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**LEGISLATIVE EDUCATION STUDY COMMITTEE**  
**BILL ANALYSIS**  
**57th Legislature, 1st Session, 2025**

<b>Bill Number</b>	<u>HB277</u>	<b>Sponsor</b>	<u>Mirabal Moya/Dow/Lara/Vincent/Chatfield</u>
<b>Tracking Number</b>	<u>.229906.1</u>	<b>Committee Referrals</b>	<u>HEC/HAFC</u>
<b>Short Title</b>	<u>Millage for Certain School Districts</u>		
<b>Analyst</b>	<u>Montoya</u>	<b>Original Date</b>	<u>2/11/2025</u>
		<b>Last Updated</b>	<u></u>

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## BILL SUMMARY

### Synopsis of Bill

House Bill 277 (HB277) would amend the waiver eligibility criteria currently outlined in the Public School Capital Outlay Act (Section 22-24-5 NMSA 1978). Under current law, a school district must meet at least one of three statutory criteria to be eligible for a waiver of their calculated local match requirement for Public School Capital Outlay Council (PSCOC) projects. HB277 would amend waiver criteria by reducing the minimum mills that a school district is required to levy against its local tax base from 10 mills to eight mills.

## FISCAL IMPACT

HB277 does not contain an appropriation.

The changes to waiver criteria A would increase the number of school districts eligible for local match waivers in the PSCOC award process. See **Figure 1: Proposed Waiver Criteria Change**. The exact fiscal impact of the proposed bill is heavily dependent on the number of school districts that would apply for a local match waiver. PSCOC makes annual awards for school construction projects based on the availability of money in the public school capital outlay fund (PSCOF). An increase in waiver eligibility could result in a greater amount of awards, impacting the balance of the PSCOF. As an example of the potential impact, PSCOC awarded funds for six projects with local match waivers totaling approximately \$116 million in FY24. See **Figure 2: History of PSCOC Approved Waivers and Waiver Amounts** for a summary of the waivers awarded by the PSCOC since FY05.

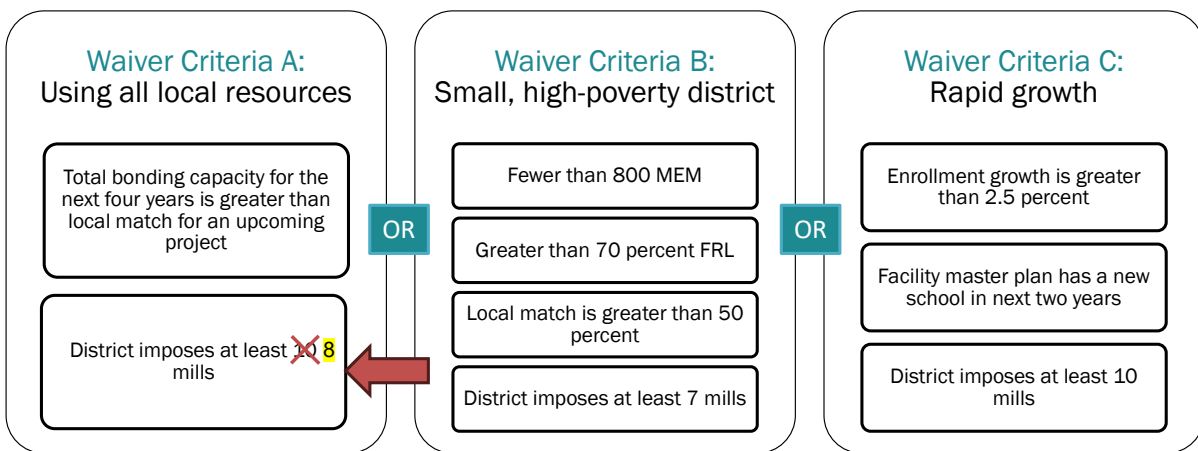
## SUBSTANTIVE ISSUES

**School Capital Funding in New Mexico.** In New Mexico, school capital funding is a shared responsibility between the state and local districts. The state provides funds through two primary methods: one based on local property tax revenue and the second based on [statewide adequacy standards](#). Local districts generate funding through bond sales, property tax levies, investments, and property sales. Property taxes for school districts are often expressed in mills, with one mill

equaling \$0.001, or \$1 per \$1,000 of assessed taxable property value. In New Mexico, only one-third of a property’s assessed value is subject to taxation. Together, these funding sources support the construction, improvement, and land acquisition of school facilities.

**Impact of Mill Requirement Reduction on Local Match Waivers.** Reducing the mill requirement from 10 mills to 8 mills would lower the property tax threshold for school districts to be eligible for a local match waiver. However, eligibility does not guarantee approval, as the PSCOC determines waivers based on established policies. A local match waiver could result in a full or partial reduction of a district’s share of PSCOC project costs, known as the “local match.” According to PSFA staff analysis, some smaller school districts struggle to meet the current waiver criteria, but simply lowering the mill requirement does not fully address their underlying challenges. Instead, PSFA staff suggests removing the 70 percent free and reduced lunch (FRL) and 50 percent local match requirements in waiver criteria B, along with eliminating waiver criteria C, as proposed in Senate Bill 82 (SB82), may be a more effective solution.

**Figure 1: Proposed Waiver Criteria Change**



Source: LESC and LFC Files

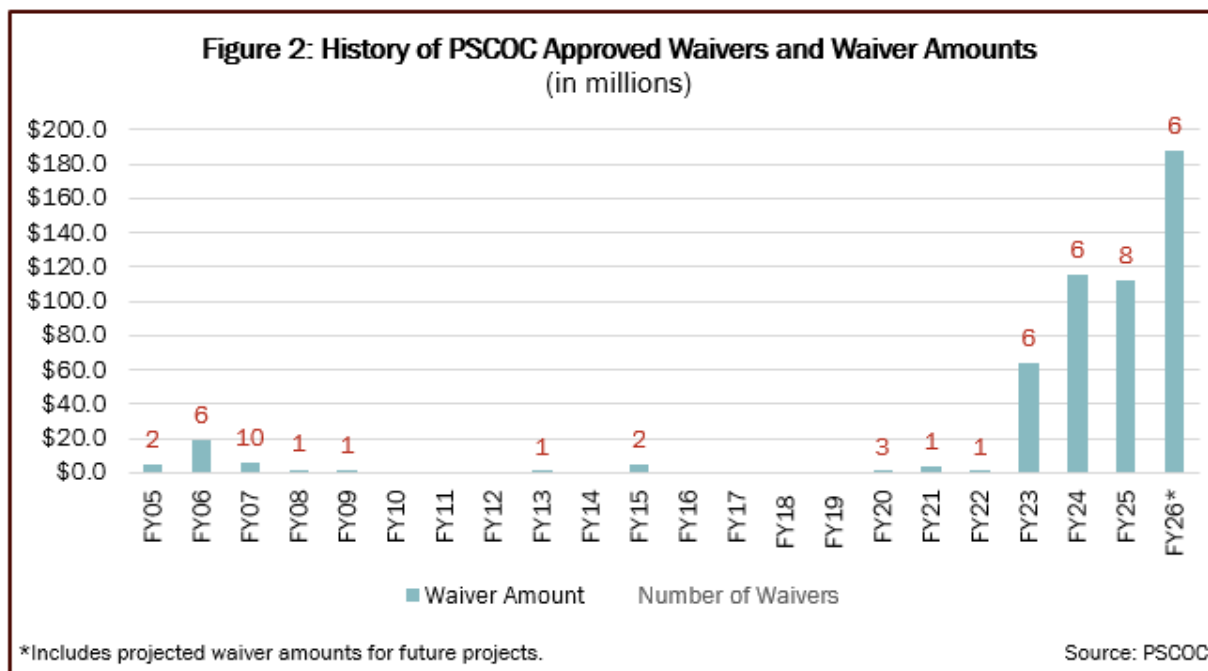
**Local Match Waivers and the Phase Two Formula.** The number and value of local match waivers have risen in recent years, highlighting several issues with the assumptions embedded in the state and local match formula, commonly referred to as the phase two formula. See **Figure 2: History of PSCOC Approved Waivers and Waiver Amounts.** This trend, identified by LESC, Legislative Finance Committee (LFC), and Public Schools Facilities Authority (PSFA) staff, underscores the need for further analysis of the formula's factors and assumptions to assess their accuracy, impact, and alignment with the goal of equitable funding for public school infrastructure projects. LESC analysis has identified key issues with some of the formula's assumptions, including the following issues:

- **Rising Construction Costs.** Rising construction costs have made it more difficult for districts to cover their local share of capital projects, even with increased state support. The phase two formula assumes a cost of \$307.47 per square foot to replace a school. However, recent projects have had costs closer to \$600 to \$700 per square foot.
- **Use of Local Mill Levies.** The phase two formula assumes school districts will take full advantage of the Public School Capital Improvements Act, also known as “SB9” or the “two-mill levy,” and partial advantage of the Public School Buildings Act, also known as “HB33.” SB9 allows up to two mills to be levied by a school district for up to six years, with voter approval. HB33 authorizes up to ten mills of property tax to be levied for school

districts with voter approval. However, many school districts do not utilize HB33 or fully use SB9.

- Accuracy of Adequacy Standards.** The phase two formula also assumes statewide adequacy standards accurately reflect how much square footage students need for an adequate education. The current phase two formula may indicate that adequacy standards no longer align with students’ current needs, warranting further analysis. Feedback from school districts and PSFA staff indicate adequacy standards are insufficient for constructing a fully functional facility. While the statewide adequacy standards, articulated in NMAC 6.27.30, are designed to establish a baseline for functionality, this baseline represents a minimum level of adequacy. As a result, school districts often bear additional costs to incorporate design elements that exceed these minimum standards, such as technology integration, flexible learning spaces, performing arts spaces, and career and technical education (CTE) facilities. Despite these limitations, the adequacy standards continue to serve as the basis for determining a school district's capacity to fund a project.
- Timeline for Facility Replacement.** The formula assumes school replacements will be spread evenly over a 45-year period. However, many districts constructed their school facilities all at once, resulting in the need to replace these facilities at the same time and placing significant financial burdens on districts.

During the 2024 legislative interim, LESC and LFC staff provided [testimony](#) to the Public School Capital Outlay Oversight Task Force (PSCOOTF). Their presentation provided background on capital outlay, identified challenges with the current state/local match formula, and proposed potential solutions.



### ADMINISTRATIVE IMPLICATIONS

HB277 may result in an increase in local match waiver applications received by the PSCOC. However, PSFA staff does not note any administrative implications.

## OTHER SIGNIFICANT ISSUES

**The *Zuni* Lawsuit.** The *Zuni Public School District v. Department of Education*, commonly referred to as the *Zuni* lawsuit, was filed in 1998. The plaintiffs of the lawsuit included Zuni Public Schools, Gallup-McKinley County Schools, and Grants-Cibola County Schools. The plaintiffs argued the state's school funding system was inequitable, particularly for districts with federal Indian reservation lands that lack taxable revenue for construction projects. The court case focused on the state's methodology for providing capital outlay funding for school facilities, highlighting how rural and low-income districts were disproportionately burdened due to limited local tax bases.

The court declared the funding system unconstitutional, prompting reforms under the Public School Capital Outlay Act to equalize funding for school construction and repair. The 11th Judicial District Court agreed in 1999, ruling New Mexico's funding system violated constitutional requirements. These decisions led to the creation of the PSCOC and a standards-based funding system emphasizing equity and adequacy. Despite legislative reforms, including eliminating the Impact Aid credit and directing more funding to affected districts, the *Zuni* lawsuit persisted.

Since 1999 the state of New Mexico has implemented a public school capital outlay system that has focused on providing equitable and uniform access to state funding for the construction and maintenance of school facilities. A court ruling in 2020 dismissed state efforts to address funding inequities, prompting an appeal to the New Mexico Supreme Court in 2021. On December 2, 2024, the New Mexico Supreme Court remanded the *Zuni* lawsuit to the 6th District Court for further review. The justices' [opinion](#) stated they found the lawsuit to be moot since the "statutory scheme declared to be unconstitutional no longer exists." The ramifications of this most recent ruling remain unclear, but with the lawsuit still open in the 6th Judicial District Court, policymakers should continue to study the equity implications of any proposed changes to the Public School Capital Outlay Act.

## RELATED BILLS

Relates to Senate Bill 82 (Public School Capital Outlay Changes), which would extend the temporary reduction of school districts' local match for PSCOC projects under Laws 2023, Chapter 98 (SB131) through FY27. It would also revise local match waiver eligibility by removing certain requirements for small, economically disadvantaged districts and eliminates the waiver for rapidly growing districts.

Relates to Senate Bill 125 (School Building System Innovation Project), which would create a program for HVAC and electrical upgrades in schools, prioritizing projects eligible for federal funding and energy efficiency. The program would have an effective date of July 1, 2025.

## SOURCES OF INFORMATION

- LESC Files
- Public School Facility Authority (PSFA)
- Public Education Department (PED)

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