

LFC Requester:	Rene Montoya
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**AGENCY BILL ANALYSIS
2019 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:
Original **Amendment** _____
Correction _____ **Substitute** _____

Date 2/18/19
Bill No: SB540

Sponsor: Sen. William Soules
Short Title: AUDITOR INVESTIGATION
OF SEX ED REQUIREMENTS

Agency Name and Code Number: 924 PED
Person Writing Daniel Manzano
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SECTION II: FISCAL IMPACT

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY19	FY20		
NFI	\$200.0	Nonrecurring	General

(Parenthesis () Indicate Expenditure Decreases)

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY19	FY20	FY21		
NFI	NFI	NFI	Nonrecurring	N/A

(Parenthesis () Indicate Expenditure Decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY19	FY20	FY21	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total	NFI	NFI	NFI	N/A	Nonrecurring	General

(Parenthesis () Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to: House Bill 133(HB133) and House Bill 133 House Floor Amendment 1 (HB133hfla)
Duplicates/Relates to Appropriation in the General Appropriation Act: None as of 2/15/19

SECTION III: NARRATIVE

BILL SUMMARY

Senate Bill 540 (SB540) appropriates \$200.0 from the general fund to the office of the state auditor for the purpose of investigating public school compliance with statutory requirements and rules regarding sexual education.

FISCAL IMPLICATIONS

There are no fiscal implications for the Public Education Department (PED).

SIGNIFICANT ISSUES

SB540 does not identify the specific “statutory requirements and rules regarding sexual education in public schools” that would be investigated for compliance by the office of the state auditor.

New Mexico State Statute 22-13-1.1, “Graduation Requirements”, requires that students complete a course in health education, that includes training on sexual assault and abuse prevention training, prior to graduation. A corresponding rule is New Mexico Administrative Code (NMAC) 6.29.6.10, “Content Standards with Benchmarks and Performance Standards for Health Education, Grades 9-12” which includes a graduation requirement for students to complete 0.5 units of health education. NMAC 6.29.6.10 further requires the teaching of certain sexual education concepts such as human reproduction, sexuality, abstinence or birth control methods to prevent pregnancy, prevention of sexually transmitted infections, avoiding health risk behaviors related to sexual activity, and more that would likely be part of the compliance investigation required by SB540.

Source: <http://164.64.110.134/parts/title06/06.029.0006.html>

The compliance investigation identified in SB540 may also include ensuring the compliance of public schools to implement exemption policies as identified in NMAC 6.29.6.11. NMAC 6.29.6.11 addresses sexuality performance standard exemptions and requires districts and charter schools to “Implement a policy that will insure [*sic*] that parents have the ability to request that their child be exempted from the parts of the health education curriculum that address sexuality performance standards.” The NMAC also includes provisions for how the policies are to be developed, and what they are to include.

Source: <http://164.64.110.134/parts/title06/06.029.0006.html>

NMAC 6.12.2.10 “Human Immunodeficiency Virus (HIV)” requires instruction in New Mexico schools around HIV and related issues including ways to reduce the risks of getting HIV/AIDS, with an emphasis on abstinence. NMAC 6.12.2.10 also has requirements around the development of policies and the review of instructional materials related to HIV instruction. SB540 may require compliance investigation regarding HIV instruction.

Source: https://webnew.ped.state.nm.us/wp-content/uploads/2017/12/SHSB_NMAC6-12-2-10_HIV.Rule_.pdf

Subparagraph (a) of Paragraph (7) of Subsection 6.29.1.11 NMAC requires “age appropriate sexual abuse and assault awareness and prevention training that meets department standards” for students and may also be a part of the sexual education requirements for compliance investigation identified in SB540.

Source: <http://164.64.110.134/parts/title06/06.029.0001.html>

PERFORMANCE IMPLICATIONS

None

ADMINISTRATIVE IMPLICATIONS

Though there are no administrative implications for the PED from SB540, it is unclear which agency (if any) would be responsible for ensuring that any deficiencies identified from compliance investigations are ameliorated.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

SB540 may necessitate compliance investigations into HB133’s and HB133hfla’s requirement for affirmative consent education in the health education course required for graduation.

TECHNICAL ISSUES

None

OTHER SUBSTANTIVE ISSUES

None

ALTERNATIVES

None

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

Compliance of schools with statutory requirements and NMAC related to sexual education would continue to remain under the purview of the PED.

AMENDMENTS

None