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## FISCAL IMPACT REPORT

ORIGINAL DATE 2/17/07  
 LAST UPDATED 3/14/07      HB \_\_\_\_\_

SPONSOR Nava

SHORT TITLE School Insurance Due Process Reimbursement      SB 1095/aSEC/aSFC

ANALYST Propst

### APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Non-Rec	Fund Affected
FY07	FY08		
\$1,300.0	NFI	Recurring	General Fund

(Parenthesis ( ) Indicate Expenditure Decreases)

### ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY07	FY08	FY09	3 Year Total Cost	Recurring or Non-Rec	Fund Affected
<b>Total</b>	\$1,300.0	\$1,300.0	\$1,300.0	\$3,900.0	Recurring	General Fund

(Parenthesis ( ) Indicate Expenditure Decreases)

### SOURCES OF INFORMATION

LFC Files

#### Responses Received From

Public School Insurance Authority (PSIA)

Public Education Department (PED)

Higher Education Department (HED)

### SUMMARY

#### Synopsis of SFC Amendment

The amendment removes limits of \$40.0 per claim and \$120.0 per district on due process reimbursements under the Individuals with Disabilities Education Improvement Act contained in the original bill. It strikes the appropriation of \$1,300.0 and makes the effective date of the act July 1, 2008.

Finally the amendment adds the following sections:

“The authority shall include due process reimbursement in its self-insured retention risk pool. Each year, the legislature shall authorize the board to collect the due process reimbursement

premium from school districts and charter schools to cover the cost of due process reimbursement. From the authorization, the board shall allocate due process reimbursement premiums based on a school district's or charter school's claims experience and other criteria determined by the board. A single due process reimbursement shall not exceed three hundred thousand dollars.”

#### Synopsis of SEC Amendment

PSIA notes that unlike the original bill which required PSIA to provide IDEA reimbursement coverage to Albuquerque Public Schools (APS) even though APD does not participate in PSIA, the amendment removes this requirement to include APS.

The Senate Education Committee amendment also changes the coverage amounts from the originally proposed uniform \$40.0 per occurrence and \$120.0 per district per year. The amendment sets a sliding scale reimbursement based on the number of special education students at each district. The reimbursement schedule will be determined by the PSIA Board annually. The range of reimbursement is a minimum of \$20.0 for schools with small populations of special education students to a maximum of \$300.0 for districts with larger populations.

#### Synopsis of Original Bill

Senate Bill 1095 amends the Public School Insurance Authority Act to require coverage for Individuals with Disabilities Improvement Act's (IDEA) due process hearing expenses incurred by all school districts and all charter schools. Even though Albuquerque Public Schools is prohibited from participating in PSIA, SB 1095 extends IDEA coverage to APS as well.

Coverage is on a reimbursement basis and will be limited to \$40.0 per occurrence and \$120.0 per district per year. Coverage is limited to attorney's fees, hearing officer's fees and other reasonable expenses related to the due process hearing.

SB 1095 contains an appropriation of \$1,300.0 to cover the anticipated cost of this coverage in FY07.

#### **FISCAL IMPLICATIONS**

The appropriation of \$1,300.0 contained in this bill is a recurring expense to the General Fund. Any unexpended or unencumbered balance remaining at the end of FY08 shall revert to the General Fund.

The appropriation of \$1,300.0 is expected to cover the initial cost of this increase in benefit levels. Future costs will be collected from the schools via the PSIA Risk premium assessed to school districts and charter schools.

#### **SIGNIFICANT ISSUES**

PSIA reports that interim testimony has been given regarding the need to include this coverage for school districts. This coverage traditionally has been offered by PSIA even though it is not a mandatory offering.

In a report dated December 12, 2005, the Public Education Department reported to the LESC the

results of its survey of due process costs experienced by the districts. For the school year previous to the survey, total due process hearing (DPH) costs for all districts reporting were \$1,245.9. During the three years surveyed, total DPH costs per year ranged from \$270.0 for Albuquerque Public Schools to \$479 for Chama Valley Independent Schools. Twenty-two districts reported experiencing DPH costs but only eight reported experiencing DPH costs each year of the three-year survey period.

PED notes that since the bill reimburses for costs related to due process hearings conducted pursuant to IDEA, it does not appear that costs associated with appeals to district court from due process decisions would be covered by the reimbursement provisions of this bill.

### **PERFORMANCE IMPLICATIONS**

PSIA currently provides \$20.0 coverage per claim, \$80.0 aggregate per year. An increase in these limits will not increase the workload, merely the premium necessary to absorb the expanded coverage limits.

### **TECHNICAL ISSUES**

The complete title of the IDEA is the “Individuals with Disabilities Education Improvement Act of 2004.” See Section 1 of P.L. 108-446. The bill omits the “of 2004” in referring to IDEA.

### **POSSIBLE AMENDMENTS**

Suggest the following on page two, line twelve, (\$120.0) per district per year (including any charter schools within the boundaries of any district); and provided further that,

Suggest the following on page two, line 15, “districts except for those districts granted a waiver pursuant to Section 22-2-6.9 NMSA 1978”.

WEP/nt