

N/A	N/A	N/A	N/A	N/A

(Parenthesis () Indicate Expenditure Decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY24	FY25	FY26	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total	N/A	N/A	N/A	N/A	N/A	N/A

(Parenthesis () Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to:

Duplicates/Relates to Appropriation in the General Appropriation Act:

SECTION III: NARRATIVE

BILL SUMMARY

SB272 requires the collection of demographic data pertaining to sexual orientation and gender identity by certain executive agencies and public bodies.

The New Mexico Higher Education Department's (NMHED's) analysis of this bill focuses on the higher education implications of the proposed legislation. Additional insight may be obtained from other agencies' analyses.

NMHED is listed as one of the executive agencies affected by SB272. In addition, in the bill's definition of a public body, it includes any "entity created by the constitution or laws of New Mexico or any branch of government of the executive, legislative or judicial branch of a state or local government that receives public funding." That definition would include all the public higher education institutions (HEIs) in New Mexico.

SB272 tasks the New Mexico Department of Health (NMDOH) with issuing guidelines for demographic data collection that is not dictated by the categories listed in a federal program or survey. SB272 also tasks all entities collecting this data with reporting the data and the method used to collect the data to the Legislature. The data is also to be made available to the public except for personally identifiable information (PII) that would result in the identification of individuals. Aggregate data can be reported to avoid the release of individual information.

Data collection must be voluntarily provided and can only be used for demographic analysis, coordination of care, quality improvement of services, conducting approved research, fulfilling reporting requirements, or guiding policy or funding decisions.

The effective date, if passed, would be October 31, 2024.

FISCAL IMPLICATIONS

SB272 does not contain an appropriation.

SIGNIFICANT ISSUES

This issue has been on the forefront of executive agencies' work plans since 2021 when Governor Michelle Lujan Grisham issued Executive Order 2021-48 that mandated executive departments to collect voluntary self-identification information pertaining to sexual orientation and gender identity. Many agencies have either implemented this data collection or are in the process of modifying their data collection systems to enable the collection and reporting of sexual orientation and gender identity data.

Modifying a data system to provide additional codes for existing fields, or adding a new field, is not a particularly expensive or time-consuming task. However, the fiscal and technical impact to higher education institutions (HEIs) is indeterminate, as each institution will need to customize its own distinct student information system (SIS) to include sexual orientation and gender identity fields. The cost of modifying each SIS may vary since HEIs do not share the same SIS platform. HEIs will also need to modify their admissions applications and human resources forms to capture the data voluntarily provided by students, faculty, and staff in regards to their sexual orientation and gender identity. They may also have to survey all existing students, faculty, and staff in order to have complete data to report.

There are also data reporting issues that will need to be solved. Currently, most data systems just collect sex/gender as "male?" or "female?". Some newer systems add a code such as "x?" for cases where the student does not identify as either male or female. This latter approach is currently in use by some federal agencies, such as in the gender field on United States passports. In summarizing data, many categories for a field (such as gender) can result in some categories with very few entries (small cell size). Small cell sizes can potentially lead to someone being able to identify specific individuals. To protect individual privacy, these cells are often suppressed. New reporting guidelines will need to be developed to handle such situations so that this more detailed data is available while protecting individual privacy.

PERFORMANCE IMPLICATIONS

There are no performance measures listed in SB272, but there is a requirement for an annual report to the Legislature summarizing the data collected and the method used to collect the data.

ADMINISTRATIVE IMPLICATIONS

All affected agencies and institutions will need to modify their existing data systems and forms and also ensure that this additional data is kept confidential and protected.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

A similar bill, SB316 in 2021, passed the Senate and the House Health and Human Services Committee, but it did not proceed to a vote by the House and was not enacted. In addition, in 2021, Governor Michelle Lujan Grisham issued Executive Order 2021-48 that mandated executive departments to collect voluntary self-identification information pertaining to sexual orientation and gender identity.

TECHNICAL ISSUES

N/A

OTHER SUBSTANTIVE ISSUES

N/A

ALTERNATIVES

Governor Michelle Lujan Grisham's Executive Order 2021-48 could remain in place. State agencies and institutions would adopt collection and reporting aligned to the Executive Order.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

If SB272 were not implemented, then many agencies and institutions that have already adopted more detailed data collection for sexual orientation and gender identity would continue with current processes. Further, in place of the New Mexico Department of Health (DOH) defining categories that must be collected, agencies and institutions would define those categories.

AMENDMENTS

N/A