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FISCAL IMPACT REPORT

ORIGINAL DATE 03/14/13

SPONSOR Miera LAST UPDATED _____ HJM 49

SHORT TITLE Special Education Funding Task Force SB _____

ANALYST Chavez

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY13	FY14	FY15	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total		Unknown				

(Parenthesis () Indicate Expenditure Decreases)

Duplicates, Relates to, Conflicts with, Companion to HB 628

Relates to Appropriation in the General Appropriation Act

SOURCES OF INFORMATION

LFC Files

SUMMARY

Synopsis of Bill

House Joint Memorial 49 (HJM 49) requests the New Mexico Legislative Council Service appoint an Individuals with Disabilities Education Act Maintenance of Effort (MOE) task force to study issues related to special education and MOE requirements, including an understanding of shortfall amounts, if any. Furthermore, the task force should identify sources of funding to replace the reduction of federal funds if no waiver is forthcoming and explore other methods of showing funds made available by the state.

The task force should include members of the Finance and Education committees, local district administrative personnel, the Secretary of Public Education or the Secretary's designee, and other persons knowledgeable in school finance.

The task force is asked to prepare its findings and recommendations no later than November 15, 2013 and submit its report to the New Mexico Legislative Council Service, the Legislative Finance Committee, the Legislative Education Study Committee, and the Public Education Department (PED).

SIGNIFICANT ISSUES

The MOE requirements under the federal Individuals with Disabilities Education Act (IDEA-B), 34 CFR §0300.163(a), states "a state must not reduce the amount of state financial support for special education and related services for children with disabilities, or otherwise made available because of the excess costs of educating those children, below the amount of that support for the preceding fiscal year."

A failure of a state to meet the required MOE triggers a reduction of the IDEA-B allocation in the following year equal to the amount of the shortfall unless a state requests a waiver of MOE effort requirements for "exceptional or uncontrollable circumstances such as ... a precipitous and unforeseen decline in the financial resources of the State", which waiver can be granted for one year.

According to HJM 49, although the PED has requested the federal U.S. Department of Education to reconsider its preliminary decision to deny the maintenance of effort waiver requests for fiscal years 2010 and 2011, the state has not yet received a response to the PED's request for reconsideration of the waivers. Other methods of making funds available for special education MOE that would meet federal law, as well as possible options for readjusting the base amount for which the state is held accountable, should be explored.

KC/svb:blm