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## FISCAL IMPACT REPORT

ORIGINAL DATE 02/18/13

SPONSOR Kernan LAST UPDATED \_\_\_\_\_ HB \_\_\_\_\_

SHORT TITLE School District Solvency Flexibility SB 464

ANALYST Gudgel/Roberts

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

	FY13	FY14	FY15	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
<b>Total</b>		See Fiscal Implications				

(Parenthesis ( ) Indicate Expenditure Decreases)

Similar to House Bill 462.

### SOURCES OF INFORMATION

LFC Files

#### Responses Received From

Public Education Department (PED)

Department of Finance and Administration (DFA)

### SUMMARY

#### Synopsis of Bill

Senate Bill 464 amends the Public School Code, providing that the Secretary of Public Education may continue to waive certain requirements of the Public School Code and rules promulgated in accordance with the code through the 2013-2014 school year pertaining to individual class load, teaching load, length of school day, staffing patterns, subject areas and purchase of instructional materials. The PED will be required to monitor such waivers and report to the Legislative Education Study Committee and the Legislative Finance Committee on any issues or actions of a school district that appear to adversely affect student learning.

### FISCAL IMPLICATIONS

Many of these items, particularly the reduction in class loads, staffing patterns, and purchases of instructional materials could have a significant positive impact on district operating costs if implemented. The extent of the fiscal impact will vary depending on the degree to which districts implement changes. The department indicates the principal source of potential budgetary savings for schools districts would be for school districts experiencing enrollment

growth. These districts would be able to maintain current staffing levels when they would otherwise have to hire additional teachers.

### **SIGNIFICANT ISSUES**

The PED reports that the bill will allow the secretary of the public education department to waive individual class loads and teaching load requirements for an additional two years. This may allow districts experiencing enrollment growth to maintain current staffing levels when they would otherwise have to hire additional teachers. This would be the principal source of potential budgetary savings for school districts.

### **PERFORMANCE IMPLICATIONS**

The PED notes that this bill impacts the department's strategic goal of smarter return on NM investments.

### **ADMINISTRATIVE IMPLICATIONS**

The enactment of the bill will extend the responsibility of the secretary of the public education department for authorizing waiver requirements of the Public School Code pertaining to class size, teaching load, length of school day, staffing patterns, subjects, and instructional material purchases, for two additional school years after the 2012-2013 school year. The PED notes that the department may see an increase in waiver requests as the economic recovery slows. This responsibility can be accomplished within existing resources.

Additionally, the PED is required by Section 22-1-10 NMSA 1978 to monitor class size and teaching load maximum waivers issued for the purpose of allowing financial flexibility to school districts and charter schools and report to the Legislative Education Study Committee and the LFC on any issues or actions of a school district that appear to adversely affect student learning. To date, the PED indicates current class sizes are not adversely affecting student learning.

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

House Bill 462 extends the waiver provisions through the 2014-2015 school year.

### **OTHER SUBSTANTIVE ISSUES**

Section 22-10A-20 NMSA 1978 establishes class loads for elementary schools teachers up to grade six, and daily teaching load per teacher for grades seven through 12. The average class load for kindergarten teachers is 20 students – classes with 15 or more students are entitled to an educational assistant. The average class load for teachers in grades one through three is 22 students averaged among the grades – classes with 21 or more students are entitled to an educational assistant. The average class load for teachers in grades four, five, and six is 24 students when averaged among the grades. The average daily teaching load for grades seven through 12 is 160 students, with a lower average daily teaching load established for required English courses.

Currently, a school district or charter school may request a waiver under three separate sections of law as follows:

Section 22-10A-20 allows the Secretary to waive the individual school class load requirements for up to two years if a school demonstrates that no portable classrooms are available, no other available sources of funding exist to meet its need for additional classrooms, the school district is planning on alternatives to increase building capacity for implementation within one year, and the parents of all children affected have been notified in writing. If a waiver is granted pursuant to Section 22-10A-20 to an individual school, the average class load for elementary school teachers at that school shall not exceed twenty students in grade one and shall not exceed twenty-five students when averaged among grades two, three, four, five and six.

Section 22-2-2.1 NMSA 1978 requires the Secretary to grant all reasonable requests to waive the individual class load requirements pursuant to Section 22-10A-20 NMSA 1978, for all schools that exceed educational standards. Waivers pursuant to this section begin in the school year following that in which a public school exceeds the educational standards and may remain in effect as long as the school continues to exceed educational standards. Statute does not define “educational standards”, nor has the Department promulgated regulations defining educational standards.

Section 22-1-10 NMSA 1978, enacted in 2010, allows the Secretary to waive class load and teaching load requirements to allow school districts to meet fiscal solvency requirements. This waiver provision has been allowed for the 2009-2010 school year through the 2012-2013 school year, and by its plain language appears to exclude charter schools. The Department has expanded the waiver caps established in Section 22-10A-20 NMSA 1978 to no more than a 10 percent variance from the class load, teaching load standards in law.

Information provided by the PED indicates that average class overloads (classes that exceed the maximum statutory class load standards) generally exceed the established maximums by 2 or fewer students. The PED indicates current class sizes are not adversely affecting student learning.

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

If the bill is not enacted, school districts will still be able to receive class size and teaching load waivers, but for fewer students than is currently allowed by the financial flexibility waiver provisions of Section 22-1-10 NMSA 1978. School districts would likely be required to hire additional teachers, placing increased strain on district budgets.

MIR:RG/blm