

LFC Requester:

Liu



**PUBLIC EDUCATION DEPARTMENT  
BILL ANALYSIS  
2024 REGULAR SESSION**

**SECTION I: GENERAL INFORMATION***Check all that apply:*Original  Amendment Correction  Substitute 

Date Prepared: 01/23/24

Bill No: [SB76](#)

Sponsor: Stewart

Short SCHOOL LOCAL SHARE

Title: ADJUSTMENT WAIVER

Agency Name  
and Code

Number: PED - 924

Person Writing Denise Terrazas

Phone: (505) 470-5303 Email: [denise.terrazas@ped.nm.gov](mailto:denise.terrazas@ped.nm.gov)**SECTION II: FISCAL IMPACT****APPROPRIATION (dollars in thousands)**

Appropriation		Recurring or Nonrecurring	Fund Affected
FY23	FY24		
None	None	N/A	NFA

(Parenthesis ( ) Indicate Expenditure Decreases)

**REVENUE (dollars in thousands)**

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY23	FY24	FY25		
None	None	None	N/A	NFA

(Parenthesis ( ) Indicate Expenditure Decreases)

**ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)**

	FY23	FY24	FY25	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
<b>Total</b>	None	None	None	N/A	N/A	NFA

(Parenthesis ( ) Indicate Expenditure Decreases)

Duplicates/Relates to Appropriation in the General Appropriation Act: N/A

**SECTION III: NARRATIVE****BILL SUMMARY**

Synopsis: Senate Bill 76 (SB76) would adjust the waiver criteria in the Public School Capital Outlay Act, correcting a technical issue introduced by [Senate Bill 131](#) from the 2023 legislative session (SB131 (2023)). Specifically, SB76 would clarify that a school district's eligibility for a waiver of the local match of a public school capital outlay project is to be based on its local match calculated by the phase two state and local match calculation, *prior* to a temporary 33 or 50 percent local match reduction.

SB76 would apply to public school capital outlay awards made during the 2023-2024 and subsequent award cycles and would become effective on May 15, 2024.

The bill is endorsed by the Legislative Education Study Committee (LESC).

## **FISCAL IMPLICATIONS**

The bill does not contain an appropriation.

## **SIGNIFICANT ISSUES**

When SB131 (2023) was [enacted](#), many school districts eligible for a waiver lost eligibility as their local match was temporarily reduced beneath the 50 percent threshold.

SB76 would adjust the waiver criteria in the Public School Capital Outlay Act, correcting a technical issue introduced by Senate Bill 131 from the 2023 legislative session. SB131 (2023) established a temporary 33 percent reduction to school districts' local match amounts for most school districts, and a 50 percent reduction for micro-districts with fewer than 200 MEM, through FY26. Per [Section 22-24-5 NMSA 1978](#), school districts may apply to the Public School Capital Outlay Council (PSCOC) to waive the required local match under any of three circumstances:

- a) The school district cannot afford its local match using all of its resources, with an insufficient bonding capacity over the next four years to provide the local match necessary to complete the project and a residential tax rate of 10 mills;
- b) The school district is a small, high poverty district, with fewer than 800 MEM, a free and reduced-fee lunch rate of 70 percent or greater, and a local match rate greater than 50 percent, and a residential tax rate of at least 7 mills; or
- c) The school district is experiencing rapid growth, with an enrollment growth greater than 2.5 percent, a facility master plan that shows the need for a new school in the next two years, and a residential tax rate of at least 10 mills.

Under SB131 (2023), many school districts eligible for a waiver under the second criterion lost eligibility as their local match was temporarily reduced below the 50 percent threshold.

## **PERFORMANCE IMPLICATIONS**

None.

## **ADMINISTRATIVE IMPLICATIONS**

None.

## **CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP**

None.

## **TECHNICAL ISSUES**

None.

## **OTHER SUBSTANTIVE ISSUES**

The “phase two state and local match calculation” is a formula designed to account for school district tax revenues and the cost of construction. After the state transitioned to this formula in 2018, the PSCOC saw decreased demand for awards from the standards- and systems-based award programs. Analysis from LESC, the Legislative Finance Committee (LFC), and the Public School Facilities Authority (PSFA) attributed the diminished demand primarily to rising local match amounts in the phase two formula.

According to the LESC analysis of this bill, the Public School Capital Outlay Act was originally enacted in 2001 and has been subject to various piecemeal amendments over the past two decades, creating a “complicated system difficult for schools to navigate.” During the 2023 legislative interim, the phase two state and local match calculation and the waiver criteria were examined by the Public School Capital Outlay Oversight Task Force (PSCOOTF). LESC, LFC, and PSFA are expected to make broader recommendations toward a new state and local match formula by the 2026 legislative session.

## **ALTERNATIVES**

None.

## **WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL**

None.

## **AMENDMENTS**

None.