

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, 2nd Session, 2022

Bill Number	<u>SB75</u>	Sponsor	<u>Gonzales/Tallman/Pinto</u>
Tracking Number	<u>.221289.1</u>	Committee Referrals	<u>SEC/SFC</u>
Short Title	<u>Limit School Admin Expenditures</u>		
Analyst	<u>Simon</u>	Original Date	<u>2/1/2022</u>
		Last Updated	<u></u>

BILL SUMMARY

Synopsis of Bill

Senate Bill 75 (SB75) would limit school districts' and charter schools' ability to budget funds for general administration, central services, operations and maintenance of plants to the percentage increase in the school district's program cost or to the percentage increase in the consumer price index, whichever is lower.

The provisions of SB75 would be effective for FY24 operating budgets.

FISCAL IMPACT

SB75 does not include an appropriation. The Public Education Department (PED) reports SB75 would result in significant administrative burdens on the department, requiring the addition of 1 FTE in the department's School Budget Bureau. Notably, the department's capacity to review, analyze, and approve school district and charter school budgets has been lacking. For FY23, the department requested 33 additional FTE to address needs throughout the department, including additional staffing for the School Budget Bureau. Recent laws, including laws requiring school districts and charter schools to produce annual educational plans, requirements to build an online financial reporting system, and requirements to track the uses of federal and local funds no longer considered by the public school funding formula have placed additional administrative requirements on PED. As a result, the Legislative Finance Committee recommendation for PED's operating budget includes additional staffing to improve department capacity; however, SB75 would add additional requirements to the department.

SB75 could impact school district and charter school budget decisions; however, PED states SB75 may have little impact of actual administrative spending because spending practices do not necessarily reflect original budgets. PED comments the department cannot restrict a school district or charter school from deviating from its budget to make additional administrative expenditures.

PED suggests SB75 could actually lead to an increase in administrative expenditures in the short term because the limits in SB75 would not be enforced until FY24. In FY21, school districts and

charter schools spent \$635.4 million on expenses classified as administrative by SB75, including pay and benefits, utilities expenses, property and liability insurance, and other expenses. This accounts for 13.6 percent of total \$4.682 billion operating expenditures.

FY21 School District and Charter School Expenditures by Category

Category	Amount	Percent
Instruction	\$2,232,486,701	47.7%
Capital Outlay & Debt Service	\$864,101,973	18.5%
Administrative Expenditures*	\$635,434,371	13.6%
Instructional and Student Support Services	\$496,731,728	10.6%
Other	\$239,612,961	5.1%
School Administration	\$213,283,633	4.6%
Total	\$4,681,651,367	100.0%

*Includes categories defined by SB75 as administrative expenditures.

Source: LESC Analysis

Although overall educator pay and benefits account for more than 60 percent of total operating budgets, they account for only half of administrative expenditures. Notably, fixed costs such as utilities, property and liability insurance, and rent account for more than a quarter of administrative expenditures, potentially limiting the ability of school districts to make adjustments if these expenditures rise beyond the control of school districts or charter schools.

FY21 Administrative Expenses as Defined by SB75

Expense	Amount	Percent of Total
<u>Pay and Benefits</u>		
Administrators	\$91,839,388	14.5%
Custodial	\$83,590,031	13.2%
Maintenance	\$47,830,842	7.5%
Secretarial/Clerical/Technical Assistants	\$29,754,986	4.7%
Business Office Support	\$24,706,167	3.9%
Data Processing	\$17,913,817	2.8%
Crosswalk Guards & Duty Personnel	\$17,072,987	2.7%
Warehouse/Delivery	\$3,590,843	0.6%
Other Payroll	\$1,369,301	0.2%
Board Members	\$217,247	0.0%
Total Pay and Benefits	\$317,885,609	50.0%
<u>Other Expenses</u>		
Utilities	\$95,728,849	15.1%
Property/Liability Insurance	\$67,163,555	10.6%
Professional and Technical Services	\$43,420,984	6.8%
Interagency Purchases	\$40,699,473	6.4%
Supplies and Materials	\$28,509,515	4.5%
Property	\$17,337,834	2.7%
Maintenance and Repair	\$12,694,099	2.0%
Rent	\$9,929,807	1.6%
Advertising	\$1,018,542	0.2%
Travel and Training	\$529,977	0.1%
Debt Service and Misc.	\$516,126	0.1%
Grand Total	\$635,434,370	100.0%

Source: LESC Analysis

In particular, rent expenditures could have a disproportionate impact on charter schools that rent their facilities rather than provide for facilities through capital outlay expenditures. Although rent accounts for only 9 percent of overall administrative expenditures, many charter schools spend more than 20 percent of their administrative expenditures on rent. SB75 could have a disproportionate impact on these schools.

Provisions of SB75 could limit the ability of school districts and charter schools to increase salaries as mandated by language included in the General Appropriation Act. Often, the Legislature explicitly intends salary increase to apply not only to instructional and support staff, but also to other public school employees, including those classified as “administrative expenditures” by SB75.

SUBSTANTIVE ISSUES

Under current law, the vast majority of funding provided by the state to school districts and charter schools is discretionary at the local level. In general, provisions of the Public School Finance Act attempt to balance state oversight of public education with the desire for local control of public schools. Section 22-8-18 NMSA provides the following:

“It is the responsibility of the local school board or governing body of a charter school to determine its priorities in terms of the needs of the community served by that board. Except as otherwise provided in this section, funds generated under the Public School Finance Act are discretionary to local school boards and governing bodies of charter schools; provided that the special program needs as enumerated in this section are met; and provided further that the department shall ensure that the local school board or governing body of a charter school is prioritizing resources for the public school toward proven programs and methods linked to improved student achievement.”

Although New Mexico, unlike many other states, does not rely on locally raised funds to provide public education revenue, the state has consistently allowed locally elected school boards and governing bodies of charter schools to budget state funds in a manner that best serves these communities. The flexibility afforded local boards allows school districts and charter schools to design programming to meet local needs. However, some school boards have been accused of abusing this discretion and mismanaging public funds. Recently, the secretary of public education suspended the Los Lunas school board, citing violations of the Open Meetings Act, the Inspection of Public Records Act, the Procurement Code, the Governmental Conduct Act, and potentially portions of the Criminal Code.

Martinez-Yazzie Technology Order. Provisions of SB75 may make it difficult for the state to meet the requirements of a recent order from the 1st Judicial District Court related to education technology. In May, the court ordered the state to immediately provide school districts with funding for “qualified information technology staff to support and maintain digital devices, internet access, other remote learning needs, teacher training and IT professional development.” Analysis from PED indicates IT personnel are included in the “administrative expenditures” proposed by SB75. Limiting the ability for school districts and charter schools to invest in these areas could lead to adverse decisions from the court regarding the implementation of the order. Although this issue could be specifically addressed by exempting IT personnel from calculation of “administrative expenditures” the court order raises a larger point: simply because an expenditure is currently categorized as administrative in nature does not mean that the expenditure

in question in unnecessary to provide New Mexico students a uniform and sufficient education as required by the New Mexico Constitution.

ADMINISTRATIVE IMPLICATIONS

PED notes recent appropriations to school districts and charter schools have exceeded the provisions of SB75 and could limit the ability of school districts and charter schools to improve their administrative practices in light of these funding increases.

PED further notes the bill does not define the term “student performance” and PED would be required to establish student performance criteria for waivers. This may lead to inconsistent application of waivers as difference administrations may adopt different definitions of student performance.

Historic Change in Consumer Price Index and SEG

Year	Change In Average CPI	Change in SEG
2017	2.1%	0.8%
2018	2.4%	3.2%
2019	1.8%	18.8%
2020	1.2%	-0.7%
2021	4.7%	7.9%

Source: U.S. Bureau of Labor Statistics and LESC Files

ALTERNATIVES

To clarify the department’s authority outlined in the Public School Finance Act, the General Appropriation Act of 2021 includes the following language:

The public education department shall monitor and review the operating budgets of school districts and charter schools to ensure the school district or charter school is prioritizing available funds to those functions most likely to improve student outcomes. If a school district or charter school submits a fiscal year 2022 operating budget that, in the opinion of the secretary of public education, fails to prioritize funds as described in this paragraph, the secretary of public education shall, prior to approving the school district’s or charter school’s fiscal year 2022 budget, direct the school district or charter school to revise its submitted budget or shall make such revisions as required to meet the requirements of this paragraph.

Using this language, the secretary of public education already has the authority to require a school district or charter school to alter their operating budget if the school district or charter school is allocating an inappropriate amount to administrative expenditures. Unlike SB75, this language does not require a specific mathematical formula, but relies on the professional judgement of PED staff and the secretary of public education, providing flexibility to PED to address unique situations in school districts and charter schools statewide.

SOURCES OF INFORMATION

- LESC Files
- Public Education Department (PED)

JWS/mb