F I S C A L   I M P A C T   R E P O R T

ORIGINAL DATE 2/7/2020
SPONSOR Chatfield **LAST UPDATED** 2/12/2020 **HB** 254/aHEC

SHORT TITLE Distributions to School Districts **SB**

ANALYST Rabin/Liu/Torres

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY21	FY22	FY23		
$16,567.5[1]	$16,623.2[1]	$16,647.4[1]	Recurring	Public School Capital Improvements Fund
($16,567.5)[1]	($16,623.2)[1]	($16,647.4)[1]	Recurring	Public School Capital Outlay Fund

(Parenthesis ( ) Indicate Revenue Decreases)

Duplicates SB159
Conflicts with HB131
Relates to HB4

SOURCES OF INFORMATION

LFC Files
Legislative Education Study Committee (LESC) Files

Responses Received From
Public School Facilities Authority (PSFA)
Department of Finance and Administration (DFA)

SUMMARY

Synopsis of HEC Amendment

The House Education Committee (SEC) amendment to House Bill 254 makes technical changes to clarify the calculation of the SB9 distribution (See Technical Issues) and aligns the definition of “tax rate” to statutory provisions of the Public School Capital Improvements Act. The amendment also brings House Bill 254 in alignment with the amended Senate Bill 159.

[1] Subject to change based on adjustments to local tax revenue or number of program units.

Synopsis of Original Bill

House Bill 254 makes changes to the Public School Capital Improvements Act (commonly referred to as "SB9"), altering the current formula for distributing capital improvements funding to school districts and adding a new distribution to all school districts tied to their district match rates under the Public School Capital Outlay Act. The bill also changes the definition of program units used to calculate SB9 distributions to include only nondiscretionary program units from the public school funding formula (early childhood education, basic education, special education, size adjustment, enrollment growth, at-risk, and the staffing cost multiplier).

This bill repeals Section 22-24-4.4 NMSA 1978, a section of the Public School Capital Outlay Act that provides a mechanism to address serious roof deficiencies in public school facilities and specifies that, if a school district refuses to pay its share of the cost of correcting such roof deficiencies, distributions from the public school capital improvements fund will be made to the public school capital outlay fund to reimburse the fund for the school district's share. This bill also removes the provisions of the Public School Capital Improvements Act that provide for these funds to be redirected for the purpose of reimbursement.

This bill has an effective date of July 1, 2020.

FISCAL IMPLICATIONS

This bill would increase the annual state SB9 distribution to school districts to $34.8 million in FY21, an increase of $16.6 million or an average of 102 percent per school district. The bill would obligate $16.6 million from the public school capital outlay fund for this purpose, effectively decreasing the funding available for other projects administered by the Public School Capital Outlay Council (PSCOC).

The Public School Capital Improvements Act, also referred to as SB9 or the "two-mill levy," allows school districts, with voter approval, to impose a levy of up to 2 mills for a maximum of 6 years. Current law supplements local SB9 funding with a state match if the local tax effort does not generate the guaranteed amount. This "program guarantee" is based on final public school funding formula program units (a weighted student count) multiplied by an inflation-adjusted value ($70 per program unit in FY08, adjusted each subsequent year by the change in the consumer price index) and further multiplied by the voter-approved mill rate.

If revenue from local SB9 funding falls short of the program guarantee level, the state provides matching funds to cover the difference. If local SB9 revenue exceeds the program guarantee level, the Public School Capital Improvements Act also provides each district that imposed the two-mill levy a minimum distribution from state funds ($5 per mill per unit in FY08, adjusted annually based on the consumer price index). SB9 distributions are funded using supplemental severance tax bond (SSTB) capacity. If SSTB capacity is insufficient to make the increased SB9 distributions to school districts pursuant to this bill, the distribution would be reduced.

This bill makes two primary changes to SB9 distributions. First, the bill alters the base matching dollar amounts used to calculate the program guarantee and minimum distributions ($86.04 and $6.68, respectively, in FY20) to $89.25 and $5 in FY21, adjusted annually by the consumer price index (CPI) for subsequent fiscal years. Second, the bill adds a new distribution for all school districts that impose the two-mill levy based on the product of the district's program units, a matching dollar amount of $53 (not adjusted by CPI), the district's PSCOC phase two formula match, and the district's tax rate.

The change in the definition of program units for purposes of calculating SB9 distributions contained in this bill does not have a significant impact on the state; the net difference in program units between the two methods of calculation in FY20 is about 1,600 units, a 0.3 percent difference. However, this change may have a more significant impact on individual school districts.

For additional details on the impact of the changes proposed by this bill on individual school districts, see Attachment 1.

This analysis assumes property valuations and program units in FY21 and subsequent fiscal years are equal to FY20. The analysis uses projected year-over-year CPI increases.

Additionally, although not all school districts currently impose the two-mill levy or the full two-mill levy, this analysis assumes districts impose the maximum mill levy under the revised system proposed by the bill.

SIGNIFICANT ISSUES

In 2000, the 11th Judicial District Court ruled in the *Zuni Public District v. State of New Mexico* lawsuit that New Mexico's public school capital outlay system violated constitutional requirements to provide "a uniform system of free public schools, sufficient for the education of and open to, all the children of school age," and ordered the state to establish and implement a uniform funding system for capital improvements and for correcting past inequities. The impact of the *Zuni* lawsuit and subsequent legislation resulted in the development and implementation of adequacy standards for schools, which represent the maximum educational facility space the state will finance with matching local capital outlay funds, and a standards-based process for assessing and prioritizing awards for school renovation and replacement overseen by PSCOC and administered by PSFA.

Since the *Zuni* lawsuit, the state has spent $2.5 billion to build school facilities up to the approved statewide adequacy standards (which evolved from considerations of critical corrective needs to a broader range of space types and site features). Despite significant improvements in statewide facility conditions, the *Zuni* lawsuit was never closed and, in 2015, plaintiff school districts asked the court for a status hearing on new claims of inequity. The major claim of the plaintiffs was their inability to raise sufficient local capital outlay revenue to maintain capital assets and build facilities that were outside of the statewide adequacy standards like other districts with available local resources. In May 2019, the court received testimony on the case and established a deadline in August 2019 for parties to submit evidence on the state's progress in implementing a uniform and sufficient system.

Increasing the SB9 distribution for will significantly decrease funds available for PSCOC awards that support the core mission of addressing the inequities identified in the *Zuni* lawsuit. This is particularly concerning in low severance tax revenue years as supplemental severance tax revenues may be insufficient to cover every PSCOC program.

The current PSCOC financial plan anticipates a potential decrease in awards for the systems-based program, assuming an increase in SB9 funding to school districts, beginning in FY21. The table below shows the anticipated changes to the systems-based award scenario in the PSCOC financial plan.

USES (in millions):	FY20	FY21	FY22	FY23	FY24
Systems-Based Awards Scenario	20.0	10.0	10.0	0.0	0.0
Capital Improvements Act (SB-9)	17.3	35.9	35.9	35.9	35.9

PERFORMANCE IMPLICATIONS

Provisions of this bill will increase discretionary capital outlay funding for school districts, which could increase the number of locally-determined capital outlay projects and maintenance costs. PSFA indicates school district maintenance and operations spending per square foot can range from as low as $2.59 to as high as $12.28, with a mid-range spend of $6.39 per square foot. A spending range of $5.50 to $8.00 per square foot is recommended to support a quality maintenance program.

Current statewide maintenance performance, based on 460 of 784 facility maintenance assessments, scores at 70.8 percent, reflecting satisfactory performance. PSFA has set a goal for every school to have an FMAR score of at least 70 percent. Districts with maintenance scores above satisfactory (70 percent or higher) are recognized as providing quality educational environments, as well as a dedication to maintaining facility conditions to ensure that building systems meet their useful life expectancy. Funding programs under the Public School Capital Outlay Act may also be subject to increased maintenance performance requirements for award eligibility in future funding cycles.

ADMINISTRATIVE IMPLICATIONS

Since the first year of the program, the systems-based funding program has provided 43 awards in 24 school districts. Of these awards, 21 were to complete projects with a total estimated project cost of less than $1 million dollars. Although the awards provide good value toward extending the life of the facilities, PSFA's project management time to administer these smaller systems projects is similar to the time required for large standards-based awards. Increasing the state match under the Capital Improvements Act may allow school districts and charter schools to complete these smaller, systems projects autonomously, relieving the administrative project management time for PSFA.

CONFLICT, DUPLICATION, RELATIONSHIP

This bill is a duplicate of Senate Bill 159. This bill conflicts with House Bill 131, which changes the matching dollar amount for the program guarantee under SB9 to $120 in FY21 (adjusted annually by CPI). This bill relates to House Bill 4, which provides a distribution to Impact Aid schools for capital and operational expenditures.

TECHNICAL ISSUES

The bill defines the calculation of the minimum program guarantee as the product of:

1) The school district's program units;
2) The tax rate imposed by the school district; and,
3) The sum of the matching dollar amount and any additional amount certified by PSCOC "per program unit."

By adding the phrase "per program unit," the bill as written would multiply the matching dollar amount and the district's tax rate by the number of program units twice. This would result in a far more substantial increase in the SB9 distribution to school districts in FY21. LESC notes this is not the intent of the bill; as a result, the analysis included in this report is focused on the intended impact of the bill. The sponsor may want to amend the bill to clarify this calculation.

The HEC amendment addresses this issue.

In the definition of "program units" on page 13, it may be desirable to specify that the definition includes "program units generated by a charter school geographically located within the school district," ensuring the definition clearly covers both state- and locally-chartered charter schools within the district.

OTHER SUBSTANTIVE ISSUES

PSFA notes the proposed changes to the formula in this bill will increase funding to districts with strong property values but low assessed values per student.

Expenditures allowed under this bill may allow districts to complete planning, design and construction of infrastructure and facilities that are not eligible for state funding through the PSCOC funding programs, excluding public school administrative offices. Capital improvements completed with these funds may also impact the ranking of the improved school facilities. The statewide ranking is based on the results of PSFA assessments that document the condition and maintenance of all school buildings statewide. Through these facility assessments, PSFA gathers and manages facility information for every school in the state and uses the facility information to generate the numerical score for each school that is the basis of the statewide ranking. The statewide ranking is the prioritized list of school facilities that is the basis of funding decisions for the PSCOC funding programs. Schools with the greatest facility needs are identified and prioritized for state funding through PSCOC funding programs.

In 2015, the Legislature established a building system repair, renovation or replacement initiative. This systems program was intended to supplement the standards-based program, targeting projects building systems that would extend the useful life of the buildings and helping to sustain the average statewide condition of K-12 schools. Since the inception of the standards-based program, the statewide average condition of New Mexico's school facilities has improved and become more homogenous. If certain high value building systems are not renewed, they will degrade, hastening full facility (whole campus) renewal or replacement. By correcting facility systems in a school that are "beyond expected life," the cycle of campus renewal or replacement can be slowed and operating costs, including maintenance, can be reduced.

The repair and replacement of roofs are now awarded through the 2015 Legislature's establishment of a building system repair, renovation or replacement initiative and PSFA has expanded from a deficiencies correction program. In addition, this section of the Public School

Capital Outlay Act required awards made for correcting outstanding deficiencies in public school roofs be expended no later than September 30, 2008. Therefore, repeal of Section 22-24-4.4 Serious roof deficiencies, correction is appropriate as proposed.

EL/SL/IT/al/rl/al

Projected FY21 Impact of House Bill 254 by School District

	School District	Current Law Scenario			SB159 Scenario			SB159 Proposed "SB9" Distribution Change	SB159 Proposed "SB9" Distribution Percent Change	
		Projected FY20 Local Tax Revenue[2]	FY20 Projected Average 80th/120th-Day Program Units[3]	Projected FY21 "SB9" Distribution	Projected FY20 Local Tax Revenue[2]	FY20 Projected Final Nondiscretionary Program Units[4]	Projected FY21 "SB9" Distribution			
1	Alamogordo	$1,664,801	9,758	$132,980	$1,664,801	10,421	$736,614	$603,634	454%	1
2	Albuquerque	$33,777,864	180,537	$2,460,216	$33,777,864	179,382	$3,314,979	$854,764	35%	2
3	Animas	$75,288	506	$13,594	$75,473	523	$48,928	$35,333	260%	3
4	Artesia	$3,202,943	6,529	$88,975	$3,202,943	6,519	$106,651	$17,676	20%	4
5	Aztec	$1,227,076	5,096	$65,489	$1,301,247	5,279	$86,364	$20,876	32%	5
6	Belen	$1,263,610	7,076	$96,426	$1,263,610	6,997	$314,725	$218,299	226%	6
7	Bernalillo	$1,283,183	5,720	$77,947	$1,283,183	5,354	$87,591	$9,644	12%	7
8	Bloomfield	$1,523,513	4,758	$64,843	$1,523,513	5,123	$83,812	$18,969	29%	8
9	Capitan	$852,759	1,113	$15,173	$852,759	1,123	$18,372	$3,199	21%	9
10	Carlsbad	$5,453,057	14,556	$198,364	$5,453,057	15,087	$246,823	$48,459	24%	10
11	Carrizozo	$139,106	508	$6,927	$139,106	478	$7,820	$893	13%	11
12	Central	$1,492,985	10,684	$382,305	$1,492,985	10,198	$889,472	$507,167	133%	12
13	Chama	$292,962	1,072	$14,612	$296,263	951	$15,558	$947	6%	13
14	Cimarron	$862,606	1,141	$15,549	$862,606	1,171	$19,158	$3,609	23%	14
15	Clayton	$272,741	1,111	$15,135	$272,741	1,128	$18,454	$3,319	22%	15
16	Cloudcroft	$413,998	978	$13,326	$413,998	948	$15,509	$2,183	16%	16
17	Clovis	$1,680,560	13,787	$739,404	$1,680,560	13,726	$1,513,879	$774,475	105%	17
18	Cobre	$525,617	2,766	$37,692	$525,617	2,699	$103,443	$65,750	174%	18
19	Corona	$128,749	337	$4,596	$128,749	344	$5,628	$1,032	22%	19
20	Cuba	$284,870	1,504	$20,499	$284,870	1,452	$55,013	$34,514	168%	20
21	Deming	$1,194,695	9,930	$548,147	$1,194,695	9,324	$1,034,042	$485,896	89%	21
22	Des Moines	$76,961	373	$5,077	$76,961	370	$14,499	$9,422	186%	22
23	Dexter	$168,503	1,830	$152,759	$168,861	1,872	$310,473	$157,714	103%	23
24	Dora	$55,132	627	$54,857	$55,248	628	$104,696	$49,839	91%	24
25	Dulce	$600,966	1,458	$19,863	$600,966	1,563	$25,571	$5,708	29%	25
26	Elida	$55,758	504	$32,684	$56,645	453	$58,222	$25,538	78%	26
27	Espanola	$1,184,684	7,654	$158,843	$1,184,684	7,935	$423,707	$264,865	167%	27
28	Estancia	$237,280	1,544	$33,667	$237,280	1,546	$100,717	$67,049	199%	28
29	Eunice	$1,444,652	1,684	$22,942	$1,444,652	1,715	$28,057	$5,116	22%	29
30	Farmington	$3,057,296	18,647	$254,106	$3,057,296	19,164	$969,800	$715,694	282%	30
31	Floyd	$29,720	617	$78,649	$29,927	582	$127,313	$48,664	62%	31
32	Fort Sumner	$182,697	715	$9,748	$182,697	748	$13,801	$4,053	42%	32
33	Gadsden	$1,965,048	24,493	$2,334,010	$1,965,048	23,382	$3,937,560	$1,603,551	69%	33
34	Gallup	$1,708,224	21,504	$2,066,256	$1,708,224	22,495	$4,182,183	$2,115,927	102%	34
35	Grady	$20,142	462	$60,952	$20,142	466	$109,424	$48,471	80%	35
36	Grants	$661,916	6,509	$480,547	$683,779	6,619	$985,903	$505,356	105%	36
37	Hagerman	$78,980	1,088	$112,031	$78,980	1,053	$198,398	$86,367	77%	37
38	Hatch	$170,347	2,258	$225,902	$170,347	2,204	$418,108	$192,206	85%	38
39	Hobbs	$3,170,322	17,493	$238,379	$3,170,322	16,765	$455,464	$217,085	91%	39
40	Hondo	$74,921	503	$13,407	$75,076	500	$35,896	$22,490	168%	40
41	House	$31,735	337	$27,337	$31,749	366	$61,218	$33,881	124%	41
42	Jal	$3,537,163	1,070	$14,574	$3,537,427	1,075	$17,587	$3,013	21%	42
43	Jemez Mountain	$637,814	630	$8,579	$637,814	624	$10,209	$1,630	19%	43
44	Jemez Valley	$219,657	1,059	$14,430	$219,657	1,106	$61,450	$47,020	326%	44
45	Lake Arthur	$97,494	399	$5,439	$97,546	420	$6,871	$1,433	26%	45
46	Las Cruces	$6,873,777	45,003	$1,025,260	$6,873,777	44,849	$2,505,523	$1,480,263	144%	46
47	Las Vegas City	$565,690	3,019	$41,142	$565,690	3,034	$125,880	$84,738	206%	47
48	Las Vegas West	$393,750	3,314	$187,936	$393,750	2,958	$348,773	$160,837	86%	48
49	Logan	$136,414	787	$10,729	$137,555	873	$48,242	$37,513	350%	49
50	Lordsburg	$267,554	1,124	$15,324	$267,554	1,067	$39,625	$24,301	159%	50
51	Los Alamos[1]	$0	6,765	$0	$1,507,251	6,833	$125,385	$125,385	N/A	51

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		Projected FY20 Local Tax Revenue[2]	FY20 Projected Average 80th/120th-Day Program Units[3]	Projected FY21 "SB9" Distribution	Projected FY20 Local Tax Revenue[2]	FY20 Projected Final Nondiscretionary Program Units[4]	Projected FY21 "SB9" Distribution			
52	Los Lunas	$1,799,724	15,385	$900,632	$1,799,724	15,009	$1,675,221	$774,589	86%	52
53	Loving	$474,151	1,307	$17,811	$474,151	1,274	$20,843	$3,032	17%	53
54	Lovington	$1,389,286	7,345	$100,086	$1,389,286	7,496	$122,635	$22,549	23%	54
55	Magdalena	$60,964	897	$96,486	$60,964	854	$162,386	$65,900	68%	55
56	Maxwell	$43,275	444	$34,665	$43,275	433	$67,504	$32,838	95%	56
57	Melrose	$68,781	613	$38,838	$68,878	608	$85,157	$46,318	119%	57
58	Mesa Vista	$166,013	747	$10,183	$166,013	658	$24,384	$14,202	139%	58
59	Mora[1]	$0	1,015	$0	$205,283	1,005	$44,043	$44,043	N/A	59
60	Moriarty	$1,137,923	5,119	$69,762	$1,137,923	5,050	$82,618	$12,856	18%	60
61	Mosquero	$146,525	292	$3,984	$146,833	281	$4,597	$614	15%	61
62	Mountainair	$145,621	679	$9,258	$145,621	679	$22,916	$13,658	148%	62
63	Pecos	$280,629	1,291	$17,594	$280,629	1,304	$26,724	$9,131	52%	63
64	Penasco	$112,587	885	$42,755	$112,587	849	$98,904	$56,149	131%	64
65	Pojoaque	$349,103	3,375	$243,284	$349,103	3,339	$480,106	$236,822	97%	65
66	Portales	$577,030	5,123	$322,202	$578,643	4,984	$611,780	$289,578	90%	66
67	Quemado	$183,595	524	$7,135	$183,595	512	$8,376	$1,241	17%	67
68	Questa[1]	$0	1,248	$0	$394,772	1,287	$21,055	$21,055	N/A	68
69	Raton	$309,709	1,758	$23,951	$310,890	1,768	$95,817	$71,866	300%	69
70	Reserve[1]	$0	500	$0	$93,165	492	$8,808	$8,808	N/A	70
71	Rio Rancho	$4,629,130	31,965	$981,497	$4,629,130	31,828	$1,855,576	$874,079	89%	71
72	Roswell	$2,163,647	17,865	$972,113	$2,163,647	17,066	$1,910,657	$938,544	97%	72
73	Roy	$14,988	293	$36,500	$17,288	285	$59,542	$23,042	63%	73
74	Ruidoso	$1,426,045	3,498	$47,669	$1,426,045	3,535	$57,833	$10,164	21%	74
75	San Jon	$31,013	457	$49,257	$31,013	460	$90,191	$40,934	83%	75
76	Santa Fe	$13,108,118	28,537	$388,881	$13,185,286	29,625	$484,665	$95,784	25%	76
77	Santa Rosa	$226,416	1,460	$29,810	$226,416	1,378	$103,104	$73,293	246%	77
78	Silver City	$1,150,435	5,253	$71,585	$1,150,435	5,498	$89,947	$18,362	26%	78
79	Socorro	$375,092	3,094	$167,889	$375,092	3,089	$410,049	$242,159	144%	79
80	Springer	$79,863	464	$6,321	$82,569	472	$28,254	$21,933	347%	80
81	Taos	$2,387,388	6,125	$83,472	$2,387,388	6,195	$101,350	$17,878	21%	81
82	Tatum	$194,282	844	$11,503	$194,282	884	$14,462	$2,960	26%	82
83	Texico	$172,604	1,212	$40,179	$172,604	1,224	$115,633	$75,453	188%	83
84	Truth Or Cons.	$641,358	2,486	$33,876	$641,358	2,490	$40,736	$6,860	20%	84
85	Tucumcari	$237,887	1,949	$104,229	$237,887	2,011	$251,155	$146,926	141%	85
86	Tularosa	$200,889	1,925	$137,032	$201,643	1,853	$251,484	$114,452	84%	86
87	Vaughn	$191,935	375	$5,116	$191,935	370	$6,053	$938	18%	87
88	Wagon Mound	$65,536	325	$4,424	$65,536	344	$12,381	$7,958	180%	88
89	Zuni	$4,481	2,545	$442,251	$4,481	2,536	$717,011	$274,760	62%	89
90	**TOTAL/AVERAGE**	**$119,863,603**	**612,161**	**$18,269,856**	**$122,252,914**	**610,517**	**$34,837,351**	**$16,567,495**	**102%**	90

Source: LFC files, LESC files

1. School district does not have a current mill levy imposed; however, for purposes of understanding the full potential fiscal impact of SB159, it is assumed to have imposed a two-mill levy.
2. Projected FY20 two-mill levy revenue is based on 2018 property tax valuations (December 31, 2017), as more recent valuations were not available.
3. Projected FY20 average 80th/120th-day program units are based on FY19 average 80th/120th-day program units.
5. Projected FY20 final nondiscretionary program units are based on FY19 final nondiscretionary program units, as FY20 program units were not available.