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

<b>Bill Number</b>	<u>SB280</u>	<b>Sponsor</b>	<u>Ezzell/Townsend/Block/Scott/Hernandez</u>
<b>Tracking Number</b>	<u>.230308.1</u>	<b>Committee Referrals</b>	<u>SEC/SFC</u>
<b>Short Title</b>	<u>NMMI in Capital Outlay Act</u>		
<b>Analyst</b>	<u>Montoya</u>	<b>Original Date</b>	<u>2/15/2025</u>
		<b>Last Updated</b>	<u></u>

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## **BILL SUMMARY**

### Synopsis of Bill

Senate Bill 280 (SB280) would amend the Public School Capital Outlay Act (Chapter 22, Article 24 NMSA 1978) to add the New Mexico Military Institute (NMMI) to the definition of “constitutional special schools.”

## **FISCAL IMPACT**

SB280 does not contain an appropriation.

SB280’s inclusion of NMMI in the definition of “constitutional special schools” under the Public School Capital Outlay Act (PSCOA) would make the school eligible for capital outlay funding through the public school capital outlay fund (PSCOF). If a school qualifies for funding based on standards- or systems-based awards, the state will cover a portion of the project costs. Including NMMI in the PSCOA may increase the state’s overall spending by adding more eligible projects from the school. However, according to analysis provided by Public School Facility Authority (PSFA), the fiscal impact will depend on the schools’ current facility conditions and enrollment. Additionally, SB280 does not clearly define the state and local match requirements (meaning the portion of a capital outlay project a local entity is responsible for and the state is responsible for) for NMMI.

## **SUBSTANTIVE ISSUES**

**Public School Capital Outlay Act.** The PSCOA is the section of state law that governs the distribution of state funds for public school construction, renovation, and maintenance projects. The purpose of the PSCOA is to ensure that all public school facilities in New Mexico meet [statewide adequacy standards](#) through a standards-based process. It addresses the physical condition, capacity, educational suitability, and technology infrastructure of schools, promoting safe, functional, and durable learning environments. By guiding the design, construction, and maintenance of school sites, the Act supports the state's educational responsibilities and helps provide New Mexico students with the resources needed for success. The act also establishes the

Public School Capital Outlay Council (PSCOC), which oversees the process, and the Public School Facility Authority (PSFA), which is staff to the PSCOC and administers the process.

**Eligibility for Public School Capital Outlay Funding.** Adding NMMI to the definition of “constitutional special schools” within the PSCOA would create an avenue for the institution to request funding from the PSCOC. However, like other schools covered under the PSCOA, NMMI would be required to follow established procedures for applying for funding. This would include following the statewide ranking methodology used to identify schools in need of repair or replacement. The weighted New Mexico Condition Index (wNMCI) is a ranking system used by the PSFA to assess and prioritize school facility needs for PSCOC funding. It evaluates school buildings based on structural, mechanical, and safety deficiencies, applying weightings to prioritize critical issues like health, safety, and educational adequacy. Schools receive a [wNMCI score](#), with higher scores indicating greater facility needs, ensuring funding goes to the most urgent projects. In 2025, the top 100 schools qualify for standards-based awards for large-scale facility replacement projects, while the top 300 are eligible for systems-based awards to address failing building systems, such as roofing; heating, ventilation, and air conditioning (HVAC); or security systems.

**Establishing Adequacy Standards for NMMI.** Analysis from PSFA indicates administrative rule (Section 6.27.31 NMAC,) Special Purpose Schools Educational Facility Adequacy Standards, sets minimum requirements for the two other constitutional special schools under the PSCOA: the New Mexico School for the Deaf (NMSD) and the New Mexico School for the Blind and Visually Impaired (NMSBVI). These adequacy standards address the special facility needs for students with auditory and visual impairments. NMMI currently does not follow either the New Mexico Statewide Adequacy Standards or the Special Purpose Schools Adequacy Standards, as it does not serve students with these disabilities as outlined in the Special Purpose Schools Adequacy Standards. For NMMI to be eligible for PSCOC funding, its facilities must be assessed against statewide adequacy standards. However, it is unclear which standards would apply given NMMI's specialized nature as a military academy. While the special schools' standards include guidelines for residential housing that may be relevant, the general adequacy standards focus on educational spaces, which NMMI may not meet. PSFA would likely need to develop new specialized adequacy standards for NMMI to account for the needs of military students.

**Design Guidelines for Military Education Facilities.** [The Whole Building Design Guide \(WBDG\)](#) Unified Facilities Criteria (UFC) includes guidance on various facility types, including academic institutions such as military academies and training schools. The UFC guidance may provide insight into the special standards PSFA would be required to develop for NMMI. For example, the UFC guidelines include antiterrorism standards for educational and training facilities, as well as dormitory designs that include ligature-resistant features to enhance safety and reduce self-harm risks.

**State and Local Match.** When school districts receive funding for capital projects from PSCOC, they must contribute their share of project costs, which is referred to as the “local match.” The local match is a calculated percentage of the total project cost. The state would cover the remaining percentage. This formula was created as a result of the *Zuni* lawsuit, (See **Other Significant Issues**). Every year, the local match for each district is calculated using each school district's assessed property value, construction cost per square foot, and maximum square footage. The maximum local match amount for a school district is 94 percent; school districts with lower per-student tax revenues pay a lower match on PSCOC-funded projects. [Laws 2023, Chapter 98](#)

[\(SB131\)](#) provided temporary local match reductions ranging from a 33 to 50 percent for school districts in New Mexico.

**Local Match Determination.** SB280 does not specify whether NMMI will be required to provide a local match to participate in a PSCOC-funded project. Because NMMI does not generate property tax revenue, it is uncertain whether the school will be required to contribute a local match for projects. In some cases, NMSD and NMSBVI receive a 50 percent match, funded by the Higher Education Department (HED) because they are unable raise money through bonds. NMMI presents a unique challenge in applying the state and local match formula, as well as the reductions provided to NMSD and NMSBVI. While, like these schools, NMMI cannot issue bonds, it does charge tuition, setting it apart from other public schools that do not. This distinct revenue structure necessitates the development of a tailored methodology to address NMMI’s specific financial situation. The difficulties relate to a broader conversation underway between LESC, PSFA, and Legislative Finance Committee (LFC); staff from PSFA, LESC, and LFC have noted the current state and local match formula may not always account for schools’ “ability to pay” for their projects.

### ADMINISTRATIVE IMPLICATIONS

SB280 would require PSFA to assess NMMI conditions based on statewide adequacy standards and place NMMI on the wNMCI ranked list. Depending on NMMI facilities’ rankings on the list, the school may become eligible to apply for awards from PSCOC.

### 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 PSCOA 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.

Relates to House Bill 277, Millage for Certain School Districts, which would amend waiver eligibility in the Public School Capital Outlay Act. It would change a sub-requirement by lowering the minimum mill levy from ten to eight mills.

**SOURCES OF INFORMATION**

- LESC Files
- Public Facility Authority (PSFA)
- Higher Education Department (HED)

**MAM/tb/jkh/mca**