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FISCAL IMPACT REPORT

ORIGINAL DATE 1/26/2021

SPONSOR Stewart LAST UPDATED _____ HB _____

SHORT TITLE Discretionary Program Units SB 131

ANALYST Liu

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY21	FY22	FY23	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total		(\$3,697.9)	(\$3,697.9)	(\$7,395.9)	Recurring	Public School Capital Outlay Fund

(Parenthesis () Indicate Expenditure Decreases)

Relates to HB6, SB41

SOURCES OF INFORMATION

LFC Files

Responses Received From

Public School Facilities Authority (PSFA)

SUMMARY

Synopsis of Bill

Senate Bill 131 excludes discretionary program units from the calculation of the state distribution for public school capital improvements (commonly known as SB9). The bill defines discretionary program units as components of the public school funding formula attributable to fine arts education, elementary physical education, bilingual multicultural education, extended learning time programs, and K-5 plus programs. The bill also clarifies that SB9 distribution calculations will be based on prior year program unit data. This bill is endorsed by the Public School Capital Outlay Oversight Task Force and has an effective date of July 1, 2021.

FISCAL IMPLICATIONS

The Public School Capital Outlay Council (PSCOC) provides a state SB9 distribution to school districts that exercise a local SB9 levy (two mills) on taxable property to generate funding for capital improvements. To calculate the state SB9 distribution for a district, PSCOC multiplies a district's program units (from the operational public school funding formula) by a set rate (\$86.04 in FY20) to determine a "program guarantee."

If the district's local SB9 revenue is less than the program guarantee, they will receive a state SB9 distribution equal to the difference between the program guarantee and the local SB9 revenue generated by the district. If the district's local SB9 revenue is greater than the program guarantee, they will receive a state SB9 distribution minimum – program units multiplied by a lower rate (\$6.68 in FY20).

Provisions of this bill would exclude discretionary program units from the state SB9 distribution calculation and lower the program guarantee, effectively reducing the overall state SB9 distribution. Using 2020 property valuations, 2020 average SB9 mill levy rates, preliminary FY21 program unit data, a program guarantee rate of \$91.41, and a program minimum rate of \$6.53, the estimated state SB9 distribution would be \$20.8 million. Provisions of this bill would reduce the estimated state SB9 distribution to \$17.1 million (see Attachment 1), a decrease of \$3.7 million or 17.7 percent.

SIGNIFICANT ISSUES

The public school funding formula primarily generates program units based on student enrollment and specific student or site characteristics, such as the number of special education students or rurality of a district. The formula also generates program units for school districts or charter schools that participate in discretionary programs, like fine arts, elementary physical education, bilingual multicultural education, extended learning time, and K-5 plus programs.

Participating in these discretionary programs would increase a school district's SB9 program guarantee and potentially increase the amount of the state distribution for SB9 allocations without any change in student enrollment. By excluding discretionary programs from the calculation, the bill prevents school districts from inflating the SB9 program guarantee through a change in programming. However, some discretionary programs, like K-5 plus, which extend the school year (and consequently facility usage) could increase maintenance costs that would be eligible expenditures under SB9 funds. PSFA notes removing the discretionary units from the distribution formula provides for a more uniform system since not all school districts utilize the same discretionary program units.

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, and ordered the state to establish and implement a uniform funding system for capital improvements and for correcting past inequities. Since the *Zuni* lawsuit, the state has spent \$2.7 billion to build school facilities up to the approved statewide adequacy standards. Despite significant improvements in statewide facility conditions, the *Zuni* lawsuit was never closed and, in December 2020, the court ruled in favor of plaintiff school districts 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.

PSFA notes the court order granted injunctive relief to the plaintiffs and enjoined the defendants "to create and implement a statutory scheme funding capital outlay for public schools with the mandates of Article XII, Section 1 of the New Mexico Constitution in such a way that does not create substantial disparities in capital funding among the school districts in New Mexico." Reducing the state distribution for SB9 allocations would allow PSCOC to direct capital outlay funds toward standards-based projects rather than supplementing capital improvements that are

unique to each school districts. However, plaintiff districts in the *Zuni* lawsuit claim SB9 funds are used primarily for maintenance and operating costs, which they contend are insufficient and inequitable in comparison to other districts with higher property tax bases.

PERFORMANCE IMPLICATIONS

Decreases in the state SB9 distribution would increase local responsibility for financing capital improvements. Reducing the state share of funding for SB9 distributions could allow PSCOC to allocate capital outlay awards for other purposes, such as standards-based school construction and renovation projects. Increased funding for standards-based awards would improve school facility conditions statewide.

ADMINISTRATIVE IMPLICATIONS

PSFA notes PSCOC is required to certify to the State Board of Finance every May the amount of funds that will be necessary to fund the state match program under SB9 so bonds can be sold in June. Moving to prior year data methodology could allow the certification to be the exact amount that is needed instead of using a projected amount which restricts funding that could be used for other capital projects.

According to PSFA, using prior year data for distribution will ensure timeliness of the data, which will enable PED to make distributions sooner. Earlier distribution amounts to school districts and charter schools may reduce fund balance carryover amounts and promote expeditious spending of Public School Capital Improvements Act revenues.

RELATIONSHIP

This bill relates to HB6, which authorizes the use of state equalization guarantee distributions for SB9-related expenditures, and SB41, which changes the public school capital outlay local-state match formula.

SL/al

School District	Local Tax Revenue ²	Est. FY21 Program Units	Est. FY21 Program Units (SB131)	Est. FY21 Program Guarantee	Est. FY21 Program Guarantee (SB131)	Est. SB-9 State Match	Est. SB-9 State Match (SB131)
Alamogordo	\$ 1,735,980	10,061	9,804	\$ 1,838,796	\$ 1,791,900	\$ 102,816	\$ 55,920
Albuquerque	\$ 35,460,067	192,944	185,486	\$ 35,274,022	\$ 33,910,523	\$ 1,259,924	\$ 1,211,223
Animas	\$ 10,765	494	491	\$ 90,227	\$ 89,733	\$ 79,462	\$ 78,969
Artesia	\$ 3,417,468	7,188	6,835	\$ 1,312,661	\$ 1,248,166	\$ 46,937	\$ 44,631
Aztec	\$ 1,089,375	5,499	5,119	\$ 948,035	\$ 882,557	\$ 35,909	\$ 33,429
Belen	\$ 1,260,755	7,546	7,346	\$ 1,379,616	\$ 1,343,016	\$ 118,860	\$ 82,261
Bernalillo	\$ 1,338,482	6,505	5,889	\$ 1,187,132	\$ 1,074,780	\$ 42,476	\$ 38,456
Bloomfield	\$ 1,443,456	5,141	4,987	\$ 939,922	\$ 911,728	\$ 33,572	\$ 32,565
Capitan	\$ 903,341	1,278	1,265	\$ 231,318	\$ 229,042	\$ 8,343	\$ 8,261
Carlsbad	\$ 10,634,976	16,235	15,767	\$ 2,965,648	\$ 2,880,268	\$ 106,012	\$ 102,960
Carrizozo	\$ 150,609	530	497	\$ 96,729	\$ 90,835	\$ 3,458	\$ 3,247
Central	\$ 1,618,650	11,652	10,554	\$ 2,130,292	\$ 1,929,464	\$ 511,642	\$ 310,814
Chama	\$ 332,870	1,210	1,103	\$ 166,603	\$ 151,924	\$ 7,901	\$ 7,205
Cimarron	\$ 869,319	1,221	1,164	\$ 223,280	\$ 212,743	\$ 7,975	\$ 7,599
Clayton	\$ 317,853	1,176	1,119	\$ 214,962	\$ 204,602	\$ 7,679	\$ 7,308
Cloudcroft	\$ 435,541	1,077	1,068	\$ 194,244	\$ 192,662	\$ 7,034	\$ 6,976
Clovis	\$ 1,746,012	14,622	14,295	\$ 2,672,570	\$ 2,612,809	\$ 926,557	\$ 866,797
Cobre	\$ 455,502	2,876	2,622	\$ 525,592	\$ 479,273	\$ 70,090	\$ 23,771
Corona	\$ 114,061	362	356	\$ 66,246	\$ 65,075	\$ 2,366	\$ 2,324
Cuba	\$ 319,104	1,729	1,654	\$ 316,037	\$ 302,315	\$ 11,288	\$ 10,798
Deming	\$ 1,311,317	11,575	9,862	\$ 2,116,212	\$ 1,802,938	\$ 804,895	\$ 491,621
Des Moines	\$ 79,570	377	375	\$ 68,894	\$ 68,519	\$ 2,461	\$ 2,448
Dexter	\$ 155,814	1,919	1,809	\$ 350,855	\$ 330,798	\$ 195,041	\$ 174,984
Dora	\$ 146,997	644	639	\$ 117,739	\$ 116,729	\$ 4,207	\$ 4,171
Dulce	\$ 474,124	1,597	1,509	\$ 290,860	\$ 274,795	\$ 10,429	\$ 9,853
Elida	\$ 55,539	513	509	\$ 92,510	\$ 91,725	\$ 36,971	\$ 36,186
Espanola	\$ 1,234,028	8,036	7,574	\$ 1,469,154	\$ 1,384,751	\$ 235,125	\$ 150,723
Estancia	\$ 249,096	1,700	1,666	\$ 310,805	\$ 304,520	\$ 61,709	\$ 55,424
Eunice	\$ 2,896,191	1,778	1,720	\$ 325,013	\$ 314,508	\$ 11,609	\$ 11,234
Farmington	\$ 3,025,310	19,836	19,282	\$ 3,626,430	\$ 3,525,146	\$ 601,120	\$ 499,837
Floyd	\$ 27,633	594	575	\$ 107,523	\$ 104,092	\$ 79,890	\$ 76,459
Fort Sumner	\$ 188,098	719	693	\$ 131,352	\$ 126,603	\$ 4,696	\$ 4,526
Gadsden	\$ 2,105,462	26,610	24,918	\$ 4,864,865	\$ 4,555,578	\$ 2,759,403	\$ 2,450,116
Gallup	\$ 1,633,427	25,491	23,259	\$ 4,647,403	\$ 4,240,430	\$ 3,013,976	\$ 2,607,002
Grady	\$ 20,974	509	505	\$ 92,990	\$ 92,267	\$ 72,016	\$ 71,294
Grants	\$ 667,952	7,401	6,755	\$ 1,329,091	\$ 1,212,990	\$ 661,140	\$ 545,038
Hagerman	\$ 75,559	1,094	1,033	\$ 200,045	\$ 188,812	\$ 124,487	\$ 113,253
Hatch	\$ 175,324	2,711	2,429	\$ 495,662	\$ 444,038	\$ 320,339	\$ 268,714
Hobbs	\$ 3,737,841	20,422	18,695	\$ 3,733,517	\$ 3,417,789	\$ 133,354	\$ 122,077
Hondo	\$ 76,203	529	515	\$ 96,206	\$ 93,710	\$ 20,003	\$ 17,507
House	\$ 34,249	363	362	\$ 64,303	\$ 64,064	\$ 30,054	\$ 29,815
Jal	\$ 8,417,141	1,255	1,244	\$ 229,526	\$ 227,359	\$ 8,198	\$ 8,121
Jemez Mountain	\$ 385,071	696	658	\$ 127,238	\$ 120,238	\$ 4,545	\$ 4,295
Jemez Valley	\$ 221,945	992	964	\$ 181,319	\$ 176,270	\$ 6,476	\$ 6,296
Lake Arthur	\$ 127,369	442	428	\$ 80,755	\$ 78,094	\$ 2,887	\$ 2,792
Las Cruces	\$ 7,310,361	48,435	45,926	\$ 8,818,426	\$ 8,361,662	\$ 1,508,065	\$ 1,051,300
Las Vegas City	\$ 595,628	3,168	2,967	\$ 579,153	\$ 542,440	\$ 20,686	\$ 19,375
Las Vegas West	\$ 419,173	3,227	2,974	\$ 589,280	\$ 542,956	\$ 170,107	\$ 123,783
Logan	\$ 143,953	845	833	\$ 148,259	\$ 146,101	\$ 4,306	\$ 2,148
Lordsburg	\$ 285,178	1,189	1,141	\$ 217,371	\$ 208,671	\$ 7,764	\$ 7,453
Los Alamos ¹	\$ -	6,861	6,768	\$ -	\$ -	\$ -	\$ -
Los Lunas	\$ 2,205,749	15,885	15,425	\$ 2,904,016	\$ 2,820,013	\$ 698,267	\$ 614,264
Loving	\$ 1,482,930	1,525	1,394	\$ 278,735	\$ 254,878	\$ 9,958	\$ 9,106
Lovington	\$ 1,319,021	7,704	7,482	\$ 1,407,468	\$ 1,366,910	\$ 88,447	\$ 47,889
Magdalena	\$ 62,662	905	888	\$ 165,525	\$ 162,322	\$ 102,863	\$ 99,660
Maxwell	\$ 44,013	464	461	\$ 84,915	\$ 84,312	\$ 40,902	\$ 40,299
Melrose	\$ 76,863	678	671	\$ 123,612	\$ 122,246	\$ 46,750	\$ 45,383
Mesa Vista	\$ 186,097	733	716	\$ 127,837	\$ 124,843	\$ 4,787	\$ 4,675
Mora1	\$ 232,457	1,067	998	\$ 195,092	\$ 182,420	\$ 6,968	\$ 6,516
Moriarty	\$ 1,025,607	5,482	5,406	\$ 1,002,155	\$ 988,402	\$ 35,795	\$ 35,304
Mosquero	\$ 143,542	399	397	\$ 72,913	\$ 72,571	\$ 2,606	\$ 2,594

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Mountainair	\$ 141,516	680	669	\$ 124,346	\$ 122,289	\$ 4,441	\$ 4,368
Pecos	\$ 289,130	1,307	1,226	\$ 235,323	\$ 220,758	\$ 8,536	\$ 8,008
Penasco	\$ 121,500	912	868	\$ 164,726	\$ 156,763	\$ 43,226	\$ 35,264
Pojoaque	\$ 363,761	3,484	3,346	\$ 629,503	\$ 604,490	\$ 265,742	\$ 240,728
Portales	\$ 629,084	5,364	5,156	\$ 978,918	\$ 940,975	\$ 349,834	\$ 311,890
Quemado	\$ 193,533	545	537	\$ 98,881	\$ 97,356	\$ 3,561	\$ 3,506
Questa ¹	\$ -	1,188	1,133	\$ -	\$ -	\$ -	\$ -
Raton	\$ 307,776	1,901	1,781	\$ 347,571	\$ 325,642	\$ 39,795	\$ 17,866
Reserve ¹	\$ -	461	455	\$ -	\$ -	\$ -	\$ -
Rio Rancho	\$ 5,228,887	35,349	32,876	\$ 6,462,543	\$ 6,010,365	\$ 1,233,657	\$ 781,478
Roswell	\$ 2,199,399	20,606	18,528	\$ 3,767,130	\$ 3,387,322	\$ 1,567,730	\$ 1,187,923
Roy	\$ 18,657	317	315	\$ 51,907	\$ 51,575	\$ 33,250	\$ 32,918
Ruidoso	\$ 1,513,109	3,717	3,611	\$ 679,452	\$ 660,246	\$ 24,269	\$ 23,583
San Jon	\$ 78,986	454	451	\$ 82,926	\$ 82,382	\$ 3,940	\$ 3,396
Santa Fe	\$ 14,092,163	30,765	28,955	\$ 5,520,673	\$ 5,195,806	\$ 200,897	\$ 189,075
Santa Rosa	\$ 254,894	1,616	1,412	\$ 295,053	\$ 257,798	\$ 40,160	\$ 2,904
Silver City	\$ 1,178,021	5,429	5,274	\$ 989,811	\$ 961,555	\$ 35,453	\$ 34,440
Socorro	\$ 384,433	3,487	3,190	\$ 637,464	\$ 583,140	\$ 253,031	\$ 198,707
Springer	\$ 641,778	497	489	\$ 90,897	\$ 89,328	\$ 3,247	\$ 3,191
Taos	\$ 2,517,951	5,289	5,048	\$ 960,971	\$ 917,144	\$ 34,539	\$ 32,964
Tatum	\$ 403,606	938	929	\$ 171,394	\$ 169,854	\$ 6,122	\$ 6,067
Texico	\$ 122,773	1,251	1,239	\$ 228,557	\$ 226,368	\$ 105,784	\$ 103,596
Truth Or Cons.	\$ 84,415	2,736	2,521	\$ 500,182	\$ 460,801	\$ 415,767	\$ 376,386
Tucumcari	\$ 258,975	2,052	1,950	\$ 375,120	\$ 356,545	\$ 116,145	\$ 97,570
Tularosa	\$ 212,134	2,076	2,023	\$ 378,408	\$ 368,744	\$ 166,274	\$ 156,610
Vaughn	\$ 178,888	349	346	\$ 63,730	\$ 63,207	\$ 2,276	\$ 2,258
Wagon Mound	\$ 55,905	380	355	\$ 69,401	\$ 64,959	\$ 13,495	\$ 9,054
Zuni	\$ 5,345	2,930	2,624	\$ 535,740	\$ 479,780	\$ 530,396	\$ 474,436
TOTAL	\$ 138,186,270	661,795	627,151	\$ 119,079,584	\$ 112,796,116	\$ 20,845,173	\$ 17,147,233

1. School district does not have a current mill levy imposed.
2. Based on 2020 property tax valuations.