

LFC Requester:	Sunny Liu
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**AGENCY BILL ANALYSIS
2017 REGULAR SESSION**

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SECTION I: GENERAL INFORMATION

{Indicate if analysis is on an original bill, amendment, substitute or a correction of a previous bill}

Check all that apply: **Date** February 4, 2017
Original **Amendment** **Bill No:** SB 290
Correction **Substitute**

Sponsor: Senator William P. Soules **Agency Code:** 924
Short Title: SCHOOL DISTRICT BUDGET FLEXIBILITY **Person Writing:** Aguilar/Craig
Phone: 505-827-6519 **Email:** Paulj.aguilar@state.nm.us

SECTION II: FISCAL IMPACT

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY17	FY18		
	None Noted		

(Parenthesis () Indicate Expenditure Decreases)

Conflicts with Section 22-2 NMSA 1978 and Article XII of the New Mexico Constitution

SECTION III: NARRATIVE

BILL SUMMARY

Synopsis:

SB 290 creates a new section of the Public School Finance Act to allow for local school boards to change: statutory minimums for individual class load, teaching loads, the length of school days or year, staffing patterns subject areas or purchases of instructional materials or other adjustments as required if the state equalization guarantee decreases by two percent or more or when the Secretary of public education decreases the unit value by two percent or more after school budgets have been approved. The local superintendent and school board must seek input

from employees, parents and community members on budget adjustments. The school district shall report to PED steps taken to avoid deficit spending when statutory minimums are restored.

FISCAL IMPLICATIONS

The fiscal implications of SB 290 are unclear. The language of SB 290 appears to indicate that school districts must take steps to avoid deficit spending. It is unclear if the language prohibits deficit spending by local school districts. As part of the Operating Budget approval process, and required financial reporting, the PED seeks to prohibit school district and charter school deficit spending. If the provisions of SB 290 are to be read that school districts will be allowed to create deficits, the requirements for Emergency Supplemental requirements when statutory minimums are reinstated may be increased by a large amount.

Similarly, language in SB 290 requires the local superintendent and school board to seek input from employees, parents and community members on budget adjustments. It is unclear if the language is referencing budget adjustments broadly speaking (i.e. adjustments to budget related to program elements), or specifically referencing budget adjustment requests (BAR's). Currently, PED has oversight and approval of BAR's. If school districts are to no longer report BAR's to PED and seek approval, the ability for PED to make assurances about the school district finances, including as sub-recipients of federal grants, is compromised. School districts should already be soliciting community input as a part of its budget development pursuant to 22-8-10 NMSA 1978.

SIGNIFICANT ISSUES

Many of the provisions of this bill may implicate the uniformity provisions and the powers of the Secretary provisions of Article XII of the New Mexico Constitution. The proposal to allow school boards to not adhere to provisions in law without state oversight when revenues are decreased is problematic. Existing waivers require Secretary approval prior to implementation. The increasing pattern of creating two sets of laws, one we use when financial conditions are positive, and one which we use when the financial environment is challenging, does not adhere to the spirit of creating a uniform system of education. It would also likely create confusion around, and require someone to arbitrate, which reports to PED need to be adhered to as there is likely to be significant disagreements between local school boards who want to retain local flexibility to not meet stricter statutory guidelines and PED that wishes to maintain oversight of school district operations to ensure it meets its statutory mission.

ADMINISTRATIVE IMPLICATIONS

In the absence of clear legislative direction regarding budget adjustment reporting and approval or submittal of required financial reports, PED would likely keep the current financial reporting and approval system in place.

OTHER SUBSTANTIVE ISSUES

There are multiple provisions in state law that allows the Secretary to grant waivers for statutory minimums related to solvency. For example, in the 2016 Legislative Session, the Legislature amended current law by instituting a temporary provision in 22-1-10 NMSA 1978 that allows waivers from the statutory requirements for individual class load, teaching load, and staffing patterns contained in 22-10A-20 NMSA 1978. The waiver for these requirements has been in

place since the 2009-2010 school year and currently is set to expire at the end of the 2018-2019 school year.

Charter schools have provisions pertaining to individual class load and teaching load waived by the Public Education Department (PED) according to the provisions of 22-8B-5 NMSA 1978. The portion of law creating class loads, Section 22-10A-20 NMSA 1978, also allows the Secretary to waive the individual school class load requirements for up to two years if a school demonstrates that no portable classrooms are available, no other available sources of funding exist to meet its need for additional classrooms, the school district is planning on alternatives to increase building capacity for implementation within one year, and the parents of all children affected have been notified in writing among other requirements.

Another example occurs in Section 22-2-2.1 NMSA 1978, which requires the Secretary to grant all reasonable requests to waive the individual class load requirements for all schools that exceed educational standards, within limits. 22-10A-14 NMSA 1978 allows the PED to issue a certificate of teaching waiver or assignment waiver if a local superintendent or governing authority of a state agency certifies to the PED that an emergency exists in the hiring of a qualified person.

It is unclear what added benefit is derived from amending statute to add yet another waiver from provisions in law, this time removing the PED's oversight or review from the waiver process and allowing school boards to preempt PED budgetary and program oversight. Creating a self-report mechanism that ensures that a school district isn't going into a deficit is not sufficient to prevent the condition from occurring.

ALTERNATIVES

The provisions of SB 290 appears to add to the multiple and varied ways in which the school districts are waived from class loads or other sections of law related to statutory minimums, or increase flexibilities related to budgeted expenditures. The Legislature should consider whether the original requirements for class loads or other statutory minimum requirements need to be removed instead of creating new waiver provisions during every economic downturn.

AMENDMENTS

The sponsor may wish to consider amending SB 290 to clarify exactly which required financial reporting the school district will be required to submit while the statutory minimums are not being followed. Additionally, the sponsor may wish to clarify whether or not a school district will be prohibited from deficit spending.