

LESC bill analyses are available on the New Mexico Legislature website ([www.nmlegis.gov](http://www.nmlegis.gov)). Bill analyses are prepared by LESC staff for standing education committees of the New Mexico Legislature. LESC does not assume any responsibility for the accuracy of these reports if they are used for other purposes.

**LEGISLATIVE EDUCATION STUDY COMMITTEE**  
**BILL ANALYSIS**  
**56th Legislature, 2nd Session, 2024**

<b>Bill Number</b>	<u>HB70</u>	<b>Sponsor</b>	<u>Duncan/Vincent/Hernandez</u>
<b>Tracking Number</b>	<u>.227109.2</u>	<b>Committee Referrals</b>	<u>HEC/HAFC</u>
<b>Short Title</b>	<u>School-Based Mental Health Counselors</u>		
<b>Analyst</b>	<u>Armatage</u>	<b>Original Date</b>	<u>1/30/2024</u>
		<b>Last Updated</b>	<u></u>

---

---

**BILL SUMMARY**

Synopsis of Bill

HB70 appropriates \$38 million from the general fund to the public school funding formula—the state equalization guarantee (SEG)—to provide school-based mental health counselors in public middle and high schools.

**FISCAL IMPACT**

The bill appropriates \$38 million from the general fund to the SEG distribution of the public school fund for expenditure in FY25. Any unexpended or unencumbered balance remaining at the end of FY25 shall revert to the general fund. The LFC and LESC budget recommendations for the SEG do not include appropriations for this purpose.

Since HB70 stipulates that the funds would be distributed through the SEG, funds would flow directly to school districts and charter schools. There are no provisions in the bill requiring reporting to PED on how funds are spent, prohibiting the department from ensuring the funds are spent on school mental health counselors. It is also unclear whether the appropriation is intended for new staff, to increase compensation for existing staff, or for some combination.

New Mexico does not have school counselor caseload requirements. However, according to the American School Counselor Association, a professional association for school counselors, 250 students per school counselor is a national best practice. To ensure average caseloads of 250 students are met for all middle school, junior high school, and high school students in New Mexico, an estimated 1,266 school counselors would be needed. To meet the national average caseload of 470 students for all middle school, junior high school, and high school students in the state, an estimated 637 school counselors would be needed.

According to available data from the Public Education Department (PED), New Mexico has 160 public middle and junior high schools and 241 public high schools. Simply ensuring each of these schools are equipped with a school counselor would require an estimated 401 counselors. However, this approach would result in significant variation in caseloads at schools.

Data detailing the number of school counselors employed at each public middle and high school was not available at the time of analysis, making it difficult to estimate how many additional counselors would need to be hired. However, according to the Operating Budget Management System (OBMS), the system PED uses to manage and coordinate the budgeting process, the state has 1,674 counselors, guidance counselors, psychologists, and social workers. The OBMS code used by the PED does not differentiate social workers from guidance counselors, nor psychologists from counselors.

However, it appears that the state may have sufficient counselors to employ one counselor at every middle school, junior high school, and high school without reducing the number of counselors at elementary schools. As OBMS does not provide the school district or charter school where these counselors are employed, there is likely great variation between schools with some schools struggling to hire the counselors they need. Furthermore, although the state may technically have enough counselors to staff each middle school, junior high school, and high school with a counselor, it's very unlikely there would be enough counselors to enable each school to meet caseload best practices.

With a \$38 million annual appropriation, the state could employ an estimated 410 additional counselors each year, based on an estimated average FY24 salary of \$72,500 plus estimated benefits. This salary estimate is based on salaries of counselors, guidance counselors, psychologists, and social workers.

## SUBSTANTIVE ISSUES

**School Counselors Impact Student Outcomes.** [School counselors](#) may provide a wide variety of school and student supports, including planning and implementing schoolwide counseling programs; delivering short-term counseling to students and referring them to long-term supports; helping students apply academic achievement strategies, emotional management tools, and postsecondary planning; and collaborating with families, teacher, and administrators to support student needs. A growing body of national [research](#) has found associations between implementation of counseling programs that follow best practices and positive student educational and behavioral outcomes, including reducing achievement gaps.

**Increased Need for Student Mental and Behavioral Health Services Following Covid-19.** The 2022 School Pulse Panel by the [National Center for Education Statistics](#) found 69 percent of public schools reported an increase in the percentage of their students seeking mental health services at school post-pandemic; three-quarters of schools reported an increase in staff concerns about student mental health; and only half of public schools felt they could provide mental health services to all students in need.

**School Mental Health Personnel Vacancies.** According to New Mexico State University's Southwest Outreach Academic Research Evaluation & Policy Center's 2023 New Mexico Educator Vacancy [Report](#), public schools in New Mexico saw estimated vacancies of 54 counselors, 19 school psychologists, and 30 emotional and behavioral support providers. School districts report difficulty recruiting and retaining school mental and behavioral health personnel. School districts would likely find it challenging to hire a mental health counselor for every public middle and high school.

**School Counselor Case Loads.** According to the American School Counselor Association, the ideal caseload for school counselors is 250 students per school counselor. New Mexico does not have case load requirements for public school counselors in statute or administrative code. However, administrative code requires school districts and charter schools to provide health services to students, including counseling (NMAC 6.12.6.7).

A 2021 [report](#) by the National Association for College Admission Counseling (NACAC), a professional association supporting professionals who help students transition from secondary to post-secondary school, found counselor caseloads vary widely across New Mexico school districts with some districts enjoying average caseloads of 250 or fewer students per counselor, while others average over 500 students per counselor. According to the report, some districts did not employ any counselors. New Mexico is not the only state with high school counselor caseloads. According to NACAC, the national average is 470 students per counselor, or nearly double the recommended ratio.

### **ADMINISTRATIVE IMPLICATIONS**

School districts and charter schools would need to determine how to best spend the funds, including whether to hire additional employees or increase compensation to improve retention or attract talent.

PED does not presently use funding codes in OBMS that allow for specific tracking of school mental health counselors or school counselors. This may need to be addressed to implement the requirements of HB70.

### **TECHNICAL ISSUES**

**Definition of “Mental Health Counselors.”** HB70 does not define “mental health counselors.” The School Personnel Act’s definition of “instructional support provider” includes—among other providers—school counselors, psychologists, marriage and family therapists, rehabilitation counselors, educational alcohol and drug abuse counselor, and substance abuse associates (Section 22-10A-2 NMSA 1978). As HB70 is currently written, it is unclear which of these providers would qualify as mental health counselors. Providing a definition for “mental health counselors” in HB70, including which public school personnel qualify, would be important for schools to determine how to allocate funding, and to predict the costs associated with enacting HB70. For example, would guidance counselors or school psychologists meet the bill’s requirements?

**Definition of “Middle School.”** While high school and junior high school are defined in statute, middle school is not. HB70 should include a definition of middle school or strike “middle” and replace it with “junior high.” It is also unclear whether community schools or K-12 institutions would be required to employ a mental health counselor.

### **SOURCES OF INFORMATION**

- LESC Files

AA/mca/js