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FISCAL IMPACT REPORT

ORIGINAL DATE 02/02/10

SPONSOR HEC LAST UPDATED _____ HB 68/HECS

SHORT TITLE Public School Capital Outlay Omnibus Bill SB _____

ANALYST White

APPROPRIATION (dollars in thousands)

Appropriation				Recurring or Non-Rec	Fund Affected
FY10	FY11	FY12	FY13		
\$0.0	\$0.0	\$0.0	\$10,000.0	Recurring	Public School Capital Outlay Fund
(\$29,000.0)				Nonrecurring	Public School Capital Outlay Fund

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From

Public School Insurance Authority (PSIA)

Public Education Department (PED)

Public School Facilities Authority (PSFA)

SUMMARY

Synopsis of Bill

House Education Committee (HEC) Substitute for House Bill 68 makes various changes to the public school capital outlay act and the public schools facility authority act including:

- Extending the roof replacement sunset date from 2012 to 2015, which allows the Public School Capital Outlay Council (PSCOC) to allocate up to \$10 million annually for roof repair and replacement,
- Clarifying that any new money distributed from the public school capital outlay fund (PSCOF) to either the state fire marshal or the construction industries division shall be considered an appropriations supplement rather than a replacement,
- Allowing for an increase of up to 20 percent of a high school project if the high school previously qualified for a rural community adjustment and if PSCOC rules that such an increase will benefit students and the community,
- Expanding the duties of the Public School Facilities Authority (PSFA) to act as a central purchasing office,

- Allowing the Public School Capital Outlay Oversight Task Force (PSCOTF) to continue its studies, and requiring it to report its findings and recommendations no later than December 15, 2010 to the Governor and Legislature,
- Repealing the appropriation reductions made as part of Senate Bill 24 from the 2009 special session.

The HEC Substitute also carries an emergency clause.

FISCAL IMPLICATIONS

By extending the current sunset date of the roof repair and replacement initiative from 2012 to 2015, the proposed legislation makes a recurring appropriation of up to \$10 million from the Public School Capital Outlay Fund (PSCOF). The proposed legislation further reduces FY10 non-recurring appropriations from the PSCOF by \$29 million. The decrease is the result of the repeal of appropriations made during the 2009 special session which allowed for school districts to use the funds to meet FY10 risk premiums. The repeal will also decrease the current \$30.8 million deficit against PSCOC funding commitments to \$1.8 million.

HEC Substitute for House Bill 68 further allows for an additional 20 percent distribution to eligible high schools from the PSCOF. These distributions would be treated as additional expenses from the fund, the amount of which will occur on an annual basis depend on the actions of PSCOC. The PSFA reports in its analysis that the 11 school districts currently eligible for the rural community adjustment referred to in the proposed legislation are: Belen, Gadsden, Gallup-McKinley, Grants-Cibola, Hagerman, Hatch Valley, Tucumcari, Tularosa, West Las Vegas, and Zuni.

According to PSFA, the proposed legislation's expansion of the authority's duties to include acting as a central purchasing office will have minimal additional administrative impacts. The authority is "already incurring the majority of requisite overhead to assume these functions."

SIGNIFICANT ISSUES

\$29 million in appropriations made during the 2009 special session were repealed due to an issue with the legality of using supplemental severance tax bonds (SSTBs) for the purpose of making insurance premiums. Bond counsel from the State Board of Finance (BOF) and the Attorney General's Office ruled that due to various tax and statutory restrictions the proceeds from SSTBs may not be used for certain operational expenditures including insurance premiums. Therefore it was deemed prudent for the appropriations in question to be repealed as to avoid future legal issues.

Public Education Department (PED):

Section 1 extends the authorization of the PSCOC to allocate up to \$10,000.0 from the PSCOC fund for three additional years for roof repair and replacement initiatives. House Bill 68 extends this program from 2010 until 2015. Any allocations for these purposes shall be expended within two years of the allocation. According to the PSFA, the FAD database indicates there are currently 8,141,603 square feet of bad roofs statewide. If you use a rough estimate of \$15 per square foot to fix these roofs it will cost approximately \$122,000.0 to fix all these roofs. The PSCOC has supported this initiative as an alternative to the regular standards-based process during times when available resources

are limited as a way to prevent and mitigate issues that may cause bigger problems to school buildings. The amount that the PSCOC will have available for regular standards-based projects will be further reduced by the amount which is allocated through this roof replacement initiative.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

If HEC Substitute for House Bill 68 is not enacted the roof repair and replacement initiative within PSCOC would maintain its current sunset date of 2012. Furthermore high school projects eligible for rural community adjustments would not also be eligible for an additional 20 percent increase at the discretion of PSCOC. PSFA would also not be permitted to act in an official capacity as a central purchasing office. Lastly the provisions enacted during the 2009 special session which appropriate \$29 million from the PSCOF for the purpose of paying insurance premiums would not be repealed.

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