

LFC Requester:	Sunny Liu, LFC
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**AGENCY BILL ANALYSIS
2018 REGULAR SESSION**

WITHIN 24 HOURS OF BILL POSTING, EMAIL ANALYSIS TO:

LFC@NMLEGIS.GOV

and

DFA@STATE.NM.US

{Include the bill no. in the email subject line, e.g., HB2, and only attach one bill analysis and related documentation per email message}

SECTION I: GENERAL INFORMATION

{Indicate if analysis is on an original bill, amendment, substitute or a correction of a previous bill}

Check all that apply: Date 01/29/18
Original **Amendment** **Bill No:** HB136
Correction **Substitute**

Sponsor: Representative Patricio Ruiloba **Agency Code:** 924
Short Title: CHILDHOOD POVERTY AWARENESS TRAINING ACT **Person Writing:** Jane Henzerling
Phone: 5056295401 **Email:** Jane.henzerling@state.nm.us

SECTION II: FISCAL IMPACT

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY18	FY19		
NFI	NFI	Non-recurring	N/A

(Parenthesis () Indicate Expenditure Decreases)

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY18	FY19	FY20		
NFI	NFI	NFI	N/A	N/A

(Parenthesis () Indicate Expenditure Decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY18	FY19	FY20	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total	NFI	See Fiscal Implications	See Fiscal Implications	See Fiscal Implications	Recurring	General

(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

Synopsis:

House Bill 136 (HB136) amends Public School Finance Act, Section 22-8-23.3 NMSA 1978, requiring charter schools to receive at-risk units. A new section of the public school code is added requiring childhood poverty awareness training to all employees who work in schools with at-risk students. School districts and charter schools are required to develop and submit an action plan detailing the services they will provide to improve the academic success of at-risk students. HB136 takes effect in school year 2020-2021.

FISCAL IMPLICATIONS

HB 136 makes a change to current law to require separate at-risk index calculations for charter schools. Currently, only school districts generate an at-risk index and charter schools use the at-risk index of the school district in which they are geographically located. This is due to the nature of the data that is required to be used for the poverty portion of the at-risk index; the percentage of student membership used to determine the Title I allocation. For years, the U.S. Census Bureau has provided the PED with this information for school districts by U.S. census tract. As governmental entities with distinct geographic boundaries, school districts can have poverty metrics by U.S. census tract assigned to them. Since state- or locally- chartered charter schools do not have boundaries for enrollment, and the Census Bureau does not provide this data by district school zones, there is no school level data for the percentage of membership used to determine a Title I allocation comparable to that for school districts.

Recent advances in data sharing agreements with other state entities (direct certification) allow identification of children eligible for free and reduced lunch program (FRLP) funding by identifying children from families that apply for other benefits such as Medicaid or SNAP. As children enrolled in the FRLP are eligible for Title I funding, this allows a school level calculation to be performed to distribute shares of funds to state-chartered charter schools. However, this distribution is dependent on comparing school-level percentages to the larger school district data set and making assumptions on the charter school's contribution to total poverty in the school district's geographic data. In other words, the school-level data analysis is nested and dependent on the U.S. Census Bureau's school district geographic data. Therefore, calculating an at-risk index for charter schools using the U.S. Census Bureau's percentage membership used to determine the Title I allocation is not possible.

In order for PED to calculate a school-level at risk index using the same data, language in this section on page 3 lines 17-18 would need to be changed to allow the PED to use data available at

the school site; most likely free and reduced lunch program (FRLP) enrollment data. There are challenges to transitioning to a different data source. FRLP membership is a voluntary program based on participation, whereas the percentage of membership used to determine Title I allocations is census tract survey data. FRLP enrollment accuracy as poverty metric is also questionable because the provisions of the National School Lunch Program allow for school wide programs, skewing the percentage memberships high. Additionally, transitioning the poverty metric in the at-risk index calculation will result in year-over-year swings in funding among school districts and charter schools and create winners and losers because there are large differences between the two poverty metrics on an entity by entity basis.

The direct certification process has aided in increasing accuracy in distributions of Title I federal funds, but PED cannot calculate a charter school's percentage of membership for Title I allocations *using the same data and in the same manner* as school districts; that is using the U.S. Census Bureau data set [*emphasis added*] versus direct certification on the basis of student nutrition's FRLP data. Requiring PED to do so would result in two different poverty calculations for the at-risk index; one for charter schools using FRLP data and one for school districts using U.S. Census Bureau data. This in turn could result in higher or lower funding for one group of students based upon the school they attend, and create large swings in funding year-to-year. Requiring two different state funding calculations for the poverty section of the at-risk index, one for charter school students and one for school districts, is the very definition of non-uniform state funding. Making statutory changes to create non-uniform education funding mechanisms is not recommended given recent lawsuits alleging the state engages in non-uniform state funding for education.

The Albuquerque Public Schools (APS) Title I Program has provided poverty awareness training to Title I schools in the district for the past two years. To date, over 800 APS employees and 46 Title I public and charter school sites have received poverty awareness training from the APS Title I Program. District costs to implement the training have exceeded \$150,000 including costs for books and materials, teacher stipends, substitutes, trainer certification and trainer salaries.

HB136 requires that the Public Education Department (PED) approve the poverty awareness training programs to be developed by school districts and charter schools and to certify trainers. The cost to the PED cannot be determined at this time. APS staff was trained through a national training program tied to a private business. It is not known what costs other districts and schools might experience in developing programs that meet the goals of HB136.

As there is no appropriation in HB136, districts would be required to use their own funding for implementation. These costs could be significant as HB136 requires an initial 6.5 hour training and subsequent 3 hour annual trainings. Additionally, charter schools moving to their own at-risk index may see state equalization guarantee (SEG) amounts rise or lower based upon where their calculation changes relative to the school district's in which they geographically reside.

SIGNIFICANT ISSUES

The National Center for Children in Poverty states that 44% of children under 18 years old live in low income families. http://www.nccp.org/publications/pub_1100.html According to the New Mexico Center on Law and Poverty, child poverty is associated with substandard housing, homelessness and food insecurity, all factors that make succeeding in school more difficult. <http://nmpovertylaw.org/wp-content/uploads/2015/04/Report-Education-FINAL-2013-01-06.pdf>

Recent 2016 US Census Bureau data lists New Mexico's age 5-17 poverty rate at 25.72% making New Mexico the 3rd highest poverty state.

The New Mexico Department of Health has made data available on Adverse Childhood Experiences (ACEs) such as abuse, neglect domestic violence, substance abuse, and mental illness and how those childhood experiences have affected development and outcomes as adults. <https://nmhealth.org/publication/view/help/1831/>

Under HB136, beginning with the 2020-2021 school year, districts and charter schools must ensure that all employees who have regular contact with students or work in a school receive initial and annual childhood poverty training that addresses the effects of poverty on academic achievement and social development. They must also submit an action plan to the PED that describes the services to be provided. In addition, the districts and charter schools must submit a report to the PED listing the specific services that were implemented during the prior school year and the impact of those specified services.

At-risk is defined in Section 22-8-23.3 as low income, English language learner, and mobile students. Although poverty awareness training may address the English language learner and mobility components of at-risk, this would depend on the criteria established by PED as part of the approval process.

As part of the NM-Dash 90 day and annual planning process, schools identify their needs through a root cause analysis. If the need to address poverty awareness is identified through this process, HB136 could duplicate these efforts.

PERFORMANCE IMPLICATIONS

New Mexico's ESSA plan already addresses the academic achievement of students living in poverty and English learners. A deeper understanding of the effects of poverty on learning and the development of a local action plan and specific strategies could play an important role in addressing the needs of these groups of students.

ADMINISTRATIVE IMPLICATIONS

PED staff would have to amend all data collection and calculation documents related to the at-risk index and state equalization guarantee for the upcoming fiscal year 2018-2019 (FY19). Most of this data has already been collected and is presently being compiled for upcoming Operating Budget development. Changing at-risk calculations and estimated SEG funding worksheets for all entities in the state this late in the budget cycle is a significant burden on PED staff.

PED staff will need to amend data queries and data aggregation tools to capture data for locally chartered charter schools, as this information is not currently compiled.

PED staff would need to develop criteria for districts and charter schools that would specify what a training program would need to include and would need to develop a process for approval of plans. PED would also need to develop criteria for trainers and a process to certify them. Staff resources for these processes would be significant. As there is no appropriation in HB136, the PED would have to use existing resources for this work in addition to their current duties.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

Any modification to the public school funding formula will require a fiscal year to modify the existing data collection systems and worksheets before they can be fully implemented. Not having a year to make changes to SEG distribution processes creates large swings in year-to-year entity funding, increases instability in data sets used to set the unit value and increases the chances for error as existing processes are required to be hastily altered or amended.

The bill relates to the State Equalization Guarantee (SEG) appropriation contained in the General Appropriations Act.

TECHNICAL ISSUES

ALTERNATIVES

In order to ensure calculations for charter schools in the same manner as school districts and create uniform calculations of at-risk funding for all students, the sponsor may consider changing the poverty metric used in the calculation of the index on page 3 lines 17-18 (see fiscal implications). Creating one calculation for school districts based on U.S. Census Bureau data and another based upon direct certification for National School Lunch Program eligibility is not recommended.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

Districts and charters schools will provide support and training to staff with available budget, based upon their locally identified needs.

AMENDMENTS