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FISCAL IMPACT REPORT

SPONSOR Pope **LAST UPDATED** 02/12/2025
ORIGINAL DATE 02/10/2025
SHORT TITLE Seizure Safe Schools Act **BILL**
NUMBER Senate Bill 246
ANALYST Chilton

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT* (dollars in thousands)

Agency/Program	FY25	FY26	FY27	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
DOH	No fiscal impact	\$84.6	\$84.6	\$328.5	Recurring	General Fund
DOH	No fiscal impact	\$154.2	No fiscal impact	No fiscal impact	Nonrecurring	General Fund
NM School for the Deaf	No fiscal impact	\$5.0	\$5.0	\$10.0	Recurring	General Fund
State-Funded Schools	No fiscal impact	\$2,300.0	\$2,300	\$4,500		
Total	No fiscal impact	\$2,300.2	\$2,300.1	\$4,600.3	Recurring	General Fund

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

Duplicates House Bill 300

Sources of Information

LFC Files

Agency Analysis Received From

Regional Educational Cooperatives (RECA)
 Public Schools Insurance Authority (NMPSIA)
 Board of Nursing (BON)
 New Mexico Medical Board (NMMB)
 New Mexico School for the Deaf (NMSD)
 New Mexico School for the Blind and Visually Handicapped (SBVI)
 Public Education Department (PED)
 Department of Health (DOH)

Agency Analysis was Solicited but Not Received From

New Mexico Activities Association (NMAA)
 Albuquerque Public Schools (APS)
 Developmental Disabilities Council (DDC)

SUMMARY

Synopsis of Senate Bill 246

Senate Bill 246 (SB246) establishes a new section of the Public School Code (Chapter 22, NMSA 1978) entitled “Seizure Safe Schools Act,” regarding care for students with seizure disorders that would apply to any school, private, public, or charter, in New Mexico.

Section 3 of the bill specifies that school employees and bus drivers be trained initially and annually in recognition and first aid treatment of seizure disorders. School nurses and “seizure care personnel” (defined in Section 2 as school employees volunteering to be trained to be first responders to seizures occurring in the school setting) would receive further training in acute seizure management, including use of medications and devices. Schools without at least two volunteers (including the school nurse but not necessarily required to be health care practitioners) would be required to seek volunteers for this position.

Parents or guardians of students with known seizure disorders would submit an action plan to their child’s school, with components of acute and on-going care specified by the child or adolescent’s medical care provider, to be reviewed by the school nurse and other seizure care personnel and discussed with the child’s teacher and bus driver and other school personnel involved with a student with a diagnosed seizure disorder.

The school’s governing body would ensure that children with seizure disorders are assisted with administration of preventive medication, rescue medication, and/or use of devices to treat acute seizures.

Section 5B states that the school nurse or at least one seizure care personnel be available to provide care to students with seizure disorders if needed during all school-sponsored activities, on- and off-site as, well as on buses with a driver who has not been trained in seizure care.

Section 6 states that actions taken by school nurses and school seizure care personnel would not be construed to be the practice of medicine, and Section 7 absolves them from liability for actions taken or not taken, as long as is done carefully and consistently with the provisions of this act. The bill notes that, “An act or omission is not in good faith if it is the result of willful misconduct, gross negligence or recklessness.”

This bill does not contain an effective date and, as a result, would go into effect 90 days after the Legislature adjourns if enacted, or June 20, 2025.

FISCAL IMPLICATIONS

There is no appropriation in Senate Bill 246.

The Department of Health (DOH) states:

The NM Public Education Department does not employ licensed clinical personnel to promulgate rules and regulations or develop clinically driven curriculum and training programming; thus, PED relies on licensed clinical NM DOH staff to assist in the initiatives.

Although the literature highlights the implications of epilepsy for students and underscores the need for increased school-related support, the passage of SB246 could have significant cost-related impact to the PreK through 12 schools and districts, since this bill does not contain an appropriation for schools to cover the cost of equipment and training. New Mexico schools would likely incur increased costs for the required training of personnel, purchasing medical supplies and training equipment, controlled substance storage, medication disposal, handling registration and storage equipment, and potentially hiring additional staff to include school nurses for program management and training.

Therefore, DOH has submitted cost estimates for providing that training, to require two half-time personnel for one year (or full time for six months) at a total cost for salary and benefits of \$154,240 and curriculum development costs of \$5 thousand; recurring expense would be handled by one half-time FTE at \$74,620 per year, with \$10 thousand per year in recurring training-associated costs.

NMSD estimates \$5 thousand as the annual cost of training its personnel. SBVI does not anticipate a cost to that school, especially as all students with seizure disorder diagnoses have care plans in place, and personnel are trained in the issues involved.

While DOH would provide the necessary training to state-funded schools, the department notes that schools would likely still bear expenses related to medical supply purchase, storage, and disposal. This analysis assumes that this would cost state-funded schools approximately \$2,500 for a total annual cost of \$2.3 million.

Section 4-A-1 identifies a student’s medical care provider as a “physician or advanced practice nurse.” That omits physician assistants who provide primary medical care for many children and adolescents, as pointed out by the Board of Nursing.

BON also points out that, “The bill should state that school nurses, licensed as nurse under the nursing practice act, would not be exempt from the nursing practice act, but seizure care personnel, such as bus drivers and teachers would be exempt from the nursing practice act... It would not be consistent to exempt school nurses from the Nursing Practice Act for practice in a specific setting.”

Section 5B’s requirement that a school nurse or a seizure care personnel be present wherever a child with an identified seizure disorder (no matter how well-controlled) is on a school-sponsored trip or activity may have the unwanted side-effect of denying children with seizure disorders taking part in some of these activities, despite Section 6B’s stating that the bill would not interfere with the rights of students under the federal Individual with Disabilities Education Act or the federal Americans with Disabilities Act.

SIGNIFICANT ISSUES

Seizure disorders are among the most common chronic disorders affecting children: according to both the Epilepsy Foundation and Healthline, 1.2 percent of the U.S. population have been diagnosed as having epilepsy. Assuming that prevalence applies to New Mexico, that would indicate that approximately 3,876 (.012 x 322,989 students in New Mexico’s 854 schools) would have been diagnosed as having the disorder The Public Education Department (PED) notes the

federal Centers for Disease Control and Prevention (CDC) estimates that 0.7 percent of those 6 to 17 years old have had at least one seizure in the previous year. PED also notes the *Annual School Health Services Report for 2023-2024* contained 2,268 reports of seizure diagnoses.

PED reports seizure disorders may affect learning “by affecting memory and causing fatigue, or with the side effects of medications. Students with epilepsy may also experience social problems, including stigmatization and bullying, which may increase mental health problems like anxiety and depression.”

According to NYU Langone Health, “seizure disorder” and “epilepsy” are often used interchangeably. However, “provoked” seizures, such as those due to severe hypoglycemia, are not considered to be forms of epilepsy. Most students who would have seizure treatment plans would qualify for the diagnosis of “epilepsy,” and would be the students who would be subject to this bill’s provisions. Seizures are frightening both for the person having the seizure and for all those, especially children, witnessing them. They may be violent or subtle and are sometimes difficult to identify as such. Seizures may result in injury from falls or collisions with objects; rarely do seizures eventuate in death. (The federal Centers for Disease Control and Prevention estimates one “sudden unexpected death” for every 4,500 children with epilepsy each year.)

DOH notes:

Seizures can be brief or prolonged, and each can have significant impacts on individuals. Brief seizures are those lasting less than five minutes, while prolonged seizures, known as status epilepticus, last between five and 30 minutes and can lead to permanent neuronal injury. Annually, the United States sees an estimated 50 thousand to 150 thousand cases of status epilepticus, with mortality rates less than 3 percent in children but up to 30 percent in adults.

TECHNICAL ISSUES

PED points out discrepancies with other references to charter schools:

- The bill’s definition of “governing body” would include local school boards of districts and governing bodies of charter schools, whereas throughout Public School Code the convention is to include governing bodies of charter schools under the definition of school board or to explicitly state when provisions of a law apply to one, the other, or both. The sponsor may wish to amend the bill to conform to current conventions in Public School Code to maintain logical consistency.
- The definition of “governing body,” by including governing bodies of locally chartered charter schools, overlooks the fact that locally chartered charter schools look to their local school board, which is also their authorizer, for oversight, treating them more like state-chartered charter schools than may be appropriate. The sponsor may wish to consider amending the bill so that locally chartered charter schools continue to be guided by their local authorizers in the administration of education to their students.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

SB246 and HB300 are near duplicates, except HB300 includes the sentence, “An act or omission is not in good faith if it is the result of willful misconduct, gross negligence or recklessness.”

OTHER SUBSTANTIVE ISSUES

The New Mexico Public School Insurance Authority inquires as to whether bus drivers are included in the count of seizure care personnel.

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