

# Foundations for Learning: Public School Facility Authority Update

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# Traditional School Facility Funding

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Prior to the *Zuni* lawsuit, which was filed in 1998, and the subsequent creation of the Public School Capital Outlay Council (PSCOC), financing for school facilities was based on school districts' ability to generate local funding, such as issuing general obligation bonds, and direct appropriations from legislators.

- Capital funding for schools was constrained by districts' taxable land value and bonding capacity, providing a significant advantage to property-rich districts.
- Districts unable to raise sufficient property taxes or secure direct appropriations were unable to fund necessary repairs or replacements.



# The *Zuni* Lawsuit

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*“A uniform system of free public schools sufficient for the education of, and open to, all the children of school age in the state shall be established and maintained.”*

*- Constitution of the State of New Mexico, Article XII, Section 1*

- In 1998, the Zuni Public School district sued the State of New Mexico.
- The lawsuit claimed districts with extensive public lands, or a small tax base, could not raise enough funds for basic school facilities while other districts could build extravagant amenities.
- The district argued the state’s system for funding school facilities did not provide a uniform and sufficient education for all students.
- Later, Gallup-McKinley County Schools and Grants-Cibola County Schools joined the lawsuit as plaintiffs.
- In 1999, the court ruled in favor of the plaintiffs and ordered the state to “establish and implement a uniform funding system for capital improvements and for correcting past inequities.”



# Public School Capital Outlay Overview

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- In New Mexico, school capital funding is shared between the state and local districts.
- The state provides funds through two methods: one based on local property tax revenue and the other based on state adequacy standards.
- Districts raise local funds via bond sales, property tax levies, investments, and property sales.
- Combined funding supports construction, improvements, and land acquisition for school facilities.



# Public School Capital Outlay Act

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- *The Public School Capital Outlay Act* (Section 22-25-1 NMSA 1978) was enacted in 1975.
  - Revised after 1999 *Zuni* court ruling for equitable facility funding.
  - Shifted to standards-based funding in 2003.
- Deficiencies Corrections Program (DCP) established in 2001 to address health and safety issues; most projects completed.
- State/local share funding formula created in 2003, based on district property tax wealth.
- Weighted New Mexico condition index (wNMCI) established in 2004 to rank school facilities by need.
- Supplemental Severance Tax Bonds (SSTBs) used as main funding source since 2003, based on oil and gas taxes.



# Public School Capital Improvements Act

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- *The Public School Capital Improvements Act* (NMSA 1978, Section 22-25-1), also known as “SB9” or the “two-mill levy”, allows up to two mills to be levied by a school district for up to six years, with voter approval.
- Participating districts are guaranteed a minimum level of funding, with the state covering any shortfall.
- Guarantee is based on multiplying program units by a set dollar rate and voter-approved mill rate, subtracting local revenue for the state contribution.
- Each district is guaranteed a minimum state distribution of about \$5 per mill per unit, adjusted annually for inflation.

*A "mill" is equal to \$0.001, or a levy of \$1 dollar for every \$1,000 of assessed taxable property value a taxpayer must pay. In New Mexico, one-third of the assessed value of qualifying real property is subject to taxation.*



# Uses of SB9 Funds

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Erecting, remodeling, making additions to, providing equipment for or furnishing public school buildings, including teacher housing and prekindergarten classroom facilities.

Purchasing or improving public school or prekindergarten grounds.

Maintenance of school buildings, teacher housing, grounds, and equipment. Facility Information System (FIM) payments, regional cooperative contracts, and technical training or certification for maintenance staff. Does not cover salaries of school district employees.

Purchasing activity vehicles for transporting students to extracurricular school activities.

Purchasing computer software and hardware for student use in public school classrooms.

Funding supports the purchase and installation of educational technology for learning and administrative resources, excluding school district employee salaries.





# Public School Buildings Act

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- The Public School Buildings Act (Section 22-26-1 NMSA 1978), also known as “HB33” authorizes up to 10 mills property tax for school districts.
- Tax rate valid for up to six years, with voter approval.
- Combined with district debt service and SB9, the total tax rate cannot exceed 15 mills.
- If the limit is exceeded, the HB33 rate is adjusted downward.
- Beneficial for districts with high property values and low bonded debt.
- Provides local funding for school building needs, contingent on voter approval.



# Uses of HB33 Funds

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Facility construction, remodeling, equipping and furnishing public buildings.

Lease-purchase agreements for buildings or property

Purchase or improvement of public school grounds.

Activity vehicles for extracurricular transport (only for districts under 60 thousand total qualified students, also known as membership (MEM)).

Project administration costs (up to 5 percent).

Purchase and installation of educational technology for learning and administration, excluding salaries.



# General Obligation Bonds

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- General obligation bonds (GO bonds) may be used by school districts to fund capital projects.
- Backed by property taxes, and require voter approval.
- Funds can be used for specific, voter approved projects to such as to build, remodel, expand facilities, improve grounds, and purchase classroom technology.
- Repayment via scheduled payments.
- Four-year limit for fund allocation.
- GO bond issuance is capped at 6 percent of property valuation per the New Mexico Constitution (Article IX, Section 11).
- Bonding capacity verified by the New Mexico Public Education Department (PED).



# Education Technology Notes

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- Established by the Educational Technology Equipment Act (Section 6-15-A NMSA 1978) in 1997.
- Follows 1996 New Mexico constitutional amendment (Article IX, Section 11).
- Repayment via ad valorem (property tax).
- No voter approval is required.
- Proceeds for technology equipment: infrastructure, computers, software, maintenance, leases, wireless access, supplies, issuance costs.
- Allows debt issuance and lease agreements without voter approval.



# Direct Legislative Appropriations

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- Direct legislative appropriations are a source of capital funding allocated by legislators for specific school district projects.
- Funding sources include the general fund, severance tax bonds, and statewide GO bonds.
- These appropriations support school district capital projects and equipment needs.



# Federal Impact Aid

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- Federal Impact Aid are funds that are provided by the federal government.
- Compensate for lost local property tax revenue due to the presence of federal lands within school district boundaries.
- Supports children living on federal property or tribal land.
- Supports children with parents working on federal property or tribal land.



# Offsets

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- In 2003, the New Mexico Legislature introduced "offsets" which reduced the state share of PSCOC funds for districts with additional external funding, aiming to promote equity.
- In 2023, Senate Bill 131 eliminated offsets, ending reductions based on external funding access. PSCOC implemented this change to ensure equitable school capital funding.
- The goal is to provide full state support for districts, regardless of local revenue or external funding, to support consistent services.



# Capital Outlay Challenges

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During the 2024 interim, LESC, the Legislative Finance Committee (LFC), and the Public School Facility Authority (PSFA) staff have collaborated to address challenges identified in providing schools with appropriate funding for their projects through the PSCOC process.

- **Affordability:** Rising construction costs have made it harder for districts to cover their local share of capital projects, even with increased state support.
- **Waivers:** The PSCOC is granting more waivers or reductions in the local match, suggesting issues with the effectiveness of the state-local match formula.



# Formula Assumptions

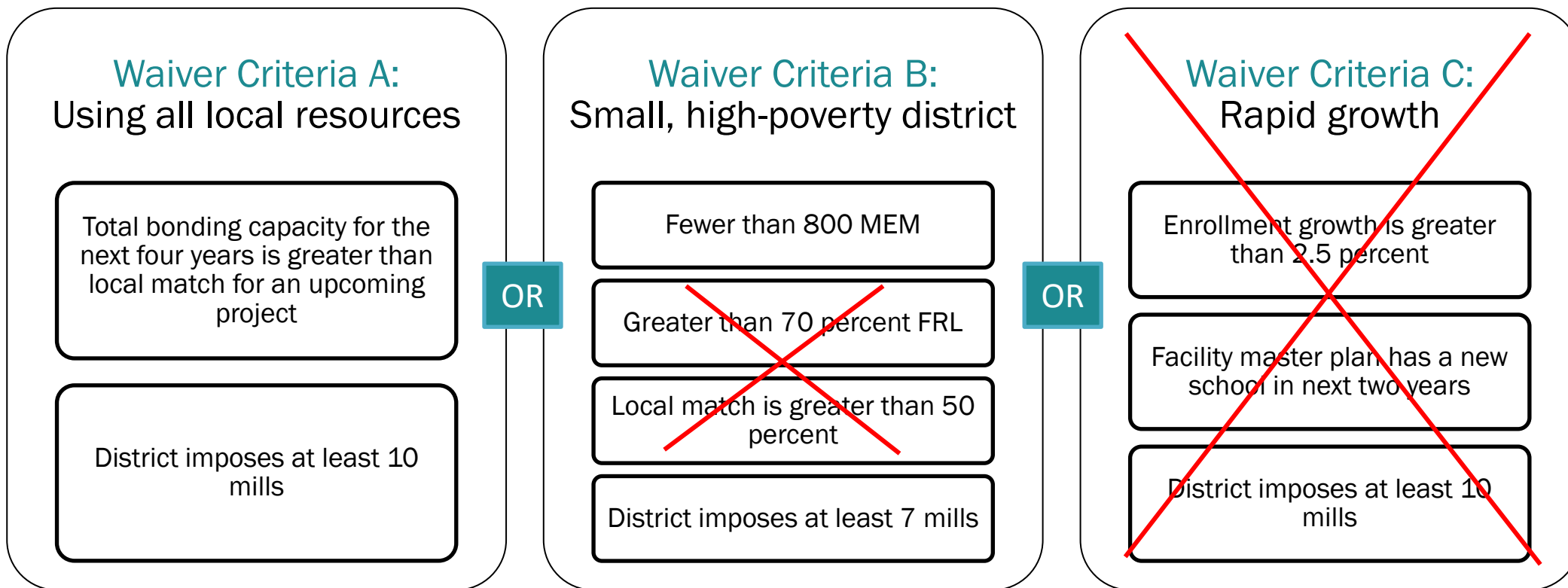


Assumption:	But...
School districts will take full advantage of SB9 and partial advantage of HB33	Many school districts don't take advantage of HB33, and sometimes not even SB9
The statewide adequacy standards accurately reflect how much square footage a student needs	Minimum adequacy standards cannot be used to construct a functional facility but are still used in calculating a district's ability to pay for a project
It costs \$307.47 per square foot to replace a school	Recent construction costs are far above \$307.47 per square foot
Schools will be replaced evenly over a 45-year period	Many school districts built their schools all at once, meaning many require replacement at the same time



# Waiver Criteria

The changes below would improve the tools PSCOC already has to address affordability challenges.





# Temporary Match Reductions

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In 2023, Senate Bill 131 (SB131) took steps to address the inability of school districts to meet local match requirements.

- It reduced the local match required for PSCOC projects for three years (FY23 –FY26).
- Some districts' local match was reduced from 33 percent to 50 percent.
- The reduced local matches will sunset at the end of FY26, at which point the calculation will revert to the base “phase two” formula.

The local match reduction is temporary. Without additional action by the Legislature, local match will increase again in FY26. Affordability challenges will likely remain and worsen.

- The temporary match reduction does not solve for the inherent issues of the formula.



# Options

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During the September Public School Capital Outlay Oversight Committee (PSCOOTF), LESC and LFC staff presented several courses of action that could be taken.

- Option 1: Do nothing
- Option 2: Adjust select formula factors and continue to study others
- Option 3: Clean up waiver criteria and extend SB 131
- Option 3A: Adjust waiver eligibility criteria, extend SB131, and direct LFC, LESC and PSFA staff to continue evaluation of potential formula changes



# Potential Legislation

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Members of PSCOOTF chose to move forward with Option 3A. Legislation has been drafted to:

- Clean up waiver criteria.
- Extend SB131 through the end of FY27.

LESC, LFC, and PSFA staff will continue the evaluation of potential formula changes through the 2025 interim.

Thank you!

Q & A

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