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**LEGISLATIVE EDUCATION STUDY COMMITTEE**  
**BILL ANALYSIS**  
**55th Legislature, 1st Session, 2021**

**Bill Number** HB326/HAFCS/aHAFC    **Sponsor** Lundstrom  
**Tracking Number** .220699.1    **Committee Referrals** HAFCS  
**Short Title** Public Peace, Health, Safety & Welfare (Teacher Housing)  
**Analyst** Bedeaux    **Original Date** 3/16/21  
**Last Updated** \_\_\_\_\_

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**BILL SUMMARY**

Synopsis of House Appropriations and Finance Committee Substitute

The House Appropriations and Finance Committee amendment to the House Appropriations and Finance Committee substitute for House Bill 326 (HB326/HAFCS/aHAFC) makes a technical change to ensure revenue from the Public School Capital Improvements Act can be used to fund the maintenance of teacher housing in addition to construction and renovation.

Synopsis of House Appropriations and Finance Committee Substitute

The House Appropriations and Finance Committee substitute for House Bill 326 (HB326/HAFCS) expands the revenue sources that can be used for teacher housing to include educational technology notes, general obligation (GO) bonds, the Public School Capital Improvements Act (SB9), and the Public School Buildings Act (HB33).

**FISCAL IMPACT**

The bill does not contain an appropriation.

In FY20 and FY21, the Legislature made a total of \$52.9 million in piecemeal appropriations for “outside-of-adequacy” spaces like teacherages and appropriations to school districts that receive Impact Aid for Native American students. HB326/HAFCS/aHAFC proposes a more systemic solution to the concerns of *Zuni* lawsuit plaintiffs, creating new funding streams for teacher housing by considering them a core element of educational programs in New Mexico, and reducing the need for future piecemeal appropriations.

**SUBSTANTIVE ISSUES**

HB326/HAFCS/aHAFC would increase the amount of local funds school districts may spend on teacher housing. Rural school districts, including plaintiff school districts in the *Zuni* capital outlay lawsuit, Gallup and Zuni, rely on subsidized teacher housing, also called “teacherages,” as a tool to recruit and retain teachers in areas where there is often no housing available to rent.

Under current law, rural school districts have trouble funding teacherages through traditional capital funding mechanisms, including revenue from GO bonds and SB9. Recently, the Public Education Department (PED) denied Gallup’s request to use the district’s SB9 state match to build teacher housing, citing a 1981 Attorney General opinion noting teacherages did not constitute “school buildings”, and therefore GO bonds and SB9 funds should not be used for their construction.

The 40-year-old AG opinion was issued before teacherages were commonplace; now, teacherages are recognized as a strong tool to recruit and retain teachers in rural New Mexico. PED general counsel recently revisited the AG’s opinion and decided teacher housing is an allowable expense for SB9 revenue, given a definition of school buildings enacted in 2003 in the public school code that includes teacher housing. However, PED did not give a specific opinion on GO bond revenue or educational technology notes. HB326/HAFCS/aHAFC will explicitly allow proceeds from GO bonds, SB9, HB33, and educational technology notes to be used to purchase and renovate teacher housing, preventing shifting interpretations of the statute across different PED administrations.

***The Zuni Capital Outlay Lawsuit.*** The changes included in HB326/HAFCS/aHAFC increase the funding available for teacher housing, addressing a key concern of plaintiffs in the *Zuni* capital outlay lawsuit. Throughout the lawsuit, plaintiffs have argued the lack of funding for teacher housing constitutes an inadequacy of the system and creates inequities statewide, especially given that teacherages are necessary to recruit and retain highly effective teachers in rural New Mexico, but not as necessary in more urbanized areas of the state with abundant rental properties. Property-wealthy school districts can raise sufficient funds for teacher housing using local revenues, but property-poor school districts have few reliable options for facility funding under current law.

In December 2020, the 11<sup>th</sup> Judicial District court issued a ruling in the *Zuni* lawsuit, finding the Public School Capital Outlay Act and the Public School Capital Improvements Act have exacerbated “gross disparities” between property-wealthy and property-poor school districts. The judge’s ruling does not appear to consider the phase two state and local match calculation and did not cite specific evidence of disparities, leaving policymakers without a clear understanding of why the court found the systems unconstitutional. The office of the Attorney General obtained a stay of the judgment for the meantime to allow PSCOC to continue making awards and payments, but in the upcoming legislative interim, the state will need to evaluate in earnest its system of capital funding for public schools and consider changes to establish greater equity.

## **RELATED BILLS**

The provisions of HB326/HAFCS/aHAFC are duplicated within HB6/aSEC, State Equalization Guarantee Distributions.

## **SOURCES OF INFORMATION**

- LESC Files

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