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

| | | | |
|------------------------|---|----------------------------|--------------------------|
| Bill Number | <u>SB82/aHF1#1</u> | Sponsor | <u>Soules</u> |
| Tracking Number | <u>228682.1</u> | Committee Referrals | <u>SEC/SFC;HEC/HGEIC</u> |
| Short Title | <u>Capital Outlay Local Match and Waivers</u> | | |
| Analyst | <u>Montoya</u> | Original Date | <u>1/29/2025</u> |
| | | Last Updated | <u>3/17/2025</u> |

**FOR THE PUBLIC SCHOOL CAPITAL OUTLAY OVERSIGHT TASK FORCE
AND THE LEGISLATIVE EDUCATION STUDY COMMITTEE**

BILL SUMMARY

Synopsis of House Floor Amendment

The House Floor amendment to Senate Bill 82 (SB82/aHF1#1) would amend a sub-requirement within waiver Criteria B, raising the maximum full-time-equivalent students (MEM) a school district may have to qualify for a local match waiver from 800 MEM to 1,500 MEM. Please see **Figure 2: Proposed Waiver Criteria Changes in Substantive Issues** for a description of all proposed waiver criteria.

Synopsis of Original Bill

Senate Bill 82 (SB82) amends the Public School Capital Outlay Act to extend the temporary reduction of school districts' "local match" (the share of the cost of a public school capital outlay project school districts are responsible for paying) under Laws 2023, Chapter 98 (SB131) through FY27. Laws 2023, Chapter 98 temporarily reduced the local match required of school districts for Public School Capital Outlay Council (PSCOC) projects by one-third, or one-half for micro-districts with fewer than 200 MEM (student membership). If the proposed bill is not enacted, the temporary reductions would expire at the end of FY26, at which point the calculation will revert to the base phase two formula value.

SB82 amends the waiver eligibility criteria currently outlined in statute (Section 22-24-5 NMSA 1978). Under current law, a school district must meet one of three statutory criteria to be eligible for a waiver of their calculated local match requirement for PSCOC projects. SB82 would eliminate two sub-requirements and amend outlined in waiver criteria B, which address small districts with a high level of economically disadvantaged students: the requirement for school districts to have at least 70 percent of their students receiving free and reduced lunch (FRL); and the requirement of school districts to have a local match greater than 50 percent of the proposed project costs. The proposed bill would also eliminate waiver criteria C, which is intended for school districts with rapid growth.

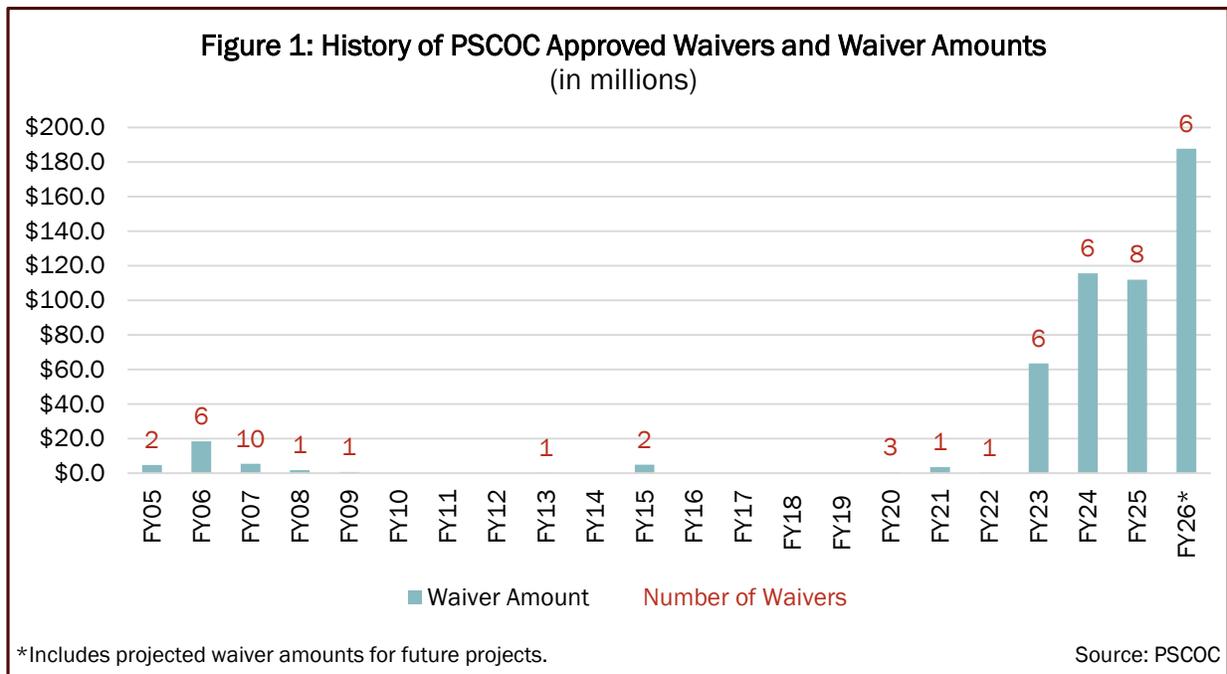
Please see **Figure 2: Proposed Waiver Criteria Changes in Substantive Issues** for a graphic showing all proposed waiver criteria changes.

FISCAL IMPACT

SB82/aHF1#1 does not contain an appropriation.

A continuation of the one-third reduction to the state and local match calculation for most districts, and a one-half reduction for micro-districts, will maintain the state’s increased responsibility to fund projects awarded by the PSCOC and administered by the Public School Facility Authority (PSFA). The average local match percentage for FY25, incorporating the temporary reductions of Laws 2023, Chapter 98, is 45 percent. For comparison, without the temporary reductions of Laws 2023, Chapter 98, the local match percentage for FY25 would be an increased average of 72 percent. See **Attachment 1: FY25 State and Local Match Calculation**.

The changes to waiver criteria B and the elimination of waiver criteria C would increase the number of school districts eligible for local match waivers in the PSCOC award process. See **Attachment 2: Effects of 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. Please refer to **Figure 1: History of PSCOC Approved Waivers and Waiver Amounts** for a summary of the waivers awarded by the PSCOC since FY05.



SUBSTANTIVE ISSUES

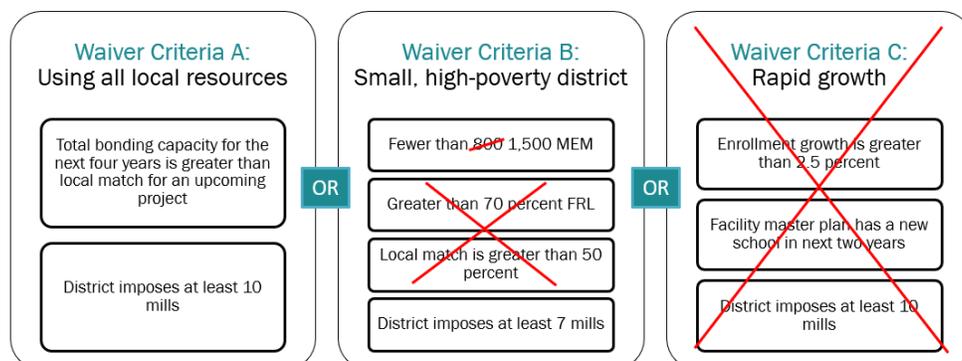
The number and value of local match waivers have risen in recent years, highlighting several issues with the assumptions embedded in the state and local match formula, commonly referred to as the phase two formula. This trend, identified by LESC, Legislative Finance Committee (LFC), and

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 a square foot.
- Utilization 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 10 mills of property tax to be levied for school districts, with voter approval. However, many school districts do not utilize HB33 or fully utilize 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.

The extension of Laws 2023, Chapter 98 would allow for qualifying districts to move forward with their school projects, as well as provide staff with the necessary time to study the local match formula and identify possible solutions. During [testimony](#) to the Public School Capital Outlay Oversight Task Force (PSCOOTF) during the 2024 legislative interim, LESC and LFC staff recommended Laws 2023, Chapter 98 be extended through the end of FY27.

Figure 2: Proposed Waiver Criteria Changes



Extending Laws 2023, Chapter 98 will position the state to implement the solutions identified by careful study of the phase two formula. The state and local match formula, statutory waiver criteria, and discussions on construction costs are all interconnected, and addressing the state and local match formula could improve the state's ability to manage escalating construction costs and reduce the need for local match waivers. However, adjusting any of the factors of the formula could have unintended results and instituting a brand new formula could also have unforeseen consequences. A methodical study of the formula will help the Legislature make prudent adjustments to the state and local match formula and limit unintended consequences.

ADMINISTRATIVE IMPLICATIONS

The bill would require PSFA to continue the implementation of the state and local match calculations utilizing the temporary local match reductions prescribed by Laws 2023, Chapter 98.

OTHER SIGNIFICANT ISSUES

The *Zuni* Lawsuit. 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 case led to a court ruling declaring 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 that New Mexico's funding system violated constitutional requirements. This 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. This action was based on the opinion of New Mexico Supreme Court justices, in which 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 Sixth Judicial District Court, policymakers should continue to study the equity implications of any proposed changes to the Public School Capital Outlay Act.

School Local Share Adjustment Waiver. Laws 2024, Chapter 22 (Senate Bill 76) was passed during the 2024 Regular Session. This bill made a technical change to the Public School Capital Outlay Act, clarifying that a school district's eligibility for a local match waiver is to be based on the local match amount calculated before a temporary local match reduction, which was established by Laws 2023, Chapter 98 (SB131). Evaluating a district's eligibility for a local match waiver after a temporary local match reduction could result in a district not qualifying for local match waiver based on the three waiver criteria described above, which is utilized by the PSCOC award process.

SB82/aHF1#1

SOURCES OF INFORMATION

- LESC Files

MM/js/tb/mca/jkh

FY25 State and Local Match Calculation

| | School District | FY25 MEM* | FY25 Phase Two Calculation | | FY25 SB131 Reduction | | |
|----|-----------------|-----------|----------------------------|-------------|----------------------|-------------|----|
| | | | Local Match | State Match | Local Match | State Match | |
| 1 | ALAMOGORDO | 5,210 | 73% | 27% | 49% | 51% | 1 |
| 2 | ALBUQUERQUE | 73,591 | 94% | 6% | 63% | 37% | 2 |
| 3 | ANIMAS | 158 | 45% | 55% | 22% | 78% | 3 |
| 4 | ARTESIA | 3,728 | 94% | 6% | 63% | 37% | 4 |
| 5 | AZTEC | 2,495 | 94% | 6% | 63% | 37% | 5 |
| 6 | BELEN | 3,566 | 84% | 16% | 56% | 44% | 6 |
| 7 | BERNALILLO | 2,442 | 94% | 6% | 63% | 37% | 7 |
| 8 | BLOOMFIELD | 2,495 | 94% | 6% | 63% | 37% | 8 |
| 9 | CAPITAN | 460 | 94% | 6% | 63% | 37% | 9 |
| 10 | CARLSBAD | 7,039 | 94% | 6% | 63% | 37% | 10 |
| 11 | CARRIZOZO | 175 | 94% | 6% | 47% | 53% | 11 |
| 12 | CENTRAL | 4,693 | 60% | 40% | 40% | 60% | 12 |
| 13 | CHAMA | 322 | 94% | 6% | 63% | 37% | 13 |
| 14 | CIMARRON | 373 | 94% | 6% | 63% | 37% | 14 |
| 15 | CLAYTON | 401 | 94% | 6% | 63% | 37% | 15 |
| 16 | CLOUDCROFT | 419 | 94% | 6% | 63% | 37% | 16 |
| 17 | CLOVIS | 7,420 | 58% | 42% | 39% | 61% | 17 |
| 18 | COBRE | 987 | 73% | 27% | 48% | 52% | 18 |
| 19 | CORONA | 85 | 94% | 6% | 47% | 53% | 19 |
| 20 | CUBA | 734 | 94% | 6% | 63% | 37% | 20 |
| 21 | DEMING | 5,141 | 48% | 52% | 32% | 68% | 21 |
| 22 | DES MOINES | 136 | 66% | 34% | 33% | 67% | 22 |
| 23 | DEXTER | 808 | 27% | 73% | 18% | 82% | 23 |
| 24 | DORA | 212 | 94% | 6% | 63% | 37% | 24 |
| 25 | DULCE | 544 | 94% | 6% | 63% | 37% | 25 |
| 26 | ELIDA | 151 | 36% | 64% | 18% | 82% | 26 |
| 27 | ESPANOLA | 2,790 | 94% | 6% | 63% | 37% | 27 |
| 28 | ESTANCIA | 575 | 76% | 24% | 51% | 49% | 28 |
| 29 | EUNICE | 724 | 94% | 6% | 63% | 37% | 29 |
| 30 | FARMINGTON | 10,717 | 75% | 25% | 50% | 50% | 30 |
| 31 | FLOYD | 217 | 20% | 80% | 13% | 87% | 31 |
| 32 | FORT SUMNER | 264 | 94% | 6% | 63% | 37% | 32 |
| 33 | GADSDEN | 11,530 | 47% | 53% | 32% | 68% | 33 |
| 34 | GALLUP | 12,409 | 16% | 84% | 11% | 89% | 34 |
| 35 | GRADY | 177 | 4% | 96% | 2% | 98% | 35 |
| 36 | GRANTS | 3,121 | 37% | 63% | 24% | 76% | 36 |
| 37 | HAGERMAN | 409 | 40% | 60% | 26% | 74% | 37 |
| 38 | HATCH | 1,153 | 17% | 83% | 12% | 88% | 38 |
| 39 | HOBBS | 10,161 | 94% | 6% | 63% | 37% | 39 |
| 40 | HONDO | 126 | 69% | 31% | 34% | 66% | 40 |
| 41 | HOUSE | 63 | 36% | 64% | 18% | 82% | 41 |
| 42 | JAL | 551 | 94% | 6% | 63% | 37% | 42 |
| 43 | JEMEZ MOUNTAIN | 184 | 94% | 6% | 47% | 53% | 43 |
| 44 | JEMEZ VALLEY | 316 | 94% | 6% | 63% | 37% | 44 |
| 45 | LAKE ARTHUR | 126 | 94% | 6% | 47% | 53% | 45 |
| 46 | LAS CRUCES | 23,206 | 87% | 13% | 58% | 42% | 46 |
| 47 | LAS VEGAS CITY | 1,117 | 94% | 6% | 63% | 37% | 47 |
| 48 | LAS VEGAS WEST | 1,566 | 37% | 63% | 25% | 75% | 48 |
| 49 | LOGAN | 231 | 94% | 6% | 63% | 37% | 49 |
| 50 | LORDBURG | 419 | 94% | 6% | 63% | 37% | 50 |
| 51 | LOS ALAMOS | 3,736 | 94% | 6% | 63% | 37% | 51 |

| | | | | | | | |
|----|-----------------------|--------|-----|------|-----|------|----|
| 52 | LOS LUNAS | 8,165 | 63% | 37% | 42% | 58% | 52 |
| 53 | LOVING | 703 | 94% | 6% | 63% | 37% | 53 |
| 54 | LOVINGTON | 3,410 | 90% | 10% | 60% | 40% | 54 |
| 55 | MAGDALENA | 296 | 26% | 74% | 18% | 82% | 55 |
| 56 | MAXWELL | 102 | 40% | 60% | 20% | 80% | 56 |
| 57 | MELROSE | 289 | 32% | 68% | 21% | 79% | 57 |
| 58 | MESA VISTA | 259 | 94% | 6% | 63% | 37% | 58 |
| 59 | MORA | 443 | 76% | 24% | 51% | 49% | 59 |
| 60 | MORIARTY | 2,219 | 94% | 6% | 63% | 37% | 60 |
| 61 | MOSQUERO | 97 | 94% | 6% | 47% | 53% | 61 |
| 62 | MOUNTAINAIR | 191 | 94% | 6% | 47% | 53% | 62 |
| 63 | PECOS | 456 | 94% | 6% | 63% | 37% | 63 |
| 64 | PENASCO | 269 | 47% | 53% | 31% | 69% | 64 |
| 65 | POJOAQUE | 1,556 | 47% | 53% | 32% | 68% | 65 |
| 66 | PORTALES | 2,565 | 49% | 51% | 33% | 67% | 66 |
| 67 | QUEMADO | 178 | 94% | 6% | 47% | 53% | 67 |
| 68 | QUESTA | 333 | 94% | 6% | 63% | 37% | 68 |
| 69 | RATON | 831 | 66% | 34% | 44% | 56% | 69 |
| 70 | RESERVE | 89 | 94% | 6% | 47% | 53% | 70 |
| 71 | RIO RANCHO | 16,004 | 94% | 6% | 63% | 37% | 71 |
| 72 | ROSWELL | 9,068 | 55% | 45% | 36% | 64% | 72 |
| 73 | ROY | 75 | 14% | 86% | 7% | 93% | 73 |
| 74 | RUIDOSO | 1,757 | 94% | 6% | 63% | 37% | 74 |
| 75 | SAN JON | 118 | 22% | 78% | 11% | 89% | 75 |
| 76 | SANTA FE | 11,352 | 94% | 6% | 63% | 37% | 76 |
| 77 | SANTA ROSA | 590 | 61% | 39% | 41% | 59% | 77 |
| 78 | SILVER | 2,111 | 94% | 6% | 63% | 37% | 78 |
| 79 | SOCORRO | 1,340 | 47% | 53% | 31% | 69% | 79 |
| 80 | SPRINGER | 117 | 64% | 36% | 32% | 68% | 80 |
| 81 | TAOS | 2,005 | 94% | 6% | 63% | 37% | 81 |
| 82 | TATUM | 308 | 94% | 6% | 63% | 37% | 82 |
| 83 | TEXICO | 567 | 46% | 54% | 31% | 69% | 83 |
| 84 | TRUTH OR CONSEQUENCES | 1,262 | 94% | 6% | 63% | 37% | 84 |
| 85 | TUCUMCARI | 883 | 52% | 48% | 34% | 66% | 85 |
| 86 | TULAROSA | 946 | 34% | 66% | 22% | 78% | 86 |
| 87 | VAUGHN | 46 | 94% | 6% | 47% | 53% | 87 |
| 88 | WAGON MOUND | 72 | 94% | 6% | 47% | 53% | 88 |
| 89 | ZUNI | 1,079 | 0% | 100% | 0% | 100% | 89 |

Districts highlighted in blue are "microdistricts" with less than 200 MEM.

Source: PSFA

*Due to issues with data quality in NOVA, PSFA estimated FY25 MEM using average pf MEM from FY23 and FY24.

Effects of Waiver Criteria Change

| District | Under Current Criteria | After Proposed Criteria |
|--------------------|------------------------|-------------------------|
| 1 ALAMOGORDO | Ineligible | Ineligible |
| 2 ALBUQUERQUE | Eligible | Eligible |
| 3 ANIMAS | Ineligible | Ineligible |
| 4 ARTESIA | Ineligible | Ineligible |
| 5 AZTEC | Eligible | Eligible |
| 6 BELEN | Eligible | Eligible |
| 7 BERNALILLO | Eligible | Eligible |
| 8 BLOOMFIELD | Eligible | Eligible |
| 9 CAPITAN | Ineligible | Ineligible |
| 10 CARLSBAD | Eligible | Eligible |
| 11 CARRIZOZO | Eligible | Eligible |
| 12 CENTRAL | Ineligible | Ineligible |
| 13 CHAMA | Ineligible | Ineligible |
| 14 CIMARRON | Ineligible | Ineligible |
| 15 CLAYTON | Eligible | Eligible |
| 16 CLOUDCROFT | Ineligible | Eligible |
| 17 CLOVIS | Ineligible | Ineligible |
| 18 COBRE | Eligible | Eligible |
| 19 CORONA | Ineligible | Ineligible |
| 20 CUBA | Eligible | Eligible |
| 21 DEMING | Ineligible | Ineligible |
| 22 DES MOINES | Eligible | Eligible |
| 23 DEXTER | Eligible | Eligible |
| 24 DORA | Ineligible | Eligible |
| 25 DULCE | Ineligible | Ineligible |
| 26 ELIDA | Ineligible | Ineligible |
| 27 ESPANOLA | Ineligible | Ineligible |
| 28 ESTANCIA | Eligible | Eligible |
| 29 EUNICE | Ineligible | Ineligible |
| 30 FARMINGTON | Ineligible | Ineligible |
| 31 FLOYD | Ineligible | Ineligible |
| 32 FT. SUMNER | Ineligible | Eligible |
| 33 GADSDEN | Eligible | Eligible |
| 34 GALLUP-McKINLEY | Eligible | Eligible |
| 35 GRADY | Eligible | Eligible |
| 36 GRANTS-CIBOLA | Eligible | Eligible |
| 37 HAGERMAN | Eligible | Eligible |
| 38 HATCH | Eligible | Eligible |
| 39 HOBBS | Eligible | Eligible |
| 40 HONDO | Eligible | Eligible |
| 41 HOUSE | Ineligible | Eligible |
| 42 JAL | Ineligible | Ineligible |
| 43 JEMEZ MOUNTAIN | Ineligible | Ineligible |
| 44 JEMEZ VALLEY | Eligible | Eligible |
| 45 LAKE ARTHUR | Ineligible | Eligible |
| 46 LAS CRUCES | Ineligible | Ineligible |
| 47 LAS VEGAS CITY | Eligible | Eligible |
| 48 LAS VEGAS WEST | Eligible | Eligible |
| 49 LOGAN | Ineligible | Eligible |
| 50 LORDSBURG | Eligible | Eligible |
| 51 LOS ALAMOS | Eligible | Eligible |

| | | | | |
|----|-------------------------|------------|------------|-----------|
| 52 | LOS LUNAS | Eligible | Eligible | 52 |
| 53 | LOVING MUNICIPAL | Ineligible | Ineligible | 53 |
| 54 | LOVINGTON | Eligible | Eligible | 54 |
| 55 | MAGDALENA | Eligible | Eligible | 55 |
| 56 | MAXWELL | Eligible | Eligible | 56 |
| 57 | MELROSE | Ineligible | Ineligible | 57 |
| 58 | MESA VISTA | Ineligible | Eligible | 58 |
| 59 | MORA | Ineligible | Ineligible | 59 |
| 60 | MORIARTY | Eligible | Eligible | 60 |
| 61 | MOSQUERO | Eligible | Eligible | 61 |
| 62 | MOUNTAINAIR | Ineligible | Ineligible | 62 |
| 63 | PECOS | Ineligible | Ineligible | 63 |
| 64 | PEÑASCO | Eligible | Eligible | 64 |
| 65 | POJOAQUE | Eligible | Eligible | 65 |
| 66 | PORTALES | Ineligible | Ineligible | 66 |
| 67 | QUEMADO | Ineligible | Ineligible | 67 |
| 68 | QUESTA | Ineligible | Ineligible | 68 |
| 69 | RATON | Eligible | Eligible | 69 |
| 70 | RESERVE | Ineligible | Ineligible | 70 |
| 71 | RIO RANCHO | Eligible | Eligible | 71 |
| 72 | ROSWELL | Ineligible | Ineligible | 72 |
| 73 | ROY | Ineligible | Eligible | 73 |
| 74 | RUIDOSO | Ineligible | Eligible | 74 |
| 75 | SAN JON | Eligible | Eligible | 75 |
| 76 | SANTA FE | Ineligible | Ineligible | 76 |
| 77 | SANTA ROSA | Eligible | Eligible | 77 |
| 78 | SILVER CITY | Ineligible | Ineligible | 78 |
| 79 | SOCORRO | Ineligible | Eligible | 79 |
| 80 | SPRINGER | Ineligible | Eligible | 80 |
| 81 | T OR C | Ineligible | Eligible | 81 |
| 82 | TAOS | Ineligible | Ineligible | 82 |
| 83 | TATUM | Ineligible | Ineligible | 83 |
| 84 | TEXICO | Ineligible | Eligible | 84 |
| 85 | TUCUMCARI | Ineligible | Eligible | 85 |
| 86 | TULAROSA | Eligible | Eligible | 86 |
| 87 | VAUGHN | Ineligible | Ineligible | 87 |
| 88 | WAGON MOUND | Ineligible | Ineligible | 88 |
| 89 | ZUNI | Ineligible | Eligible | 89 |
| | Total Eligible | | 39 | 54 |
| | Total Ineligible | | 50 | 35 |

Source: PSFA