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FISCAL IMPACT REPORT

ORIGINAL DATE 2/21/19

SPONSOR Lopez LAST UPDATED _____ HB _____

SHORT TITLE Public Education Dept. Special Needs Division SB 612

ANALYST Liu

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY19	FY20	FY21	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Funding Formula	\$95,973.4			\$95,973.4	Recurring	General Fund
Salary Differential	\$0.0 - \$22,133.8			\$0.0 - \$22,133.8	Recurring	General Fund
Department Operations	\$31.2 - \$1,608.0			\$31.2 - \$1,608.0	Recurring	General Fund
Total	\$96,004.6 - \$119,787.2			\$96,004.6 - \$119,787.2	Recurring	General Fund

(Parenthesis () Indicate Expenditure Decreases)

Relates to HB 5, HB 243, HB 454, HB 532, HB 591, HB 615, SB 1, SB 398, SB 467, SB 611

SOURCES OF INFORMATION

LFC Files
Legislative Education Study Committee (LESC) Files

Responses Received From

Higher Education Department (HED)
Human Services Department (HSD)
Children, Youth and Families Department (CYFD)

No Responses Received From

Public Education Department (PED)

SUMMARY

Synopsis of Bill

Senate Bill 612 amends the Public School Code to establish a special education division at PED, create an assistant secretary of special education position at the department, increase the formula weights for special education students in the public school funding formula, create a salary differential for special education teachers, and add definitions for terms relating to special education.

FISCAL IMPLICATIONS

The bill does not make an appropriation nor set an effective date. If enacted, the fiscal impacts of the bill would occur in FY19 and be borne by schools and PED. The bill changes the special education weights in the public school funding formula as follows:

- Class A and B (minimal and moderate) special education programs from 0.7 to 1.03,
- Class C (extensive) special education programs from 1 to 1.33,
- Class D (maximum) special education programs from 2 to 2.33,
- Developmentally disabled 3- and 4-year old children programs from 2 to 2.33, and
- Related ancillary services providers for special education from 25 to instructional support providers at 25.33.

Increasing the funding formula weights would generate over 23 thousand additional program units, valued at \$96 million based on the preliminary FY19 unit value of \$4,159.23. Without an appropriation to offset the increase in new units, the unit value would decrease for all students and the share of total funding would shift to students in special education programs.

The bill requires the PED special education division to develop a framework for providing a higher salary differential to special education teachers similar to National Board-certified teachers. The funding formula includes a component to award National Board-certified teachers about \$6,000 in additional compensation (1.5 units). Assuming a similar special education teacher component is included in the formula or PED requires schools to pay special education teachers a \$6,000 bonus, the estimated costs of providing 3,548 special education teachers (based on FY19 FTE data) the bonus pay could be up to \$22 million.

The bill establishes a PED special education division and assistant secretary for special education with specified duties and responsibilities. PED currently has a federal special education bureau with 19 FTE. As such, costs for just providing one assistant secretary or establishing a separate state division for special education to meet requirements of the bill would range between \$31.2 thousand to \$1.6 million.

In FY12, the U.S. Department of Education (USDE) notified PED that New Mexico failed to meet the special education maintenance of effort (MOE) provision of Part B of IDEA in FY10 and FY11 and was facing potential reductions to federal IDEA-B funding as a result. In FY19, PED indicated the state was meeting special education MOE requirements due to year-over-year increases in formula funding for public schools. The MOE provision of IDEA-B requires states to maintain state-level financial support of special education as a condition of continued receipt of federal IDEA-B funds and effectively prohibits states from supplanting state revenues appropriated for special education students with federal IDEA-B dollars.

SIGNIFICANT ISSUES

Provisions of this bill would provide definitions for dyslexia, exceptional students, gifted students, response to intervention, special education, student assistance team, and students with disabilities. The bill clarifies that special education programs are provided by licensed teachers and instructional support providers, requires both school districts and charter schools to provide special education and related services, and limits state funding only for PED-approved gifted programs that meet established criteria.

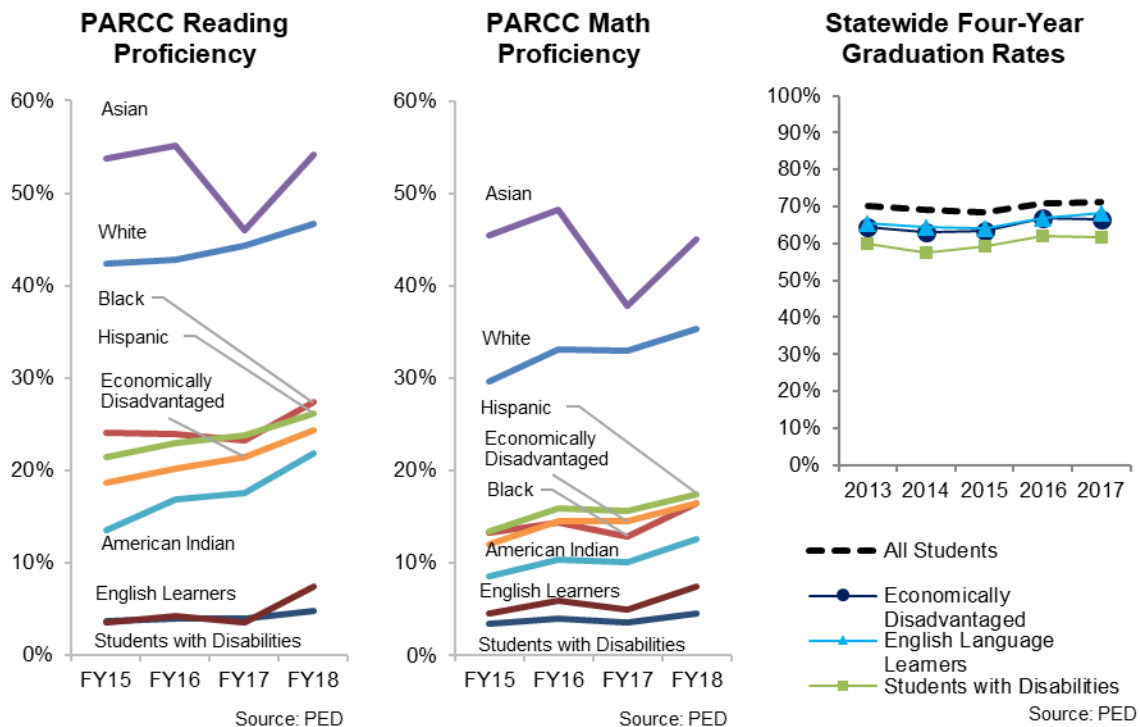
The bill would create a special education division and assistant secretary of special education. The division would be required to provide assistance for schools to implement and improve special education programs; recruit and retain highly-qualified special education teachers; monitor programs to ensure students are receiving adequate services; provide support and resources to ensure schools provide culturally and linguistically responsive instruction; help schools identify placement and treatment options for students with severe behavior needs; monitor the number of special education students with disciplinary issues that could lead to prison; monitor individualized education plans (IEP) and the manifestation process; advocate for full funding of school counselors and student assistance teams for each school; and collaborate with multiple entities to develop and maintain a statewide autism spectrum registry. The bill also recompiles all provisions into the Special Education Act.

HED notes the 2008 New Hampshire legislature approved a regulation that established and implemented a statewide autism registry that requires healthcare providers to record all new autism diagnoses. The registry data has been used to plan services for children and adults in the state.

The assistant secretary for special education would be required to direct and advise upon the activities of the division; coordinate with HED for prekindergarten through postsecondary special education alignment of services; coordinate with other divisions within PED; and provide staff with appropriate professional development.

PERFORMANCE IMPLICATIONS

Students with special needs or disabilities have shown slight improvements in performance on reading and math standards-based assessments and four-year graduation rates in recent years; however, their performance remains consistently lower than all other reported student subgroups.



ADMINISTRATIVE IMPLICATIONS

The bill creates a Special Education Division and assistant secretary for special education to:

- Advise PED on special education policy;
- Coordinate transition of special education students from preschool to post-secondary programs, employment, or vocational placement;
- Coordinate with HED, CYFD, University of New Mexico, HSD, and Department of Health to develop a statewide autism spectrum registry;
- Provide professional development on special education;
- Provide schools with resources on how to supporting special education students;
- Seek funds to implement culturally relevant support services for special education students;
- Recruit and retain highly qualified special education teachers and support providers;
- Monitor special education programs at schools;
- Help schools find placement and treatment options for students; and
- Develop a framework for certifying special education teachers so they may receive higher salary differentials.

Without an appropriation, PED would need to reorganize the current special education bureau and other divisions to support required duties outlined in this bill.

RELATIONSHIP

This bill relates to House Bill 5 and Senate Bill 1, which require reporting on services for special education students; House Bill 243, which requires schools to provide appropriate instruction to students with hearing impairments; House Bill 454, which establishes requirements for gifted education; House Bill 532, which appropriates funds to foster friendships for students with disabilities; House Bill 591, which requires PED to integrate mental, social, and emotional health strategies and standards; House Bill 615, which requires school personnel to receive mental health needs training; Senate Bill 398, which provides for dyslexic student interventions; Senate Bill 467, which provides protections to students with needs accused of sanctioned offenses; and Senate Bill 611, which appropriates funds for special needs professional development.

TECHNICAL ISSUES

The bill requires the Special Education Division to develop a state framework similar to National Board-certification for special education teachers to receive a salary differential. The bill requires these teachers to be “counted in the teaching and experience index the same as national board-certified teachers and shall receive the salary differential provided to national board-certified teachers pursuant to Section 22-8-23.4 NMSA 1978.” The reference to a ‘teaching and experience index’ is unclear, given no such index exists; however, this may refer to the “instructional staff training and experience index” in Section 22-8-24 NMSA 1978. However, this index is separate and unrelated to the salary differential provided to national board-certified teachers pursuant to Section 22-8-23.4 NMSA 1978. LESC notes the instructional staff training and experience index only includes degrees earned and years of experience, not content area specialization. The sponsor may wish to create a separate factor for special education teachers independent of the instructional staff training and experience index and national board

certification.

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