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FISCAL IMPACT REPORT

SPONSOR Padilla **ORIGINAL DATE** 1/25/2020
LAST UPDATED 1/28/2020 **HB** _____

SHORT TITLE Increase Salaries for Special Ed Teachers **SB** 13

ANALYST Liu

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY20	FY21	FY22	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total	\$1,018.8	\$23,809.7		\$24,828.5	Recurring	General Fund

(Parenthesis () Indicate Expenditure Decreases)

Relates to SB96

SOURCES OF INFORMATION

LFC Files

Responses Received From

- Public Education Department (PED)
- Children, Youth and Families Department (CYFD)
- Public School Insurance Authority (NMPSIA)
- Educational Retirement Board (ERB)
- New Mexico School for the Blind and Visually Impaired (NMSBVI)

SUMMARY

Synopsis of Bill

Senate Bill 13 increases the minimum salary level for level 1, 2, and 3-A teachers by 15 percent if the teacher is licensed by PED in special education and provides special education services. There is no effective date of this bill. It is assumed that the effective date is 90 days following adjournment of the Legislature.

FISCAL IMPLICATIONS

The bill does not contain an appropriation. As such, costs to comply with higher salary minimums would result in additional recurring operating budget impacts to public schools employing special education teachers that provide special education services. Provisions of this bill would effectively increase the minimum salary level for eligible special education teachers to:

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- Level 1 from \$40 thousand to \$46 thousand,
- Level 2 from \$50 thousand to \$57.5 thousand, and
- Level 3-A from \$60 thousand to \$69 thousand.

Preliminary public school budgets show 3,719 teachers returning in FY20 that are assigned to special education and gifted special education programs. Approximately 3,319 teachers report salaries below the minimum level established by this bill. The estimated costs to bring these teachers to the new 15 percent pay level is \$20 million. Provisions of the bill apply the pay differential to special education teachers in K-5 Plus programs in FY20, as such, public schools may incur \$826.6 thousand of this cost in the last month of FY20 to be in compliance.

Between FY17 and FY19, PED licensure data included over 4,600 teachers each year with special education endorsements. The discrepancy in the number of teachers budgeted for special education programs and the number of special education-endorsed licensees is likely due to schools employing special education-endorsed teachers that are not assigned to special education programs. Assuming 1,300 teachers with special education endorsements could potentially be assigned to a special education program, the estimated cost of the new minimums could increase up to an additional \$10.4 million in FY21.

CYFD reports the provisions of this bill would result in a \$66 thousand recurring operating budget impact to the Juvenile Justice Services division for the department’s special education teachers. NMSBVI reports the cost to raise teacher salaries would be \$38.8 thousand in FY21.

Altogether, the total 3-year fiscal impact of raising teacher salaries could be \$24.8 million, assuming \$826.6 thousand cost in FY20 and \$20 million cost in FY21 multiplied by a 23.3 percent fringe benefit rate. The LFC analysis only estimates the costs of providing increased pay for teachers and does not include potential additional costs from agency or public school decisions to increase salaries for other related services personnel. This cost does not include potential savings from the 3 percent salary increase for all teachers – a proposal within the LFC’s FY21 budget recommendation.

PED estimates total remaining costs of the bill would be approximately \$14.5 million for FY21, after applying a 4 percent salary increase for all teachers – a proposal within the executive’s FY21 budget recommendation. PED’s estimates also assume all level 1 minimum salaries are amended to \$41 thousand, effectively increasing the minimum salary level for eligible special education teachers to \$47.2 thousand. The following chart illustrates PED’s cost estimate:

Add'l Comp. Sp. Ed. Teacher Salaries after 4% raise - FTE Weighted Est. Cost Model

Proposed Percentage Salary Increase	4.0%	1.04
Level 1	\$47,150	\$1,790,466
Level 2	\$57,500	\$7,152,877
Level 3	\$69,000	\$2,783,180
Other Licensed Staff (costed at Level 1)		\$1,283,581
Subtotal		\$11,726,523
Benefits	23.64%	\$2,772,150
Total Cost		\$14,498,673

Source: STARS Certified FY20 40th Day Data

The maintenance of effort (MOE) provision of part B of the federal Individuals with Disabilities Education Act (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. Providing a pay increase for special education teachers would increase the MOE requirement each year.

Providing a significant increase in educator salaries will likely have a positive impact on the funded status of ERB over the long-term. Once pay is increased, the pension benefit promised to individuals will increase significantly, thus increasing the unfunded liability. However, over time the increased contributions from higher salaries will be invested, and the assumed return on those investments will begin to reduce the unfunded liability, gradually providing a net gain to the fund.

SIGNIFICANT ISSUES

On February 14, 2019, the 1st Judicial District Court issued a final judgment and order on the consolidated *Martinez v. New Mexico* and *Yazzie v. New Mexico* education sufficiency lawsuits, and found that New Mexico's public education system failed to provide a constitutionally sufficient education for at-risk, ELL, Native American, and special education students. The court's findings suggested overall public school funding levels, financing methods, and PED oversight were deficient. As such, the court enjoined the state to provide sufficient resources, including instructional materials, properly trained staff, and curricular offerings, necessary for providing the opportunity for a sufficient education for all at-risk students. Additionally, the court noted the state would need a system of accountability to measure whether the programs and services actually provided the opportunity for a sound basic education and to assure that local districts spent funds provided in a way that efficiently and effectively met the needs of at-risk students.

PED notes the court order found New Mexico failed its constitutional duty to at-risk students, including students with disabilities, many of whom will spend some time in special education. The court noted a strong relationship between the health of general education programs and the success of at-risk students, including special education students. The judge drew special attention to salary levels as a means to better retention of more experienced and higher quality teachers. Special education teachers have already been the beneficiary of the same recent salary increases as their general education counterparts. Since 2018, minimum teacher salaries have increased:

- From \$30 thousand to \$40 thousand for level 1 teachers,
- From \$40 thousand to \$50 thousand for level 2 teachers, and
- From \$50 thousand to \$60 thousand for level 3-A teachers.

According to the National Center for Education Statistics, during the 2015-2016 school year, approximately 6.7 million public school students between the ages of three and 21 years received special education services, or about 13.2 percent of public school students. However, 46 states, including New Mexico, continue to report shortages of special education teachers as of the 2017-2018 school year.

According to PED, New Mexico has struggled to recruit and retain effective teachers, with teacher salary levels consistently noted as an important factor in hiring and retention. While as a

general matter, teacher salaries have been raised in the recent legislative sessions in an effort to increase New Mexico's available pool of teachers, no particular efforts have been undertaken to address the salaries of special education teachers.

Generally, special education teachers make slightly more than their general education counterparts do. According to the Bureau of Labor Statistics, in 2018, the average salary for an elementary special education teacher was \$59.4 thousand, for middle school special education teachers the average was \$60.3 thousand, and for secondary school it was \$60.6 thousand. An average salary of a general education teacher of the same grade level was \$58 thousand, \$58.6 thousand, and \$60.3 thousand, respectively.

While, in general, special education teachers make more than their general education peers, their higher salary does not appear to be more than a couple of percentage points' difference. Notably, the Education Week Resource Center indicates, however, only 6 percent of teachers noted salary levels as a reason they planned to leave the field. For most special education teachers, the more important factor affecting retention was perception of colleague support. It is possible, therefore, a smaller increase in pay for special education teachers may yield the same benefit to retention as the full 15 percent increase over general education teacher salaries.

Between 2014 and 2018, about 25 percent of New Mexico teachers left their school district each year. This teacher turnover rate was compounded by declining enrollment in New Mexico's traditional educator preparation programs (EPP). Between FY10 and FY18, in-state EPP enrollment decreased by 5,078 students, or 74 percent. With a shrinking pool of candidates nationally, public schools will have additional difficulties filling teaching positions each year.

PED has not published an educator accountability report to track teacher supply trends as required by statute since 2015. In response, New Mexico State University's Southwest Outreach Academic Research (SOAR) Lab began publishing reports on statewide teacher vacancy rates. According to SOAR's 2019 report, there were 1,054 school personnel vacancies in New Mexico school districts as of September 23, 2019, including 644 teacher vacancies. The report noted a 13 percent decline in teacher vacancies (given 740 vacancies in 2018) and indicated the largest vacancy areas included elementary (173), special education (151), and bilingual (66) teachers. SOAR's report also noted 1,094 students enrolled and 746 students completed EPPs in FY19, a decrease of 47 enrollees and 97 completers from the prior year, suggesting the pool of in-state teacher candidates has not improved from the current trend.

PERFORMANCE IMPLICATIONS

The LFC and executive budget recommendations for public school support include new performance measures on certified teacher vacancies. Increasing special education teacher pay may reduce vacancies and improve recruitment for special education teachers.

ADMINISTRATIVE IMPLICATIONS

PED's budget review process will need to include certification of higher minimum salary levels for special education teachers in special education programs. The department may need additional staff or oversight mechanisms to audit and verify whether teachers are assigned to special education programs and receiving additional pay.

RELATIONSHIP

This bill relates to Senate Bill 96, which creates additional online school budget reporting requirements.

OTHER SUBSTANTIVE ISSUES

Provisions of the federal Individuals with Disabilities Education Act (IDEA-B) allow the U.S. Secretary of Education to grant a waiver to a state that does not meet annual MOE requirements based on (1) a showing of precipitous declines in financial resources and exceptional and uncontrollable financial circumstances, or (2) clear and convincing evidence that all children with disabilities have available to them a free appropriate public education. To date, the U.S. Department of Education has not acted on previous allegations that New Mexico failed to meet MOE requirements in prior years.

ALTERNATIVES

The LFC FY21 budget recommendation for public school support includes \$16.4 million to create a new factor in the public school funding formula. The new factor will generate 0.75 program units (\$3,424.06) for each full-time teacher with special education endorsement who is teaching special education students in FY21.

POSSIBLE QUESTIONS

The bill requires the teacher to be licensed in special education and “provide special education services.” According to PED, the exact meaning of “provide special education services” is unclear and may benefit from a definition. Is a special education-licensed instructor entitled to the full annual increase if they only provide such services for a very limited time within the school year or school day, or to only one or two students?

SL/sb