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FISCAL IMPACT REPORT

SPONSOR Garratt/Sariñana/
Maestas/Figueroa/ ORIGINAL DATE 2/21/2019
Madrid LAST UPDATED _____ HB 591/ec
 SHORT TITLE Mental, Social & Emotional Learning Act SB _____
 ANALYST Rabin

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY19	FY20	FY21	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total	See Fiscal Implications				Recurring	General Fund

(Parenthesis () Indicate Expenditure Decreases)

Relates to HB238, HB615, SB370.

SOURCES OF INFORMATION

LFC Files

Responses Received From

Children, Youth and Families Department (CYFD)

Public Education Department (PED)

SUMMARY

Synopsis of Bill

House Bill 591 enacts a new section of Public School Code called the Mental, Social and Emotional Learning Act. The Act requires mental, social and emotional health strategies, skills, and techniques be incorporated into all general and special education instruction through an explicit curriculum inclusive of culturally and linguistically responsive instruction, and that students be assessed for mental and social emotional growth on a regular basis. The Act requires PED to collect accountability data on the implementation of the provisions of the Act and that those data be incorporated into school and school district report cards.

This bill has an emergency clause.

FISCAL IMPLICATIONS

HB591 does not contain an appropriation.

PED states implementation of HB591 would require collaboration with agencies such as the Department of Health and CYFD regarding to develop a viable curriculum and identify best practices for evidenced-based social and emotional learning and preventive, explicit, embedded daily instructional implementation in the classroom. In addition, PED would be required to update the current school and district report cards to include data on the implementation of the provisions of the Act.

PED notes that the timeline of implementation of the bill would have a substantial fiscal impact on the agency in FY19, which it does not quantify. Because the bill does not contain an appropriation, the agency states that the requirements of the bill would be difficult to implement.

SIGNIFICANT ISSUES

HB591 states that school districts and charter schools may use Title I, II, III, and IV funds for teacher training to comply with the requirements of the Act. However, PED notes that not all schools receive these funds, and federal requirements may restrict the use of these funds to meet the provisions of the bill.

According to PED, schools must follow the needs assessment in their New Mexico Data, Accountability, Sustainability, and High Achievement (DASH) plans as leadership teams decide how to invest Title I funds to best meet students' needs. The agency states that if an existing Title program application and/or NM DASH plan does not indicate that social and emotional learning is a need, it would not be allowable for a school or district to expend funds to address these issues.

PED also notes that a district or state charter receiving Title IV, Part A allocations of \$30 thousand or more must conduct a comprehensive needs assessment and is required to allocate at least 20 percent of the grant funds toward a well-rounded education, at least 20 percent toward supporting safe and healthy students, and a portion of funds to support the effective use of technology. The agency adds that Title IV, Part B funds are competitive and awarded on a four-year cycle, and new projects will not be selected until the 2020-2021 school year.

PED states that Title III funding is explicitly reserved for English learners and immigrant students, so while this funding could support the provisions of this bill, it could only do so for these specific populations. The agency notes that Title II funding have similar prescriptive application processes and defined allowable uses of funds.

Diverting federal funding for the purposes outlined in this bill may cause other programs to suffer. A May 2018 LFC program evaluation found that New Mexico uses Title II funds to enhance professional training for teachers and principals. Title II, Part A funds provide states resources to train and retain highly qualified teachers and principals. According to the New Mexico State Plan for the Every Student Succeeds Act, PED leverages Title II funds to support New Mexico's three-tiered licensure system, Principals Pursuing Excellence program, Teachers Pursuing Excellence program, Advanced Placement teacher training, Educator Preparation Programs, professional development sessions, and other initiatives. School district officials from Albuquerque Public Schools reported using Title II funds for instructional coaches, pedagogical professional development, and new principal trainings. Title II funding for New Mexico decreased by \$6.8 million (29 percent) from \$22.3 million in FY07 to \$15.5 million in FY16. Over 97 percent of New Mexico's Title II funds go to compensation or professional, technical, or

other services for public schools.

CYFD raises concerns that the provisions of this bill require public education teachers to expand their responsibilities to fields outside their historical training and expertise and to identify, prevent, and possibly treat adverse childhood experience impact on students. In addition, the bill requires teachers to provide mental, social, and emotional learning instruction, which the agency notes may exceed their professional expertise.

HB591 states that “Students shall be assessed for mental, social and emotional growth on a regular basis, and that data shall be used intentionally to plan for and address needs with interventions using the response to intervention framework as required,” but CYFD notes the bill does not specify the type of assessment, method, and indication for assessments. Further, the agency raises concerns that the assessment may be contrary to parental rights of consent and the requirement that children ages fourteen and older consent to treatment (per the Children’s Mental Health and Developmental Disabilities Act). Finally, the agency adds that the behavioral health workforce necessary to complete mental health assessments at this level and frequency may not be available, and the bill does not identify funding sources for such assessments.

In relation to this same requirement, PED notes the bill specifies these interventions follow the Response to Intervention model, which the agency is currently updating to a Multi-Layered System of Supports (MLSS) framework, which offers fluid, layered supports based on data informed decisions and allows teachers and health and wellness team professionals to intervene when students are identified in need of academic and/or behavioral support. According to PED, HB591 would require the continuation of a model that is not reflective of the agency’s move to the MLSS.

ADMINISTRATIVE IMPLICATIONS

PED states that HB591 would have significant short- and long-term implications for the agency and schools. According to the agency, determining a developmentally appropriate assessment, strategies and best practices for the identification of those at risk would need to be determined through interagency and private sector collaboration. PED notes it would need to engage with public post-secondary teacher preparations programs to ensure that future teachers are taught evidence-based best practices that support age-appropriate educational, mental, social and emotional learning that is culturally and linguistically responsive.

PED notes that the timeframe for applicability of this Act could prove difficult, as the agency would need to develop guidance specific to the adherence to this Act in a very short timeframe. The agency states that clarification and consultation with public school districts and state charter schools would need to occur immediately as some school districts and state charter schools may already have programs in place that meet these requirements, but PED would need to ensure they fully comply with the requirements of the Act.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

This bill relates to House Bill 238, which requires public school employees who have contact with at-risk students to receive training on the effects of childhood trauma on students’ academic achievement and social development, House Bill 615, which requires mental health training for public school personnel, and Senate Bill 370, which creates the Anna, Age Eight Institute for the

Data-Driven Prevention of Childhood Trauma and Maltreatment at Northern New Mexico College.

TECHNICAL ISSUES

Section 2 (pp. 2-4) identifies the legislative findings that provide the rationale for the Act, which include subjective statements (such as “adverse childhood experiences are the greatest health care threat to New Mexico children and certainly an area of need for future research and in-depth study in New Mexico”) and statements of fact that are subject to change with time (such as “New Mexico is consistently either even with the national trend or higher in some areas of mental illness indicators, especially in suicides”). Such statements are not commonly included in New Mexico statute. This section may be used by courts or others to determine legislative intent.

Subsection C of Section 3 (pg. 7) states that school districts and charters “may” use Title I, II, III, and IV funds for “teacher training and techniques and supports for addressing the needs of at-risk youth in areas such as safety, peer interaction, drug and alcohol abuse and chronic absenteeism through prevention, intervention and referral for additional mental health services recognized by need.” Because these federal funds can only be expended in accordance with federal requirements (see Significant Issues, above), and the use of “may” in this Subsection ensures that it does not require schools to use funds in this way, it is unclear if this Subsection is necessary.

Section 6 (pg. 7) states that the provisions of this bill apply to the 2019-2020 and subsequent school years, but Section 7 (pg. 7) declares an emergency. These statements may be in conflict. Although the bill would not apply until FY20, state agencies may be required to complete work in FY19 in preparation for the upcoming school year, but an emergency clause is not necessary for them to do so.

OTHER SUBSTANTIVE ISSUES

According to PED’s New Mexico Youth Risk and Resiliency Survey (YRRS) data for 2017, New Mexico consistently demonstrates higher rates of concerning mental health indicators, including suicide risk factors and perceived sadness. The agency reports that, in 2017, 17.8 percent of New Mexico high school students reported seriously considering suicide in the past year (compared to a 17.2 percent national average), 15.5 percent of reported making a suicide plan (compared to a 13.6 percent national average), and 9.9 percent reported making a suicide attempt in the past year (compared to a 7.4 percent national average). PED further notes that, in 2017, 35.8 percent of high school students reported persistent feelings of sadness or hopelessness for at least two weeks in a row in the past year (compared to a 31.5 percent national average), which places New Mexico fifth of 39 states reporting similar national risk behavior data.¹

PED cites the Department of Health’s New Mexico’s Indicator-Based Information System (NM-IBIS), which states that “suicidal ideation refers to thoughts of suicide, including making a plan, and is a risk factor for suicide or attempted suicide. Suicide rates in NM have been at least twice the national rate since at least 1995. Because of the disproportionate rate of suicide occurring in New Mexico for decades and the rising rate of suicide nationwide, understanding the prevalence of risk factors for suicide and the disparities in the New Mexico population is critical for prevention planning. Prior suicide attempts have been shown to be the strongest risk factor for

¹ http://youthrisk.org/pdf/YRRS_Connections_Comparisons_Expanded_August_2018.pdf

suicide, and more than half of suicide attempts occur within one year of the onset of suicide ideation. Based on this knowledge of suicidal behavior, the World Health Organization and the United States Office of the Surgeon General have recommended routine surveillance for suicidal behavior such as attempts and ideation. In doing so, suicide prevention plans can be specifically targeted to communities with high risk and evaluated more thoroughly.”²

According to CYFD, interventions focused as early as possible in a child’s lifespan may demonstrate the most impact on adverse childhood experiences.

CYFD Behavioral Health Services oversees the implementation of life skills coaching for youth ages 12-21 years, which the agency notes may be a comparable support service. CYFD reports Youth Support Services (YSS) is designed to function as a stand-alone early intervention, an adjunct to formal treatments, and as a long-term retention/aftercare service so that there is an open door to access services for those youth who relapse or disconnect from service systems. YSS includes: youth and family outreach and service coordination; foundational life skills; vocational skills; education success skills; parent education and child development; relational and social skills; medical, legal and behavioral health system coaching, referral, and advocacy; and transportation supports.

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² https://ibis.health.state.nm.us/indicator/view/MentHlthYouthSuicPlan.Year.NM_US.html