

LESC bill analyses are available on the New Mexico Legislature website (www.nmlegis.gov). Bill analyses are prepared by LESC staff for standing education committees of the New Mexico Legislature. LESC does not assume any responsibility for the accuracy of these reports if they are used for other purposes.

LEGISLATIVE EDUCATION STUDY COMMITTEE
BILL ANALYSIS
55th Legislature, 1st Session, 2021

Bill Number	<u>HM24</u>	Sponsor	<u>Dow</u>
Tracking Number	<u>.220403.2</u>	Committee Referrals	<u>HEC</u>
Short Title	<u>Study Funding Formula At-Risk Index</u>		
Analyst	<u>Simon</u>	Original Date	<u>3/9/21</u>
		Last Updated	<u></u>

BILL SUMMARY

Synopsis of Memorial

House Memorial 24 requests the Public Education Department (PED) study the public school funding formula's at-risk index and develop a new at-risk index that can be calculated at the school level and includes subgroups associated with findings from the *Martinez-Yazzie* education sufficiency lawsuit.

FISCAL IMPACT

Memorials do not carry appropriations.

SUBSTANTIVE ISSUES

New Mexico's Public School Finance Act governs annual distributions of \$3 billion to school districts and charter schools statewide through the public school funding formula, an enrollment-based calculation of relative need in school districts and charter schools throughout the state. Although primarily based on student enrollment, the funding formula has consideration for other factors that increase school costs, such as the number of students with special needs or enrollment in small, isolated schools and school districts. Funds allocated through the public school funding formula are given to school districts and charter schools on a "non-categorical" or unrestricted basis. School districts and charter schools have broad discretion over how to budget these funds, including discretion over how to offer programming to public schools throughout the school district. Rather than appropriate to specific programs separately each year, the finance act provides a structure for how to allocate funds to school districts and charter schools in an equitable manner and relies on locally elected governing boards to determine local needs and develop programming to meet those needs.

Since 1997, the funding formula has included a factor known as the "at-risk index" to provide school districts and charter schools with additional funding to serve students from low-income backgrounds, students who are English learners, and highly mobile students.

State law requires PED to use three data points to calculate a school district's at-risk index: the percentage of students used to determine the school district's allocation of federal Title I funds, the percentage of students who are English learners, and the percentage of student mobility. Because the Title I component of the at-risk index is only calculated by the federal government at the school-district-level, charter schools are assigned the at-risk index of the school district in which they are geographically located.

At-Risk Calculations for Charter Schools. HM24 requests PED develop an at-risk index that can be calculated at the school level, addressing long-term concerns of many charter school leaders that the at-risk index does not equitably allocate funding for charter schools. When the at-risk index was developed, state law allowed for only five charter schools, all of which were locally chartered and were converted from existing traditional public schools. As a result, the index was designed to address socio-economic conditions present in a given geographic area rather than to consider the unique populations of public schools. This system leaves it up to individual districts to direct at-risk funding to individual schools.

Although charter schools are each provided their own at-risk funds for programs to serve at-risk students, those allocations are based on the overall demographics of the school district in which the charter school is geographically located. This means charter schools that serve fundamentally different populations receive the same amount of at-risk funding per-student. Developing a system where the at-risk index could be calculated based on the unique population of charter schools could lead to some charter schools receiving more in at-risk funding and some charter schools receiving less.

Martinez-Yazzie Lawsuit. HM24 requests PED develop an at-risk index that takes into account demographic information used in the consolidated *Martinez-Yazzie* lawsuit. In that case the 1st Judicial District Court found there was inadequate funding for at-risk students, defined by the court as students who come from economically disadvantaged homes, children who are English learners, Native American children, and children with disabilities. Taken together, these group represent the vast majority of children enrolled in New Mexico public schools. According to the PED, 73 percent of students are economically disadvantaged, based on eligibility for free or reduced fee lunches through the National School Lunch Program, 16 percent are English learners, 10 percent are Native American, and 15 percent are students with disabilities.

OTHER SIGNIFICANT ISSUES

The at-risk component of the funding formula was added following an independent evaluation of the formula's equity in 1995 and 1996. Previously, the state had provided additional funding to school districts with more than 10 thousand students, which proponents argued was necessary to compensate districts for higher costs associated with the education of at-risk students. But critics argued the density factor was not research-based and had the effect of pitting urban against rural school districts. In 1995, 10 medium-sized school districts filed a lawsuit, arguing, among other things, the density factor violated the New Mexico Constitution. They argued, although the state had a compelling interest in ensuring that small districts were not disadvantaged by their inability to take advantage of economies of scale, large districts had no such difficulty and arguably benefited more than medium-sized districts. That case was ultimately dismissed by the court.

Despite the ruling, the independent consultant hired to evaluate the formula recommended eliminating the density factor and adding an "index of need" to direct more funding to "at-risk" students. The consulting team's review of the research showed that poverty, English language

proficiency, mobility, and low standardized test scores were associated with an increased number of “at-risk” students. The team considered 20 different indicators that could be used to stand-in for these socio-economic factors and evaluated them based on the availability of the data, level of manipulability, and incentives to improve. Notably, the team considered using eligibility for the National School Lunch Program, which is used by most states to identify students from low-income backgrounds, but ultimately rejected this data source due to differences in identification rates at the elementary school and high school level and due to “excessive manipulability.”

RELATED BILLS

HM24 relates to HB135, which appropriates \$100 thousand to PED to study and develop a new at-risk index.

SOURCES OF INFORMATION

- LESC Files

JWS/mb