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FISCAL IMPACT REPORT

SPONSOR	<u>Stewart</u>	ORIGINAL DATE	<u>1/27/17</u>	HB	
		LAST UPDATED	<u>3/13/17</u>		<u>148/aSJC/aSFC/</u>
SHORT TITLE	<u>Student Diabetes Management Act</u>	SB			<u>aHHHC</u>
		ANALYST			<u>Chilton/Chabot</u>

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY17	FY18	FY19	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total		TBD			Recurring	School Equalization Guarantee

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From

Department of Health (DOH)

New Mexico Medical Board (MB)

SUMMARY

Synopsis of House Health and Human Services Committee Amendment to Senate Bill 148

The HHHC amendment makes several small changes to the bill:

- Two, not three, diabetes care personnel would need to be identified in each school with a child with diabetes,
- Health care practitioners with expertise in diabetes would be allowed to participate in training of diabetes care personnel whether or not the school had a school nurse, and
- The amendment removes the authority for a lawsuit against school districts, leaving authority for making an administrative complaint in case a parent or child felt the school's obligations under the act were not being met.

Synopsis of Senate Finance Committee Amendment to Senate Bill 148

The amendment changes the definition of "school" to require students attend in person and states school personnel acting as a result of the activities authorized by the Student Diabetes Management Act are not subject to discipline if acting as an ordinarily reasonable prudent person would have acted under the same or similar circumstances.

Synopsis of Senate Judiciary Committee Amendment to Senate Bill 148

The amendment changes language in the bill in a number of ways to specify the following:

- Specifies in the definition section that “school” refers to one attended by a child with diabetes,
- Removes the provision in the section about recruiting volunteer diabetes care persons that refers to immunity from prosecution,
- Clarifies that a diabetes care person must be present at activities “in which a student with diabetes is a participant, and makes a similar change regarding school buses,
- Entirely removes the section on freedom from civil liability, and
- Removes the provision that students with diabetes and their parents/guardians would be entitled to attorney fees and costs if they brought suit against Public Education Department, a school board or school governing body.

Synopsis of Original Bill

Senate Bill 148 would establish several provisions aimed at safeguarding the well-being of the growing number of children with diabetes in schools.

In the bill’s first section, a number of terms are defined. “Diabetes”, importantly, is defined as including both type I diabetes and type II diabetes. Type I diabetes, formerly known as “juvenile diabetes” is the less common and more immediately dangerous. Type II diabetes, once known as “adult-onset diabetes,” has become much more common in adults and is being increasingly recognized in children and adolescents, concomitantly with (and probably caused by) the increase in childhood, adolescent and adult obesity.

The bill would mandate that the Department of Health and the Public Education Department work with the New Mexico School Nurses Association and the Juvenile Diabetes Research Foundation to assemble a training program for school personnel in diabetes care to be certain that knowledgeable staff would be constantly available to students with diabetes, especially in the recognition and management of emergencies. The bill specifies a number of components to be included in the training program. A minimum of three school employees would be trained in each school attended by any student with diabetes of either type. The bill specifies recruitment techniques for schools that might have difficulty achieving three volunteers, including assurance that they would be protected from liability as noted below. Annual training would be provided, especially in emergency care and the recognition of the effects of high and low blood glucose levels.

Another provision of the bill mandates that each student would have a diabetes medical management plan, which would be the responsibility of the parent or guardian and the child’s medical provider. The school nurse and/or the trained school employees would be responsible for implementation of the plan to assure the child’s safety, and at least one of these would be present during the school day and on all transportation to school or field trips or at other offsite excursions.

School districts would not be permitted to assign a student with diabetes to a school other than the one to which he would go otherwise on the basis of lack of a school nurse or of personnel trained in the prescribed manner.

Schools would not be permitted to pressure parents to provide diabetes care at school, but would allow students with diabetes to participate in their own care (including measurement of blood glucose and injection of insulin) on the written request of the parent or guardian. This could be done in any area of the school, but also in a private area if that were requested.

Those carrying out the provisions of the act would be given immunity from liability if acting in a reasonably prudent manner.

School districts would be required to report on the number of children with diabetes being served and the district's compliance with aspects of the act.

FISCAL IMPLICATIONS

The bill does not make an appropriation. Costs for training materials development and implementation of trainings would be borne by school districts and/or the DOH or the PED. It is likely that physicians could be induced to volunteer their time in these efforts.

DOH comments that the Office of School and Adolescent Health's "State School Nurse Consultant, School Health Officer, and Regional School Health Advocates all play an important role in the clinical oversight of school nursing. Some or all of these individuals may be asked to help promulgate the rules, or help implement the training to be developed."

SIGNIFICANT ISSUES

DOH catalogues the many complications that can occur in children with diabetes, especially in children whose diabetes is poorly managed. Many of these complications are delayed or avoided if the diabetes is well-controlled.

MB comments that "Many schools do not have on-site school nurses, and those which have may not always be able to give early intervention when a diabetic child begins to get into difficulty with blood sugars that are either too high (hyperglycemia) or too low (hypoglycemia). There are several successful plans in effect around the U.S.A. that use school personnel (non-medical-practitioners) to be able to recognize signs of trouble (notably hyperglycemia and hypoglycemia). SB148 proposes an excellent training program for specific personnel to recognize early-onset diabetic problems and to act appropriately in immediately evaluating the child and rendering specific therapeutic help. The protocols for such evaluation and treatment are carefully taught, and in that process there is participation of parents, primary care practitioners, and school nurses (when they are available in a particular school). Early efforts in New Mexico have already proven to be very successful."

DUPLICATION and possible minimal conflict with New Mexico Administrative Code 6.12.8, which gives schoolchildren the right to carry and use diabetes supplies and medication, subject to certain requirements.

TECHNICAL ISSUES

DOH notes that the definition of diabetes (page 1, line 20) should not include prediabetes.

Glucagon (an injectable medication that quickly treats low blood sugar to avoid complications) is not given by the insulin delivery system (page 4, line 7).

Section 4, subsection B (page 7, lines 21 ff.) indicates that a school nurse or trained diabetes care personnel member be available to provide care during “extended offsite excursions and extracurricular activities and on buses where the bus driver is not a diabetes care personnel member.” The word “extended” is not defined and this provision may limit the ability of children with diabetes to participate in such activities as sports away from campus.

ALTERNATIVES

DOH suggests that “Recruiting volunteers to serve as diabetes management personnel may be difficult for school administrators to ensure. An alternative may be to identify the school staff that will interact with the student on a regular basis and train them as part of the student’s individualized health care plan.

“Thirty-two of New Mexico’s thirty-three counties are designated, in whole or in part, as health care professional shortage areas. Shortages of healthcare personnel available to each school or school district would affect the implementation of this bill.”

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

Schoolchildren would continue to be at increased risk from complications of diabetes experienced at school or during school activities.

LAC/jle/al/sb/jle