

**LEGISLATIVE EDUCATION STUDY COMMITTEE  
BILL ANALYSIS**

**Bill No:** HB 398

**48th Legislature, 2nd Session, 2008**

**Short Title:** Supplemental Public School Funding

**Sponsor (s):** Representative Mimi Stewart and Others

**Analyst:** Kathleen Forrer

**Date:** January 31, 2008

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**FOR THE FUNDING FORMULA STUDY TASK FORCE**

**Bill Summary:**

HB 398 appropriates funds to the Special Education Catastrophic Aid Fund, the Family and Youth Resource Fund, the New School Development Fund, and the Public Education Department (PED) for the purposes of supplementing public school funding, supporting existing law, and assisting PED in implementing the new public school funding formula created in a separate Funding Formula Study Task Force bill (HB 241, *Public School Funding Formula Changes*).

**Fiscal Impact:**

\$13.9 million is appropriated from the General Fund as follows:

- \$7.0 million to the Special Education Catastrophic Aid Fund for expenditure in FY 09 and subsequent fiscal years to carry out the purposes of the fund. Any unexpended or unencumbered balance remaining at the end of a fiscal year does not revert. This fund is not in statute; HB 241 would create this fund (see Issues).
- \$3.0 million to the Family and Youth Resource Fund for expenditure in FY 09 and subsequent fiscal years to provide grants to PED-approved school programs pursuant to the *Family and Youth Resource Act*. Any unexpended or unencumbered balance remaining at the end of a fiscal year does not revert.
- \$3.0 million to the New School Development Fund for expenditure in FY 08 and subsequent fiscal years to carry out the purposes of the fund. Any unexpended or unencumbered balance remaining at the end of a fiscal year does not revert.
- \$900,000 to PED for expenditure in FY 09 for the following purposes:
  - \$250,000 for expenses related to planning and implementing the new public school funding formula created in HB 241 and the accompanying statutory accountability measures, including contractual services;
  - \$250,000 for personnel and other expenses related to collecting and confirming school district data included in the Student Teacher Accountability Reporting System (STARS) or otherwise required by PED; and
  - \$400,000 for program managers to evaluate, monitor, and provide technical assistance to school districts in the development and execution of their Educational Plans for Student Success (EPSS) and other accountability indicators.

Any unexpended or unencumbered balance remaining at the end of FY 09 reverts to the General Fund.

The House Appropriations and Finance Committee Substitute for House Bills 2, 3, 4, 5, 6, and 10 (CS/HB 2 HAFC) appropriates \$1.5 million from the General Fund to the Family and Youth Resource Fund. However, CS/HB 2 HAFC does not include appropriations for either the Special Education Catastrophic Aid Fund or the New School Development Fund, or for PED for purposes of implementing the new public school funding formula.

**Issues:**

***Special Education Catastrophic Aid Fund***

The new public school funding formula created in HB 241 includes a single cost factor for special education. School districts are funded on a census basis (16 percent of the total district enrollment); charter schools, which vary widely in the percentage of special education students enrolled, are funded on the percentage of qualified students who are required by the federal *Individuals with Disabilities Education Improvement Act of 2004* (IDEA) to have an individualized education program. To assist school districts with additional costs associated with students with particularly high needs, HB 241 also establishes a contingency fund, the Special Education Catastrophic Aid Fund, and HB 398 appropriates \$7.0 million to that fund for expenditure in FY 09 and subsequent years. However, there is no language in HB 398 indicating that the appropriation is contingent upon the enactment of HB 241 or similar legislation during the 2008 legislative session.

***Puente para los Niños Fund***

In accordance with the federal *Individuals with Disabilities Education Improvement Act of 2004* (IDEA), PED has already established a fund, the Puente para los Niños Fund, to assist school districts and other eligible entities with the costs of educating high needs students receiving special education services.

IDEA authorizes each state to reserve up to 10 percent of its IDEA allocation designated for state-level activities to establish a high cost fund and make disbursements from the high cost fund to local educational agencies for high need children. The disbursements from the fund may not be used for legal fees, court costs, or other litigation costs. A high need child is to be defined by the state in consultation with local educational agencies and must, at a minimum be a child with a disability that costs three times the average per pupil expenditure in that state.

New Mexico has defined a high needs student as one for whom the cost of providing a Free and Appropriate Public Education (FAPE) is equal to or greater than \$19,341. In order to request assistance from the fund, a local educational agency or state-supported educational program<sup>1</sup> must first have expended a minimum of 25 percent of the cost of providing FAPE to the student. According to PED, \$851,121 (10 percent of New Mexico's state-level IDEA allocation) has been set aside for the fund for FY 08. No districts applied for assistance during school year 2006-2007, and only two districts have applied for school year 2007-2008. Because those applications were not received until January 2008, PED indicates that the applications are still being processed.

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<sup>1</sup> State-supported educational programs include educational services provided by the Corrections Department; the Children, Youth and Families Department; the Department of Health; the New Mexico School for the Blind and Visually Impaired; and the New Mexico School for the Deaf.

### ***Family and Youth Resource Act***

The *Family and Youth Resource Act* (FYRA) was created as part of the comprehensive school reforms passed by the Legislature in 2003 resulting from recommendations of the Education Initiatives and Accountability Task Force. The act permits the creation of a family and youth resource program in any New Mexico public school that meets the eligibility requirement. The purpose of a Family and Youth Resource Program is to serve as an intermediary to assist public school students and their families in accessing social and health care services.

Endorsed by the LESC, SB 30, *Family Resource Program Grants for Schools*, amends FYRA to allow a public school or a group of public schools that has received a grant to establish a FYRA program to continue to be eligible for funding if its percentage of Free or Reduced-Fee Lunch (FRL) program eligibility drops below 80 percent, so long as it maintains a three-year average of 80 percent or more.

As does HB 398, SB 30 includes an appropriation of \$3.0 million from the General Fund to the Family and Youth Resource Fund for expenditure in FY 09 and subsequent fiscal years. Since FY 05, the Legislature has appropriated approximately \$6.2 million to the Family and Youth Resource Fund to finance the operation of FYRA.

### ***New School Development Fund***

Created by the 2006 Legislature, the New School Development Fund is a non-reverting fund from which PED is authorized to make distributions to school districts to help pay for supplies, equipment, and operating costs unique to the first year of operation of a new school. PED may not approve a distribution if there are reasonably available federal, private, or other public sources for the funding. No money has ever been appropriated to the fund.

Although HB 3, as amended by the House Education Committee, included an appropriation of \$1.0 million to the fund, CS/HB 2 HAFC does not. As of January 31, only HB 398 includes an appropriation to the New School Development Fund.

### ***Implementation of the New Public School Funding Formula – Appropriation to PED***

In statements to the Funding Formula Study Task Force, the Secretary of Public Education indicated that if the new public school funding formula created in HB 241 is enacted, PED will require additional resources to meet the new accountability and data collection requirements associated with the formula. The task force agreed to support her request, and HB 398 includes an appropriation of \$900,000 to assist the department in implementing the new funding formula.

In its analysis of HB 398, PED indicates that, if the appropriation is made, the department will use the funds to modify the Student Teacher Accountability Data System (STARS) to accommodate the new data requirements, provide additional training and on-site support to school districts for data gathering and submission, and hire one additional staff member to validate data.

## ***Background***

- After several vetoed appropriations to fund a study of the Public School Funding Formula, in 2005, the Legislative Education Study Committee (LESC) endorsed legislation that was enacted to create a Funding Formula Study Task Force.
- In 2006 the Legislature extended the term of the task force through December 2007 and appropriated dollars for an independent study of the funding formula.
- In order to carry out its charge, in August 2006, the task force selected American Institutes for Research (AIR), headquartered in Palo Alto, California, to conduct an independent study of the funding formula.
- Based on the tasks identified in the Request for Proposals (RFP) and other discussions, the contractor provided several recommendations regarding a new public school funding formula based on the concept of educational sufficiency. The formula developed by the contractor includes four measures of student need (poverty, English language learners, special education, and mobility), school size and school district size, and an Index of Staff Qualifications that incorporates the three-tiered licensure structure for teachers. The contractor also provided the task force with the estimated cost of implementing those recommendations.
- On January 7, 2008, the task force adopted a discussion draft of a bill that incorporated the contractor's recommendations regarding the funding formula and considered a number of proposals designed to fund the costs associated with implementation.
- On January 14, 2008, the LESC endorsed the task force recommendations to implement a new public school funding formula. However, the LESC took no action on the funding proposals, which were not yet available in final form.

## **Related Bills:**

### ***Funding Formula Study Task Force Bills***

HJR 8 *Land Grant Fund Education Distribution, CA*

HB 51 *Corporate Income Tax to Public School Fund*

HB 229 *End Yield Control on School Mill Levy*

HB 241 *Public School Funding Formula Changes*

HB 311 *Increase Gross Receipts & Send to School Fund*

### ***Other Related Bills***

HJR 10 *Statewide Millage Rate for School Funds, CA*

SB 30 *Family Resource Program Grants for Schools*