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FISCAL IMPACT REPORT

SPONSOR <u>HEC</u>	LAST UPDATED _____
	ORIGINAL DATE <u>3/7/23</u>
SHORT TITLE <u>Office of Special Education</u>	BILL <u>CS/House Bill</u>
	NUMBER <u>285/HECS</u>
	ANALYST <u>Helms</u>

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT*

(dollars in thousands)

	FY23	FY24	FY25	2 Year Total Cost	Recurring or Nonrecurring	Fund Affected
		\$500.0 - \$800.0	\$500.0 - \$800.0	\$1,000.0 - \$1,600.0	Recurring	Public Education Department Operating Budget

Parentheses () indicate expenditure decreases.
 *Amounts reflect most recent analysis of this legislation.

Sources of Information

LFC Files

- Responses Regarding the Original Bill Received From
- Public Education Department (PED)
- Early Childhood Education and Care Department (ECECD)
- New Mexico School for the Blind and Visually Impaired (NMSBVI)
- New Mexico School for the Deaf (NMSD)
- New Mexico Developmental Disabilities Council (NMDDC)

SUMMARY

Synopsis of HEC Substitute for House Bill 285

The House Education Committee Substitute for House Bill 285 (HB285/HECS) amends several sections of the Public School Code to specify reporting or services for students with disabilities and additionally establishes the Special Education Act to create an office of special education at the Public Education Department (PED), in addition to the 11 other statutorily required bureaus and divisions.

PED would be tasked with coordinating with the office of special education in evaluating compliance with the federal Individuals with Disabilities Education Improvement Act (IDEA) of 2004, monitoring spending of state and federal funds for programs relating to students with disabilities including state equalization guarantee (SEG) distributions and Medicaid, developing an annual state plan for improving special education outcomes, and submitting a yearly report to the governor and Legislative Education Study Committee. The Office of Special Education would also be required by July 1, 2024 to study options for salary differentials and other supports

for educators and school staff supporting students with disabilities.

HB285/HECS amends reporting requirements related to special education, accountability required by the proposed Office of Special Education, and provisions concerning dyslexia screenings.

The effective date of this bill is July 1, 2023. On July 1, 2024, any budget or personnel of the existing Special Education Division within PED would transfer to the Office of Special Education.

FISCAL IMPLICATIONS

HB285/HECS does not contain an appropriation.

The HAFCC Substitute for House Bill 2(HB2/HAFCCS) includes a \$2 million appropriation from the public education reform fund for special education supports, including training and credentials. Additionally, funds for students with disabilities are supplied directly to schools via the state equalization guarantee (SEG), totaling \$604 million in FY23. SEG funds are calculated at multipliers to correspond to varying levels of student needs for students who have an individualized education plan (IEP) and for full-time-equivalent certified or licensed staff providing services to special education students. Student-based funding is scaled based on intensity of a student's disability. Federal IDEA funding for students with IEPs will also distribute \$103 million to public schools in New Mexico.

Currently, PED's operating budget includes 24 FTE in their existing Special Education Division. These existing positions include a director and deputy director, a dedicated data supervisor, coordinators across IDEA and prekindergarten, parental coordinators, and curriculum and standards supports. As HB285/HECS would transition budget and personnel in the Special Education Division to the newly created Office of Special Education, any additional costs for HB285/HECS and creation of an Office of Special Education would be related to administrative changes, creating additional FTE, or, eventually, establishing new programs or initiatives for special education. HB285/HECS transfers prekindergarten special education to ECECD, which might impact responsibilities of at least two FTE positions. However, given the additional supports for special education included in HB285/HECS – including increasing data services, detailed professional development, requirements for training to all schools boards and nearly all school personnel, and requirements to develop professional pathways in concert with post-secondary institutions and other agencies – and given current gaps in performance for special education students and service coordination, LFC analysis estimates at least five additional full-time personnel at a cost of at least \$500 thousand and up to \$800 thousand to the department would be required to satisfy the provisions in the bill. More specialized positions might require higher salary costs.

Districts, charters, and individual schools may also see additional administrative costs should the Office of Special Education require additional reporting, which is likely given stringent requirements for reporting on details of student demographics and outcomes, and program details and evaluations, required in the Office of Special Education's annual report to the governor and LESC. While additional reporting requirements may be beneficial to the proposed Office of Special Education and to understanding outcomes for special education students, as noted by PED in other analysis on administrative costs to schools, smaller schools and districts with smaller administrative teams may see the greatest burden of additional reporting requirements;

LFC analysis notes smaller districts may need technical assistance or support to hire additional help in tracking data or providing detailed reports not already required by PED.

For state schools serving exclusively special education students, namely New Mexico School for the Deaf (NMSD) and New Mexico School for the Blind and Visually Impaired (NMSBVI), HB285 could have less immediate impacts on operating costs. Agency analysis notes:

The bill mentions researching SPED compensation trends in other states and making compensation recommendations, which could impact our budget, as we are a 100 percent SPED school.

SIGNIFICANT ISSUES

HB285/HECS expands delineated for responsibilities within the Public Education Department and proposed Office of Special Education to special education student outcomes, to preparing school staff at all levels to be prepared to meet numerous needs of special education students, and to carefully track and monitor student outcomes and state and federal spending.

Section 1 of HB285/HECS establishes the creation of an Office of Special Education.

Section 2 of the bill notes Sections 2 through 7 would be known as the “Special Education Act.”

Section 3 defines several terms in the act including director, highly mobile students, office, and school district.

Section 4 delineates the duties of the new office in coordination with PED to include:

- An annual state plan for improving special education student outcomes;
- An annual report submitted to the governor and LESC including
 - demographics,
 - student outcomes,
 - federal and state spending broken down by district and school,
 - types of services and evaluations of said services and programs,
 - transitions,
 - any use of restraint or seclusion,
 - any suspensions or expulsions, and
 - any other data as determined by the department or office;
- Evaluation of compliance with IDEA or other state law related to special education, and
- Monitoring state and federal funding for special education including SEG and Medicaid.

Section 5 further notes the Office of Special Education would oversee and enforce the federal IDEA of 2004, would ensure state special education rules meet the needs of students with disabilities including highly mobile students, would develop policy and guidance, and would coordinate with other state agencies including post-secondary institutions to prioritize and expand special education services “cradle to career.” Additionally, the Office of Special Education would develop professional development, coordinate with post-secondary institutions on training for licenses related to working with students with disabilities, ensure evaluation of all children with disabilities beginning at 33 months of age, and provide training to all school boards and all other school administrators and staff related to many subjects for special education students including de-escalation methods and effective communication with parents.

Section 6 notes by July 1, 2024, the Office of Special Education and PED would develop salary differential recommendations for educators and staff involved with special education.

Section 7 transfers the 619 coordinator position to ECECD.

Section 8 makes an amendment to annual operating budgets and educational plans submitted by districts and charters, noting they will need to include a breakdown of program cost generated for services to students with disabilities “by service level classification.”

Section 9 specifies special education and related services will be provided to those students “with disabilities, gifted students, and gifted students with disabilities.”

Section 10 amends the definition to students with disabilities to be consistent with the IDEA of 2004 and further defines “multi-layered systems of support.”

Section 11 amends supports to students with dyslexia, adding that results of the dyslexia screenings must be provided to parents of first-grade students within 30 days of the screening.

Finally, **Section 12** notes that PED’s current Special Education Division will transition budget and personnel to the Office of Special Education by July 1, 2024.

The Public Education Department currently has a Special Education Division with 22 filled FTE positions and two vacant positions. In creating an Office of Special Education, HB285/HECS would significantly expand the scope and administrative ties of the Special Education Division, hire a director, coordinate with ECECD to move prekindergarten special education oversight fully to ECECD, providing special education professional development and technical assistance to schools and school personnel, and an emphasis on collecting and reporting specific special education data. While not an immediate change within HB285/HECS, the bill notes PED and school districts would be required to determine recommendations for increased salaries for special education teachers and staff.

New Mexico shows performance gaps across most aspects of education, which includes special education. Within New Mexico and compared to students without IEPs, special education students demonstrate lower proficiencies in reading and math, and lower graduation rates. It can also be difficult to track if SEG funds flowing to schools and districts for special education personnel and student supports are used to their best or highest impact with the state’s 50,600 special education students who have IEPs. As noted in ECECD and PED analysis, the Office of Special Education’s creation could be an opportunity to renew emphasis on special education, could strengthen coordination from prekindergarten to graduation, and could allow for more targeted attention to critical needs in special education in the state of New Mexico.

However, LFC analysis notes it is not clear if a new office will correct performance gaps in special education or if performance gaps in education could be more directly addressed within, or with some expansion of, existing administrative structures.

NMSBVI notes:

NMSBVI works well with the current Special Ed Bureau, NMPED, and the RECs and we

have many partnerships throughout the state. NMSBVI supports many of the initiatives in this bill including looking at SPED compensation trends, partnering with agencies, ensuring proper fund expenditures, etc. NMSBVI is concerned about possible unanticipated consequences of this bill, which may include lack of consistency in a governor appointed position within the department (the director) and any other unforeseen consequences related to the Special Schools.

Similarly, analysis from NMSD notes

As a State Special School that primarily serves Special Education students, the New Mexico School for the Deaf has a strong working relationship with the Special Education Bureau of the NM Public Education Department. This connection to the Public Education Department is integral for us as for many students, we provide a general education curriculum within a Special Education setting in accordance to the laws of the IDEA. Special Education laws are especially complex and requires a level of consistency in staffing and leadership that may be put at risk if the leadership is appointed by the Governor and subject to change during election years.

The NMSD is supportive of many of the concepts presented in the legislation including but not limited to a proposal of the salary differential for special education teachers, the study of program costs, and data collection studies. We understand that there is a need for increased oversight to ensure that state special education funding goes directly to support special education students, and this could be calculated under a system similar to the Excess Cost system that is utilized by the Federal Government. It is unclear why this could not happen under the current Special Education Bureau with appropriate staff and funding. This Bureau already reports to the Public Education Department Cabinet Secretary selected by the Governor. The aforementioned proposed concepts could support NMSD as we continue with our efforts to support all Deaf/Hard of Hearing children in the state.

Provisions in HB285/HECS could address needs in data collection and technical assistance to support needed resources for personnel in school special education programs. Developmental Disabilities Council analysis notes:

The Special Education Ombud’s first annual report was submitted on December 1, 2022, to the Legislative Education Study Committee and Executive leadership. The report identified multiple ongoing issues in the education system affecting students with disabilities, including lack of behavior support resources and training for school personnel and inadequate data collection for both individual students and across systems. The report confirmed many of the concerns and priorities identified by the Transformation Team.

ADMINISTRATIVE IMPLICATIONS

PED would be required to navigate the transitions to create the Office of Special Education, to develop sufficient monitoring for additional training and reporting requirements, and to approve or adopt any rules, standards, or guidelines developed by the Office of Special Education.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

LFC and LESC analysis note a relationship with Senate Bill 387. ECECD analysis notes:

HB285 relates to SB387, the School Student Restraint or Isolation Act, insofar as HB285 creates an entire framework to address special education in New Mexico's public schools. Studies have shown that schools subject special education students to restraints and isolation methods and techniques at a much higher rate than their peers. Moreover, HB285 requires annual reporting to the PED Secretary, the Governor's Office, and the Legislative Education Study Committee on "every use of restraint and seclusion in public schools." Page 7, Lines 22-23. The two bills, however, do not directly conflict or duplicate the other.

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