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## FISCAL IMPACT REPORT

SPONSOR Rehm ORIGINAL DATE 2/11/2022  
LAST UPDATED \_\_\_\_\_ HB 182  
SHORT TITLE School District Redistricting SB \_\_\_\_\_  
ANALYST Chilton

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

	FY22	FY23	FY24	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
<b>Total</b>		\$35,000.0- \$54,900.0	Uncertain	Uncertain	Nonrecurring	General Fund

(Parenthesis ( ) Indicate Expenditure Decreases)

Relates to 2018 Senate Joint Memorial 21 and 2002 House Bill 153.

### SOURCES OF INFORMATION

LFC Files

#### Responses Received From

Public Schools Facilities Authority (PSFA)

#### No Response Received

Public Education Department (PED)

Albuquerque Public Schools (APS)

Regional Education Cooperatives Association (RECA)

#### Other Responses

National Council on State Legislatures (NCSL)

### SUMMARY

#### Synopsis of Bill

House Bill 182 would create a new section of Chapter 22, Article 4 NMSA 1978, which deals with the creation of new school districts. The new section would require that districts with more than 40,000 students divide into two or more new districts, and would apply only to Albuquerque Public Schools (APS). The new districts should resemble one another in size and property tax base. The Public Education Department would be tasked with notifying APS of its need to be divided, and appoint a task force to assist APS in doing so.

## House Bill 182 – Page 2

The bill specifies both the constituencies to be represented on the task force and gives them a long list of tasks to report on, including, for the existing school district and the proposed fractional districts:

- Boundaries;
- Population numbers, ethnicities, economic levels, educational accomplishments;
- Expected growth patterns of the existing and new districts;
- Number and condition of school buildings;
- Number of charter schools;
- School capacity relative to future enrollment;
- Number and location of schools not meeting adequacy standards and means of remedying inadequate schools;
- Financial capabilities currently and anticipated in the future;
- Effects of redistricting on cost of transporting students;
- Results of surveys and testimony from the public on redistricting plans; and
- Analysis of the educational effect of redistricting on students.

PED is empowered to contract for expert help in guiding the task force's deliberations.

The task force and APS are to report on progress to PED; their redistricting plans are to be published in a newspaper (probably the *Albuquerque Journal*) distributed in the area, and on the internet.

PED is tasked with approving the redistricting plan or requiring amendments to it. After the plan is finalized, PED would issue an order dividing the school district and its property, dissolving APS's board and appointing "five qualified electors" to serve in their place, to preside over the division of the district. All district employees would be offered the same or similar employment in the schools or departments in which they had been employed, with similar employment benefits. PED would then appoint five local school board members for each new board to serve until the next school board election.

There is no effective date of this bill. It is assumed that the effective date is 90 days following adjournment of the Legislature.

### **FISCAL IMPLICATIONS**

There is no appropriation in House Bill 182.

Section 1(C) of the bill specifies that members of the task force to be set up to help APS with redistricting be paid for per diem and mileage "if funding is available."

PED has not estimated its costs to attend to the tasks given it by this bill, but they are likely to be substantial.

The National Council on State Legislatures provided the following information when asked about precedents for the division of large districts. NCSL believes that the closest precedent is the proposed division of the Jordan School District in Utah in 2007.

NCSL sent information regarding the Utah law requiring cost assessment before a district can be divided. It is available as an attachment to this FIR. Challenged in court, the division did occur; its successors are the Jordan School District, now with approximately 58,000 students and the Canyons School District, which now has about 34,000 students. Here is information from the court decision about the cost of the division:

To demonstrate they were substantially interested in and affected by the election from which they were excluded, the voters marshal evidence detailing the detachment's impact—most notably the financial consequences they will experience because of the split. These include both short—and long-term property tax increases, an abiding property tax disparity with the detaching school district, debt servicing obligations, and approximately \$40.5 million in division costs (as opposed to \$25.8 million for the new district). On top of these financial costs lie significant logistical and administrative burdens, including appointing a transition team, allocating property between the districts, and transferring educators and personnel. Finally, the detachment affects the Jordan School District's self-governance in the short term—the district must hold elections for its new school board as a result of the separation—as well as in the long term. [City of Herriman v. Bell](#), 590 F.3d 1176, 1180 (10th Cir. 2010).

Applying this information to the costs of dividing Albuquerque Public Schools in 2022 requires correcting for inflation between 2007 and 2022, but probably not for the relatively small difference in the size of the Utah and New Mexico districts (in 2007, the predecessor district, Jordan, was 41<sup>st</sup> in the country in size, with 77,000 students, and the Albuquerque School District was 29<sup>th</sup>, with 92,000 students. Presumably costs of splitting a district are not much different for districts of these similar sizes. The two Utah districts together now have more students than APS does. According to [inflationtools.com](#), \$100 in 2007 is worth \$135.63 in 2022. Applying this rate to the amounts given in the quoted paragraph above results in the following amounts: \$25.8 million (2007) = \$35.0 million (2022); \$40.5 million (2007) = \$54.9 million (2022).

## **SIGNIFICANT ISSUES**

The provisions of House Bill 182 would apply only to Albuquerque Public Schools at this time and for the near future – Albuquerque's public school enrollment in 2021-2022 is 82,329 (down 12.5 percent from a high of 94,083 in school year 2012-2013). The only other New Mexico districts with more than 10 thousand students are Las Cruces, with 23,891; Rio Rancho, with 17,342; Gadsden, with 12,651; Gallup, with 12,206; and Farmington, with 11,148.

In 1995, BDM Technologies conducted a study on dividing or decentralizing APS. It listed proposed advantages and disadvantages of large districts, and those 27-year old lists may still appear appropriate now:

### Advantages of smaller districts

- A. greater community control and influence over public education;
- B. more effectiveness in integrating with communities;
- C. providing greater community input at the local level;
- D. providing local public schools with more field and resource personnel;
- E. providing efficient maintenance and support for local public schools;
- F. reducing administrative span of control;

- G. providing greater linkages between local public schools and the central school board;
- H. redirecting spending for local public school needs; and
- I. providing greater curriculum continuity.

Advantages of larger districts

- A. greater political influence because of the local district's political clout at the state and federal levels;
- B. the ability to offer a broader curriculum;
- C. attracting a more varied and talented pool of teachers; and
- D. savings in administrative costs, freeing more funds for instructional costs.

While BDM concluded that the disadvantages of decentralizing outweighed the advantages, the 2018 memorial concluded that there were educational advantages to children in smaller districts and smaller schools. At that time, the LESC analysis pointed to a number of studies indicating possible educational advantages to smaller schools and districts. In a 1991 study in *Educational Evaluation and Policy Analysis*, Fowler and Walberg studied data from New Jersey schools and districts. Their conclusion was that “The two primary arguments for large schools, cost savings and curriculum enhancement, pale in comparison with the positive schooling outcomes apparently achieved by smaller schools.”

In a slightly newer study from California, which appeared in *Economics of Education Review*, Driscoll, Halcoussis, and Svomy concluded the following:

The empirical results of this paper confirm the hypothesis that school district size is an important determinant of program quality. Looking at California, where one can find districts of all sizes, and where 1/6th of all students are in schools in districts with more than 40,000 students, we find that district size has a negative effect on student performance, as measured by standardized test scores. In 1999, in California, students attending school in larger districts did not perform as well on standardized tests as those attending schools in smaller districts. We show that failing to control for population density leads to an overestimate of the negative effect of district size on school-level standardized test scores.

Estimating regressions for elementary and secondary schools separately, we find evidence of a negative impact of district size for elementary and middle schools. District size appears to have the largest negative impact on middle school student performance. The results from California point toward reducing school district size, along with school and class size at the elementary level, as potentially important to educational reform.

On the other hand, a Texas dissertation published on ERIC came to a dissimilar conclusion: “Black, Hispanic, and White students enrolled in large-scale school districts had statistically significantly higher TAKS [Texas Assessment of Knowledge and Skills] English Language Arts/Reading, Mathematics, Science, Social Studies, and Writing examinations... The economies of scale theoretical framework was strongly supported by these results.”

It is likely that division of Albuquerque Public Schools would be highly disruptive of the schools and the community. From these studies, it is unclear whether the benefits of making the districts in which Albuquerque students attend school smaller would outweigh the disadvantages and the disruption.

Numerous articles note that many “secessions” have occurred from large districts in the past decades, often decreasing the integration of communities of color or of those of lower socioeconomic classes. It would appear from the balancing required in the specifics of this bill that these problems would be avoided in the division of Albuquerque Public Schools. Albuquerque does not make the list of the country’s 15 largest school districts; the largest, in New York City, has 995 thousand enrolled children; 15th on this list is Fairfax (Virginia) County Schools, at 160 thousand, or about twice the size of the enrollment in Albuquerque Public Schools. (<https://www.worldatlas.com/articles/largest-school-districts-in-the-united-states.html>)

## **RELATIONSHIP**

Relates to 2018 Senate Joint Memorial 21, which would have asked the Legislative Education Study Committee and the Legislative Finance Committee to study the costs and benefits of redistricting large school districts, specifically Albuquerque’s. It was not passed. In 2002, the Legislature did pass House Bill 153, which would have required redistricting of districts with more than 35 thousand students (only Albuquerque’s) if local voters approved a referendum to do so. The bill, was, however, vetoed by the governor.

## **TECHNICAL ISSUES**

The bill would require districts with more than 40 thousand students to be divided. If Albuquerque Public Schools were to be divided into two districts, at least one of them would have more than 40 thousand students. Would it then be necessary to immediately divide that new district again?

PSFA discusses at length the conditions of schools, making it clear that its assessment of each of the schools in the state is not binary: “adequate” or “inadequate.” It spells out a suggested change relative to the school condition assessment required in the division process: “HB182 would require the task force to consider in its report the number of public schools that do not meet statewide adequacy standards. However, public schools are not defined as either meeting or not meeting adequacy standards, due to the complexity of data included. The PSFA suggests that the language at paragraph 3, at line 24 “the number and location of public schools that do not meet statewide adequacy standards,” be changed to “the number and location of public schools that do not *receive a condition rating equal to or better than the average condition for all New Mexico public schools for that year, as measured by the New Mexico condition index.*” This requirement relates to the annual Statewide Ranking, compiled by PSFA and released by the PSCOC on an annual basis, which lists all New Mexico public schools in order of their weighted New Mexico Condition Index (wNMCI) score, thereby prioritizing the all schools in the state from those with the greatest a deficiencies (condition + educational space) and therefore the greatest needs, down to the newer schools with few deficiencies. Therefore, this suggested change in language correlates better to the PSCOC and PSFA methodology of data collection and eligibility for capital funding.”

## Costs Associated with School District Detachment

### Experience from Utah: Information from the National Council on State Legislatures

The Utah statute that allows for district detachment requires a cost analysis to be conducted:

- (6)(a) As used in this Subsection (6):
  - (i) "New district startup costs" means:
    - (A) costs and expenses incurred by a new district in order to prepare to begin providing educational services on July 1 of the second calendar year following the local school board general election date described in Subsection (3)(a)(i); and
    - (B) the costs and expenses of the transition team that represents the new district.
  - (ii) "Remaining district startup costs" means:
    - (A) costs and expenses incurred by a remaining district in order to:
      - (I) make necessary adjustments to deal with the impacts resulting from the creation of the new district; and
      - (II) prepare to provide educational services within the remaining district once the new district begins providing educational services within the new district; and
    - (B) the costs and expenses of the transition team that represents the remaining district.
- (b)
  - (i) By January 1 of the year following the local school board general election date described in Subsection (3)(a)(i), the existing district shall make half of the undistributed reserve from its General Fund, to a maximum of \$9,000,000, available for the use of the remaining district and the new district, as provided in this Subsection (6).
  - (ii) The existing district may make additional funds available for the use of the remaining district and the new district beyond the amount specified in Subsection (6)(b)(i) through an interlocal agreement.
- (c) The existing district shall make the money under Subsection (6)(b) available to the remaining district and the new district proportionately based on student population.
- (d) The money made available under Subsection (6)(b) may be accessed and spent by:
  - (i) for the remaining district, the local school board of the remaining district; and
  - (ii) for the new district, the local school board of the new district.
- (e)
  - (i) The remaining district may use its portion of the money made available under Subsection (6)(b) to pay for remaining district startup costs.
  - (ii) The new district may use its portion of the money made available under Subsection (6)(b) to pay for new district startup costs.

[Utah Code Ann. § 53G-3-302\(6\)](#) (2019).

### Legal Theories Addressing District Detachment

Owing to the dearth of state-specific examples, I am including citations to law review articles that address the issue.

- Nadav Shoked, [\*An American Oddity: The Law, History, and Toll of the School District\*](#), 111 NW. U. L. REV. 945 (2017).
- Robert A. Garda, Jr. & David S. Doty, [\*The Legal Impact of Emerging Governance Models on Public Education and Its Office Holders\*](#), 45 URB. LAW. 21–50 (2013).
- Aaron J. Saiger, [\*The School District Boundary Problem\*](#), 42 URB. LAW. 495–548 (2010).

For further information, please contact

**Daniel G. Thatcher, JD**

National Conference of State Legislatures

Senior Fellow, Education

303.856.1646 (o)

[Daniel G. Thatcher, JD](#)

*February 2022*