

<b>LFC Requester:</b>	<b>Helms</b>
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**PUBLIC EDUCATION DEPARTMENT  
BILL ANALYSIS  
2023 REGULAR SESSION**

**SECTION I: GENERAL INFORMATION**

Check all that apply:

Original  Amendment   
 Correction  Substitute

Date Prepared: 02/23/23  
 Bill No: SB24/SECS

Sponsor: Diamond/SEC  
 Short Title: SCHOOL REPORTING ON USE OF FEDERAL FUNDS

Agency Name and Code  
 Number: PED - 924  
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**SECTION II: FISCAL IMPACT**

**APPROPRIATION (dollars in thousands)**

Appropriation		Recurring or Nonrecurring	Fund Affected
FY23	FY24		
None	None	N/A	NFA

(Parenthesis ( ) Indicate Expenditure Decreases)

**REVENUE (dollars in thousands)**

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY23	FY24	FY25		
None	None	None	N/A	NFA

(Parenthesis ( ) Indicate Expenditure Decreases)

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

	FY23	FY24	FY25	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
<b>Total</b>	None	None	None	N/A	N/A	NFA

(Parenthesis ( ) Indicate Expenditure Decreases)

Duplicates/Relates to Appropriation in the General Appropriation Act

**SECTION III: NARRATIVE**

**BILL SUMMARY**

Synopsis: The Senate Education Committee Substitute for Senate Bill 24 (SB24/SECS) requires school districts and state-chartered charter schools to submit a report to the Public Education Department (PED) detailing the use of federal funds – Elementary and Secondary School

Emergency Relief (ESSER) Fund as provided in the federal Coronavirus Aid, Relief, and Economic Security (CARES) Act, the federal Coronavirus Response and Relief Supplemental Appropriations Act (CRRSA) and the federal American Rescue Plan (ARP) Act of 2021 – allocated to that school district or state-chartered charter school from elementary and secondary school emergency relief funding.

The bill does not provide an effective date. Laws go into effect 90 days after the adjournment of the Legislature enacting them, unless a later date is specified. If enacted, this bill would become effective June 16, 2023.

### **FISCAL IMPLICATIONS**

SB24/SECS does not contain an appropriation.

### **SIGNIFICANT ISSUES**

The provisions of SB24/SECS would duplicate existing reporting requirements for recipients of federal funds, placing an administrative burden on the school districts and charter schools charged with submitting reports. In 2022, PED completed an overhaul of reporting requirements, trimming 34 percent from administrative work required of school districts and charter schools across New Mexico and cutting teacher paperwork by 41 percent. The estimated 3,500 hours saved per year allows each school district or charter school to redirect the hourly equivalent of 1.7 full-time employees to more useful activities.

PED offers an online dashboard designed to offer data on how districts and state charter schools are spending their portions of the federal elementary and secondary school emergency relief funding.

The allowable uses of ARP ESSER funds include many that would be difficult to tie directly to student outcomes, as prioritized by reporting requirements of SB24/SECS. At least 20 percent must be used to implement evidence-based interventions, such as summer learning or enrichment, extended school day or school year, and comprehensive after-school programs. As much as 80 percent, however, may be used to train staff in practices that reduce the spread of infectious disease, coordinate emergency preparedness activities with other agencies and governmental entities, and school facility repairs and improvements to reduce virus transmission risk, for example. For spending in these areas, it would be difficult to measure the effect on student achievement, though student absence rates based on illness could be linked to virus transmission efforts supported by these funds. PED may not limit the use of these funds by a school district or state-chartered charter school as long as they are used for allowable purposes. This question is addressed in a U.S. Department of Education December 7, 2022 Update:

“Section 18003(d) of the CARES Act, section 313(d) of the CRRSA Act, and section 2001(e)(2) of the ARP Act permit an LEA to use ESSER funds for a broad range of allowable activities. Each section authorizes an LEA to use ESSER funds “for any of the following” activities. Accordingly, neither an SEA nor a State legislature has the authority to limit an LEA’s use of ESSER formula funds. An SEA may require LEAs to include information in their applications about how they intend to use the funds, consistent with the SEA’s regular practices or State law, as long as it does not limit how the LEAs use their funds”

This would also indicate that the provisions contained in Subsection D of the bill, requiring an accounting of how a district or school can “revise the pragmatic uses to improve student outcomes” might contradict federal provisions permitting up to 80 percent of ARP ESSER funds be used for COVID- and other emergency-related activities.

#### **PERFORMANCE IMPLICATIONS**

None.

#### **ADMINISTRATIVE IMPLICATIONS**

The bill requires school districts and state-chartered charter schools to report by July 1, 2023, the following information regarding the use of such federal funds received through May 31, 2023:

1. the amount of funding received;
2. the projected impact of the funding on student achievement;
3. applicable data outlining progress toward program goals;
4. the amount of funding remaining;
5. an analysis determining if the invested federal funds accomplished the desired student outcomes; and
6. explanation and revision of plans when desired student outcomes have not been achieved.

The bill would require PED to publish the reports on its website within 30 days of receiving them. If funds remain unspent after May 31, 2023, a second report would be required of entities, followed by a third report if funds remain unspent by May 31, 2024.

The bill would require PED to develop a report template that includes space for school districts and state-chartered charter schools to include:

1. the amount of funding received;
2. the projected impact of the funding on student achievement;
3. the number of students served by the funding, disaggregated by race and qualification for free and reduced-price lunch;
4. applicable data outlining progress toward program goals;
5. the amount of funding remaining;
6. an analysis determining if the invested federal funds accomplished the desired student outcomes; and
7. explanation and revision of plans when desired student outcomes have not been achieved.

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

None.

#### **TECHNICAL ISSUES**

None.

#### **OTHER SUBSTANTIVE ISSUES**

#### **ALTERNATIVES**

None.

#### **WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL**

None.

**AMENDMENTS**

None.