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## FISCAL IMPACT REPORT

ORIGINAL DATE 02/24/09

SPONSOR HEC LAST UPDATED \_\_\_\_\_ HB 199/HECS

SHORT TITLE School District & Training Center Agreements SB \_\_\_\_\_

ANALYST Aguilar

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

	FY09	FY10	FY11	3 Year Total Cost	Recurring or Non-Rec	Fund Affected
<b>Total</b>		Indeterminate, Could be Substantial	Indeterminate, Could be Substantial	Indeterminate, Could be Substantial		

(Parenthesis ( ) Indicate Expenditure Decreases)

Relates to HB331

### SOURCES OF INFORMATION

LFC Files

#### Responses Received From

Public Education Department (PED)

Office of Educational Accountability (OEA)

Division of Vocational Rehabilitation (DVR)

### SUMMARY

#### Synopsis of HEC Substitute

The House Education Committee Substitute for House Bill 199 clarifies who is responsible for children with disabilities placed in private residential treatment centers (RTCs) in New Mexico.

The committee substitute provides for PED to participate in the development of agreements between school districts and private training centers and residential treatment programs; further requiring the PED to assign a student identification number for students attending training centers and residential treatment programs and requiring training centers and residential treatment programs to provide reasonable physical space and for educational programming.

### FISCAL IMPLICATIONS

No specific appropriations are contained in the bill; however, a number of department operational expenditures are indicated to carry out the provisions of the bill. Further, the implications for changes in distributions from the State Equalization Guarantee Distribution resulting from changes in responsibility could be significant, particularly for small schools.

PED notes there could also be a cost to all districts statewide for updating data systems to become compatible with having to report residential treatment center students into their membership report.

There may be cost incurred for the districts and the department conducting on-site evaluations of programs and student progress.

HB 199 requires Children, Youth and Families Department (CYFD) funded residential treatment programs to “provide adequate physical space for a school district to provide the required free appropriate public education.” The cost of providing this space, if not available, could be substantial and would vary by location and the particular needs of the student population being served.

### **SIGNIFICANT ISSUES**

A survey conducted by LESC during the interim found that primarily the Wagon Mound Public Schools have been providing state and federal funds for 82 out-of-state students who were residing in a private RTC, Valmora High School, and who were included in the student membership of the school district even though the district was not providing any educational services to those students.

CS/HB199 clarifies the financial responsibility for providing special education and related services to children with disabilities when the child is placed by a parent, a school district, a court or a due process decision into a private, nonsectarian, nonprofit educational training center (TC) or a residential treatment center (RTC).

- A school district in which a TC or RTC is located shall not be considered the resident school district of the school-age person in need of special education if residency is based solely on enrollment in the facility.
- When placement in a TC or RTC is made through a school district or through a due process decision, the school district in which the student or school-age person lives, whether in-state or out-of-state, is responsible for the educational, non-medical and room and board costs.
- When placement is made by a parent who assumes the responsibility for the placement, the Public Education Department (PED) must ensure that the school district in which the facility is located is allocating and distributing that school-age person’s proportionate share of the federal Individuals with Disabilities Education Act – Part B funds.
- For placements by a New Mexico public non-educational agency with custody or control of the qualified student or school-age person or by a New Mexico court of competent jurisdiction, the school district in which the facility is located is responsible for the planning and delivery of special education and related services, unless the qualified student’s or school-age person’s resident school district has an agreement with the facility to provide the services.

- Except as provided in Subsection D, PED is responsible for determining which school district is responsible for the costs of educating a qualified student who has been placed in a TC or an RTC outside the student’s resident school district, as well as the reasonable reimbursement owed to the receiving school district.
- A local school board, in consultation with the PED, may make an agreement with a TC or RTC for educating special education students for whom the district is responsible for providing a free appropriate public education under the federal Individuals with Disabilities Education Act.
  - The agreements must ensure that all special education students placed in a TC or RTC receive the education to which they are entitled under federal and state laws.
  - The agreements must provide for evaluation, eligibility, an educational program that meets state standards (except that teachers employed by private schools are not required to be highly qualified), special education and related services in conformance with an individualized education program that meets the requirements of federal and state law, and adequate classroom and other physical space provided at the TC or RTC that allows the school district to provide an appropriate education.
  - The agreements must allow the local school board and PED to conduct on-site evaluations to ensure education is meeting state standards.
  - The district responsible for the costs of educating the student will count the student in the district’s special education enrollment.
  - The bill also requires the PED to adopt reporting formats, and mandates that every public and private TC and every public and private RTC comply with the reporting requirements.

The committee substitute provides for the Secretary of Children, Youth and Families to include in the minimum standards for the residential treatment program a requirement that the program include adequate physical space for a school district to provide the required free appropriate education.

The Division of Vocational Rehabilitation reports that A Memorandum of Understanding currently exists which outlines functions and responsibilities for the PED and the DVR to ensure appropriate transition services are provided to eligible students under IDEA. The DVR has a vocational rehabilitation counselor assigned to every high school receiving state support for the purpose of facilitating transition services for eligible students with disabilities. Further, the DVR has staffed a Statewide School to Work Transition Coordinator whose role is to coordinate statewide compliance with transition services, provide technical assistance relevant to transition services for students with disabilities and disseminate information to entities which may not have a VR counselor assigned such as private treatment centers or residential treatment programs.