

**LEGISLATIVE EDUCATION STUDY COMMITTEE
BILL ANALYSIS**

Bill Number: HB 95

50th Legislature, 1st Session, 2011

Tracking Number: .183585.1

Short Title: School Budget Division Of Education Dept.

Sponsor(s): Representative Rick Miera and Others

Analyst: Craig J. Johnson

Date: February 3, 2011

FOR THE LEGISLATIVE EDUCATION STUDY COMMITTEE

Bill Summary:

HB 95 amends the *Public Education Department Act* to add the ‘school budget and finance division’ to the divisions created within the Public Education Department (PED).

The secretary of PED retains authority to organize the department and transfer functions between divisions.

Fiscal Impact:

HB 95 does not contain an appropriation.

Substantive Issues:

- If HB 95 is enacted, the current School Budget and Finance Analysis Bureau would likely become the School Budget and Finance Division.
- HB 95 is a recommendation of the LESC School Finance Work Group (see Background). Work group discussion noted the absence of a statutorily created division within PED that focused on school budget and finance issues. Given the importance of accountability, the work group and the LESC assert that establishing this division in statute would convey the Legislature’s desire for increased oversight of public school funds. In addition, work group members discussed the possibility of developing, through the process established in the Accountability in Government Act (AGA), a PED budget with two programs: a school finance program and an education policy program.
- The most recent version of PED’s organizational chart that is available on the website is attached.

Background:

In current statute, the divisions established in PED are the:

- administrative services;
- assessment and accountability;
- charter schools;
- educator quality;
- Indian education;
- information technology division;
- instructional support;
- program support and student transportation;
- quality assurance and systems integration;
- rural education; and
- vocational rehabilitation.

During the 2010 legislative session, the LESC endorsed SJM 24, *Study School District Finances & Operations*, requesting that the Office of Education Accountability, in collaboration with PED and in consultation with the Office of the State Auditor, form a work group to examine public school finance issues.

Although the joint memorial did not pass, in keeping with the LESC's focus on public school finances during the 2010 interim, the LESC requested that an LESC work group be formed to "evaluate the adequacy and effectiveness of New Mexico's laws and regulations relating to public school finance, including the financial capacity and controls of school districts and charter schools statewide."

The LESC requested updates on the progress of the work group at each interim meeting, with a final report to the LESC in December 2010.

The attachment to this bill analysis includes the membership of the work group.

Activities of the LESC School Finance Work Group

The activities of the work group included:

- reviewing laws, rules, and policies governing school finance, including the implementation of two provisions effective in 2010 that:
 - require local school boards and charter school governing bodies to create finance subcommittees and audit committees; and
 - allow PED to impose sanctions for failure of school districts or charter schools to submit timely audits to the State Auditor, including withholding up to 7.0 percent of a school district's or charter school's State Equalization Guarantee distribution and suspending the board of finance, effective July 1, 2010;
- investigating whether the tiered audit process for local public bodies, effective July 1, 2010 or a similar tiered audit process may be appropriate for public schools;

- reviewing current licensing and training requirements for school business officials and current training offered for boards of finance;
- investigating the availability of qualified school business officials and independent auditors with a focus on the needs of small, rural school districts;
- examining the internal financial controls within school districts and charter schools, including segregation of duties and the bank reconciliation process; and
- examining the supply and demand of school business officials, including the capacity of institutions of higher education to train future school business officials.

As a result of presentations and discussions during the 2010 interim, the work group agreed that creating a school budget and finance division within PED was important.

Recommendations of the LESC School Finance Work Group

HB 95 is one of the recommendations of the LESC School Finance Work Group.

The other recommendations of the work group endorsed by the LESC during the 2011 legislative session are:

1. Amend the *Audit Act* to remove the requirement that the Public Education Department (PED) approve the selection of an independent auditor by a school district. **(Provisions in SB 141, No Education Dept. Auditor Approval)**
2. Amend the *School Personnel Act* **(provisions in SB 203, School Business Official Licensure)** to require PED to:
 - provide by rule for licensure of school business officials (SBOs), including initial and continuing licensure, competencies, ethics and reporting requirements, and a savings clause;
 - track the denial, suspension, or revocation of SBO licenses and determine if these actions occur in a timely manner;
 - assess the quality of and enforcement of training requirements for SBO licensure; and
 - require mandatory training for superintendents on the evaluation of SBOs, including training in the assessment of SBO competencies.
3. Amend the *School Personnel Act* to add “financial malfeasance or misfeasance” to the definition of “ethical misconduct” in current law. **(Provisions in SB 143, School Personnel “Ethical Misconduct” Definition)**
4. Include language in the *General Appropriation Act* to transfer the positions (six) in the Office of Inspector General at PED to the Office of the State Auditor for education-related reviews. **(Letter sent to the House Appropriations and Finance Committee)**

Related Bills:

None as of February 1, 2011.

**APPROVED MEMBERSHIP
OF THE
LESC SCHOOL FINANCE WORK GROUP**

- **Office of the State Auditor:**
 - Steve Archibeque, Senior Audit Manager
 - Antonio Corrales, Chief of Staff
- **Legislature:**
 - Senator Cynthia Nava
 - Representative Jimmie C. Hall
 - Representative Rhonda S. King
- **NM School Boards Association:**
 - Ramon Montaña, President
 - Joe Guillen, Executive Director
- **School Board Members:**
 - Randy Manning, Central Consolidated Schools
 - David Robbins, Albuquerque Public Schools
- **NM Coalition of School Administrators:**
 - Tom Sullivan, Executive Director
- **Superintendents:**
 - Stan Rounds, Las Cruces Public Schools
 - Adan Delgado, Pojoaque Valley Public Schools
- **School District Business Officials:**
 - Don Moya, Chief Financial Officer, Albuquerque Public Schools
 - Steve Suggs, Chief Financial Officer, Gadsden Independent Schools
 - Sandra Heinsohn, Business Manager, Quemado Independent Schools
- **NM Coalition for Charter Schools:**
 - Michael Vigil, Chief Financial Officer
 - Rick Rios, Chief Performance Officer
- **Charter School Business Officials:**
 - Stan Albright, The Montessori Elementary School
 - Randy Freeman, Turquoise Trail Charter School
- **Independent auditor:**
 - Juan J. (J.J.) Griego, Griego Professional Services, LLC
- **Finance/fraud experts from universities and colleges:**
 - Richard Brody, Professor, Anderson School of Management, University of New Mexico
 - Norman Colter, Lecturer, Anderson School of Management, University of New Mexico

- **NM Association of School Business Officials:**
 - James Murdock, Associate Superintendent of Finance, Silver Consolidated Schools
- **Regional Education Cooperatives (RECs):**
 - Cathy Jones, REC IX
- **Public Education Department:**
 - Steve Burrell, Interim Deputy Secretary for Finance & Operations
 - Phil Baca, Program Manager, Professional Licensure Bureau
- **Governor's Office:**
 - Peter Winograd, Education Policy Advisor
- **Department of Finance & Administration:**
 - Scott Hughes, Director, Office of Education Accountability
 - Michael Marcelli, Executive Analyst, State Budget Division
- **Legislative Finance Committee staff:**
 - Rachel Gudgel, Public Education Analyst
- **Legislative Education Study Committee staff:**
 - Eilani Gerstner, Fiscal Analyst and work group coordinator
 - Craig J. Johnson, Fiscal Analyst