meets certain requirements in order to give the PSCOC latitude to fund a project when a school district has made a good-faith effort evidenced by its bonded indebtedness. This policy would relax the requirements for the waiver in order to allow the PSCOC more discretion.

5. Strengthen the "recalcitrant" language in the PSCOA.

This option would legislatively require that districts be considered recalcitrant by the PSCOC if they meet a specific set of criteria, including a facilities condition index (FCI) above 65%.

### **Work Group Discussion**

Members of the work group discussed the issue brief and the alternative policy options presented by the PSFA. The work group members also asked questions of the PSFA staff as well as the Legislative Finance Committee (LFC) and LCS staff, and they received answers. Representative Miera reminded the work group that the goal of its meeting was to address certain issues about the PSCOA funding formula and to discuss potential legislation to correct those issues. Mr. Gorrell noted that the GSF per student has increased in recent years, which has driven up the cost of maintenance. According to Mr. Gorrell, maintenance generally costs between \$6.00 and \$12.00 per square foot per year. Mr. Gorrell also discussed ways to decrease the GSF per student in order to reduce construction and maintenance costs, and he emphasized the PSFA's willingness to work with schools in order to come up with solutions on a school-by-school basis. Members of the work group discussed potential equity issues in cases where schools supplement PSCOC funds with local money in order to build above adequacy standards.

Members of the work group discussed equity and adequacy issues as well as the constitutional mandate to establish and maintain "a uniform system of free public schools sufficient for the education of, and open to, all the children of school age in the state".

Members of the work group discussed the following:

- recalcitrant districts; possible consequences, costs and benefits of challenging a recalcitrant district in court, as well as other legislative solutions;
- similar efforts in other states and the need to look into best practices for dealing with recalcitrant districts; and
- potential long-term solutions, such as requiring the PSCOC and the Public Education Department to work together in cases where the district has not met its obligation.

Members of the work group discussed requirements for a local match waiver and issues regarding schools that are unable to meet waiver requirements for various reasons. Mr. Gorrell told the committee that some schools that are unable to meet waiver requirements are far below adequacy standards. Work group members discussed possible changes to the requirements that would address this issue. The work group also considered changing language in statute in order to allow the PSCOC more flexibility regarding waivers. Mr. Eaton told the committee that because of rigid waiver requirements, schools in good condition are able to receive funding when some schools in bad condition are not. Members of the committee discussed emergency measures that are sometimes taken by the PSCOC in health and safety situations, even if a school is not eligible for local match waivers. Ms. Crawford, superintendent of Capitan Municipal Schools (CMS), told the committee that the PSCOC has issued emergency funds to CMS, which CMS is in the process of paying back. She described several attempts to pass bond issues in the school district that have failed.

Members of the work group discussed the transition to online standards-based assessments and the need for better infrastructure in certain school districts. The work group members also discussed the possibility of temporarily increasing SB 9 money in order to provide for this infrastructure and to catch up on some maintenance concerns. Members discussed the various allowed uses of SB 9.

### **Discussion of Potential Legislation for PSCOOTF Endorsement**

The members discussed various policy options, including PSCOC rule changes, such as requiring higher population densities in schools in order to encourage space efficiency. The members also discussed immediate statutory changes, such as:

- giving the PSCOC more discretion over local match waivers;
- removing the population requirement for local match eligibility in Section 22-24-5 NMSA 1978; and
- temporarily increasing SB 9 money for maintenance purposes.

Members of the work group also discussed long-term policy shifts to correct certain issues in the PSCOA funding formula.

**Adjournment**

There being no further business before the work group, the first meeting of the PSCOA Policy and Funding Formula Issues Work Group of the PSCOOTF for the 2012 interim adjourned at 2:45 p.m.

- 5 -

D

R

A

F

T