

# Joint Accountability Report

## PED Below-The-Line Programs



### BACKGROUND INFORMATION:

Since becoming an executive agency in 2003, and even previously as a state board of education, the Public Education Department (PED) has annually requested and received legislative appropriations for various initiatives and programs outside of the operating budget and statutory formulas, such as the state equalization guarantee (SEG) distribution. These special appropriations to PED, colloquially referred to as “below-the-line” programs, give the state more influence in how education dollars are spent but also provide a set of unique challenges.

Most below-the-line (BTL) funding is administered through competitive grant processes. For new BTL initiatives, PED staff have a short timeline after legislative sessions to create grant program requirements, ready application documents, and eventually review applications and make awards. Simultaneously, school districts and charter schools must decide whether they have the capacity or interest to apply for and implement new BTL program funding as part of the annual budget submission to the department. Most BTL initiatives are funded on a reimbursement basis, requiring schools to float expenses with existing operational revenue. Delays in the reimbursement process often incentivize larger cash reserves and rushed spending practices. As a result, BTL initiatives often are mired in bureaucratic processes that slow expenditures, create inequities in access to resources, and limit the potential of state-driven ideas.

Still, BTL funding has served as a testing ground for many key state initiatives, such as prekindergarten, K-3 Plus extended school year, and science of reading programs. While BTL initiatives often disappear or emerge with changing administrations or revenue fluctuations, those that stand the test of time, demonstrate results, and scale up slowly become staple programs for most, if not all, schools. From a standpoint of innovation, BTL programs offer an opportunity to test and evaluate promising ideas, championed by the executive, before the Legislature scales up investments to a statewide level.

**Martinez-Yazzie Lawsuit.** In 2018, the 1<sup>st</sup> Judicial District Court ruled in the *Martinez-Yazzie* education sufficiency lawsuit that New Mexico’s education system was not constitutionally sufficient nor uniform for all students. The court found evidence-based interventions that added instructional time like prekindergarten, K-3 Plus extended school year, summer school, afterschool, and extended learning time programs could help students close achievement gaps. However, the state had not provided sufficient BTL funding to cover programming for all students needing intervention, and administrative hurdles and delays in the receipt of funds limited participation to districts with sufficient capacity to apply for and sustain programs.

The court also found PED failed to provide verifiable evidence that its BTL programs were working, and while the programs might have been worthwhile, participation was too limited and funding too inconsistent to support a constitutionally sufficient education system. The court noted additional resources should be directed to evidence-based programs to improve the performance of at-risk students and to focus on how money was used as opposed to how much was spent.

**AGENCY:** Public Education Department (PED)

**DATE:** September 20, 2024

**PURPOSE OF HEARING:** Below the Line Funding Appropriations, Impact, and Accountability

**WITNESS:** Mariana Padilla, Secretary Designate, PED

**PREPARED BY:** Sunny Liu, Analyst, LFC; Marit Andrews, Analyst, LESC; Tim Bedeaux, Analyst, LESC; Daniel Estupinán, Analyst, LESC; Jessica Hathaway, Analyst, LESC; Conor Hicks, Analyst, LESC

**EXPECTED OUTCOME:** Informational

### Above-the-Line Funding

**State Equalization Guarantee (SEG)**  
\$4,171,972,000

**Categorical Appropriations**  
(Transportation, Indian Education Fund, Supplemental Appropriations)  
\$165,186,300

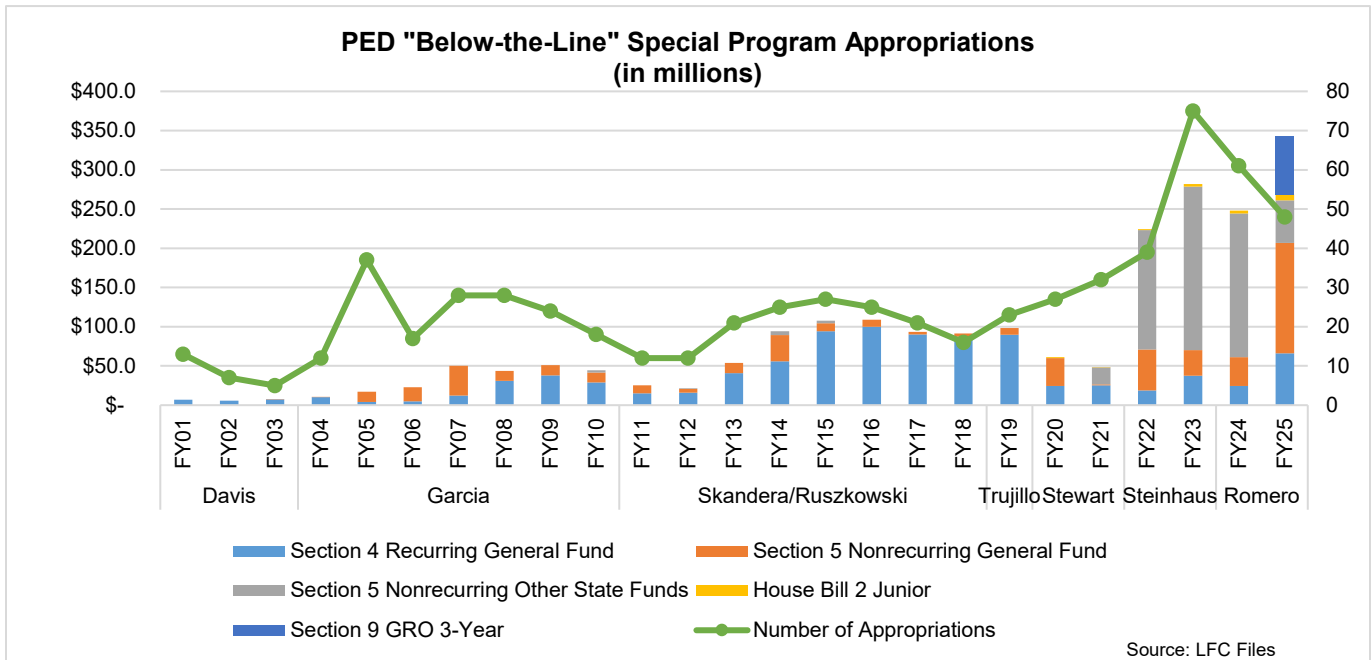
### Below-the-Line Funding

**PED Sec. 4 Special Appropriations**  
(Universal School Meals, Early Literacy, School Leader PD)  
\$66,000,000

**PED Sec. 5-9 Special Appropriations**  
(Literacy Institute, Educator Residency, CTE, OST)  
\$277,231,000

## History of Below-the-Line Initiatives

Prior to PED’s establishment in 2003, the state board of education had a handful of small BTL initiatives, ranging from \$2 million for the Indian Education Act to \$100 thousand for service learning. These initiatives were primarily general fund appropriations and marked by a period of difficult and unproductive relationships between the executive and legislative branches of government. With the push for executive reorganization, coupled with major educational reforms (such as establishing a three-tiered teacher licensure system and prekindergarten), and volatility in oil and gas revenue, the state mostly focused on raising SEG appropriations to address operational costs at schools.



During this period, many of the education reform initiatives were funded with nonrecurring revenue, some initiatives were discontinued, and the Legislature sought other sources to continue programs, including the use of funds in the “education lockbox.” Some BTL programs were also funded through separate, smaller appropriation bills enacted outside of the General Appropriations Act, highlighting the complexity of various competing interests and funding streams for PED initiatives. The 2008 Great Recession forced the Legislature to take solvency measures, resulting in significant reductions to BTL funding. About half of the funding for BTL initiatives at the time were dedicated to prekindergarten and K-3 Plus programs.

Following the *Martinez-Yazzie* ruling in 2019, the Legislature shifted K-3 Plus funding into the SEG distribution and moved prekindergarten programs to the newly formed Early Childhood Education and Care Department the following year, significantly reducing recurring BTL funding following the lawsuit. In the last few fiscal years, nonrecurring BTL funding ballooned due to the availability of state general fund dollars but also from public education reform fund appropriations, which were accumulated from unspent K-5 Plus and extended learning time programs.

Although small in dollar amounts, a significant number of BTL initiatives are attributable to House Bill “junior” appropriations or targeted funds to specific districts or charters.

# Joint Accountability Report

## PED Below-The-Line Programs



### Policy and Budget Considerations

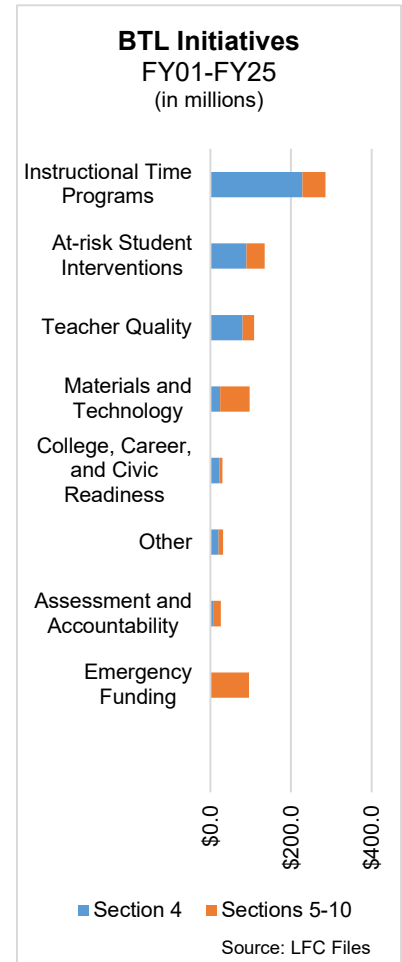
As state revenue growth continues to slow, BTL spending will likely shrink as recurring operational costs take a larger priority. Still, many BTL programs are currently supporting FTE and other operational functions, despite being labeled as nonrecurring funds. To implement a more strategic approach to leveraging BTL funding and aligning more with the findings in the *Martinez-Yazzie* case, the state needs to differentiate between programs that are intended for interventions, innovations, base operations, and truly nonrecurring purposes.

**Interventions.** Some PED BTL initiatives are based on evidence-based interventions that are backed by multiple studies and research, such as some career technical education (CTE) programs, community schools, and science of reading trainings. As tried and true interventions, the state should focus more on whether these programs are being implemented with fidelity to produce the intended outcomes of the intervention and fund high-fidelity programs on a recurring basis. PED should be monitoring and requiring alignment with evidence-based practices for recipients of these interventions and the state should consider how funding can be used to encourage best practices. Interventions should also be targeted to the neediest students and once implemented with fidelity, schools should leverage SEG dollars or other local sources to sustain these interventions over time.

**Innovations.** Some PED BTL initiatives have an emerging body of research or show some promise of addressing deficiencies in the system, such as teacher residency programs or STEM initiatives. With the establishment of the Government Results and Opportunity fund to test out programs over multiple years, the state can pilot innovative ideas before deciding on continued appropriations. A strong research and evaluation plan to monitor and determine efficacy will be necessary to ensure this piloting process produces sufficient information for budgeting decisions. Providing a multi-year appropriation also increases the efficiency of distributions (removing uncertainty of awards each year) and sets a timeline for results.

**Base Operations.** The state must be careful to identify expenditures within BTL initiatives that are actual base operational costs, notably FTE at PED and within schools. For example, PED budgeted \$330 thousand for department personnel from the \$41 million appropriation for universal school meals and the \$8 million community schools appropriation pays for coordinator positions at school sites. Rather than funding these recurring expenditures through a “nonrecurring” appropriation, the state should identify the appropriate recurring revenue source for these appropriations (such as PED’s operating budget or the SEG) and consider transferring funds to those sources, accordingly.

**Nonrecurring.** Some funds are meant to be truly nonrecurring and exist temporarily. Items such as studies, equipment, and capital projects should be one-time and be budgeted as such. Signaling the “nonrecurring” nature of significant programs, such as a summer literacy institute, creates uncertainty in continued funding (which may create unintentional consequences like rushed spending) when there may be a compelling case for the state to pilot ideas longer. As with all appropriations, a uniform vision between PED, DFA, LESC, LFC, and schools is necessary to ensure BTL funds are used effectively.



# Joint Accountability Report

## Healthy Universal School Meals

LESC Analyst: Conor L. Hicks  
 LFC Analyst: Sunny Liu  
 Date: September 16, 2024



### Background and Purpose

- The Healthy Universal School Meals (HUSM) program offers state funding to ensure local education agencies (LEAs) can provide free meals to all enrolled students, regardless of income.
- All LEAs may participate in the program, including public school districts, charters, private schools, and federal Bureau of Indian Education (BIE) schools.
- Funds support schools by providing reimbursements for the cost of meals, covering the difference (\$4.01 per paid lunch, \$0.40 per reduced lunch) between the federal free meal reimbursement and the meal price category of a specific meal.

### What You Need to Know

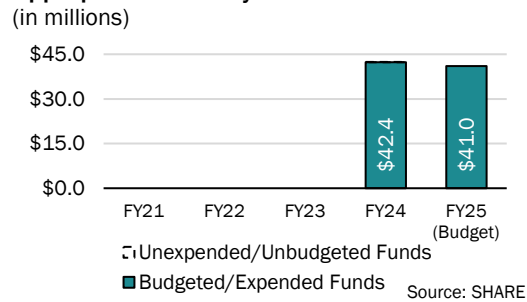
- In 2023, the U.S. Department of Agriculture lowered the Community Eligibility Provision (CEP) threshold from 40 percent to 25 percent of students qualifying for free meals. This increased the number of CEP-eligible schools in NM.
- Most NM schools' federal reimbursement is \$0.44 to \$0.60 per paid lunch and \$0.39 per paid breakfast.
- An adopted PED rule will, starting July 2025, require LEAs to meet meal quality improvement standards to get full state reimbursement. Program costs may fluctuate year to year based on department-determined compliance.
- Schools designated as CEP do not collect meal applications. Transitioning to CEP eliminates meal debt and produces cost savings according to PED. In FY25, very few schools in NM will collect meal applications.

### Recommendation

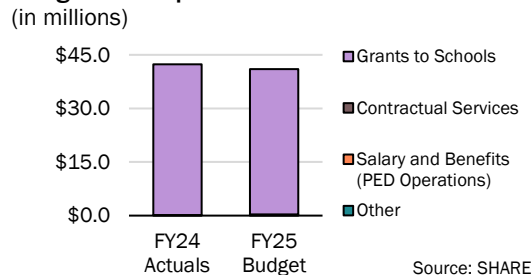
- Staff recommend funding the program, adjusted for participation, and monitoring implementation and growth before consideration as a recurring appropriation.
- Staff recommend transferring \$200 thousand from the program to the PED operating budget to adequately administer the program.
- Staff recommend evaluating academic outcomes and food insecurity rates as a long-term goal.

### How much are we spending?

#### Appropriation History

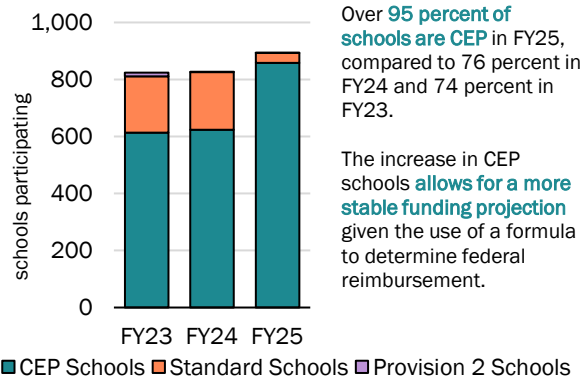


#### Budget and Expenditures



### How are funds being spent?

#### Indicator: CEP vs. Standard Schools



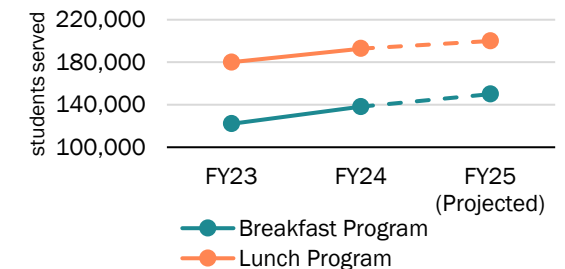
#### Notes on Implementation:

- Nearly all appropriated funds for the HUSM program are distributed directly to LEAs by the Public Education Department. Funds are provided as reimbursements for meals purchased by schools.
- PED budgeted \$300 thousand in FY24 for operational costs to administer the program, but expended just over \$190 thousand. PED budgeted \$330,000 for operational costs in FY25.

### Is it working?

#### Indicator: Students Served

The number of students accessing free breakfast and lunch has increased by 13 percent and 7 percent, respectively.



#### Notes on Results:

- USDA data for New Mexico shows increased participation in both school lunch and school breakfast programs between FY23 and FY24. Based on the FY25 appropriation, staff anticipate a modest increase in participation in both programs for all students, including higher-income households.
- The HUSM program has been in place for only one academic year. The relationship between free school meals and other outcomes like attendance or student achievement may take several years to become clear.

## Background and Purpose

- During the 2024 session, the Legislature appropriated \$30 million for a summer reading program based in the science of reading, also known as structured literacy. In addition, the Legislature appropriated \$30 million to HED for a facility.
- Structured literacy is a science-based, explicit, systematic, cumulative approach to reading and writing designed to ensure all students can learn to read. The program has been highly effective when adopted in other states.

## What You Need to Know

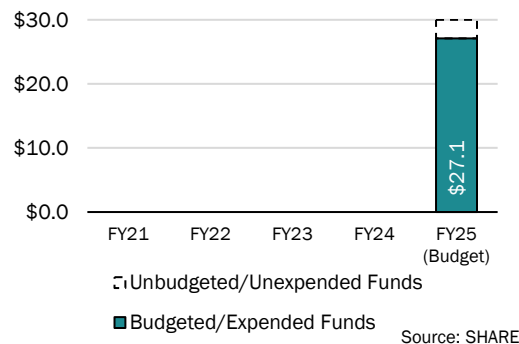
- PED budgeted 97 percent of funds on contracts with ATA Services, an employment agency, and Southwest Regional Education Cooperative, an education-related service agency established by New Mexico law, to hire and train literacy instructors and buy curriculum and resources for the summer literacy institute.
- PED has not yet provided requested information on program implementation and effectiveness.

## Recommendation

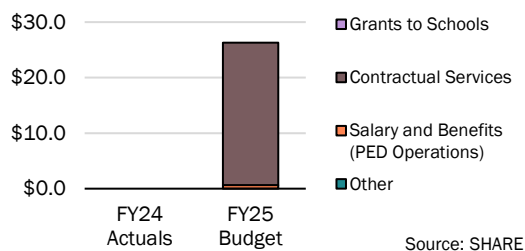
- Staff recommend continuing funding at \$30 million below-the-line. However, staff recommend making this contingent on reporting outcomes.
- Staff will continue monitoring and conduct an evaluation of the program.

## How much are we spending?

### Appropriation History (in millions)

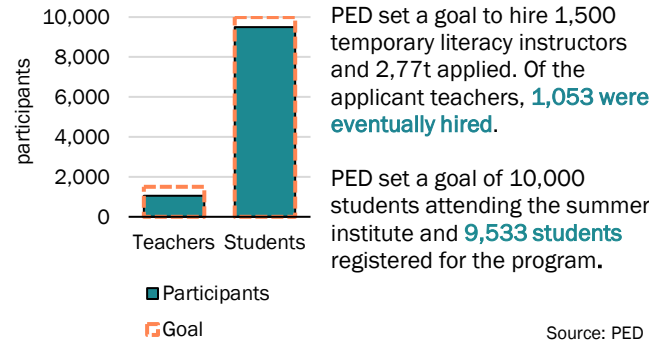


### Budget and Expenditures (in millions)



## How are funds being spent?

### Indicator: Summer Literacy Participants



### Notes on Implementation:

- Nearly all of the funds appropriated for the summer literacy institute (97 percent) were budgeted for contract services.
- PED budgeted \$17.2 million to contract with ATA Services to hire temporary literacy instructors from May 2024 to July 2024.
- PED budgeted \$8.4 million to enter into a contract with Southwest Regional Education Cooperative for curriculum, materials, contracts, and travel. Additionally, PED budgeted \$672.8 thousand on indirect costs incurred by Southwest Regional Educational Cooperative.

## Is it working?

### Notes on Results:

- According to PED, summer literacy institute instructors used the DIBLES assessment to measure reading achievement before and upon completion of the program. **PED has not provided this requested data to staff.**
- In the absence of data from PED, staff cannot evaluate if this program is working as intended. However, general [research](#) on the effects of targeted summer learning programs illustrate the potential for these programs to address gaps in reading achievement between student groups.
- Staff recommend using pre- and post-tests like the DIBELS assessment to measure growth in reading during the summer literacy institute.
- If data suggest participants show growth in reading achievement after participating in the summer institute, and that growth is sustained in the regular school year, staff recommend the Legislature continue the summer reading program under the design of a randomized controlled trial.

### Background and Purpose

- Below-the-line funds for career and technical education (CTE) programs support a legislative CTE pilot project, work-based learning, a PED-created high school innovation zone program, and numerous programmatic and administrative supports.
- Created in 2019, the legislature's CTE pilot is called the "Next Gen CTE pilot project." The pilot represents the first dedicated funding stream at the state level for CTE. The pilot expires in 2026.

### What You Need to Know

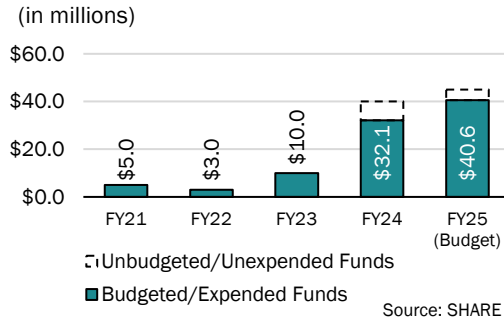
- Below-the-line funding for CTE totals \$45 million for FY25. More than half of this funding is allocated directly to schools to support CTE programs and Innovation Zones, a PED-created initiative to redesign high schools. Funding that flows directly to schools may be more effective if it is moved to the SEG.
- The remaining portion of CTE funds not allocated to schools supports numerous initiatives with varying scopes and levels of evidence. Contracts with RECs, local governments, institutions of higher education, and other intermediaries require some level of PED administration, oversight, and evaluation.
- Schools supplement their below-the-line funds using varying amounts of operational funds from the state equalization guarantee (SEG), particularly to fund CTE instructors and other local operational needs.

### Recommendation

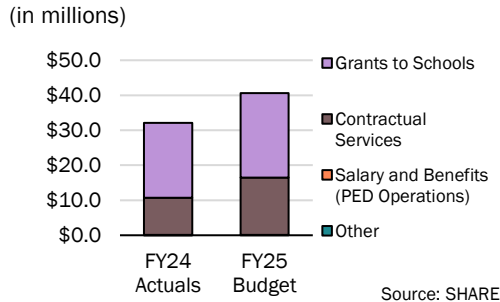
- Staff recommend continuing funding for some CTE programs below-the-line while moving a portion of the funds to the SEG.
- Some elements funded using the CTE appropriation, such as Innovation Zones, require evaluation.

### How much are we spending?

#### Appropriation History

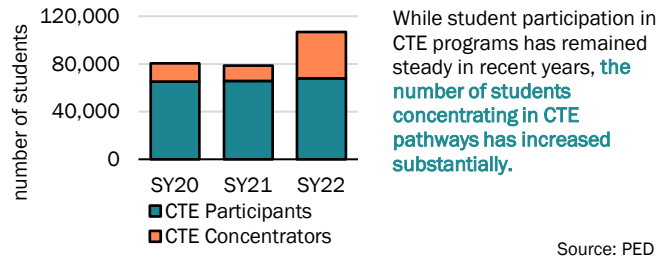


#### Budget and Expenditures



### How are funds being spent?

#### Indicator: Statewide Participants



While student participation in CTE programs has remained steady in recent years, **the number of students concentrating in CTE pathways has increased substantially.**

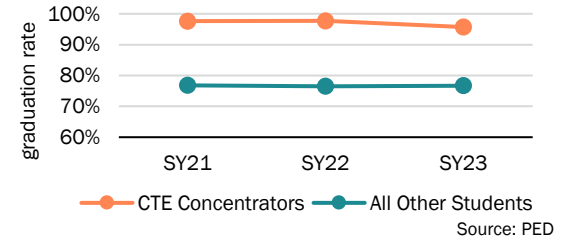
#### Notes on Implementation:

- In FY24, PED awarded \$14.4 million for the Next Gen CTE pilot and \$11.4 million for Innovation Zones directly to schools, including seven BIE schools. Of the full \$25.8 million awarded, information in SHARE indicates \$21.5 million was spent.
- Approximately \$2 million of the FY24 appropriation supported a contract with REC 9 and Future Focused Education to support Innovation Zones.
- PED budgeted \$8 million to support the work-based learning. Information in SHARE shows expenditures totaling \$6.3 million with local governments, tribes, nations, and pueblos.
- Other FY24 expenditures supported career technical education student organizations (CTSOs), technical assistance, and creating dashboards. Staff expenses at PED totaled \$105 thousand for FY24.

### Is it working?

#### Indicator: Graduation Rates

It is unclear if PED's CTE programs are directly increasing the number of CTE concentrators. CTE concentrators see **significantly higher graduation rates** than other students.



#### Notes on Results:

- Both in New Mexico, and nationally, students who are CTE concentrators – students who take at least two connected CTE courses in a single pathway – graduate high school at greater rates.
- This CTE concentrator graduation trend is steady across all student groups, including those identified in the *Martinez-Yazzie* lawsuit.
- Staff plan to continue to evaluate CTE outcomes for students beyond high school, including wages and employment rates.

### Background and Purpose

- The family income index (FII) identifies the concentration of poverty in each school using state income tax returns, public benefits, and the U.S. Census.
- Schools with the highest concentration of poverty are allocated a FII grant to fund evidence-based interventions in literacy, math, and at-risk student supports.

### What You Need to Know

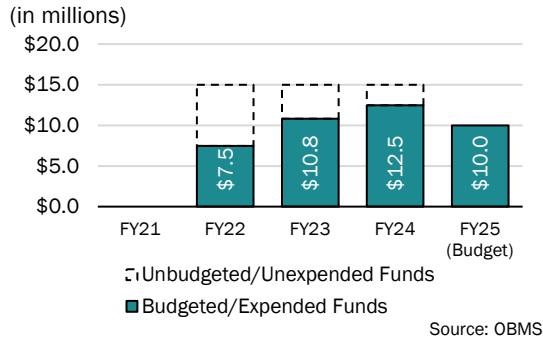
- While the FII was designed to address the findings of the *Martinez-Yazzie* lawsuit, it appears that the program has not significantly closed achievement gaps.
- The FII duplicates the intent of the at-risk index, but places an administrative burden on the Public Education Department (PED) as well as school districts and charter schools, which contributed to the unexpended funds in prior fiscal years.
- Analysis of schools' use of FII funds suggests that schools primarily use the FII to fund basic operational needs like supplies, compensation, and benefits, rather than targeted interventions.

### Recommendation

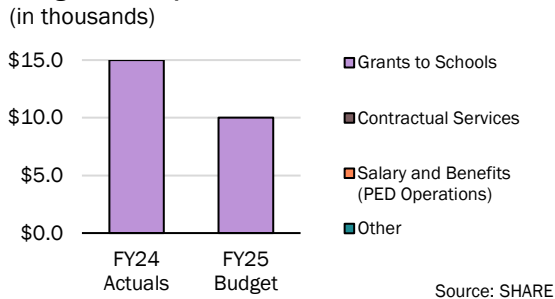
- Staff recommend sunsetting the below-the-line FII program.
- Staff recommend replacing the Title I component of the at-risk index with the FII.

### How much are we spending?

#### Appropriation History



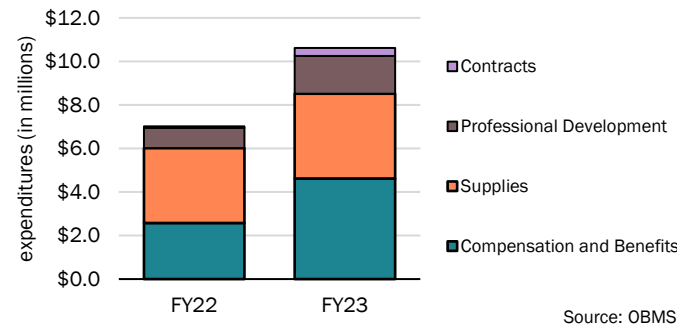
#### Budget and Expenditures



### How are funds being spent?

#### Indicator: Local FII Expenditures

School districts and charter schools typically **use FII allocations to support general operations**, including compensation and supplies.



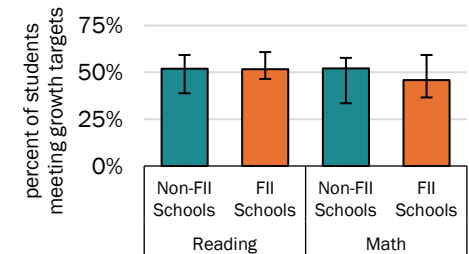
#### Notes on Implementation

- Appropriations for the FII are allocated in their entirety to recipient schools. Statute requires schools to use the funding to support literacy, math, and at-risk programs and services.
- A large majority of funding has been spent on compensation, benefits, supplies, and materials.
- Some schools have struggled to expend their funding, due partly to a lack of local capacity.

### Is it working?

#### Indicator: Student Growth Targets

In SY23, **students in FII schools did not demonstrate significantly more growth** than students in similar non-FII schools.



#### Notes on Results

- Based on an LESC analysis of student growth, students in FII schools and demographically similar non-FII schools achieved similar levels of growth.
- A [July LESC report](#) explained the FII program may have been ineffective partly due to schools' lack of capacity to spend FII funds effectively.