

<b>LFC Requester:</b>	<b>Sunny Liu</b>
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**AGENCY BILL ANALYSIS  
2017 REGULAR SESSION**

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

**[LFC@NMLEGIS.GOV](mailto:LFC@NMLEGIS.GOV)**

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*{Include the bill no. in the email subject line, e.g., HB2, and only attach one bill analysis and related documentation per email message}*

**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: Date 2-27-17  
**Original**     **Amendment**    \_\_\_\_\_ **Bill No:** SB476  
**Correction**    \_\_\_\_\_ **Substitute**    \_\_\_\_\_

**Sponsor:** Senator Michael Padilla    **Agency Code:** 924  
**Short Title:**    PUBLIC ELEMENTARY SCHOOL SOLAR PANELS    **Person Writing:** Aguilar/Ortiz  
**Title:**    \_\_\_\_\_    **Phone:** 505-827-6519    **Email:** Paulj.aguilar@state.nm

**SECTION II: FISCAL IMPACT**

**APPROPRIATION (dollars in thousands)**

Appropriation		Recurring or Nonrecurring	Fund Affected
FY17	FY18		
	Indeterminate	Recurring	PSCOF

(Parenthesis ( ) Indicate Expenditure Decreases)

**ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)**

	FY17	FY18	FY19	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
<b>Total</b>		See fiscal implications			Recurring	PSFA Operating

(Parenthesis ( ) Indicate Expenditure Decreases)

**SECTION III: NARRATIVE**

## BILL SUMMARY

Synopsis: SB-476 creates a new section of statute requiring the Public School Capital Outlay Council (PSCOC) to develop a plan to purchase and install solar energy panels on public elementary schools in the state. The plan is to prioritize the biggest elementary schools to the smallest. In FY18 through FY21 the Public School Facilities Authority shall procure services to install the solar panels on the elementary schools pursuant to the plan adopted by the PSCOC.

The “solar energy panels fund” is created in the state treasury.

## FISCAL IMPLICATIONS

In addition to requiring the Public School Capital Outlay Council to develop a plan to purchase and install solar energy panels on public elementary school buildings in the state, this bill requires the Public School Facilities Authority to procure services to install solar energy panels on public elementary school buildings in accordance with the plan developed by the public school capital outlay council. In order to execute a procurement it is necessary to have funding in place. **The provisions of this bill appear to require the expenditure of funds yet an appropriation is not included in the bill. This unfunded mandate is problematic in general but in the current revenue environment where school district construction projects are being delayed because of the lack of funds, this initiative will further delay projects.**

**The “solar energy panels fund” is created in the SB-476 however no appropriation is made to the fund. It is not clear if a separate appropriation will be made to the fund in another bill or if the PSCOC is to develop a plan that is to be paid from the Public School Capital Outlay Fund (PSCOF). It is also not clear in the bill if the state is to pay 100% of the cost to purchase and install the solar panels or if the PSCOC is to apply the state/local participation percentages that are required for regular standards based projects.**

The up-front cost for the purchase and installation of solar panels may be very costly. It may take at least 20 to 25 years to realize enough savings to equal the initial purchase and installation cost. Additional maintenance costs are also required throughout the life of the photovoltaic panels. The panels last approximately 20 to 25 years but the inverters only last approximately 10 to 15 years. Therefore it is very difficult to calculate the return on investment.

School districts are required to maintain a 5 year Facilities Master Plan that prioritize the capital outlay needs of the school district. A school district may have higher priority needs to address before they may be willing or mandated to participate in a program to purchase and install solar panels. The legislature may consider clarifying how the program is to be funded.

According to the PSFA annual report, in order for the state to maintain the current facility condition index over the next 6 years, it is estimated to cost an average of \$433 million annually which will require at least \$169 million annually from the state. This estimate includes categories such as life, safety, health, adequacy of space, etc. This bill is proposing to add a new program. Adding an additional program to be paid from the fund will allow the PSCOC to fund fewer schools each year. The permanent revenue source for the PSCOF is supplemental severance tax bonds. The latest projections from the PSCOC financial plan states that there will only be \$60.7 for the PSCOC to allocate in FY18 awards planned in out years.

Making allocations from the PSCOF for providing solar energy panels on all public elementary school buildings will decrease the funds available annually for standards-based projects. The PSCOF is the source of funding for the standards-based capital outlay program for public schools statewide, as well as the state match for the Public School Capital Improvements Act (SB9), Lease Assistance Program, Master Plan Assistance, and other programs under the Public School Capital Outlay Act (Chapter 22, Article 24 NMSA 1978).

**There may be concerns with the mandated distribution language, as earmarking reduces the ability of the PSCOC to establish spending priorities through a standards based approach.**

## **SIGNIFICANT ISSUES**

The current standards-based process under the PSCOA was developed due to the Zuni lawsuit which was filed in 1999. In the suit, state district Judge Joseph L. Rich found the State of New Mexico to be in violation of its state constitutional requirement to establish and maintain “a uniform system of public schools sufficient for the education of, and open to, all of the children of school age in the state” in the way the state funded capital outlay expenditures”. The judge ordered the state to establish a uniform funding system for capital improvements. In response, the state adopted legislation to phase in a new equalized standards-based system using a set of standard adequacy standards along with a state share formula.

The statewide adequacy standards are a cornerstone in the standardized system. The adequacy standards establish the acceptable levels for the physical condition and capacity of school buildings, the educational suitability of those facilities and the need for technological infrastructure at those facilities. The minimum standards are intended for use in the evaluation of existing public school facilities. The New Mexico statewide adequacy standards are dynamic and the PSCOC reviews them regularly and makes changes as time and circumstances require. The provisions in this bill require the PSCOC to develop a plan to install solar panels on all elementary schools before the state can assist school districts to meet the minimum standards.

There is a statewide need of more than \$4 billion to repair and renovate all public school buildings to the current adequacy standards. This bill proposes an additional program to fund therefore it should be noted that these solar projects will lengthen the time to repair and replace those projects that are not currently meeting adequacy.

The proposed material in this bill is also not consistent with the current standards-based system within the PSCOA because it is not clear whether the PSCOC is to implement the state/local participation percentages to align with the standards based system.

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

HB-476 relates to SB-147 which is proposing to replace the current state/local match formula and criteria for projects allocated by PSCOC.

HB-476Relates to SJM-27 which is requiring certain state agencies to study the capital outlay funding formula as it relates to Article 12, section 1 of the constitution of New Mexico.