



members on the budget adjustments and cannot take actions that would impair a collective bargaining agreement. School districts may keep any of these measures in place until the end of the school year and must report to PED the steps it has taken to avoid deficit spending.

The bill also includes an emergency clause and a temporary provision, applying the aforementioned exemptions to school districts for the remainder of the 2016-2017 school year.

## **FISCAL IMPLICATIONS**

The bill does not contain an appropriation. Provisions within the bill would allow all school districts during austere circumstances to utilize funds more efficiently. However, the risks of deficit spending would vary by each school district depending on available operational cash balances and projected expenditures. Unlike the current discretionary waiver provision in Section 22-1-10 NMSA 1978 that allows the PED secretary to provide temporary financial flexibility for school districts to meet decreased state support on a case-by-case basis, this bill waives all school districts in the event of a 2 percent decrease in the SEG or unit value.

## **SIGNIFICANT ISSUES**

Laws 2016 (2<sup>nd</sup> Special Session), Chapter 6 (Senate Bill 9) reduced FY17 SEG distributions by \$37.8 million, or 1.5 percent, for each school district and charter school by requiring the PED secretary to set the final FY17 unit value 1.5 percent lower than the preliminary unit value. Additionally, Laws 2017, Chapter 3 (Senate Bill 114) established an emergency school cash balance credit that would reduce FY17 SEG distributions by an estimated \$46.1 million, or 1.8 percent, to address fiscal solvency in FY17. Waiver provisions in this bill are applicable for all school districts for the remainder of the 2016-2017 school year.

Section 22-10A-20 NMSA 1978 establishes class loads for elementary schools teachers up to grade six and daily teaching load per teacher for grades seven through 12.

- Average class load for kindergarten teachers is 20 students.
  - Classes with 15 or more students are entitled to an educational assistant.
- Average class load for teachers in grades one through three is 22 students, averaged among the grades
  - Classes with 21 or more students are entitled to an educational assistant.
- Average class load for teachers in grades four through six is 24 students, averaged among the grades.
- Average daily teaching load for grades seven through 12 is 160 students.
  - A lower average daily teaching load is established for required English courses.

Section 22-2-8.1 NMSA 1978 requires school districts to provide a minimum of:

- 2.5 hours per day or 450 hours per year for half-day kindergarten programs;
- 5.5 hours per day or 990 hours per year for full-day kindergarten programs;
- 5.5 hours per day or 990 hours per year for grades one through six; and
- 6 hours per day or 1,080 hours per year for grades seven through 12.

If enacted, the primary benefit to school districts will be the waiver of individual class loads and teaching load requirements due to financial limitations. These waivers may allow school districts that are experiencing enrollment growth and budget shortfalls to maintain current staffing levels,

and avoid additional costs of hiring more teachers to meet requirements. LESC notes there is no oversight mechanism provided for in the bill, which could allow school districts to make decisions that negatively affect students.

## **RELATIONSHIP**

This bill relates to HB7 and SB114, which establish a school cash balance credit; HB42, which increases flexibility for instructional material purchases; HB47, which extends school bus replacement cycles; HB134, which increases school personnel minimum wages; HB160, which requires school districts to employ at least one full-time school nurse; HJR5, which prohibits enforcement of new school mandates without sufficient funding; SB35, which makes an appropriation to public schools; SB140, which provides high performing school districts additional flexibilities; SB170, which increases student walking distances to school; SB256, which increases the minimum instructional hours and days for students in kindergarten through sixth grade; SB290, which allows high-performing school districts to exercise the same waivers given to charter schools; SB329, which increases minimum salaries for teachers; SB332, which repeals SB114 and utilizes other funding sources to address FY17 solvency; and SJR14, which increases distributions from the permanent school fund to lengthen the school day and school year.

## **OTHER SUBSTANTIVE ISSUES**

Section 22-1-10 NMSA 1978 states, “The legislature finds that funding constraints require school districts to have financial flexibility to meet decreased state support. For the 2016-2017 through 2018-2019 school years, the [PED] secretary may waive requirements of the Public School Code and rules promulgated relating to individual class load, teaching load, length of school day, staffing patterns, subject areas, and purchases of instructional materials. The department shall monitor such waivers, and the secretary shall report to the legislative education study committee and the legislative finance committee on any issues or actions of a school district that appear to adversely affect student learning.” LESC notes identical provisions were in effect for school years between 2009 and 2014, and PED did not report any information regarding how waived provisions may have adversely affected student learning.

Section 22-8B-5 NMSA 1978 exempts all charter schools from requirements pertaining to individual class load, teaching load, length of school day, staffing patterns, subject areas, evaluation standards, principal duties, and driver education.

Laws 2016 (Second Special Session), Chapter 6 (Senate Bill 9), reduced FY17 public school categorical appropriations by \$30 million and gave PED discretion to allocate the \$30 million reduction across six appropriations. PED allocated the \$30 million reduction to the transportation and instructional materials appropriation. According to PED, school districts and charter schools were provided flexibility in determining how to allocate reductions among their transportation and instructional materials reductions; locally chartered charter schools saw the reduction to instructional materials allocations only because they do not receive transportation funds. Additionally, the Legislature appropriated \$12.5 million in supplemental severance tax bond proceeds from the public school capital outlay fund to the instructional material fund to offset reductions in FY17.

PED notes provisions of the bill prohibiting the impairment of any collective bargaining

agreement may not be necessary because school districts have the authority to cancel instructor contracts according to provisions in 6.66.2.8 NMAC and Section 22-10A-21 NMSA 1978. Local school boards have the authority to cancel contracts “when a reduction in personnel is required as a result of decreased enrollment or a decrease or revision of educational programs or insufficient legislative appropriation or authorization being made by the state and/or federal government for the performance of this contract.” School districts and charter schools engaging in collective bargaining generally extend this type of clause to other personnel contracts, and it is required statutorily to other contractual arrangements such as a lease purchase arrangement for a building.

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