maximum impact of HB254/aHEC and assumes all school districts will impose a full two-mill levy; school districts that do not currently receive Public School Capital Improvements Act funding are highlighted on Attachment 2 in yellow.

The current Public School Capital Outlay (PSCOC) financial plan anticipates a potential increase in uses for the increase in Public School Capital Improvements Act state funding provided by HB254/aHEC. The table below shows the anticipated state match increase in the PSCOC financial plan.

Public School Capital Improvements Act Funding in the PSCOC Financial Plan

(in millions)

FY20	FY21	FY22	FY23	FY24
$17.3	$35.9	$35.9	$35.9	$35.9

Source: PSFA

HB254/aHEC uses the PSCOC phase two state match calculation to target additional dollars to school districts with low property tax bases. All school districts would receive more funding under HB254/aHEC, with school districts with a lower state match receiving smaller increases than school districts with higher state matches pursuant to the Public School Capital Outlay Act. The PSCOC phase two calculation for determining the state and local share of public school capital outlay, enacted in 2018, is based on the net taxable value for a school district for the prior five years, the maximum allowable gross square footage per student pursuant to the adequacy planning guide, the cost per square foot of replacement facilities, and each school district’s population density.

During the 2019 interim, some PSCOC members suggested eliminating systems-based awards and reallocating these funds to a better designed Public School Capital Improvements Act state funding calculation; HB254/aHEC is a result of these conversations. Demand for systems-based awards decreased in FY20. While PSCOC funded 24 systems-based awards in FY19, PSCOC only funded 10 systems-based projects in FY20. Systems-based projects are administratively burdensome which decreases the capacity of the Public School Facilities Authority (PSFA) staff to PSCOC, to administer other programs. For example, PSFA has had to ensure systems-based projects do not include above-adequacy spaces, which can be tricky if, for example, the systems-based request is to replace the roof of a school that includes above adequacy spaces.

PSFA notes in their analysis that the current financial plan of PSCOC anticipates a potential decrease in awards for the systems-based program, assuming an increase in Public School Capital Improvements Act 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.

Systems-Based Award Funding in the PSCOC Financial Plan

(in millions)

FY20	FY21	FY22	FY23	FY24
$20	$10	$10	$0	$0

Source: PSFA

Proposed Calculation in HB254/aHEC. The proposed calculation in HB254/aHEC maintains a program guarantee calculation and a minimum guarantee, similar to the current formula, but changes the program units that are included in the calculation and the dollar amounts of each program unit in the calculation. See **Attachment 3, Current Calculation Compared with Proposed Calculation**. Additionally, it adds a new factor. HB254/aHEC would include only final funded units from the prior year from the following factors: early childhood education, basic education, special education, size adjustment, enrollment growth, at-risk, and the staffing cost multiplier. The dollar amount for the program guarantee would be increased to $89.25 per program unit; the dollar amount for the minimum guarantee would be decreased to $5 per program unit. As with current law, these will automatically adjust each year per the consumer price index.

The state funding calculation in HB254/aHEC would provide for a school district to receive either a maximum program guarantee or a minimum guarantee, plus an additional match. School districts would receive the greater of the following two calculations: 1) the difference between the program guarantee, which is calculated by multiplying $89.25 per program unit multiplied by the mill levy rate and the school district's estimated tax revenue, or 2) the minimum guarantee, which is calculated by multiplying $5 per program unit multiplied by the mill levy rate. All school districts would receive an additional match, which is calculated by multiplying $53 per program unit multiplied by the mill levy rate multiplied by the state match percentage calculated pursuant to the phase two formula of the Public School Capital Outlay Act.

SUBSTANTIVE ISSUES

HB254/aHEC would change the Public School Capital Improvements Act state funding currently in statute to give all school districts more capital outlay funds and target additional dollars to school districts with the greatest reliance on state funding for their capital needs. The bill would change the state funding calculation to include only specified program units, specifically, program units for early childhood education, basic education, special education, size adjustment, enrollment growth, at-risk, and the staffing cost multiplier. Including only nondiscretionary program units provides for stability of funding and the ability for school districts and PED to predict revenues. Pursuant to 22-25-2 NMSA 1978, Public School Capital Improvements Act funds can be used for maintenance, capital improvements, building and remodeling, improving public school grounds, activity vehicles, education technology, software, and network tools and improvements.

PSFA notes in their analysis that the increased state match proposed in HB254/aHEC would result in additional funding to school districts that qualify for state matching funds. This increase would benefit school districts for the purposes stated in Section 22-25-9 NMSA 1978 and will especially assist school districts with preventive maintenance projects that increase the life of a facility.

Public School Capital Outlay Funding. Public school capital outlay funding, used to purchase capital assets like buildings, is both a local and state responsibility in New Mexico. The current standards-based public school capital outlay program was developed and established partially in response to a 1998 lawsuit filed in state district court by the Zuni Public Schools and later joined by the Gallup-McKinley County Public Schools and the Grants-Cibola County Public Schools. The state district court found that through its public school capital outlay funding system the state was violating that portion of the state constitution that guarantees establishment and maintenance of a "uniform system of free public schools sufficient for the education of, and open to, all children of school age" in the state. The court ordered the state to "establish and implement a uniform funding system for capital improvements… and for correcting past inequities" and set a deadline at the end of the 2001 legislative session. The court appointed a special master to review the state's progress.

Although the quality of school facilities has improved significantly since the lawsuit, litigant school districts are still concerned the system is inequitable. These alleged ongoing disparities led Gallup-McKinley County Schools (GMCS) to reopen the *Zuni* lawsuit – which had never been closed – and seek judicial intervention to cure what the school district characterizes as ongoing disparities in the current public school capital outlay funding system. For example, GMCS is concerned that property-wealthy school districts are able to build public school facilities significantly above adequacy without taxing themselves to the same extent that voters in the GMCS school district tax themselves.

OTHER SIGNIFICANT ISSUES

Public School Maintenance. Current analysis from PSFA indicates a broad range of school district maintenance and operations spending per square foot from as low as $2.59 to as high as $12.28, with a mid-range average 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.

On January 23, 2020, the Department of Finance and Administration (DFA) sent a letter to PED indicating that Public School Capital Improvements Act funds no longer have to be distributed by PED on a reimbursement basis. See **Attachment 4, Exception to 2.61.6.9(A)(1)(b) NMAC for Public Education Department.** DFA notes the reason for this change is PED and PSFA comments that the distribution of Public School Capital Improvements Act funds, on a reimbursement basis, is particularly cumbersome because such expenditures are often small and numerous.

RELATED BILLS

Related to HB131, Distribution to Taxing School Districts, which would increase the program guarantee in the Public School Capital Improvements Act.

Duplicates SB159, Distributions to School Districts.

SOURCES OF INFORMATION

- LESC Files
- Public School Facilities Authority (PSFA)

MCA/tb/mc/sgs