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FISCAL IMPACT REPORT

ORIGINAL DATE 1/29/19
LAST UPDATED 3/1/19 **HB** 121

SPONSOR Roybal Caballero

SHORT TITLE Social Services as Basic Sufficient Education **SB** _____

ANALYST Liu

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY19	FY20	FY21	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total		See Fiscal Implications			Recurring	General Fund

(Parenthesis () Indicate Expenditure Decreases)

Relates to HB 250, SB 31, SB 48

SOURCES OF INFORMATION

LFC Files
 Legislative Education Study Committee (LESC) Files

Responses Received From

Public Education Department (PED)
 Regional Education Cooperatives (REC)
 Department of Health (DOH)
 Human Services Department (HSD)
 Indian Affairs Department (IAD)
 Board of Nursing (BN)
 Regulation and Licensing Department (RLD)

SUMMARY

Synopsis of Bill

House Bill 121 creates a new section in the Public School Code to establish nursing, school counseling, and behavioral health services as part of a basic sufficient education. The bill requires school districts and charter schools to develop annual plans to offer all students access to these services that are culturally and linguistically relevant to their student population. The bill further requires PED to develop rules, create monitoring processes, hire social service experts, provide technical assistance, and ensure funding is used to provide these services to all students.

FISCAL IMPLICATIONS

The bill does not make an appropriation; however, costs of providing social services would be borne by PED and schools. PED would likely need to identify qualified personnel or contract staff to review and monitor statewide social services and school plans. PED notes the bill does not appropriate funding to school districts and charter schools to support required social service plans, which may require public schools to hire additional personnel to comply with social service needs and reporting requirements. Schools that already have personnel or contractual services to meet provisions of this bill would not incur additional costs.

PED data shows about 438 FTE for registered nurses, 32 FTE for licensed practical nurses, 303 FTE for healthcare assistants, 114 FTE for school psychologists, 359 FTE for social workers, and 768 FTE for school counselors in FY18. About 329 thousand students attended New Mexico public schools in FY18, making the statewide:

- student-to-nurse FTE ratio about 700:1,
- student-to-psychologist FTE ratio about 2,886:1,
- student-to-social-worker FTE ratio about 916:1, and
- student-to-counselor FTE ratio about 428:1.

The bill does not establish the level of social service support needed but requires PED to review school districts' and charter schools' annual plans to estimate costs of providing nursing, school counseling, and behavioral health services to all students in the annual budget request. Costs of providing social services would depend on needs submitted by each local educational agency and rules promulgated by PED. Costs could be significant if PED establishes specific required student-to-social service personnel ratios. For example, if a 250:1 student-to-counselor ratio was strictly required (a national benchmark), approximately 548 new counselors would need to be hired statewide, which could cost about \$35 million based on average FY18 salaries and benefits.

The executive and LFC FY20 budget recommendations for public school support include \$113.2 million to increase funding for at-risk students, which could be used to pay for social workers, school counselors, nurses, and other behavioral health-related personnel. The LFC recommendation also includes \$1.5 million for school-based health centers.

SIGNIFICANT ISSUES

On July 20, 2018, the 1st Judicial District Court issued an initial decision and order on the consolidated *Yazzie v. New Mexico* and *Martinez v. New Mexico* education sufficiency lawsuits, which found New Mexico's public education system failed to provide a sufficient education for at-risk, English language learner (ELL), Native American, and special education students. On December 20, 2018, the court issued its final findings and conclusions of law in the consolidated lawsuits. In both the initial decision and final findings, the court cited evidence highlighting areas where funding levels, financing methods, and department oversight were deficient. However, the court stopped short of prescribing specific remedies and deferred decisions on how to achieve education sufficiency to the legislative and executive branch instead.

The court ruling on the *Yazzie* and *Martinez* case found the state failed to provide sufficient resources for counselors, social workers, and other non-instructional staff that all students, especially at-risk students, need to succeed. Testimony from the case indicated most districts eliminated counselors, nurses, and social workers or reduced service time during budget cuts.

Some schools prioritized social workers to serve high needs students, reducing services to the general student population that did not have individualized education programs (IEP). Others did not provide these services at all. The court acknowledged that high-performing schools have strong-non academic supports, including counseling, social workers, nurses, and health clinics within schools. The court also acknowledged testimony that recommended a student to counselor ratio of 250:1.

The National Association of School Nurses recommends 1 school nurse for every 750 students in a healthy student population. In the case of students who may require daily nursing services, this ratio is reduced to 1 nurse for every 225 students. DOH notes out of 89 New Mexico school districts, 16 have less than a 1 FTE school nurse, and many have no nurse at all. The school districts with only a part-time or no nurse are small, rural districts where it is often difficult to recruit nurses and there is limited access to other sources of health care. DOH and PED reported the student-to-nurse ratios around the following New Mexico regions in FY17:

- Northeast: 558:1
- Northwest: 980:1
- Metro (Central): 688:1
- Southeast: 584:1
- Southwest: 552:1
- Statewide: 656:1

DOH notes the national benchmark is 8.64 registered nurse per 1,000 population. Assuming no redistribution of the current workforce, an additional 3,361 registered nurses would enable New Mexico to meet the national benchmark in all counties. Thirty-two of New Mexico's 33 counties are designated by the Health Resources and Services Administration as mental health professional shortages areas. Shortages in nursing and behavioral health professionals may impact districts' ability to hire and retain health staff. Forty-four schools run by the Bureau of Indian Education (BIE) face similar challenges in provision of school health services.

The following section includes statistics reported by DOH and PED for FY17:

About 150.4 thousand students, or 47 percent of the student population, had an identified medical diagnosis. This total included:

- 6,131 students with a mental health diagnosis,
- 483 students with a pregnancy diagnosis (28 thousand student visits were related to reproductive health counseling, 966 of which were referred for additional services), and
- 993 students with a diabetes diagnosis (Type 1: 771, Type II: 222).

The top four diagnoses were related to allergic disorders, asthma, eye disorders, and ADD/ADHD.

About 6,862 students required a medically complex procedure. Asthma and diabetes care accounted for 78 percent of the medically complex procedures. The remaining 22 percent of medically complex procedures were additional procedures, which are often time intensive and may require one-on-one nursing care. Additional procedures increased by 12 percent from FY16.

School health offices received nearly 2 million visits, with the top three reasons relating to acute illness (34 percent), chronic conditions (25 percent), and injury (19 percent). About 62.2 thousand students were referred to outside providers for follow-up care.

Over 28.9 thousand students had prescription medications available for administration at school. The top three prescription medications available were asthma medications (52 percent), epinephrine (14 percent), and allergy medications (9 percent). School nurses administered 7,172 emergency medications.

Over 274 thousand students were screened for hearing, vision, special education, substance abuse, and depression. Of those screened for depression, 70.7 percent were referred to outside providers for evaluation and treatment. Statewide, school nurses developed more than 17 thousand individualized health care plans, emergency care plans, and Section 504 plans and attended 9,330 IEP, student assistance team, and Section 504 meetings.

IAD notes in 2004, the New Mexico Legislature passed Senate Memorial 79, requesting the New Mexico Behavioral Health Planning Council, in partnership with the Local Collaborative Alliance, to convene a task force made up of behavioral health resource providers and stakeholders to increase collaboration towards shared goals of connecting communities and behavioral health outcomes. The local collaborative alliance, made up of 17 local collaboratives (LCs), support the active participation at the community level to ensure appropriate cultural services, support collaboration in community efforts for development of services, and provide communication across communities and governmental agencies. IAD notes the community level input from tribal LCs towards the development of social services programming in schools should be an established part of the bill.

ADMINISTRATIVE IMPLICATIONS

PED notes the bill would require extensive planning, preparation, training, reviewing, and monitoring for the required social service plans. PED would also be required to evaluate and ensure districts and charter schools are allocating adequate funding towards the social service plan requirements and developing plans that are culturally and linguistically relevant. The bill would involve multiple personnel with areas of expertise and multiple divisions of PED to collaborate on the review of approximately 140 (89 districts plus current state charters) social service plans each year. The coordination of this unfunded effort may be complex and time intensive. DOH maintains clinical oversight of school health services and notes the department would have increased oversight and rule promulgation responsibilities.

The bill states that social service plans must include “a description of the challenges the school district or charter school experiences in providing nursing, school counseling and behavioral health services” to their student population. PED notes the bill does not provide explicit consequences for school districts or charters that submit noncompliant social service plans.

HSD notes workforce shortages of licensed behavioral health professionals may create challenges in providing access to school counseling and behavioral health services that are culturally and linguistically relevant in all school districts and charter schools. The Behavioral

Health Services Division would collaborate with PED on initiatives to address behavioral health workforce shortages.

RELATIONSHIP

This bill relates to House Bill 250, which requires PED to conduct a Native American student needs assessment each year; Senate Bill 31, which requires social workers in all high-poverty schools; and Senate Bill 48, which establishes requirements for student diabetes management.

OTHER SUBSTANTIVE ISSUES

PED notes the Center for Disease Control and Prevention's (CDC) Whole School, Whole Community, Whole Child model promotes the concept of having school health services and counseling, psychological and social services available to students. Current state rules and regulations support this as well. NMAC 6.29.1.11 requires school districts and charter schools to provide "health education, physical education, health services, and school counseling." Furthermore, additional programming addressed in NMAC 6.29.1.11 may include, "nutrition, staff wellness, family-school-community partnerships, healthy environment and psychological services." CDC notes 95 percent of youth, age 5-17, spend at least six hours a day in school, making schools uniquely positioned to support physical and behavioral health needs for students

DOH notes research and experience show that access to school-based mental health services is linked to students' improved physical and psychological safety, academic performance, and social-emotional learning, and that such access reduces costly negative outcomes such as risky behaviors, disciplinary incidents, delinquency, dropout, substance abuse, and involvement with the criminal justice system.

BN notes the bill requires PED to promulgate rules on nursing, which could conflict with the Nursing Practice Act if the department acts without consulting with the Board of Nursing. Additionally, the cost to retain social services staff may be cost prohibitive for some areas of the state.

REC notes requiring school districts and charter schools to have nursing, school counseling, and behavioral health services could have a positive impact on many children in school. However, without additional funding, the provisions of this bill become an unfunded mandate.

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