

LFC Requester:	Sunny Liu
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**AGENCY BILL ANALYSIS
2019 REGULAR SESSION**

WITHIN 24 HOURS OF BILL POSTING, EMAIL ANALYSIS TO:

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SECTION I: GENERAL INFORMATION

{Indicate if analysis is on an original bill, amendment, substitute or a correction of a previous bill}

Check all that apply: **Date** 2/1/19
Original **Amendment** _____ **Bill No:** HB5
Correction _____ **Substitute** _____

Sponsor: Sheryl Williams Stapleton **Agency Code:** 924
Patricia A. Lundstrom et al.
PUBLIC EDUCATION **Person Writing**
CHANGES **fsdfs** **Analysis:** Daniel Manzano
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SECTION II: FISCAL IMPACT

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Funding Formula Change Affected (All SEG)
FY20	FY21		
(\$15,193.8)	(\$14,348.2)	Recurring	Size Adjustment Program Units
\$5,731.0	\$11,583.6	Recurring	Rural Population Rate Units
\$113,177.9	\$113,177.9	Recurring	At-Risk Units
\$58,166.5	\$104,217.9	Recurring	Extended Learning Program Units
\$31,231.1 - \$119,895.6	\$31,231.1 - \$119,895.6	Recurring	K-5 Plus Program Units
\$115,832.3	\$115,832.3	Recurring	New Minimum Salaries
\$308,945 - \$397,609.5	\$361,694.6 - \$450,359.1		TOTAL SEG

(Parenthesis () Indicate Expenditure Decreases)

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY19	FY20	FY21		

(Parenthesis () Indicate Expenditure Decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY19	FY20	FY21	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total						

(Parenthesis () Indicate Expenditure Decreases)

Duplicate to: Senate Bill 1

SECTION III: NARRATIVE

BILL SUMMARY

Synopsis:

SB 1 seeks to change multiple provisions of the Public School Code. Among changes to other sections of the Public School Code, are those that change: creates definitions to establish a maximum age of enrollment of 22; creates a new K-5 Plus Act; creates a new extended learning program ; establishes a Public Education Reform Fund; establishes a deadline of June 15 for new charter school applicants to provide the amount of membership proposed to be served in each of the first three years of operation; creates new minimum salaries for each teacher level if the teacher participates in the new K-5 Plus or extended learning programs; establish new minimum salaries for school administrators; transfers the balances of the K-3 Plus Fund to the State Support Reserve Fund; and repeals sections related to the K-3 Plus and K-5 Plus pilot programs and

SB 1 makes multiple revisions to the Public School Finance Act to define contents, and require submittal, of an educational plan to be submitted with the yearly Operating Budget submittal; requires new funding formula factors for K-5 Plus programming and extended learning time; increases at-risk multiplier; limits the school size adjustment sections of law to schools geographically located in school districts with fewer than two thousand students;

begins a two year reduction of small school size adjustment in FY20 before eliminating small school size adjustment units in 2022.

FISCAL IMPLICATIONS

The following analysis of the fiscal implications focuses on the changes to the public school funding formula in SB 1, and examines impacts section by section as they occur in SB 1. For ease of reference, headings are titled based upon the section or new program being analyzed. Discussions of non-funding formula items are discussed under Miscellaneous.

Size Adjustment Program Units

On page 27, lines 1-3, SB 1 proposes to limit size adjustment units to schools with fewer than 400 MEM that are geographically located in a school district with fewer than two thousand MEM. Under current law all schools may generate these units, provided they are separate schools to provide special programs (including but not limited to vocational and alternative education) and are therefore providing the basic program model. This section of 22-8-23 NMSA 1978 A. is commonly referred to as small school size adjustments. SB1 limits, for schools in geographic districts of greater than 2,000 MEM, amounts generated to 66% of the school size adjustment program units in FY20 and 33% of school size adjustments in FY21 before eliminating all school size adjustments in FY22. For FY20, using the FY19 preliminary unit value of \$4,159.23, PED estimates 3,653.039 units are eliminated from the funding formula reducing SEG distributions that would otherwise have gone to these entities by approximately \$15.2 million. A large portion of this reduction is due to restricting size units to school geographically located within a school district with less than 2,000 MEM. For FY21, PED estimates that statewide size adjustment units would be further reduced by 3,449.736 and amounts generated reduced by approximately \$14.3 million, before funding is eliminated for small school size adjustments in FY22.

Rural Population Rate Units

SB 1 proposes to repeal 22-8-23 Subsection C, commonly known as rural isolation units and replace it with a new proposal for rural population rate units. This section of the funding formula is the legacy of the sparsity factor, once given to many rural districts on the basis of membership, but eventually only granted to Gallup McKinley County Schools (GMCS) before expiring after a district-wide school reorganization disqualified GMCS from generating these funds. SB 1 proposes to replace this section of law with a new calculation based upon having greater than 40 percent of the total population living, within a school district's geographic boundaries, in a rural area as defined by the U.S. Census Bureau. SB 1 limits charter schools that can generate these funds to those chartered initially before July 1, 2018 and it is unclear why more recent charters are excluded if they reside in rural areas as they would have additional costs associated with rural education as well. Using data provided by Legislative staff (see Substantive Issues below) from the American Community Survey – Urban Rural Population, PED estimates that an additional 1377.902 units would be generated and increase funding by about \$5.7 million in FY20. PED estimates units generated to grow as the cost differential factor increases to: 2,785.032 units and \$11.6 million in FY21, and 4,175.460 units and \$17.4 million in FY22.

At-Risk Index Changes

SB 1 proposes to increase the at-risk index multiplier from 0.130 to 0.250 in FY20. PED estimates such an increase to generate an additional 27,211.269 units and generate an additional

\$113.2 million in SEG funding statewide in FY20. This increase would be recurring and vary in FY21 and FY22, but because the at-risk index multiplier is based upon the three-year average rate of percentages of the percent membership used to determine its Title I allocation, the percent of MEM classified as English Learners, and a three year average of student mobility, the most recent data was used to estimate both FY20 and subsequent years estimates do not change.

Extended Learning Time Program Units

SB 1 proposes to create a new program unit for Extended Learning Time Programs, where school districts and charter schools generate increasing amounts of units through fiscal year 2022. To generate these units, school districts and charter schools on a five day week must adopt a 190 instructional day school calendar with at least 5.5 hours per instructional day for grades K-6 and at least 6 instructional hour per instructional day for grades 7-12, and school districts and charter schools on a four day week in FY19 or with fewer than 1,000 MEM must adopt a 160 instructional day school calendar with at least 6.5 hours per instructional day in grades K-6 and at least 7 instructional hours per day for grades 7 -12. Provisions of SB 1 do not address school districts or charter schools that operate programs on both calendars. Regardless of the amount of days of week in the calendar, school districts must also provide after-school program opportunities for academic learning or enrichment that do not supplant federally funded programs and provide a minimum of 80 hours per school year for professional development to generate these funds. SB 1 requires PED to establish requirements for school districts and charter schools to generate program units for after-school extended learning time, including standards, MEM calculations and hourly requirements for programs (see issues below).

Determining an estimated amount of units generated under this new funding formula is difficult as there is not pilot program from which to draw data or determine interest (see below). The most conservative estimate is to assume all entities will attempt to generate units. Similarly, PED has to try and estimate a conservative estimate of demand for after-school extended learning programs. According to the Afterschool Alliance, 90,659 students are waiting for an available program. This would represent about 27.72% of the total FY19 preliminary funded MEM enrolled in new after-school extended learning programs. Statewide, PED estimates the new program would generate 13,984.910 units or \$58.2 million in FY20; 25,057.020 or \$104.2 million in FY21; and 36,129.130 or \$150.3 million in FY22.

However, in order for these estimates to materialize, revenues generated by these new Extended Learning Program Units must offset the additional costs incurred by school districts and charter schools for them to be incentivized to adopt the new requirements. For example, Bernalillo had 180 instructional days in FY19 and FY18 actual Operational Fund expenditures of \$24,396,574.95. Dividing these expenditures by 180 gives a per day cost of approximately \$135,536.65 and a total cost to implement 10 additional instructional days of \$1,355,365.28. PED estimates that Bernalillo would receive approximately \$514,047.61 in additional SEG funds under the provisions of SB 1 for both the extended school year and after school program portions of the new program funding, which is less than half the cost. Until an informed cost analysis of how much each school district or charter school must generate in order to offset additional costs is complete, PED cannot guarantee that any or all school districts will participate.

K-5 Plus Program Units

Provisions of SB 1 propose to create a new cost differential for MEM in PED approved K-5 Plus programs of 0.3. MEM shall be enrolled in an elementary school participating in the K-5 Plus program. In 2018, 18,851 students were enrolled in a K-3 plus program. Using these figures about 5655.300 units or \$23.5 million would be generated. However, incentives for teachers to

enroll in the K-5 Plus program will likely grow the program as generating interest from teachers is a significant hurdle to program expansion. The PED cost estimate therefore assumes that the fourth grade and fifth grade pilot numbers will increase by about 6178 MEM to about the same share of the population of those grades (4 and 5) as the more established K-3 Plus program. Therefore, PED estimates that a conservative estimate of about 25,029 MEM could be enrolled, generating 7508.870 units or \$31.2 million in FY20 and beyond. This cost estimate is based on assumptions using historical rates of application for the program. If all schools eligible for K-5 Plus apply for the program and enroll all eligible students, the cost estimate could eclipse \$100 million. It is unclear how aggressive the increase in program applications may be, thus the range in the calculation of fiscal impact.

New Teacher and Administrator Minimum Salary

Provisions of SB 1 amends the School Personnel Act related to teacher minimum salaries such that: level one teachers shall have a new minimum salary of \$40,000, or \$42,200 if in an extended learning time program and \$45,600 for a teacher in a K-5 Plus program; level two teachers shall have a new minimum salary of \$50,000, or \$52,800 for a teacher in an extended learning time program and \$56,900 for a teacher in a K-5 Plus program; and level three teachers shall have a new minimum salary of \$60,000, or \$63,300 for a teacher in an extended learning time program and \$68,300 for a teacher in a K-5 Plus program. Provisions of SB 1 do not appear to provide a hierarchy of which minimum salary governs in the instance of a teacher enrolled in both extended learning time programs and K-5 Plus programs. Provisions of SB 1 also do not specify which of the three new minimum level 3A teacher salaries will be used to compute new administrator salaries. SB 1 provides that the minimum salary for a school principal is the minimum salary for a level 3 teacher at the public school at which the principal or assistant principal is employed times the responsibility factor.

To develop a cost estimate, PED used the new minimum salaries, and assumed approximately 27.7% of staff would have the new minimum for extended learning time programs and 16.2% of staff would have the new minimums associated with staffing the K-5 plus program congruent with the projections of waitlisted children for after school programs by the Afterschool Alliance and the average percentage enrollment in the old K-3 Plus program in FY18. In practice, staff could be enrolled in both programs and receiving only one minimum salary, so the projection should be considered conservative. PED uses the 23.01% cost of benefits for existing staff found on the one percent table.

PED estimates the new minimum teacher salaries to cost approximately \$110.8 million in FY20 and beyond. PED's cost estimate includes Level 3A counselor staff. However, the cost of this initiative is decreased if percentage increases to teacher salaries are computed prior to raising new minimum salaries. For example, if the 6% average teacher salary increase proposed by the Executive is enacted into law, the cost to implement new teacher minimum salaries is estimated to be \$72.6 million in FY20 and beyond. PED used \$60,000 as the minimum level 3A teacher salary used to multiply times the applicable responsibility factor. PED projects the cost of the new administrator salaries to be approximately \$4.9 million.

Miscellaneous

SB 1 requires the remaining balance at the end of FY20 in the K-3 Plus Fund is transferred to the State Support Reserve Fund, if any balance remains after FY19 administration. The balance at the end of FY18 was approximately \$19 million; however, because of timing issues much of that is committed to summer programs that has not been paid. Provisions in state statute require the State Support Reserve Fund to carry a \$10 million balance, yet it has not done so for the majority

of its existence.

SB 1 creates a Public Education Reform Fund for the purposes of implementing evidence-based public education initiatives related to high quality teaching and school leadership, extended learning opportunities for students, educational services for at-risk students, effective and efficient school administration or promoting public education accountability.

SIGNIFICANT ISSUES

Rural Population Rate Units

Significant lag in data (ten years old) means that entities that are determined rural in 2010 may not be rural in 2019 due to expansion. Linking funding to a dated funding source for a new sparsity factor may not be the most accurate representation of current rural population percentages.

However, in keeping with long standing tradition, PED recommends a new sparsity factor be determined on the basis of data controlled at the state level and be based upon a measure of membership, school site or some other data linked to rural increased costs such as the percent mileage of unpaved roads that has been used in the transportation formula in the past. Linking the funding formula calculations to a data sources other than those collected by PED leaves the calculation of the funding formula dependent on outside data sources to have data available and consistent in its application. It is unclear how PED would calculate these units, or the distributional impacts that would arise, if the U.S. Census Bureau changed its collection methodology, developed new definitions for urban or rural, or stopped making data available through its website. If this were to happen, the application of thus funding would be non-uniform year over year. PED staff does not believe the methodology proposed to determine rural cost offsets is consistent with common perceptions of education stakeholders of what constitutes rural and urban school districts. The proposed calculation impacts seemingly rural school districts such as Zuni or Eunice, and disqualifies from these funds because of the percentage of the population living in rural areas (12.78% and 14.43% respectively) do not fall above the proposed 40% threshold. Conversely, calculations that define school districts like Bernalillo or Taos as rural and allow them to generate rural population units when those school districts serve some of the more populous urban centers in the state may also attract criticisms.

Additionally, allowing PED to determine what U.S. Census Bureau data to use may lead to the appearance of subjectivity in the calculation of funding formula dollars. Based upon conversations with Legislative staff, SB 1 envisions a simple decennial data mine of the ACS Rural Urban Population by School District. However, PED found numerous data series for rural and urban areas on the US Census Bureau website that allow for numerous applications of the provisions of this statute, each of which would have different distributional impacts. PED would also recommend a cost study be performed to determine a link between additional costs and resources in rural schools, to ensure proper weighting. Ideally, the metric used in creating a funding formula component or multiplier should be linked to the additional costs experienced in rural areas. If kept as is, PED recommends including all charters in the rural population rate unit calculations, without regard to initial date of authorization in order to ensure uniform funding and ease administration of the state aid formula. Additionally, PED recommends the cost differentials be rounded to three places as it is agency polices to round all unit differentials to three decimal places to avoid incremental pennies in calculations.

Extended Learning Pilot Program Units

There is no prior year data for this new program and section 18 of SB1 envisions a membership projection process to determine funding for FY20. This may be administratively burdensome on both the PED and school district and charter school personnel staff (see below). However, there is also the issue with membership projections for very large unit generation having a disproportionately large impact on school districts or charter schools that over project new program units. PED usually only claws back small amounts from new charter schools that over project membership in the first year of operations. If school districts or charter schools over-project millions because a new program is later found non-compliant by first reporting date, PED's reduction to SEG payments for the rest of the year could have a very significant impact on school district and charter school operations for the rest of the year. For this reason, the sponsors may want to consider whether or not this particular program would fit better as a related recurring appropriation, at least for a year to gather better data and better inform a cost estimate. Additionally, amounts for the program could be accounted for in a non-reverting section of the new Public Education Reform Fund.

On page 24, lines 17 to 21, SB 1 requires PED to establish requirements for school districts and charter schools to generate program units for after-school extended learning time, including standards, MEM calculations and hourly requirements for programs; language PED strongly recommends removing. No other section of the public school funding formula defers to PED rule, procedure or requirement to determine the calculation by which entities generate funding. Placing into law the ability for PED to change how and why a school can generate funding could lead to the appearance of variable funding. PED staff strongly recommends either replacing this language with actual requirements to generate program units for after-school extended learning time or remove this section in its entirety, along with the afterschool program unit generation in Section F, and work to convene a work group to develop such requirements in the FY20 interim to be introduced in a later Legislative Session. It is extremely important to PED staff to ensure the transparency and perceived fairness of the SEG calculation among stakeholders and that all program unit calculations be placed into law.

K-5 Plus Program Units

On page 35, line 17, sponsors may consider replacing "an elementary school" with "grades kindergarten through fifth" because some school districts utilize a middle school model of combining fifth, sixth and seventh grades. Conversely, if the intent is to limit program delivery to elementary schools, the current language will have the effect of disqualifying fifth graders in these middle schools.

Educational Plan

On p. 11, lines 5 through 13 and pages 16 line 12 through page 18 line 12, the sponsors may consider moving the requirements for, and statutorily required contents of, the educational plan to another section of law other than the Public School Finance Act. Currently, program staff in PED review DASH plans, the successor to the educational plan for student success (EPSS). Similarly, sponsors may consider whether the current process of program review and adherence to DASH or successor plans can run concurrently with Operating Budget reviews as a separate

process, yet retain Operating budget approval.

On page 16, lines 15 through 19, this is currently provided in a format of the school calendar, and sponsors may want to include that terminology in the educational plan description. The school calendar also must adhere to the provisions in law at 22-2-8.1 NMSA 1978 and sponsors may wish to consider referencing that section in this section.

On page 23, lines 12 through 17, the sponsors may wish to require proof of how local school boards or charter schools are prioritizing resources toward proven programs and methods that are linked to improved student achievement as part of the educational plan. Currently the Operating Budget process requires certification of this section of law and program staff review DASH plans to hold districts accountable for not prioritizing resources.

MEM Cap on Charter Schools

On page 20, line 16 to page 21 line 7, the most appropriate place for a provision placing a cap on charter school enrollment for FY20 may be in the Charter Schools Act, as opposed to in the Public School Finance Act. The sponsors may wish to consider placing this enrollment cap in the programmatic section of the Charter Schools Act where other sections regarding enrollment caps already reside, and amend those sections as needed.

Current total enrollment for all charter schools, including district- and state-authorized charter schools) is approaching 27,000. According to the 2017-18 data, locally-authorized charter school enrollment is 10,179 and state-authorized charter schools is 15,981, totaling 26,160. Under the proposed bill, the department would be required to notify charter schools before April 15th of the preceding school year what its enrollment cap would be, with any increases prioritized to schools with “a demonstrated track record of success in meeting the academic and development needs of students and meeting performance targets pursuant to Paragraph (7) of Subsection E of Section 22-8-6 NMSA 1978” (p. 20, line 25 to p. 21, line 3). Concurrently, the bill also proposes changes to the Charter School Act relating to new charter applications and proposed numbers of students served in the first three years in operation. However, the bill does not consider that the Public Education Commission (PEC) or the school district as the local authorizer – not the Department – currently approves charter school contracts and any amendments contract terms through an amendment request process, including requests to increase enrollment caps after initial or renewal contracts are entered into by the PEC and the school. PEC’s ability to exercise its authority would be curtailed and create conflict with the proposed language requiring the Department to set the enrollment caps.

PERFORMANCE IMPLICATIONS

Currently, each program office conducts its own program application and approval processes. The proposed bill includes language that requires school districts and charter school to report in greater detail an accounting for program units generated and requires narratives explaining how the funding generated by specific students and programs were expended to support these. The Department supports increasing transparency and accountability for funding, as well as measuring program effectiveness against what would be newly established “performance measures” and “performance targets” (p. 11, lines 9-13). The definitions do not explicitly name academic performance or program effectiveness as indicators against which to measure impact across all program (just include as part of the narratives submitted), and such language only applies to the charter school membership in relation to prioritizing which school’s MEM can be

increased if total enrollment cap is not reached.

ADMINISTRATIVE IMPLICATIONS

K-5 Plus. This bill would expand the program and requires any new K-5 plus program for the next fiscal year with expected participation by October 15th submit an estimate of the number of students the school district or charter school expects to participate in the next year, and to notify the legislature of the number of students that participated in the current school year and projected number of students to participate in K-5 program in the next school year, which is a reasonable timeline for projecting agency budgets for the following Legislative Session. Nevertheless, current regulation, 6.30.12.12 NMAC, states that the department will notify all schools and charter schools by February 1 that applications shall be accepted until March 15. Therefore, the passage of this bill would necessitate significantly moving up the deadline for submitting and accepting application for program and would require increased communication with school districts and charter schools to ensure new requirements are strictly adhered to. Given the increased program development, implementation, technical assistance, evaluation and reporting requirements, additional staffing would be necessary commensurate with the program expansion to ensure enforcement of the provisions of the proposed K-5 Plus Act in this bill.

Operating Budgets and Education Plans. The section of the Public School Finance Act being amended to include the review of education plans with operating budget would have implications for how the Department organized program application and budget review for alignment and improved outcomes, with increased focus on the areas supported through the public school funding formula (at-risk, students with disabilities, K-5 plus, extended learning time, and supplemental programs funded through the Bilingual Multicultural Education Act (i.e. approved bilingual multicultural education programs) and Indian Education Act.

Currently, each program office conducts its own program application and approval processes. The proposed bill includes language that requires school districts and charter school to report in greater detail an accounting for program unit generated and require narratives explaining how the funding generated by specific students and programs were expended to support these. The effect of this bill would increase transparency and accountability for funding reported to the Department from school districts and charter schools.

Additionally, the Department uses the NM DASH (Data, Accountability, Sustainability, and High Achievement) as the Educational Plan. NM DASH is a web-based action-planning tool identified for developing school improvement plans and identifying evidence-or research-based interventions it has put into place for the school year. For the Department to achieve the desired result of operation budget and education plan review before April 15th annually, it would be important to support the cost of developing additional capabilities and/or a companion tool to support coordinated review of educational plans. In addition, additional staffing may be required to coordinate program and budget review as well provide training to school districts and charter schools on the use of the system and understanding the new requirements, as proposed in this bill.

Extended Learning Pilot Program, K-5 Plus units, New Operating Budget Format and New Teacher Minimum requirements

There is no prior year data for the new Extended Learning Pilot program and minimal data from the pilot program for K-5 Plus as proposed in SB1. Section 18 of SB1 (p.35 line 21 to page 36 line 4) envisions a membership projection process to determine funding for FY20. This may be administratively burdensome on both the PED and school district and charter school personnel staff (see below). The date by which membership projections are submitted to PED for FY20 (October 15th, 2018) has passed and, assuming the bill passes and is signed by the end of the session, this leaves PED less than a week before the annual Spring Budget to gather data on how many units will be generated statewide in each of these new program areas to inform a preliminary unit value, develop a completely new budget submission process and ensure current DASH plans fit educational plan requirements and have school districts and charter schools work with teacher to commit to new minimum salaries for the new programs, in addition to PED's other ongoing work.

PED Staff respectfully request that any funding formula changes be given at least a year to develop and implement to ensure that the provisions are implemented with fidelity, that there are no unintended consequences, to update current business practices and that any negative impacts may be modelled and reported back to the legislature. Given the size and scope of the changes, a fiscal year may be too short of a time frame for implementation.

Creating new minimum salaries effective in FY20 means that school districts will have to track what teachers are participating in these programs in March of 2019 in order to ensure the minimum salaries are reported correctly on the returning teacher worksheet section of the Operating Budget submission as this is how PED has operationalized ensuring new minimum salaries are met. This has the effect of creating a one month decision window for school districts and charter schools on whether they will adopt the K-5 program and extended learning window for FY20.

Legislative Requests for Public School Finance Data

With regard to language in SB 1 on page 15, lines 7-8, the ten day requirement to respond to legislative requests for information does not account for the scope of such requests, nor the priority the request holds within the operations of the department. Collaboration on these requests is welcomed by the department, but the ten day legal requirement impedes the department's ability to prioritize resources to balance serving the legislature, families, schools, school districts, teachers and students.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

Operating Budgets. On page 24, lines 4 through 9, SB 1 indicates that PED shall not approve and certify an operating budget of any school district or charter school that the Secretary determines has failed to provide sufficient data and information to determine if the school district or charter school is meeting the requirements of law or the department's rules or procedures. However, provisions of the Public School Finance Act that occur earlier in 22-86 NMSA 1978

(page 18, lines 13-23) 22-8-11 NMSA 1978 (page 22, lines 22 through 25) require PED to prepare an Operating Budget if a district fails to submit or submits improperly and requires PED to certify an Operating Budget by July 1 of each year. It is unclear how PED is to not approve and certify an Operating Budget that does not conform while simultaneously approving all Operating Budgets by July 1 and setting all Operating Budgets that do not conform.

Educational Plan. It is unclear in amending the language in 22-8-6 as proposed in this bill intends to make a reference to the educational plan referenced in 22-2C-6B which states the following:

B. Local school boards shall approve school-district-developed remediation programs and academic improvement programs to provide special instructional assistance to students in grades one through eight who do not demonstrate academic proficiency. The cost of remediation programs and academic improvement programs shall be borne by the school district. Remediation programs and academic improvement programs shall be incorporated into the school district's educational plan for student success and filed with the department.

The proposed could strengthen and clarify meaning adding a reference to 22-2C-6B.

TECHNICAL ISSUES

On page 32, line 15 the sponsors may wish to consider changing the term “English language learners” to “English learners” to keep pace with federal changes in preferred nomenclature and as enacted in the Every Student Succeeds Act.

There is a spelling error in the definition for letter I, “performance measure” (p.11, line 9). The word “quantitive” most likely intends to read as “quantitative” and should be corrected.

Also, there appears to be redundancy in the section relating to operating budgets. Proposed language on page 16, lines 22-24, noted as 22-8-6 (E)(3) will require a narrative explaining the services provided to students in several programs, starting the list with “(a) bilingual multicultural programs.” However, a page later it is again included as part of number five (5) which states “narrative explaining supplemental programs or services offered by the school district or charter school to ensure that the Bilingual Multicultural Education Act, the Indian Education Act and the Hispanic Education Act are being implemented by the school district or charter school” (p. 17, lines 9-13). State-funded bilingual multicultural education programs are open to all students and not required for any specific students, and therefore are *supplemental* programs, which generate funding through the public school funding formula after a program application is reviewed and approved by the Department. For this reason, the proposed 22-8-6E(3)(a) should be deleted (p. 16, lines 24-25). Since English learners are incorporated into the at-risk index factor, accounting for required programming for English learners should be detailed in the narrative required under the proposed Section E(2), (p. 16, lines 20-21).

OTHER SUBSTANTIVE ISSUES

PED will model impacts on the disparity analysis PED submits to the USDE Impact Aid Division yearly. For FY19, the PED had to perform the disparity calculation twice and is only provisionally certified. Since only the provisions related to the at-risk units went into effect, it is

unlikely that the federal range ratio of 20% was not reached, and indeed may have improved. However, the movement of the new staffing cost multiplier up in the formula for FY20 likely will have distributional impacts and the proposed funding formula changes in SB 1 will to be modeled together with previous reforms on FY19 data to ensure the state can still take credit for over \$60 million in Impact Aid funds yearly.

Similarly, PED staff will continue to develop a cost analysis that compares the cost to implement the new extended learning time calendar requirements versus revenues generated to better inform cost differential weighting and a comparison of proposed changes with additional revenues to revenues generated under the FY19 funding formula.

Limits to charter school membership. Under the proposed bill, the Department would be required to notify charter schools before April 15th of the preceding school year what its enrollment cap would be, with any increases prioritized to schools with “a demonstrated track record of success in meeting the academic and development needs of students and meeting performance targets pursuant to Paragraph (7) of Subsection E of Section 22-8-6 NMSA 1978” (p. 20, line 25 to p. 21, line 3). In conjunction, the bill also proposes to amend the Charter School Contract to address enrollment as well through clarifying in 22-8B-6 with a new section that applications must include proposed number of students served in the first three years of operation. While that addresses all new charter applicants, the bill does not consider that for already operating charter schools, the school’s chartering authority – the Public Education Commission (PEC) or the school district as the local authorizer – currently approves charter school contracts and any amendments to enrollment caps requested by the school after initial or renewal contracts are entered into by the chartering authority and the school.

Further, annual performance targets shall be set by each chartering authority in consultation with its charter schools and shall be designed to help each charter school meet applicable federal, state and chartering authority expectations as set forth in the charter contracts to which the authority is a party.

ALTERNATIVES

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

AMENDMENTS