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FISCAL IMPACT REPORT

SPONSOR:	Townsend	DATE TYPED:	1-25-00	HB	46
SHORT TITLE:	Denial of Enrollment or Re-enrollment			SB	
				ANALYST:	Baca

APPROPRIATION

Appropriation Contained		Estimated Additional Impact		Recurring or Non-Rec	Fund Affected
FY00	FY01	FY00	FY01		
	NFI				

(Parenthesis () Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to

SOURCES OF INFORMATION

LFC Files

SUMMARY

Synopsis of Bill

House Bill 46 sets forth conditions under which local school boards may deny enrollment or re-enrollment.

Significant Issues

The bill amends 22-1-4, NMSA 1978 to provide that local boards shall adopt rules governing the denial of enrollment or re-enrollment in schools in the district and the school district's hearing and appeal process for such a denial. Denial of enrollment or re-enrollment is not mandated in the bill. The bill contains an emergency clause.

Grounds for denial of enrollment or re-enrollment shall be limited to:

- A student's expulsion from any school district within the preceding twelve months,
- A student's behavior in another school district during the preceding twelve months that is detrimental to the welfare or safety of other students or school personnel.

ADMINISTRATIVE IMPLICATIONS

None at the state level. Local school boards will be required to conduct the hearings necessary.

TECHNICAL ISSUES

See Other Substantive Issues section.

OTHER SUBSTANTIVE ISSUES

Issues raised by SDE's legal staff in the SDE's analysis are quoted in their entirety below:

"Subsection E.(5)(a) limits the grounds for denial of enrollment or re-enrollment to expulsion from any school district within the preceding twelve months. It does not address long-term suspension within the preceding twelve months.

Subsection E.(5) (b) limits the grounds for denial of enrollment or re-enrollment to student's behavior in another school district during the preceding twelve months that is detrimental to the welfare or safety of other students or school personnel. With respect to re-enrollment, this provision should also address behavior in the school district in which the student is attempting to re-enroll.

In Subsection E.(5)(b), consideration should be given to whether the term "detrimental" is specific enough to comport with the requirements of substantive due process which requires that legislative enactments not be overbroad. In this regard, for example, courts have upheld the discipline of students for out-of-school conduct having a direct and immediate effect on school discipline or the general safety and welfare of the school.

It should also be noted that State Board of Education Regulation 6 NMAC 1.4 provides extensive procedural due process requirements that must be followed by a local board before it suspends or expels a student."

LB/gm