

Projected increases in general fund revenue allowed the Legislature to increase appropriations for most programs in FY19. For FY19, recurring general fund appropriations for public education increased by \$107.4 million, or 3.9 percent from FY18. Public schools account for 44.2 percent of FY19 recurring general fund appropriations, 0.1 percent less than the FY18 share. While public schools saw slightly less growth in FY19 appropriations than some state agencies, public schools saw smaller cuts in FY17 and received slight increases in FY18, unlike other areas of state government.

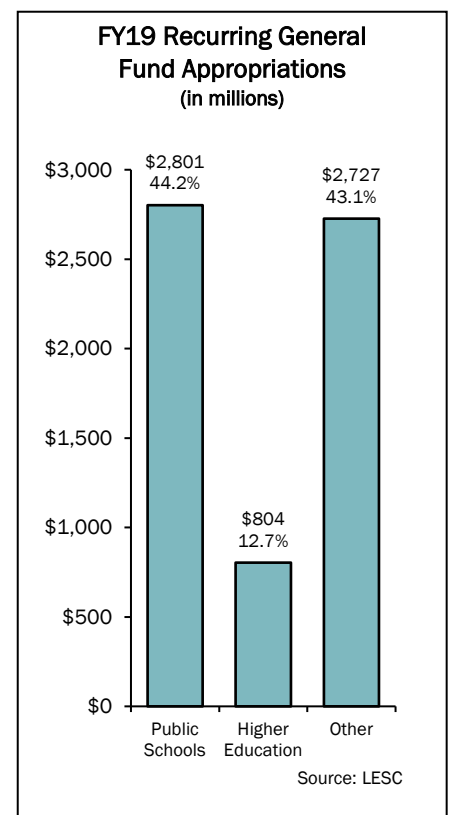
In addition to the budget, the primary concern of a 30-day legislative session, the House and Senate Education Committees also had robust conversations about the public school funding formula, public school capital outlay, minimum teacher salaries, supports for at-risk children, teacher licensing reciprocity, the legislative lottery scholarship, and other issues. Ultimately, of the nearly 140 pieces of education-related legislation introduced during the 2018 legislative session, 10 bills were enacted and nine memorials were passed.

Public School Finance

Public education receives the largest share of the state's general fund budget annually. For FY19, the Legislature allocated additional resources for early childhood education programs, to support at-risk students, for school district and charter school staff compensation, and to replace general fund dollars for transportation and instructional materials which, in FY17 and FY18, had been supplanted by public school capital outlay fund revenue. Appropriations for the prekindergarten and extended school year K-3 Plus programs increased by \$14.5 million from FY18, or 30.1 percent, and the budget includes \$64.2 million to increase statutory minimum teacher salaries by \$2,000 and provide for across-the-board increases for all school personnel.

FY18 Final Program Cost

For FY18, the distributed statewide program cost — the amount of funding the state assumes all school districts and charter schools need to operate — will total more than \$2.554 billion, up \$40 million, or 1.6 percent, from the FY17 final distributed program cost; however, this amount is still \$13 million less than the \$2.567 billion assumed by the Legislature during the 2017 legislative session due to lower than expected federal



To maintain an equalized school finance system, the funding formula takes credit for 75 percent of federal Impact Aid and forest reserve revenues received by some school districts and charter schools, but these payments vary from year to year and PED is uncertain how much school districts and charter schools will receive in any year.

Impact Aid revenue, payments some school districts and charter schools receive for students connected with the federal government, such as children of active-duty military personnel or children residing on Indian lands. Based on final funding data from PED, it appears PED assumed funding formula credits of \$48 million, rather than the \$58 million the department assumed at the beginning of the fiscal year. To avoid a large reversion to the general fund if school districts and charter schools receive additional Impact Aid revenue, the General Appropriation Act (GAA) of 2018 allows PED to distribute up to \$10 million to school districts and charter schools statewide if funds are available after final funding formula credits are calculated.

PED conservatively estimated funding formula credits for federal Impact Aid in part because delays in enacting a final federal budget led to significant uncertainty over the amounts school districts and charter schools would receive before the May 31 cutoff for FY18 credits. In March, the federal Office of Management and Budget approved the disbursement of additional Impact Aid payments to school districts and charter schools nationwide. Typically, when school districts and charter schools receive more Impact Aid than PED estimates, the appropriation not distributed due to higher than expected credits reverts to the general fund at the end of the fiscal year, but language included for FY18 allows PED to distribute those funds to school districts

House Bill 141 would have appropriated \$40.8 million to PED to restore school district and charter school cash balances. While the bill did not pass, the GAA included a \$5 million special appropriation to restore a portion of the cash balance credit, but this was vetoed by the governor.

and charter schools statewide. While this increase would not be available for school districts to budget during the 2017-2018 school year, the increase would help to compensate school districts and charter schools that had to dig into their cash balances in FY17 because the state took credit for those dollars as part of solvency measures. However, this distribution would benefit all school districts and charter schools, including those exempt from the solvency action due to low cash balances or receipt of emergency supplemental funding.

Special Education Maintenance of Effort. The state continues to face challenges regarding special education maintenance of effort (MOE) – a federal requirement that a state make available at least as much money for special education as it did in the prior year to continue receiving federal grants under the Individuals with Disabilities Education Act. For FY18, the state could again fall short on MOE requirements, despite an increase in formula funding, due to a significant reduction in the number of program units generated based on ancillary service providers and the possible reduction in capital outlay spending at the School for the Blind and the Visually Impaired and the School for the Deaf. As a precaution, the General Appropriation Act of 2017 contained language that allows PED to reduce formula funds and reallocate those funds to school districts and charter schools to meet FY18 MOE requirements, but it is unclear if PED will make use of this provision; in previous years, PED has declined to implement this provision.

Program units generated for special education ancillary service providers are included in the calculation of special education maintenance of effort. The value of these program units fell by \$11 million between FY15 and preliminary FY18 program units.

FY19 Public School Support Appropriations

Stronger state revenues because of increased oil and gas prices provided the Legislature with an estimated \$292 million in new money available for appropriation



for all state programs. The Legislature increased recurring FY19 general fund appropriations by \$259 million, or 4.3 percent. Of the \$259 million increase, \$107.4 million, or 41.5 percent, was allocated to public schools, 2.8 percentage points less than public education’s share of total FY18 appropriations. Although new money allowed the Legislature to begin to increase appropriations after years of flat or reduced budgets, public education appropriations reductions were smaller during the revenue downturn than other state agencies. As a result, many other state agencies had larger holes to fill once new money was available. For FY19, the Legislature took steps to reverse cuts and one-time measures used to balance the FY17 and FY18 budgets.

The FY19 budget reflected the Legislature’s focus on early childhood programs with a significant increase for the Children, Youth and Families Department (CYFD). The FY19 budget included a 10.2 percent increase for CYFD, including an additional \$22 million for childcare assistance, \$1.5 million for paraprofessional home visits to new families, and \$2.5 million for CYFD prekindergarten programs.

The Legislature also provided additional funding to reduce district attorney workload and vacancy rates for public defenders. District attorneys saw a 7.8 percent increase, with smaller increases for public defenders and the courts. Overall, judicial agencies saw a 4 percent increase, not including compensation appropriations, compared with 2.2 percent for public education.

After wiping out the general fund reserve during the worst of the fiscal crisis, the Legislature also made rebuilding the reserves a priority. The Legislative Finance Committee (LFC) estimates the state will end FY18 with 10.2 percent of recurring general fund appropriations in reserves. Economists estimate New Mexico needs at least 10 percent in reserves to withstand a moderate recession and 17 percent to withstand a severe recession.

General Fund Revenue Estimates. For FY19, the consensus general fund revenue forecasting group (CREG) estimated the Legislature would have \$292 million in additional revenue available for appropriation. In December, CREG projected FY19 recurring general fund revenue would total \$6.281 billion, up \$174 million from previous estimates; however, LFC noted this estimate was cautious based on the disproportionate impact increased revenue from oil and gas had on the estimate and limited underlying economic data. In January, CREG increased revenue estimates by \$82.4 million to \$6.374 billion for FY19, though continued to recommend cautious spending in FY19.

In the January revenue forecast, CREG noted several areas of concern. First, much of the increased projections relied on higher oil and gas prices, and economists noted increased production

Recurring General Fund Appropriations for FY19
(in thousands)

Category	FY19 Appropriation	Change from FY18
Legislative	\$19,307.2	2.2%
Judicial	\$285,403.3	4.0%
General Government	\$126,579.1	10.2%
Commerce and Industry	\$52,702.2	9.9%
Agriculture & Natural Resources	\$68,855.1	9.7%
Health & Human Services	\$1,707,189.1	3.4%
Public Safety	\$436,545.7	1.9%
Public Education	\$2,754,389.0	2.2%
Higher Education	\$792,142.0	1.6%
Total	\$6,243,112.7	2.8%

This table does not include compensation appropriations from Section 8 of the General Appropriation Act of 2018.

Source: LFC

General Fund Revenue
(in millions)

	FY17	FY18	FY19
Recurring Revenue	\$5,885.4	\$6,248.6	\$6,365.1
Recurring Appropriations	\$6,103.6	\$6,087.8	\$6,332.3
Projected Reserves	8.3%	10.2%	10.0%

Source: LFC

could depress prices. Additionally, taxpayers have protested \$455 million in tax assessment and successful tax protests could have a negative impact on revenue. Finally, economists noted the impact of federal tax reform was not yet known.

Based on the mid-session revenue forecast and FY19 appropriation levels, LFC projects general fund reserves at \$617.8 million, or 10.2 percent of recurring general fund appropriations, at the end of FY18 and \$636.4, or 10 percent, at the end of FY19.

FY19 Program Cost. For FY19, the Legislature assumed \$2.601 billion in program cost, up \$33.4 million, or 1.3 percent from FY18. Total program costs assume PED’s recommended \$59 million in credits for federal Impact Aid, federal forest reserve payments, and the half mill property tax levy for public schools. In addition, the Legislature appropriated \$45.4 million to increase compensation for school employees statewide in Section 8 of the GAA, increasing the total available for program cost to \$2.646 billion, or 3.1 percent more than in FY18.

Compensation Increases. The FY19 budget included a total of \$63 million in increases to the state equalization guarantee (SEG) – money that school districts and charter schools receive based on the funding formula – to provide compensation increases to teachers and other school employees. The GAA included \$17.6 million to increase the statutory minimum salaries for level 1, level 2, and level 3-A teachers by \$2,000. Laws 2018, Chapter 72, (Senate Bill 119) – LESC-endorsed legislation – aligned statutory minimum teacher and level 3-A counselor salaries with the budget, changing minimum salary levels in the School Personnel Act to \$36 thousand for level 1 teachers, \$44 thousand for level 2 teachers, and \$54 thousand for level 3-A teachers and counselors. For the past several years, language in the GAA has increased minimum salaries beyond statutory minimums, although such increases are subject to veto. Increasing the statutory minimums in the School Personnel Act eliminates the need for language in the GAA and ensures the

Minimum Teacher Salaries
(in thousands)

	Level 1	Level 2	Level 3
FY04- FY15	\$30	\$40	\$50
FY15	\$32	\$40	\$50
FY16	\$34	\$40	\$50
FY17	\$34	\$42	\$52
FY18	\$34	\$42	\$52
FY19	\$36	\$44	\$54

Source: LESC

higher minimum salary levels are not vulnerable.

Additionally, the GAA included additional funds for an average 2.5 percent salary increase for teachers and an average 2 percent salary increase for other school employees. By providing for average percentage increases, the Legislature gave school districts and charter schools the ability to address salary compaction concerns. In recent years, the Legislature included additional SEG funding to boost minimum teacher salaries but has not provided additional funds for across-the-board increases, which can result in small differences in salaries at a given licensure level. As a result, many teachers only saw significant pay increases when they increased licensure level. While the GAA of 2018 includes another increase to minimum salaries, the

average 2.5 percent increase is in addition to the minimum salary increase. School districts and charter schools have the flexibility to pool funding available for the 2.5 percent increase and target increases to teachers who will not see an increase due to minimum salary increases or licensure advancement. Language included with the compensation appropriations also encourages school districts and charter schools to provide average salary increases for other school employees at the same level of classroom teachers.

NCSL’s *No Time to Lose* report observed top-performing systems align compensation for beginning teachers with other “high-status” professions and provide for compensation systems that compensate teachers similarly to other professions.

Funding Formula Changes. Funding for at-risk students will increase by 22 percent in FY19, pursuant to Laws 2018, Chapter 55 (House Bill 188), legislation jointly endorsed by LESC and LFC to implement changes recommended by multiple studies of the public school funding formula over the past decade. These studies have noted New Mexico directs a relatively small amount of funding to support at-risk students – currently about 4 percent of formula funding – compared with other states. The legislation also aligns the instructional staff training and experience index (T&E index) with the state’s three-tiered licensure system.

Increasing the at-risk index and aligning the T&E index were high priorities for the Legislature. The state remains involved in two lawsuits alleging the amount of revenue appropriated for public education is insufficient to meet the constitutional mandate to establish and maintain a “uniform system of free public schools sufficient for the education of, and open to, all the children of school age in the state” and the plaintiffs argue the funding formula does not adequately allocate resources to serve at-risk students and the current T&E index favors wealthier schools. Changes to the funding formula over the next five years will increase the share of formula funding for at-risk students by nearly 50 percent and provide less weight to the T&E index, while ensuring school districts and charter schools are compensated for additional expenses when teachers advance licensure levels.

Credits for Net Changes in Units. The GAA included a total of \$9.5 million in credits for changes to program units. Most of this credit was accounted for by language in the GAA intended to clarify the meaning of “separate schools established to provide special programs” for the purpose of generating size adjustment program units for small schools. Current law prohibits, separate schools “including but not limited to vocational and alternative education,” from generating size adjustment program units. Inconsistent with statute, PED in recent years has allocated size adjustment program units to an increasing number of school offering special programs, including magnet schools, early college high schools, and credit recovery programs. In addition, the GAA accounts for a significant drop in program units between FY17 and FY18, for which no credit was taken in FY18. LFC has argued such credits allow the Legislature to focus additional resources on areas identified as needing additional support.

General Appropriation Act Language. The GAA included several provisions seeking to clarify how PED should allocate SEG funding. For FY19, language included in the GAA attempted to address concerns regarding the over-allocation of funding formula program units to certain school districts, the allocation of funding formula dollars to administration rather than instruction, and the trend of adopting a four-day school week.

The GAA included language that would have required PED to determine if a school district or charter school is spending more than average on direct instruction and instructional support services when compared with similar school districts or charter schools, but this language was vetoed by the governor.

Language in the GAA prohibits the department from approving the operating budget of any school district or charter school that seeks to operate a four-day school week unless that school district or charter school had a four-day school week in FY18. According to PED, 38 of 89 school districts, all in rural areas, operate a four-day school week and 22 of 99 charter schools operate a four-day

school week, many of which are in Albuquerque. Shorter school weeks have the potential to provide additional time for teacher professional development and planning, reduce student and teacher absenteeism, and, some argue, reduce energy or transportation costs. However, national research into shorter school weeks have been unable to determine if shorter school weeks have an impact on student achievement and have typically found cost-savings to be overstated. This prohibition will provide time to evaluate the tradeoffs involved in adopting a four-day school week.

Language in the GAA attempted to prohibit a number of school districts from generating elementary physical education (PE) program units for more students than were actually enrolled in elementary PE programs, but this language was vetoed by the governor. Since elementary physical education units were adopted in FY08, the GAA has included language directing PED to “annually determine the programs and consequent number of students in elementary physical education programs”; however, the number of program units allocated to each school district has not changed since FY09, the last year for which additional funding was provided for elementary PE. When enacted, the intent was to phase-in elementary PE when additional funding became available; however, elementary PE remains only partially funded.

Senate Bill 266 would have replaced the need-based phase-in of elementary PE currently provided for in statute (although not currently funded) and required the phase-in of one grade level each year, beginning with kindergarten. The bill did not pass the Legislature.

FY19 Unit Value and Program Unit Estimates. In April, PED announced the unit value — dollar amount distributed to school districts and charter schools for each program unit — would increase by 1.8 percent, less than the 3.1 percent increase. According to PED, the department set the preliminary unit value based on a total of 635 thousand program units, up 9,600 program units or 1.5 percent from final FY18 program units. PED also applied a more conservative assumption for funding formula credits. In December, the department recommended assumed credits of \$59 million; however, the initial unit value was set based on assumed credits of \$54 million.

School district and charter school funding is based on data collected in the prior year. Fiscal year 2019 formula funding is based on data submitted by school districts and charter schools on the second and third reporting dates of FY18 (December 1, 2017 and February 14, 2018).

Total statewide program units will likely increase in FY19 due to changes to that at-risk index, increases to the T&E index, and more special education ancillary services providers. However, enrollment data from October 2017 indicates that statewide student enrollment continues to shrink, which could offset some of the unit increases. Additionally, enrollment growth could be higher in FY19 due to the closure of a number of charter schools, including New Mexico Connections Academy. New Mexico Connections is the state’s largest charter school and enrolled more than 1,700 students in October.

Historically, PED has used conservative assumptions of unit value growth and funding formula credits to ensure the unit value is not cut mid-year. In an effort to encourage PED to adopt less conservative assumptions for FY18, the Legislature authorized PED to increase the preliminary FY18 unit value by up to \$16 per unit prior to the start of the school year. The Legislature also allowed PED, with Board of Finance approval, to access up to \$10 million in cash reserves if the department could not support an increased unit value with the amount appropriated by the Legislature. Ultimately, PED declined to increase the unit value prior to setting the final unit value in January 2018, when the department increased the unit value by \$30.

Categorical Appropriations. For FY19, appropriations for categorical programs — including transportation, instructional materials, supplemental distributions, the Indian education fund, dual-credit instructional materials, and standards-based assessments — increased by \$5 million, or 4.2 percent, from FY18. Recurring general fund appropriations increased by \$23 million, or 24.8 percent, but the appropriations from the public school capital outlay fund (PSCOF) fell by \$18 million. In FY17 and FY18, PSCOF revenue supplanted general fund appropriations for categorical programs to help balance the budget. With additional general fund revenue available, the Legislature chose to use only \$7 million of the \$25 million available. Continued use of PSCOF revenue would have reduced the amount available for capital projects and made it more difficult to replace general fund revenue when the authorization to use PSCOF revenue expires in FY22.

Transportation. For FY19, appropriations for the transportation distribution totaled \$98.8 million, a \$2 million, or 2 percent, increase from FY18. The general fund appropriation for the public school transportation distribution increased significantly from \$82.3 million in FY18 to \$96.3 million in FY19, while the PSCOF appropriation decreased from \$14.5 in FY18 to \$2.5 million in FY19. In addition, the Legislature appropriated \$1.2 million to increase transportation employee salaries, for a total appropriation of \$100 million. As it did for FY17 and FY18, the Legislature made separate appropriations for state-chartered charter school transportation and school district transportation for FY19; however, this language was again vetoed by the governor. In previous years, when the transportation distribution was a single lump sum, state-chartered charter schools received a larger amount of transportation funding than they were able to spend. The \$2.3 million transportation distribution to state-chartered charter schools closely mirrors actual FY17 expenditures.

In FY17, 22 state-chartered charter schools received \$2.2 million in transportation funding. Of those, seven charter schools were unable to spend \$101 thousand, or 4.7 percent of transportation funds allocated to state-chartered charter schools. This is in contrast with an \$85.8 million distribution to school districts, of which only \$175 thousand in 28 school districts, or 0.2 percent, went unspent.

Amid discussions about increasing funding for school transportation, the Legislature continued to consider opportunities for cost savings within the system. House Bill 86, a bill endorsed by LESC, would have extended the school bus replacement cycle from 12 years to 15 years or 300 thousand miles, whichever occurred first, delaying expenditures from the public school capital outlay fund and the general fund. Current law allows school districts and state-chartered charter schools to request to use their buses for longer periods of time under exceptional circumstances, but some school districts report PED has historically denied requests to do so. HB86 faced substantial criticism from school transportation officials and other advocates, who noted safety concerns and increased maintenance costs for older buses. The bill was substituted to require PED to allow school districts and state-chartered charter schools to use their buses for a longer period of time at their discretion, contingent on annual safety inspections. The substitute bill likely eliminated a majority of the cost savings associated with increasing the replacement cycle but addressed current PED practice. The substitute made it through the House but died through Senate inaction.

The Legislature also began considering sources of funding for new school buses, like funds from the Volkswagen lawsuit settlement. New Mexico is eligible to receive \$18

million in settlement funds from the lawsuit but is required to spend the funds on projects that reduce nitrogen oxide emissions from vehicles. Laws 2018, Chapter 20 (House Bill 306) – authorization of severance tax bond projects – includes language allowing PED to request up to \$8 million (or any other amount) in funds from the settlement with Volkswagen for the purchase of school buses in FY19 and FY20, if the trustee in the lawsuit determines the settlement funds can be used to purchase school buses. Electric school buses would qualify as an eligible project, but their use would likely only be possible in urban settings with the infrastructure to charge the buses. It is unclear whether new diesel bus purchases would qualify as eligible projects. Additionally, Laws 2018, Chapter 67 (Senate Bill 94) asks voters to approve a \$6 million bond for the purchase of school buses on the November 2018 ballot.

The FY19 instructional materials adoption cycle was originally set to include science, health, and physical education, but PED delayed the adoption of science materials until

Instructional Materials. For FY19, the Legislature appropriated a total of \$12.5 million for the instructional material fund, \$2 million more than the FY18 appropriation but significantly less than the amount appropriated for instructional materials in prior years. With only health and physical education materials scheduled for purchase in FY19, the FY19 cycle will be less costly than other cycles; however,

PED recently adopted the New Mexico STEM-Ready Science Standards with full implementation scheduled for FY19. New science materials will be purchased in FY20. Science materials are among the most expensive and the Legislature may need to significantly increase the instructional material appropriation for FY20. In FY13, the last cycle for science materials adoption, the instructional material fund appropriation totaled \$28.5 million.

FY19 PED Special Program Appropriations
(in thousands)

Appropriation	Amount
Regional Education Cooperatives	\$1,038
K-3 Plus	\$30,200
Prekindergarten	\$29,000
Early Reading Initiative	\$8,837
Elementary Breakfast	\$1,600
Interventions and Supports	\$4,000
Truancy and Dropout Prevention Coaches	\$4,000
Principals Pursuing Excellence	\$2,000
Teachers Pursuing Excellence	\$2,000
STEM Initiative	\$3,000
After-School and Summer Enrichment	\$325
Evaluation System	\$1,000
College of Ed. Preparation Programs	\$1,000
College Prep. and Dropout Prevention	\$1,500
Advanced Placement	\$1,000
New Mexico-Grown Fruits and Veg.	\$200
GRADS Program	\$200
Total	\$90,900

Source: LESC

Other Categorical Appropriations. Recurring appropriations for other categorical programs remained flat with FY18 levels, with the exception of emergency supplemental funding. The GAA of 2017 included \$4 million for emergency supplemental funding: \$1 million in recurring general fund appropriations and \$3 million nonrecurring general fund appropriations. The Legislative Finance Committee considered \$2 million of the nonrecurring funds to be recurring. The GAA of 2018 included \$3 million in emergency supplemental funding – \$1 million in recurring general fund appropriations and \$2 million in nonrecurring general fund appropriations – \$1 million less than the GAA of 2017. While a number of school districts rely on emergency supplemental funding annually, significant increases to the SEG could help to increase budgets for a number of school districts that have faced shortfalls in recent years.

PED Special Program Appropriations

For FY19, the Legislature provided \$90.9 million for special programs at PED, commonly referred to as “below-the-line” programs, an increase of \$2.7 million, or 3.1 percent, from FY18. The Legislature continued to prioritize funding for early childhood programs that have demonstrated success in closing the achievement gap, with an increase of \$14.5 million



for prekindergarten and K-3 Plus and a decrease to other special programs of \$11.8 million. Additional funding for these programs was focused on increasing the number of 4-year-olds able to participate in prekindergarten and the number of kindergarten through third-grade students able to participate in this summer's K-3 Plus program. In addition, the Legislature sought to increase transparency of some PED initiatives by providing for separate appropriations for Principals Pursuing Excellence, Teachers Pursuing Excellence, and the truancy and dropout prevention initiative.

Early Childhood Education. While FY19 general fund appropriations in the GAA are a 4.3 percent increase over FY18, the act includes a 30 percent increase in general fund revenue for certain early childhood learning programs. High-quality early care and education programs can improve school readiness and academic success for children, especially for children living in poverty and with other adverse childhood experiences (ACEs). While almost \$8 million of state funds is needed to replace lost federal funds, total state and federal funding will increase \$36.7 million, or 13.7 percent, for childcare assistance; paraprofessional visits to new families; Family, Infant, and Toddlers Program (FIT); prekindergarten; the K-3 Plus extended school year program; and the PED early literacy intervention program. (See Appendix 5, Early Childhood Education Funding History)

PED Special Programs for Early Learning. Of the early childhood programs the state oversees, PED is responsible for implementation and oversight of its early literacy initiative, state-funded prekindergarten programs at public schools, and K-3 Plus. Appropriations for these programs totaled \$71.5 million, an increase of \$10.8 million, or 17.8 percent. These programs generally provide instructional support and extended learning opportunities for kindergarten through third-grade students.

Prekindergarten. For FY19, the Legislature appropriated \$32.5 million for PED-administered prekindergarten programs, an increase of \$8.1 million or 33 percent from FY18. The additional funding is estimated to serve an additional 2,500 students in half-day programs or 1,250 students in full-day programs. Additionally, the growth in the appropriation will allow PED to expand the number of school districts offering prekindergarten; PED indicated 10 additional school districts would like to open new prekindergarten programs to serve an estimated 1,100 students. LFC analysis has consistently shown positive impacts for participating students, including improved math and reading proficiency rates and lower special education and retention rates of participants through third grade. The 2017 LFC Early Childhood Accountability Report

New Mexico's early childhood care and education system begins prenatally, extends through age 8, and spans several state agencies: the Children, Youth and Families Department, the Department of Health, The Human Services Department, and PED.

FY18 and FY19 Early Childhood Education Funding
(in millions)

	FY18	FY19	Diff.	Percent Change
General Fund	\$130.3	\$169.3	\$39.1	30.0%
Fund Balance	\$1.7	\$1.7	\$0.1	0.0%
Federal Funds	\$60.0	\$52.3	-\$7.7	-12.8%
Other State Funds	\$0.0	\$0.9	\$0.9	
All Other Funds	\$24.3	\$25.8	\$1.5	6.2%
TANF	\$53.1	\$56.1	\$3.0	5.6%
Total	\$269.3	\$306.1	\$36.8	13.7%

FY18 and FY19 Early Childhood Funding
(in millions)

	FY18	FY19	Funding Increase	Percent Change
Children, Youth and Families Department				
Child Care Assistance	\$ 116.0	\$ 134.2	\$ 18.2	15.7%
Home Visiting	\$ 18.7	\$ 20.2	\$ 1.5	8.0%
Early Childhood Professional Development	\$ 1.3	\$ 1.4	\$ 0.1	7.7%
Prekindergarten	\$ 29.0	\$ 31.5	\$ 2.5	8.6%
Public Education Department				
Prekindergarten	\$ 24.5	\$ 32.5	\$ 8.0	32.7%
K-3 Plus	\$ 23.7	\$ 30.2	\$ 6.5	27.4%
Early Literacy Initiative	\$ 12.6	\$ 8.8	\$ (3.8)	-30.2%
Department of Health				
Family, Infant and Toddlers Program	\$ 43.7	\$ 44.7	\$ 1.0	2.3%
Human Services Department				
Home Visiting	\$ -	\$ 2.6	\$ 2.6	
Total	\$ 269.5	\$ 306.1	\$ 36.6	13.6%

Source: LFC

recently found improved student achievement of participants into the fifth grade. As PED makes awards for FY19, better coordination between executive agencies and Head Start programs is needed to ensure state-funded slots are not supplanting federally funded Head Start slots in individual communities. In the past few years, state prekindergarten awards have been made in communities with Head Start programs, resulting in students moving from Head Start programs into state-funded programs and the loss of Head Start funding.

State-funded prekindergarten is administered through CYFD and PED. In FY19, CYFD was appropriated \$31.5 million for prekindergarten - \$2.3 million for basic services, \$19.7 million for extended-day services, and \$9.5 million for 3-year-old services.

K-3 Plus. The Legislature appropriated \$30.2 million for K-3 Plus programs, an increase of \$6.5 million, or 27.4 percent from FY18. As in prior years, PED will use a portion of the FY19 appropriation to serve students in July and August 2018 programs, but will need to withhold enough of the appropriation to fund June start-up programs for summer 2019. PED likely will need to withhold between \$10 million and \$12 million of the FY19 appropriation but has \$10 million of the FY18 appropriation it held for June 2018 programs, leaving an estimated \$28 million to \$30 million available for summer kindergarten-through-third-grade students this summer than the 15 thousand students served in summer 2017; summer 2017 capacity was reduced because PED did not adequately manage growth of the program in prior years. Additional funding will help school districts and charter schools restore the slots lost because of the decreased allocations in 2017.

In response to research from Utah State University that showed K-3 Plus is most effective when students stay with the same teacher and cohort of students throughout the school year, language in the GAA requires PED to allocate \$6.5 million of the FY19 appropriation to programs that keep K-3 Plus students with the same teacher. While the language is intended to ensure the highest impact on student achievement, it does not appear any summer 2018 programs should be denied because of this language; PED could use the \$10 million of the appropriation it will likely withhold for summer 2019 programs to enforce the requirement for summer 2019 programs.

Early Reading Initiative. The Legislature reduced the appropriation for the early reading initiative from \$12.5 million in FY18 to \$8.8 million in FY19. PED has shared limited accountability data with legislative agencies and has implemented multiple, inconsistent distribution methodologies from year to year, making it difficult to evaluate the program. Despite the targeted appropriation for early literacy, third-grade reading proficiency rates on the Partnership for Assessment of Readiness for College and Careers (PARCC) assessment have remained below 30 percent since FY15.

New Funding Streams for Early Childhood Education. Much of the focus on early childhood education in recent years, including the 2018 legislative session, has been on identifying an earmarked source of funding for early childhood programs. LFC staff estimates \$190 million in additional revenue is needed to fully fund New Mexico's existing targeted early childhood programs based on current eligibility requirements and estimated participation rates. Three proposed constitutional amendments were considered that would have created increased distributions from the land grant permanent fund (LGPF) and the severance tax permanent fund (STPF) and were estimated to generate between \$39 million and \$203 million annually.

**K-3 Plus
Enrollment by
Summer**

2010	7,163
2013	11,639
2014	18,056
2015	19,383
2016	20,166
2017*	15,050

*Based on awards; final enrollment not available.

Source: LESC Files

Two resolutions were introduced to ask voters to amend the constitution to increase the current 5 percent distribution from the LGPF to 6 percent and 6.5 percent. The additional distribution from the permanent school fund — reserved for the benefit of public schools — would have been earmarked for early childhood educational programs administered by state agencies or Indian nations, tribes, or pueblos. The LGPF was established in the federal law that “enabled” New Mexico to become both a state and the repository of income earned from state trust land with public schools or one of 21 other named state programs; the beneficiary of income from specific tracts of state land. A distribution to early childhood services might not be allowed because public schools historically have not provided programs for children birth to three years old and it is unclear if the distribution can serve this different purpose. It is also unclear if a portion of the distribution can be allocated to a different entity such as CYFD. Although public schools are the primary beneficiary of the trust, public schools historically have not provided programs for children from birth to age 3 and the state might not have the authority to require them to do so, or to change the beneficiary of a portion of their distribution. Congress might be able to approve the proposed distributions; however, the process to get congressional approval and how long it could take is unknown. Additional concerns exist about the capacity to expand early childhood programs while maintaining quality with the influx of up to \$203 million in a single year.

House Joint Resolution 1 would have asked voters to amend the constitution to increase land grant permanent fund distributions by an additional 1 percent and estimated generation of \$40.6 million in FY20, \$99.7 million in FY21, and \$149.7 million in FY22. The resolution passed the House 36-33 but was not voted on in the Senate. Senate Joint Resolution 2 would have asked the voters to amend the constitution to increase the land grant permanent fund distributions by 1.5 percent and estimated generation of \$203 million in FY20, \$214 million in FY21, and \$224 million in FY22. The resolution passed the Senate Education Committee but proceeded no further. Senate Joint Resolution 7 would have asked voters to amend the constitution to increase distributions from the severance tax permanent fund by 0.8 percent and estimated generation of \$38.8 million in FY20, \$39.7 million in FY21, and \$40.7 million in FY22. The resolution passed the Senate Rules Committee but proceeded no further.

During the last two legislative sessions, legislators have also considered resolutions to ask voters to amend the constitution to increase the distribution from the STPF, established in the state constitution but not federal law, as an alternative to increasing the distribution from the LGPF. The 2018 proposal would have increased the distribution from the STPF from 4.7 percent to 5.5 percent for early childhood programs. The proposal was estimated to generate approximately \$39 million annually and lacks some of the issues associated with using the LGPF for early childhood education. Current distributions from the STPF are not earmarked for any beneficiary and are transferred to the general fund for appropriation each year. The increased distribution would not need congressional approval and may be more manageable to build capacity and improve the quality of early learning programs in the near term.

Both the LGPF and STPF are investment funds and opponents to increase distributions from either fund note that increasing distributions will slow the growth of the funds and, consequently, reduce earnings in the long term.

While none of the proposals were successful, legislators and state administrators in New Mexico generally support high-quality early childhood programs and agree existing programs are improving the health, safety, stability, and education of New Mexico’s children. However, statewide early public education data continues to demonstrate the need to better serve young students, especially students who come from low-income families, to ensure they enter kindergarten ready to learn.

The New Mexico STEM-Ready Science standards were adopted by PED in November 2017 to incorporate the Next Generation Science Standards in full, including performance expectations, core principles, scientific and engineering practices, and crosscutting concepts that unify science and engineering. The adoption included six additional standards specific to New Mexico and will automatically include any future amendments.

Interventions and Supports for Students, Teachers, Struggling Schools, and Parents. For FY18 and prior years, many of PED’s targeted initiatives were funded from a single line-item — interventions and supports for students, teachers, struggling schools, and parents. However, for FY19, the Legislature made a number of individual appropriations for specific programs to increase transparency. The GAA included \$2 million for Principals Pursuing Excellence, \$2 million for Teachers Pursuing Excellence, \$4 million for truancy and dropout prevention coaches, and \$4 million for other discretionary intervention programs. The Legislature eliminated funding for the department’s merit pay initiative; however, \$5 million in nonrecurring funds were appropriated for a new incentive pay initiative.

Science, Technology, Engineering, and Math (STEM) Initiative. For FY19, the appropriation for the STEM initiative was increased to \$3 million, up from \$1.9 million in FY18. This initiative funds professional development programs for math and science teachers. Demand for science-related professional development could rise in FY19 due to the recent adoption of the New Mexico STEM-Ready Science standards. PED has previously indicated most of the \$1.1 million increase for the STEM initiative will be used to prepare teachers for the updated standards and for teacher-created instructional materials aligned with the new standards. Although implementation of the standards begin in FY19, instructional materials aligned to the new standards will not be available until FY20, leaving teachers with limited aligned materials. The Legislature included an additional \$500 thousand in nonrecurring funds to implement the STEM standards, for a total of \$3.5 million, although the total might not cover all needed professional development. For the adoption of the Common Core state standards, the Legislature appropriated \$2.5 million for use in FY12 through FY14, although some policymakers raised concerns the amount was insufficient to provide the professional development needed to implement the standards.

The GAA contains a \$50 thousand appropriation to Eastern New Mexico University (ENMU) to hold robot playshops in schools statewide, an appropriation introduced by the identical House Bill 237 and Senate Bill 146.

The governor also vetoed a \$400 thousand special appropriation to ENMU found in House Bill 78 and Senate Bill 53 to support state-chartered career and technical student organizations.

The governor vetoed a \$100 thousand special appropriation to the Cultural Affairs Department which, similar to an appropriation in Senate Bill 156, was intended to support schools’ participation in the National History Day program.

Special Appropriations. The Legislature provided a total of \$13.4 million in nonrecurring revenue for special appropriations to PED. In some cases, the Legislature used nonrecurring funds to supplement programs partially funded with recurring revenue. The Legislature appropriated \$5 million to restore a portion of the \$40.8 million cash balance credit taken in FY17; however, the governor vetoed this appropriation. In addition, the Legislature provided \$5 million for PED’s proposed “exemplary teacher awards,” which will provide stipends of up to \$5,000 for teachers rated exemplary through PED’s NMTEACH teacher evaluation system, plus an additional stipend of up to \$5,000 for exemplary math or science teachers or teachers at the four schools designated as needing “more rigorous intervention” because of low performance. Language attached to the appropriation requires the teacher to have at least three years of student achievement data to receive an award. Additionally, the Legislature included language to require approval from collective bargaining units; however, the governor vetoed this language.

The Legislature included \$825 thousand to supplement recurring appropriations for Advanced Placement (\$100 thousand), New Mexico-grown fresh fruits and vegetables (\$225 thousand), and implementation of the new science standards (\$500 thousand). In addition, the GAA included \$300 thousand for automated text messaging systems in school districts and state-chartered charter schools. House Bill 332 would have required school districts to text parents of high school students with failing grades or before a required assessment. Although the bill failed, PED will still be able to purchase equipment and software for text messaging systems.

PED Operating Budget. For FY19, appropriations for PED’s operating budget totaled \$43.7 million, up \$9,000 from FY18, with \$11.1 million of that from the general fund, flat with FY18. While the department will benefit from an average 2 percent salary increase for state employees that was appropriated to the Department of Finance and Administration, it is unclear how much this will increase PED’s budget. PED’s general fund operating budget remains well below pre-recession levels. In FY08, recurring general fund appropriations for department operations totaled \$17.1 million and the department employed 325 full-time-equivalent staff. In FY17, the department averaged 224 FTE, although appropriations in recent years have assumed 241 FTE. Significant reductions to PED staff have limited the department’s ability to oversee the more than \$4 billion in federal, state, and local funds spent on public education.

PED will likely see additional revenue from educator licensure fees increase from FY18, which was not anticipated by the Legislature. Additional educator licensure fees could be used to fund the NMTEACH evaluation system. For FY19, the Legislature appropriated \$1 million in educator licensure fund revenue to PED for the teacher and administrator evaluation system. Legislative staff estimate the fee increases could generate about \$345 thousand in additional fees in FY19.

PED could see a reduction in its FY19 budget from the 2 percent withheld from charter schools to fund administrative support. For FY19, at least eight state-chartered charter schools face closure or opted to change the authorizer from the Public Education Commission to a local school district. These schools account for \$519 thousand of the \$2.6 million in FY18 revenues withheld for administrative support received by PED. This reduction could be offset by unit value increases or growth in other state-chartered charter schools.

The House passed House Memorial 46, which requests PED and the Higher Education Department (HED) engage stakeholders in a task force studying funding inequities for dual-credit courses. School districts and charter schools receive full funding for students enrolled in dual-credit courses regardless of where students receive their instruction, but universities are required to waive tuition for dual-credit students and receive less funding per student. The Dual Credit Council, a joint PED and HED advisory group, has been working on addressing the inequities, and is expected to announce proposed rule changes this year.

Educator Licensure Fee Increases

Licensure Category	Current Fee	Fee from Aug. 2018
Initial Teacher or Admin. License	\$125	\$150
Teacher License Endorsement	\$95	\$120
Instructional Support Providers ¹	\$125	\$150
Renewals for Teachers, Admin. or Instructional Support Providers	\$95	\$120
Other Support Providers ²	\$35	\$50
Background Check	\$44	\$80

¹Instructional support providers include individuals such as counselors, diagnosticians, social workers, and school nurses.

²Other support providers are substitute teachers, educational assistants, athletic coaches, health assistants, and Native language and culture teachers.

Source: PED

Public School Capital Outlay

In 2018, the Legislature passed legislation affecting all three mechanisms public schools use to access capital outlay: direct legislative appropriations, local funding, and Public School Capital Outlay Council (PSCOC) awards. The Legislature passed

direct legislative appropriations for school projects and several bills were enacted that will impact the public school capital outlay process overseen by PSCOC as well as some local funding processes.

Direct Legislative Appropriations for Public School Capital Outlay

The Legislature passed three bills that fund public school capital outlay: Laws 2018, Chapter 80 (House Bill 306), Severance Tax Bond Projects; Laws 2018, Chapter 68 (Senate Bill 245), Capital Outlay Reauthorization; and Laws 2018, Chapter 67 (Senate Bill 94), General Obligation Bond Projects. Chapter 80 authorizes \$179.8 million in capital outlay projects; of that total, almost \$22.7 million will go to public schools, and \$392 thousand for public school projects was vetoed. (See Appendix 5, “Public School Capital Outlay Appropriations.”) Notably, Chapter 80 earmarks \$6 million of public school capital outlay fund revenue for public school security systems statewide.

Lawmakers also approved legislation to repurpose or reauthorize certain existing capital outlay appropriations for schools funded with severance tax bond (STB) proceeds, as well as appropriations funded with supplemental severance tax bonds (SSTBs). (See Appendix 4, “Public School Capital Outlay Reauthorizations.”) Chapter 68 reauthorizes approximately \$26.2 million in previous STB and SSTB appropriations to change the purpose, agency, or time of expenditure of 10 public school capital outlay projects statewide including projects at the School for the Deaf and the School for the Blind and Visually Impaired. The public school capital outlay reauthorizations contained in Chapter 68 primarily address constructing prekindergarten classrooms, the purchase and installation of information technology equipment, and the planning, construction, and renovation of multipurpose educational centers, residential cottages, and an auditorium and gymnasium. The oldest reauthorized projects are from 2013 and the newest are from 2016. Of the roughly \$26.2 million in reauthorizations, \$79.5 thousand will go to school districts and locally authorized charter schools, \$310 thousand will go to state-chartered charter schools, \$5 million will go to the Public School Facilities Authority for prekindergarten classrooms statewide, and almost \$20.8 million of supplemental severance tax bonds is authorized for the constitutional special schools.

Chapter 67 authorizes the issuance of \$165.3 million in general obligation bonds, which must be approved by voters during a statewide general election, including \$6 million to replace public school buses owned by school districts, \$4 million for public school libraries, \$1.8 million for the School for the Deaf, and \$900 thousand for the Santa Fe Indian School. (See Appendix 6, “Education Related General Obligation Bond Projects.”)

Laws 2015, Chapter 63, reduced the statutory limits of STB and SSTB capacity to increase the amount of revenue deposited into the severance tax permanent fund. Laws 2016 (2nd Special Session), Chapter 2, authorized up to \$25 million to be used annually from FY18 through FY22 for school instructional materials and student transportation. In addition, Laws 2016 (2nd Special Session), Chapter 5, appropriated \$12.4 million in FY17 to the general fund from project reversions from public school capital outlay projects.

Discussions about the public school capital outlay fund during the 2018 session focused on dwindling reserves. While the Legislative Finance Committee forecast shows a stable bonding capacity for the next five years, SSTB revenue available for public school capital outlay projects overseen by PSCOC has decreased in recent years because of previous legislative action. The high water mark for public school capital outlay standards-based projects was in FY13, when PSCOC awarded \$256.1 million to public schools, compared with FY17 awards of \$90.5 million.

School Security

Several school security bills were introduced during the 2018 legislative session in response to the recent shooting at Aztec High School. Discussions centered on physical and other security measures schools could implement to both prevent and respond to an armed threat or attack. For example, Senate Bill 124 attempted to appropriate \$60 million to PED to train school personnel how to respond to an armed threat or attack, fund security personnel, and purchase, install, and maintain security cameras and metal detectors on school premises. House Bill 130 attempted to reserve \$5 million of the public school capital outlay fund annually for five years for security system projects, such as the installation of surveillance equipment, vestibules, and fencing, and the retrofitting of windows with glazing or bulletproof glass. Lawmakers debated whether or not these measures are effective, as well as the potential harmful impacts to student learning and mental health.

Laws 2018, Chapter 80, includes a \$6 million appropriation from the public school capital outlay fund to PSCOC for a school security initiative, contingent on PSCOC approval. Additionally, Laws 2018, Chapter 71 (Senate Bill 239), allows up to \$10 million of the public school capital outlay fund be used annually by PSCOC in FY19 through FY22 for new security system projects. PSCOC will develop program guidelines, verify school district and charter school assessments and applications, and rank all applications according to the methodology adopted by PSCOC. All projects will be subject to the Public School Capital Outlay Act's state and local match formula, which stipulates the percentage the state and the school district must contribute. Security projects funded pursuant to Chapter 71 will also be subject to the offset requirement, which reduces the state match for districts that have received past direct legislative appropriations.

Other Public School Capital Outlay Bills

In addition to the three funding bills and the school security bill, Laws 2018, Chapter 38 (House Bill 48), requires PED to use prior-year reporting data to distribute school property tax revenue pursuant to the Public School Capital Improvements Act, commonly referred to as SB9 revenue.

LESC endorsed two public school capital outlay bills for the 2018 session: Senate Bill 30 and House Bill 41. Laws 2018, Chapter 66 (Senate Bill 30) modifies the current formula used to calculate the state and local funding match requirements for projects funded pursuant to the Public School Capital Outlay Act. The new formula will be phased in over five years beginning in FY20 and adjusts the state and local match to more accurately reflect each school district's ability to pay to maintain their facilities to adequacy, as defined by the statewide adequacy standards in 6.27.30 NMAC. While the original version of the bill resulted in a number of school districts receiving no state match because they are financially able to maintain their facilities to adequacy without state help, a compromise was struck to set a minimum state match at 6 percent.

Public school capital outlay bills introduced during the 2018 legislative session that did not pass attempted to fix ongoing oversight issues and address charter school facility issues.

The current state and local match formula is based on the net taxable value of property within a school district and the number of students enrolled during the immediately preceding year. The new calculation 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 of the facility, and the school district population density.

House Bill 41 proposed to require nonprofit organizations organized specifically to purchase facilities for a charter school to enter into a legally binding agreement with the charter school to transfer the facility's title to the charter school immediately on the nonprofit's final acquisition of the title. While HB41 passed the House unanimously, it never made it off the Senate calendar. This bill was endorsed by LESC and the Public School Capital Outlay Oversight Task Force.

The formula is the product of a study conducted by the Bureau of Business and Economic Research at the University of New Mexico that identified two factors in the formula as problematic. First, property tax valuations may not be the best measure of a district's ability to pay because valuations are subject to significant fluctuations when commodities such as oil and gas extraction comprise a large share of property valuation. Second, the formula does not account for differences in per-student facility construction or maintenance costs. Chapter 66 addresses some of the inequities brought forth by the Zuni lawsuit challenging the method for distributing capital outlay by reducing the state match for school districts able to build above adequacy and increasing the state match for other districts.

Other 2018 Public School-Related Legislation Highlights

The Legislature introduced around 140 pieces of legislation related to public education, 15 percent of all measures introduced, in the form of bills, resolutions, and memorials. Many of these measures were focused on teachers and other school personnel, including bills to increase teacher salaries, expand their training and professional development requirements, and review paperwork burdens on teachers.

Senate Bill 33 proposed to transfer to the Public Education Commission one quarter of the 2 percent withholding, or 0.5 percent, from the state equalization guarantee distribution for PED's administrative support of state-chartered charter schools.

Other legislative efforts included bills to increase supports for at-risk students, focusing on the problems inherent in chronic absenteeism and poverty, with measures directly addressing issues of importance to Native American students, and memorials focusing on student wellness and nutrition. Nine memorials were passed and only 13 bills were sent to the governor, who vetoed three of them. (See Appendix 9, "Public School-Related Legislation by Topic," and Appendix 10, "Public School-Related Legislation with Summaries.")

During the 2017 interim, LESC heard from several school districts and charter schools with significant Native American student populations, including Gallup-McKinley County Schools, Grants/Cibola County Schools, Zuni Public Schools, and Taos Municipal Schools. Issues for Native American students included the addition of cultural classes and new programs aimed at tribal language acquisition; disappointment with the continued academic achievement gap for Native Americans, exacerbated by the need for better disaggregated data and growth analyses; greater communication between tribes and local school districts; a focus on education as a tribal community investment; and equal access to honors and Advanced Placement courses to help students become career- and college-ready.

Governance and Administration

Successful measures related to school administration included memorials requesting the study of particular issues, such as a joint memorial requesting PED identify available federal programs that might be used to improve New Mexico student meals and health and improve meal program funding and training.

Legislative attempts to address charter school administration, none of which passed, included a bill to require a locally chartered charter school that wins an appeal of a local authorizer's denial to open or renew its charter to seek charter authorization from PEC. Finally, an LESC-endorsed memorial that would have requested LESC, with PED, form a work group to identify best practices and provide recommendations for the administration of virtual charter schools passed the Senate Education Committee but was not heard in the Senate.

Supports for At-Risk and Low-Performing Students

Successful legislation from the recent session concerning at-risk students focused on Native American students. House Memorial 75 requests state agencies collaborate with tribal advisory groups to study health, social welfare, education, and other essential services and recommend policy and legislation to better serve New Mexico's tribal communities. Another piece of legislation, House Bill 151, would have required school districts and charter schools impacted by Native Americans to conduct a needs assessment to determine supports needed to help Native American students graduate and become career- and college-ready. The bill also would have required those local school districts and charter schools to meet with local tribes to prioritize the needs of Native students in their budgets to help these students close the achievement gap. The governor, however, vetoed HB151, indicating the bill established an unfunded mandate and offered no guidance on best practices or measuring progress. A nearly identical bill, House Bill 484, passed during the 2017 legislative session but was vetoed by the governor, who similarly objected to inclusion of unfunded mandates in the bill.

Other bills attempted to address such issues as childhood poverty, school attendance, and poor academic performance. The Poverty Awareness Training Act, proposed by House Bill 136, would have required certain local school districts and charter schools that receive at-risk program units to ensure all school employees attend training annually to educate them on the effects of poverty on social and academic development. House Bill 297 proposed a comprehensive approach to absenteeism by repealing the Compulsory School Attendance Law and replacing it with the Attendance for Success Act. Although it ultimately died in the House Judiciary Committee, the bill would have focused interventions for absent students on partnerships between schools and local service providers, businesses, healthcare providers, and other community entities, all of which have an interest in a well-educated, successful citizenry. Similar programs have been shown to be effective in certain school districts within the state. The bill provided for progressive sanctions for chronic absenteeism, including the possibility of refusal or suspension of a student's driver's license until the student demonstrates compliance with the act. While the bill would have allowed school districts to create their own truancy guidelines, some members voiced concern over this possible loss of driving privileges, ultimately causing the bill to fail despite it being less punitive in its approach to driver's licenses than current law, which requires the Children's Court to suspend driving privileges of habitual truants.

Two bills proposed to enact "Michael's Law," limiting school use of restraint and seclusion as disciplinary measures and requiring notice to parents when their children are subjected to restraint and seclusion. The restraint and seclusion provisions of the bills, however, were largely duplicative of measures enacted in Laws 2017, Chapter 33, and would have created direct conflict with existing statute, because the bills proposed new sections of law, rather than amendments to existing ones.

Teachers and Other School Personnel

During the 2018 legislative session, the Legislature considered bills related to teacher licensure, school personnel compensation, background checks, paperwork reduction, and trainings on school sexual assault reporting and suicide awareness and prevention.

Senate Bill 234 would have required all current and prospective school employees to undergo a fingerprint-based background check; however, the bill died in the Senate. Screening school employees and volunteers through background checks protects students and may potentially reduce school district liability exposures.

Senate Memorial 111 and House Memorial 34, focused on reducing paperwork required to be completed by educators, passed and were signed in their respective chambers. Less paperwork for teachers and other school employees could possibly translate into increased instructional time for students and reduce costs associated with processing and administering paperwork. SM111 requests PED convene a task force to study the feasibility of reducing the paperwork education employees are required to complete and study a moratorium on unfunded mandates in schools. HM34 requests PED convene a task force similar to SM111.

Senate Bill 31 would have appropriated \$100 thousand to PED to train public school teachers and administrators on reporting allegations of sexual assault; however, the bill died in committee. Additionally, Senate Bill 172 would have directed PED to promulgate rules that require public and private school personnel to undergo suicide awareness and prevention training; however, the bill failed on the Senate floor.

The Legislature nearly passed House Bill 51, a bill that would have closed a loophole that allowed charter school students to participate in extracurricular activities in schools outside attendance zone of the public school in which they reside. Charter school students are currently the only group of students who can take advantage of this loophole, with home school and private school students being subject to this same restriction. The bill passed the House unanimously but died in the Senate.

Attracting and retaining teachers is one of the most important drivers of a well-functioning education system. Five bills related to teacher licensure were considered by the Legislature that proposed PED expedite licensure applications for military spouses and veterans, create a level 4 teaching license, and require alternatively licensed teachers to complete a course in classroom management.

Laws 2018, Chapter 8 (Senate Bill 97), will require PED to provide for expedited teacher licensure for military service members, spouses of military service members, and veterans with both current and expired teaching licenses from another jurisdiction. Senate Bill 116 and House Bill 177 would both have established a level 4 teaching license with additional teacher leader duties; however, both bills were tabled in committee.

House Bill 85, which the Legislature passed but the governor vetoed, would have allowed educational employees covered under the Educational Retirement Act to convert unused sick leave to Educational Retirement Board (ERB) service credit. The governor vetoed HB85 because it might negatively impact the educational retirement fund. Current estimates show the fund does not have enough assets to pay all of the benefits that have been earned. ERB estimates it will take 61 years to pay down the \$7.4 billion in unfunded obligations. The veto message also indicated the bill was vetoed due to the fact that school districts' benefits vary widely, possibly precluding teachers who earn personal leave (not specifically sick leave) from taking advantage of the benefits of HB85.

Other bills relating to teachers and other school personnel were introduced during the 2018 legislative session; however, these particular bills were not germane and included the following topics: teacher loan repayment program incentives, career technical education teacher development, hiring flexibility for charter school teachers, and additional teacher license requirements for alternatively licensed teachers.

Miscellaneous Legislation

In FY18, the legislative lottery scholarship covered only 60 percent of tuition averages, less than in previous years, making it the focus of much debate during the 2018 session. Laws 2018, Chapter 70 (Senate Bill 140), decouples awards from tuition rates and sets a flat award of \$1,500 for research institutions, \$1,020 for comprehensive institutions, and \$380 for community colleges for qualified students on a per-semester basis. The bill directs the Higher Education Department (HED) to raise or lower scholarship amounts based on enrollment and available funding. House Bill 178 and House Bill 270 also attempted to decouple scholarship amounts from tuition costs, but neither bill passed. House Bill 147 would have eliminated the mandate to transfer at least 30 percent of the gross revenue from lottery ticket sales to the legislative lottery fund provided that the total

amount of net revenue does not fall below \$40 million, in which case the 30 percent transfer would be reinstated, but it also did not pass.

Three bills seeking to make higher education more affordable to certain students received unanimous bicameral support and were signed by the governor. Laws 2018, Chapter 20 (House Bill 68), creates the Luciano “Lucky” Varela Opportunity Scholarship at the New Mexico Military Institute (NMMI) to increase the number of low-income New Mexico high school students attending NMMI. The bill allows the NMMI board of regents, with the approval of HED, to transfer up to \$500 thousand of the institute’s budget balances, including existing scholarship endowments, to the Luciano ‘Lucky’ Varela Opportunity Scholarship fund. Laws 2018, Chapter 32 (Senate Bill 143), removes the earnings cap for eligibility for the Public Service Law Loan Repayment Program that provides loan repayment assistance to certain attorneys in public service employment. Laws 2018, Chapter 76 (House Bill 55), expands the benefits and school options for recipients of the Fire Fighter and Peace Officer Survivors Scholarship, allowing scholarship recipients to receive the scholarship for six years and attend a public higher education institution anywhere in the United States.