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LEGISLATIVE EDUCATION STUDY COMMITTEE
BILL ANALYSIS
56th Legislature, 1st Session, 2023

Bill Number	<u>*SB474/aSFC</u>	Sponsor	<u>Shendo</u>
Tracking Number	<u>.224874.4</u>	Committee Referrals	<u>STBTC/SFC</u>
Short Title	<u>School District In-Lieu-of-Taxes Payments</u>		
Analyst	<u>Bedeaux</u>	Original Date	<u>2/24/23</u>
		Last Updated	<u>3/3/23</u>

BILL SUMMARY

Synopsis of Senate Finance Committee Amendment

The Senate Finance Committee amendment to Senate Bill 474 (*SB474/aSFC) strikes the bill's applicability clause and adds an emergency clause. Bills with an emergency clause take effect immediately upon signature by the governor.

Synopsis of Original Bill

Senate Bill 474 (SB474) amends the Industrial Revenue Bond Act and the County Industrial Revenue Bond Act to change how "payments in lieu of taxes" (PILTs) from certain industrial revenue bonds and county industrial revenue bonds are distributed among school districts. The bill would require PILT revenues to be distributed as follows:

- 50 percent allocated equally among the school district in which the project is located;
- 40 percent allocated in proportion to the area of each school district within the municipality; and
- 10 percent allocated in proportion to the school district's MEM (enrollment).

FISCAL IMPACT

*SB474/aSFC does not contain an appropriation.

In FY22, school districts received \$94 thousand in bond PILTs and \$725 thousand in wind farm revenue, according to information in PED's [OpenBooks](#) financial transparency dashboard.

*SB474/aSFC will not impact the revenue distribution of current industrial revenue bond PILTs. Under current law, PILTs are distributed evenly among the school districts in the county in which the industrial revenue bond is entered. However, the PILT for any industrial revenue bond entered after the bill is enacted would be distributed to school districts in proportion to the square mileage the MEM of each school district impacted by the bond. According to the Legislative Finance Committee (LFC) fiscal impact report, PILTs would be divided in the manner described in Tables 1 through 3 on the following page.

Table 1. Harding County: PILT Under Consideration

	Pre-2020	Current	*SB474/aSFC		
	Law	Law	MEM	Sq. Miles	PILT
Mosquero	\$90,000	\$30,000	88	1,253	\$67,867
Logan		\$30,000	317	88	\$7,416
Roy		\$30,000	77	784	\$14,716
Total	\$90,000	\$90,000	482	2,125	\$90,000

Source: LFC

Table 2. Quay County: Hypothetical PILT

	Pre-2020	Current	*SB474/aSFC		
	Law	Law	MEM	Sq. Miles	PILT
Logan	\$100,000	\$16,667	317	600	\$60,040
San Jon		\$16,667	125	636	\$9,520
Tucumcari		\$16,667	907	996	\$18,701
House		\$16,667	53	435	\$6,339
Grady		\$16,667	174	43	\$1,527
Melrose		\$16,667	295	165	\$3,873
Total	\$100,000	\$100,000	1,871	2,125	\$100,000

Source: LFC

Table 3. Sandoval County: Hypothetical PILT

	Pre-2020	Current	*SB474/aSFC		
	Law	Law	MEM	Sq. Miles	PILT
Cuba	\$36,800	\$7,360	746	1,764	\$7,024
Jemez Valley		\$7,360	359	1,108	\$22,811
Bernalillo		\$7,360	2,803	645	\$2,662
Rio Rancho		\$7,360	17,329	454	\$1,238
Albuquerque		\$7,360	80,364	39	\$3,065
Total	\$36,800	\$36,800	101,601	3,711	\$36,800

Source: LFC

SUBSTANTIVE ISSUES

*SB474/aSFC proposes a statutory distribution methodology to distribute PILT revenue among school districts in a municipal area in proportion to each school districts’ area and MEM. The statutory methodology may ensure that school districts with larger portions of area impacted by an industrial revenue bond receive a greater portion of the PILT revenue from that bond.

Industrial revenue bonds are issued by county and municipal governments to raise revenue to build industrial factories or energy generation facilities. School districts receive PILTs from these revenue bonds as a source of local revenue, and often spend these revenues to support the construction of new facilities and capital improvements.

OTHER SIGNIFICANT ISSUES

The Zuni Lawsuit: History and Current Status. In 1999, the 11th Judicial District Court issued its initial ruling in the *Zuni* lawsuit, finding New Mexico did not have an equalized system of public school capital outlay funding, especially for historically Indian-impacted school districts such as the plaintiffs, Zuni Public Schools and Gallup McKinley County Schools. The court found

the lack of equity in capital revenues violated the New Mexico Constitution, which requires a “uniform system of public schools sufficient for the education of all school age.”

Between 1999 and 2004, the state designed a system of public school capital outlay based on “adequacy,” such that schools in the worst condition in the state would be eligible for funding through a standards-based process. This system has been revised since 2004, but is still primarily based on the values of equity, uniformity, sufficiency, and adequacy. Between 2004 and 2013, no filings were made in the *Zuni* lawsuit, and the case was administratively dismissed.

The plaintiffs reopened the *Zuni* lawsuit shortly after it was closed, and a trial to hear new evidence began in 2016. However, the plaintiffs never concluded their case-in-chief and the trial was put on hold for nearly three years. The trial finally concluded in May 2019, with proposed Findings of Fact and Conclusions of Law filed by both parties in October 2019. The 11th Judicial District Court’s Decision and Order was issued more than a year later in December 2020.

The court’s six-page verdict did not cite specific facts on which it was based, and did not address recent actions the state had taken to account for historic inequities in the state’s capital outlay funding system. These actions included a host of standards- and systems-based awards for the plaintiff school districts as a result of the standards- and systems-based awards process, as well as direct legislative appropriations for “outside of adequacy” spaces and teacher housing. Following the ruling, the Legislature also eliminated the long-standing Impact Aid credit, returning more than \$80 million in annual revenue to Indian-impacted school districts.

The state filed a motion for the 11th Judicial District Court to reconsider its ruling given the new evidence in the case. The Court denied this motion. In July 2021, the state appealed the district court’s ruling to the New Mexico Supreme Court. The opening brief for the appeal was filed in August 2022.

RELATED BILLS

Related to SB131, Public School Funding Changes, which makes several changes to the Public School Capital Outlay Act to improve school districts’ ability to afford capital projects by reducing school districts’ local match amounts and eliminating direct legislative offsets.

SOURCES OF INFORMATION

- LESC Files
- Public Education Department (PED)

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