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FISCAL IMPACT REPORT

ORIGINAL DATE 2/13/09
 SPONSOR Harden LAST UPDATED 2/26/09 HB _____
 SHORT TITLE Study Autism & Services To Children SJM 11/aSRC/aSEC
 ANALYST Wilson

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY09	FY10	FY11	3 Year Total Cost	Recurring or Non-Rec	Fund Affected
Total		\$46,476 See Below			Non- Recurring	General Fund

(Parenthesis () Indicate Expenditure Decreases)
 Relates to: SB34, SB39, SB43, SB53, SB207, and HB 155

SOURCES OF INFORMATION

LFC Files

Responses Received From

Department of Health (DOH)
 Higher Education Commission (HED)
 Public Education Department (PED)

SUMMARY

Synopsis of SEC Amendment

The Senate Education Committee amendment to SJM 11 adds the Special Education and Communication Disorders Department at New Mexico State University as an agency that PED must work with to develop the plan required by this memorial. This amendment appears to add the same requirement that the SRC amendment does, but to a different part of the memorial.

The Senate Education Committee report does not provide a page number.

Synopsis of SRC Amendment

The Senate Rules Committee amendment to SJM 11 adds the Special Education and Communication Disorders Department at New Mexico State University as an agency that PED must work with to develop the plan required by this memorial.

Synopsis of Original Bill

Senate Joint Memorial 11 requests that the New Mexico Public Education Department (PED) study autism spectrum disorders to determine how to provide best practice services to all

children with autism in public schools through the use of highly qualified New Mexico autism specialists. Public schools would then work to development and implement individualized education plans for all students with an autism spectrum disorder statewide.

SJM11 also requests that PED develop a plan to work collaboratively and cooperatively with other state agencies, groups and stakeholders in order to develop and implement appropriate systems of care for all students with autism spectrum disorder. Agencies and stakeholders include:

- Department of Health
- Human Services Department
- Children, Youth and Families Department
- Autism Task Force
- New Mexico Developmental Disabilities Planning Council
- Behavioral Health Planning Council of New Mexico
- New Mexico Autism Society
- University of New Mexico Center for Development and Disability

Upon approval, copies of this memorial shall be transmitted to the secretaries and representatives of all aforementioned agencies and stakeholders.

FISCAL IMPLICATIONS

In order to complete a study of this scale, the PED states that would need to hire a contractor to organize the study group, develop the written plan and to monitor the plan. The Individuals with Disabilities Education Act (IDEA) administrative budget is at the maximum amount allowed under federal law, so the contracted position would need to be paid for out of the general fund. The estimated cost for the PED to implement the memorial is as follows:

Contractor Salary = \$25.50/hr x 1040 hours =	\$26,520.00
Benefits = \$26,520.00 x .30% =	\$ 7,956.00
New Computer =	\$ 1,500.00
Office Space	\$ 4,000.00
Supplies	\$ 1,500.00
Employee/Stakeholder Travel	<u>\$ 5,000.00</u>
Total cost to PED =	\$46,476.00

Supplies and travel were slightly increased because SJM 11 requires the PED to transmit written copies of the plan to various state agencies. In addition, SJM 11 requires stakeholders to participate in the planning. SJM 11, is unfunded which means there is no budget for travel and per diem of stakeholders that are not state agencies. Since the SJM 11 does not include an appropriation, any recommendations that require the PED or any other state agency to take action set forth by the stakeholder group will not be funded.

DOH has also indicated that they will need additional staff.

SIGNIFICANT ISSUES

The Individuals with Disabilities Education Act (IDEA) at 34 CFR § 300. 8 (c)(1)(i) defines autism as a developmental disability significantly affecting verbal and non-verbal communication and social interaction, generally evident before age three, that adversely affects a child’s educational performance. The following statistics from New Mexico show the number of students ages 3 – 5 receiving special education supports and services during FFY 2005, FFY 2006, and FFY 2007. This information is reported to the U.S. Department of Education. The students reported in the table below have a primary disability of autism. In some circumstances, autism is a secondary disability for students who autism; through the students’ Individualized Education Program (IEP), they are considered to have a developmental disability and are reported to the state as such.

Table One – Trend Data – Number of Preschool Students reported with Autism

School Year	Student Ages	# Students with Autism	# All Students aged 3-5 with Disabilities	% Disabilities with Autism
2005-06	Ages 3-5	96	6,441	1.49%
2006-07	Ages 3-5	116	6,300	1.84%
2007-08	Ages 3-5	139	6,337	2.19%

The number of three, four and five-year-old students with autism with an Individualized Education Program (IEP) receiving special education and related services in preschool has increased over the past three years. Table one above provides trend data on the number and percentage of the students enrolled in preschool qualified for special education and related services under IDEA in the autism disability category during the past three years. Data is only collected on students with disabilities enrolled in preschool settings. The comparison is between the number of all students with disabilities and the number of students with autism. There is not comparison to typically developing peers who do not have disabilities under the IDEA.

The following trend data shows that the number of students aged 6-21 enrolled in New Mexico public schools with autism as a primary disability has increased. This data was extracted from

Table Two Trend Data – Number of Students aged 6 – 21 reported with Autism

School Year	Student Ages	# of students with Autism	% Disabilities with Autism
2005-2006	6-21	494	1.13%
2006-2007	6-21	612	1.47%
2007-2008	6-21	763	1.9%

The U.S. Department of Education provides a comparison of children aged three through five served under IDEA, Part B, as a percentage of the population, by disability category. The percentage is calculated by dividing the number of children aged three through five served under IDEA, Part B, by the number of children aged three through five in the population, multiplied by 100. Table three below provides New Mexico and national percentages of children aged three through five identified with autism.

Table Three – Number of New Mexico Preschool students with Autism compared to National Percentages

School Year	New Mexico Percentage	National Percentage
2005-2006	0.12	0.25
2006-2007	0.14	0.29
2007-2008	0.17	0.32

Table four below provides the same comparison data for students aged 6 through 21.

Table Four - Number of New Mexico students aged 6 – 21 with autism compared to National percentages

School Year	New Mexico Percentage	National Percentage
2005-2006	0.11	0.29
2006-2007	0.13	0.34
2007-2008	0.17	0.39

Both of the above tables only include students with autism as their primary disability.

Page 2, lines 10 – 13 indicates that a best practice for teaching students with autism is a minimum of 25 hours per week through active engagement. Although this may be a best practice, in accordance with the IDEA the term individualized education program or IEP means a written statement for each child with a disability that is developed, reviewed, and revised in a meeting in accordance federal statutes. The IEP must be designed to meet the unique needs of students. Every student’s IEP is different.

Page 2 lines 13 and 19-20 discuss active engagement as early as possible and the need for specialized training for school personnel. Since 2005, the PED has been working with Dr. Andrew Egel, an autism expert from the University of Maryland. In addition to providing annual training for special education directors in the area of autism spectrum disorder, Dr. Egel is working directly on-site with district and school personnel and parents in the following school districts: Santa Fe, Farmington, Espanola, Bloomfield, Grants, Gallup, Las Cruces, and Deming. Dr. Egel is assisting district personnel in developing support teams for school staff, building capacity and working with parents.

For the past several years, the PED has funded programs for the University of New Mexico Center for Development and Disability. Each year, the PED has increased the budget. For the 2008 – 2009, the PED has provided the following IDEA funds:

- Project Specialized Early Teaching (SET) - \$148,300. Project SET is a training and technical assistance program at the University of New Mexico Health Sciences Center, Center for Development and Disability. The project was established to address the needs of families and young children with autism spectrum disorder.
- Autism Diagnostic Observation Schedule (ADOS) - \$150,000. Provide training for school personnel on how to assess student’s with autism. The program provides school district with ongoing technical assistance and support.
- Early Childhood Evaluation Program (ECEP) - \$150,000. Provide evaluations of students birth – five years old.

DOH provided the following:

Services for school age children with autism are currently fragmented and scattered among a variety of different state agencies as follows:

- Early Intervention for children birth to three is provided through the DOH’s Family Infant Toddler Program
- Ancillary and special education services are provided to eligible school age students (3 through 22 years of age) through the public schools
- Speech, occupational and physical therapy for children who are Medicaid recipients and who meet medical necessity criteria for these services provided through Medicaid
- Children with Autistic Spectrum Disorder (ASD) who participate in the Medicaid Developmental Disabilities Waiver may receive additional services such as behavioral support consultation services. These same children who choose the Mi Via Self-Directed Waiver have additional service options
- DOH state general fund appropriations to Department of Health also support services to children with ASD as follows:
 - \$377,000 through a contract with the Center for Development and Disability (CDD) at the University of New Mexico provides for 100 families of children five and younger, per year, to participate in an intensive 10 week course that teaches parents how to provide interventions to their children.
 - \$1,850,000 for Adaptive Skill Building services for 80 children with ASD ages 5 to 18.
 - \$150,000 for Behavioral and Recreational Respite for children with ASD.

Eligibility criteria vary somewhat between the above programs, as do the qualifications required of service providers.

It is believed that most children with ASD in New Mexico to participate in one or more of the above services. However, very few children in New Mexico receive the type and intensity of services recommended in the 2001 report by the National Research Council Educating Children with Autism.

SJM 11 does not mention New Mexico State University (NMSU) as one of the listed stakeholders despite the fact that they have funding in FY09 to provide outreach services to children with autism.

ADMINISTRATIVE IMPLICATIONS

The PED will need to add an additional ½ FTE from the general fund to meet the requirements of SJM 11.

DOH will need to assign staff to participate in the study and plan development. Given the due date of September 30, 2009 to develop a plan and report on that plan and the complexity of the issues to be addressed, meetings will likely need to occur at least monthly with individual and/or small group efforts in-between meetings. Depending upon plan content, the implementation of the plan will likely also result in additional workload for existing DOH staff.

RELATIONSHIP

SJM 11 relates to:

- SB34 requiring that the Human Service Department (HSD) apply to the federal government for a Medicaid Waiver for children up to age five diagnosed with ASD.

- SB39 mandates private insurance policies cover occupational therapy, speech therapy, physical therapy and applied behavioral analysis services for children with ASD up to age nineteen, or to age twenty-two if the child is still in high school. SB39 caps such benefits at \$36,000 per year and \$200,000 over a lifetime.
- SB43 appropriates \$200,000 to DOH to develop and implement a voluntary statewide registry for individuals with ASD. Children participating in services through SB34, SB39/HB155, SB53 and/or SB207, should one or more of those bill pass, should be offered the opportunity to be “counted” through the SB43 registry if it also passes. Children with autism serviced through the public schools should also be given the opportunity to register.
- SB53 appropriates \$250,000 for fiscal year 2010 to New Mexico State University to support the speech-language pathology and special education extension outreach project for children with ASD.
- HB155 is similar to SB39 except that it limits the mandate to children under age 18 and has a higher annual cap of \$50,000 per year and no mention of a lifetime cap.

TECHNICAL ISSUES

Page three, line five should read individualized education program instead of individualized education plan.

DW/mc:mt