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## FISCAL IMPACT REPORT

**SPONSOR** House Education Committee **ORIGINAL DATE** 02/02/12  
**LAST UPDATED** \_\_\_\_\_ **HB** 228/HECS

**SHORT TITLE** New Public School Funding Formula **SB** \_\_\_\_\_

**ANALYST** R. Gudgel, M. Pahl

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

	FY12	FY13	FY14	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
<b>Total</b>		See Fiscal Implications				

(Parenthesis ( ) Indicate Expenditure Decreases)

Relates to Appropriation in the General Appropriation Act

### SOURCES OF INFORMATION

LFC Files

Responses Received From

### SUMMARY

#### Synopsis of Bill

Committee Substitute for House Bill 228 makes changes to several components of the public school funding formula and requires school district and charter school budgets be aligned with performance measures pursuant to the Accountability in Government Act. The bill has an emergency clause.

The bill changes the public school funding formula as follows:

- Limits the per-MEM program cost of charter schools to that of the school district in which it is located,;
- Limits the total units that full-time-equivalent certified or licensed ancillary service and diagnostic service personnel can generate to 25 units;
- Requires the Public Education Department to promulgate rules specifying minimum case loads for ancillary personnel for the purpose of determining special education program units;
- Disallows public schools that are co-located in the same facility or on the same campus from being classified as a small school for the purpose of size adjustment program units and requires PED to reclassify schools as necessary to comply with this provision.

The bill creates the “New School Fund” as a reverting fund to be administered by the department to fund the first year of operations of new charter schools, subject to the availability of funds appropriated by the Legislature. PED will be required to include a request for an appropriation from the fund with the department’s September 1 budget request for the succeeding fiscal year.

The bill also enacts a new section of the Charter Schools Act to require the chartering authority to conduct a fiscal impact study before approving a new charter school, including the impact of the new charter school on the district in which it is located and on the public school funding formula and state equalization guarantee distribution. PED will be required to review and approve the fiscal impact study prior to issuance. Final authorization for the establishment of a new charter school will occur when the Legislature approves funding for the school.

The bill contains provision to ensure that the state equalization guarantee distribution of any school districts or charter school that has been in operation for at least a year by the effective date of the act is not reduced by more than 4 percent.

### **FISCAL IMPLICATIONS**

The bill implements public education funding formula reform with regard to several public funding formula components that are subject to gaming and local decisions that undermine the fair allocation of public school funding. Any savings realized as a result of the reduced program units for the 2012-2013 school year will be used to increase the unit value when the final unit value is set by the Secretary of Public Education. The bill contains a provision to ensure that no existing school district’s or charter school’s state equalization guarantee distribution is decreased by more than 4 percent during the 2012-2013 school year.

The bill creates the “New School Fund” as a reverting fund to be administered by the department to fund the first year of operations of new charter schools, subject to the availability of funds appropriated by the Legislature. PED will be required to include a request for an appropriation from the fund with the department’s September 1 budget request for the succeeding fiscal year, and charter school authorizations will not become final until the Legislature appropriates funding for the school.

This bill creates a new fund and provides for continuing appropriations. The LFC has concerns with including continuing appropriation language in the statutory provisions for newly created funds, as earmarking reduces the ability of the legislature to establish spending priorities.

### **SIGNIFICANT ISSUES**

Public education funding makes up 43 percent of all state appropriations; for FY12, New Mexico will allocate approximately \$2.23 billion through its public school funding formula to 89 school districts and 84 charter schools which serve 330 thousand students. For FY13, the state will have 96 charter schools, and the department has received almost 30 notices of intent for new charter schools for the FY14 school year.

The current public school funding formula is comprised of 24 separate components that generate units used to direct funding to public school districts and charter schools. Components, and units, are calculated using student data and demographics such as student enrollment in grades K-12, special education and physical education; as well as other student factors such as student

poverty rates, and participation in bilingual education programs.

A recent joint staff evaluation conducted by the LFC and the Legislative Education Study Committee found the state's public school formula is too complicated and difficult to administer. Some public schools can, and do, make decisions to maximize their revenue at the expense of others. The full report can be found at : <http://www.nmlegis.gov/lcs/lfc/lfcdocs/perfaudit/A-3-A-9%20Final%20Draft%20%20Public%20School%20Funding%20Formula%20Evaluation.pdf>.

These are not new findings. Studies conducted by other groups such as the Government Restructuring Task Force and the Funding Formula Task force have found the need to make changes to the public education funding formula as well.

The introduced version of this bill substantially reflected the formula developed by the American Institutes for Research (AIR) and recommended by the Funding Formula Task Force. However, given the interest to further study this AIR formula during the interim, the committee substitute focuses instead on rectifying loopholes in the existing formula, and strengthening accountability.

The Committee Substitute fixes issues identified by LFC and LESC in the areas of special education and school size adjustments.

Special Education: The bill limits the number of units a district can claim for an ancillary services FTE to no more than 25 units. Some schools have been over claiming units, and funding, by 25 to 50 percent. For example, districts have claimed one ancillary service provider as 1.25 or 1.5 FTE for funding purposes. This results in funding levels of \$112,500 to \$135,000 per employee while other districts only receive \$90,000 for ancillary service providers claimed as 1 FTE. The bill also requires PED to establish minimum caseloads for ancillary services FTE only for the purpose of claiming formula funding.

School Size Adjustments: The bill prohibits co-located schools or those sharing facilities from claiming school size adjustment units. Numerous instances have been identified by the LFC and LESC of both school districts and charter schools claiming extra money for schools that are operating in one building or sharing administration and do not have scale inefficiencies. In many instances this directs over \$500 thousand in formula funding for schools that would not otherwise receive this funding if they were classified as a single school. Previous research by the LESC found the formula currently directs between \$8 million and \$10 million annually to schools that are classified as two schools for purposes of funding but truly function as one school.

The bill also requires PED to reclassify schools, for purposes of funding only, as appropriate to comply with new size adjustment provisions. This addresses issues raised by the department in the department's response to findings of the joint evaluations. PED stated "It is clear that many of these schools should be reclassified into single schools but no criteria or precedent exists to do so unless a district requests a reclassification for the school."

Charter Schools: The bill recognizes the unique role of charter schools and makes accommodations to ensure the continued expansion of charters is affordable. The bill provides that charter schools can generate as much, but not more, in per-student funding than the school district in which it is located. As a result, the expansion of charters in a community would not dilute the amount of public school funding at the expense of other areas of the state. An

estimated 65 charter schools would be affected by the limit on per pupil costs, at a cost of \$23 million to charter schools in total. Charter schools, most of which are in urban areas, account for over half, or 32, of school districts and charter schools with per-student program costs that exceeded \$10 thousand per student in FY10. The statewide average per-student program cost during FY10 was \$6.7 thousand.

The bill requires charter authorizers, including PED, to conduct fiscal impact analysis of new charters and fund the new charters' year-one operational costs outside of the formula. Currently, new charter schools' cost and financial impact are not accounted for, or considered, before approval by either the Public Education Commission or district authorizers. For example, 12 new charter schools have been approved at an estimated cost of over \$16 million for FY13, having the potential to dilute the unit value if not fully funded. Students attending first-year charter schools such as these are double funded through the funding formula, because district funding is based off of prior year student counts and charter school funding is based on current year student counts. The bill provides a process for PED to report on their fiscal impact and request start up funding separately from the funding formula. This helps avoid double formula funding. It also provides a way for the legislature and executive to agree on how much to expand the base funding formula budget to account for new charters, just like we do for the rest of state government.

The bill requires school districts and charter schools to implement performance-based budgets to better connect program and fiscal decisions locally. This can be accomplished using the existing accounting/budget structure and performance data used and collected by schools now.

The bill provides for a save harmless program that would limit decreases to existing school district's and charter school's state equalization guarantee distribution to no more than 4 percent as a direct result of formula changes for FY13. The bill also directs that savings from a reduction in units be used to increase the unit value no later than January 2013.

### **PERFORMANCE IMPLICATIONS**

The percent of third, fourth and eighth grade students, and charter school students, who achieve proficiency or above on the standards-based assessment on reading and math; percent of New Mexico high school graduates taking remedial courses in college; and the percent of students habitually truant could be affected by this bill.

The performance-based budgeting process this bill introduces aids districts and charters in focusing resources on their missions, goals and objectives.

### **ADMINISTRATIVE IMPLICATIONS**

The administrative impact to PED should be moderate in implementing the formula changes and establishing school district budgets for the FY13 school year. Administrative impact to districts will also likely be moderate.

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

Relates to the general appropriation act. HB3 contains an appropriation of \$100 thousand to the Legislative Council Service to be used to update the data from the 2007-2008 Public School

Funding Formula Study.

RSG/lj