

LFC Requester:	Sunny Liu
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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 3/13/19

Bill No: SB147hec

Sponsor: Senate Public Affairs Committee
Short Title: SCHOOL SAFETY DRILL REQUIREMENTS

Agency Name and Code Number: PED-924
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	NFI	Nonrecurring	N/A

(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	N/A

(Parenthesis () Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to: None known as of 3/11/2019
Duplicates/Relates to Appropriation in the General Appropriation Act: None known as of 3/11/2019

SECTION III: NARRATIVE

BILL SUMMARY

Synopsis of Senate Bill 147 House Education Committee Amendment (SB147hec)

SB147hec further amends the Senate Public Affairs Committee Substitute (SB147SPAcS) which reduced the required minimum number of annual emergency drills for schools from twelve to eight, with four being fire drills, one being an active shooter drill, one being an evacuation drill and the remaining two drills not being specified. SB147hec further amends emergency drills to include on shelter in place drill in preparation to respond to an active shooter situation.

Synopsis of Senate Bill 147 (SB147):

Senate Bill 147 (SB147) reduces the required number of annual emergency drills for schools from twelve to four, with two being shelter-in-place drills for active shooter response, and two being evacuation drills.

FISCAL IMPLICATIONS

Fiscal Implications of SB147hec

In addition to the fiscal implications as reflected below for SB147, SB147hec would necessitate the PED to change all communication and resources in relation to a “shelter in place” drill from one that is recognized by experts in the field of school safety as being a procedure used when the building is seen as a place of safety but locking down the building is not necessary (e.g., a weather-related event or an external hazardous material spill) to one that includes a shelter in place drill in preparation for an active shooter. The PED would need to work with nationally recognized experts to ascertain how to modify the universal definition for shelter in place drills to one that includes the intent of SB147hec and then modify all existing resources accordingly.

Fiscal Implications of SB147

SB147 would have an initial fiscal impact on the Public Education Department (PED), which would initiate the rulemaking process to amend New Mexico Administrative Code (NMAC) 6.29.1.9 O(1), emergency drills and practiced evacuations, to align with the legislation. The PED Safe Schools Program Coordinator would also need to collaborate with the State Fire Marshal's Office, the New Mexico Department of Public Safety and other potential partners and experts in the field in researching, coming to consensus, and identifying approved trainings for "active shooter response."

SIGNIFICANT ISSUES

Significant Issues of SB147hec

SB147hec amends the requirements for emergency drills to include one "shelter in place drill that includes preparation to respond to an active shooter...". This language may be seen as in conflict to most recognized definitions of a "shelter in place" drill. Shelter in place protocols are used when a school building is deemed safe but an external factor, specifically a weather-related situation or a hazardous spill warrants a school to establish protocols to ensure students inside the school building are not exposed to the potential threat outside the school building.

A lockdown, rather than a shelter in place drill or protocol is what should be utilized in preparation for an active shooter situation. The PED's [*Planning for Safe Schools in New Mexico Guide*](#) (PED Guide) states "Lockdown procedures are used to protect building occupants from potential dangers in the building or external threats that may enter the building. Lockdown is used in situations where an actual emergency or crisis that threatens the safety of building occupants is occurring, has occurred on a school campus or when the potential for such a situation is high. Regular classroom activities are halted and teachers should identify and move students quietly to a pre-designated safe zone in the classroom where they cannot be seen through any corridor windows. Lockdown is a classroom-based protocol that requires locking the classroom door, turning off the lights, silencing cell phones and placing students out of sight of any windows."

Significant Issues of SB147

No child has died in a school structure fire since 1958, when 93 people, including 90 children, died as the result of a fire at Our Lady of Angles School in Chicago, IL. Since the 1960's, states have enacted not only laws governing better construction for schools, but also requirements for school fire drills. No deaths of students in schools have been attributed to school staff and students practicing fire drills together.

The National Fire Protection Association (NFPA) estimates that U.S. fire departments respond to an average of 4,980 structure fires in educational properties annually (2011-2015). These fires caused annual averages of one civilian death (no children), 70 civilian injuries, and \$70 million in direct property damage. 68% of the fires in education properties (2011-2015) occurred in nursery, elementary, middle or high schools. 38% of those fires involved cooking equipment; 36% of those fires were intentionally set; 15% of those fires were the result of playing with a heat source (Source: NFPA Fact Sheet on Structure Fires in Educational Properties - <https://www.nfpa.org/News-and-Research/Data-research-and-tools/Building-and-Life-Safety/Structure-fires-in-educational-properties>).

NMAC 6.29.1.9 O(1), emergency drills and practiced evacuations, currently requires:

- (1) Emergency drills shall be conducted in each public school and private school in the state, as follows:
 - (a) at least once per week during the first four weeks of the school year, and at least once per month during the remainder of the school year;
 - (b) two of these drills shall be shelter-in-place drills;
 - (c) one of these drills shall be an evacuation drill;
 - (d) nine of these drills shall be fire drills, with one fire drill required each week during the first four weeks of school;
 - (e) in locations where a fire department is maintained, a member of the fire department shall be requested to be in attendance during the emergency drills for the purpose of giving instruction and constructive criticism;
 - (f) it shall be the responsibility of the person in charge of a school to carry out the provisions related to emergency drills.

The PED's [*Planning for Safe Schools in New Mexico Guide*](#) (PED *Guide*) requires schools to provide an Assurance that they are in compliance with NMAC 6.29.1.9 O(1) for emergency drills as part of their Safe Schools Plan submission on a triennial basis, as well as have written protocols for lockdown, shelter-in-place and evacuation.

Since 2016, the PED *Guide* has also required that school staff receive training on how to respond to active shooter situations. An active shooter is defined as an individual actively engaged in killing or attempting to kill people in a confined and populated area. Section 5.5 of the PED *Guide* states: "While the lockdown protective action is often used during an active shooter situation, if you are alone or have no other alternative, you should be aware of the other options of evacuating yourself and students to safety or, as a *very last resort*, fighting to protect them and yourself. Run, Hide, Fight are three tactics that have been recognized nationally as effective survival responses to active shooter situations in schools, universities, movie theatres, shopping malls and work places."

In recent years, many states have passed laws requiring that schools include active shooter drills as part of their emergency drill requirements; however, none have eliminated fire drills entirely, as SB147 proposes. The NFPA recommends that fire drills be held at least once a month while school is in session as a national best practice.

PERFORMANCE IMPLICATIONS

None.

ADMINISTRATIVE IMPLICATIONS

Administrative Implications of SB147hec

In addition to the administrative implications of SB147, SB147hec would place the PED in a position to promote a shelter in place drill in preparation for an active shooter situation. This would go against all nationally recognized best practices where a lockdown drill and establishing lockdown protocol is warranted. The PED would need to work with experts in the field to ascertain how to communicate the benefits of a shelter in place drill for an active shooter situation. The PED would also need to modify all existing resources and trainings to reflect an

emergency response that is counter to what is universally recognized as the appropriate response for an active shooter situation.

Administrative Implications of SB147

SB147 requires two shelter-in-place drills that include preparation to respond to an active shooter. SB147 likely has both short- and long- term administrative impacts on the PED, in that the PED may be required to: (1) define appropriate active shooter response drills for schools; (2) develop and/or approve a training curriculum or materials, as well as potentially be required to develop an oversight process ensuring LEAs adhere to the additional training and other requirements; and (3) promulgate new NMAC rules replacing the current emergency drill requirements in place of those from SB147. The PED would need to determine which other state agency(ies) to collaborate with on the development and implementation of appropriate active shooter response drills for the schools.

The bill requires the administrative services of existing Full Time Equivalent (FTEs) for the promulgation of rules, research of evidenced based practices, collaborating with other state agencies, and approving of appropriate training curricula on active shooter response.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

None

TECHNICAL ISSUES

None

OTHER SUBSTANTIVE ISSUES

Other Substantive Issues to SB147hec

SB147hec identifies a shelter in place drill in preparation for an active shooter situation where a lockdown drill, by definition, is the appropriate drill and a lockdown procedure is the appropriate response for an active shooter situation. SB147hec, as amended, would create confusion around the appropriate use of shelter in place vs. lockdown protocols.

ALTERNATIVES

Alternatives to SB147hec

The language on page two requiring a “shelter in place drill that includes preparation to respond to an active shooter” should be changed to reflected “a lockdown drill that includes preparation to respond to an active shooter” since a shelter in place drill in not a drill that is used in an active shooter situation.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

Consequences of not enacting SB147hec

Schools will continue to utilize lockdown drills and protocols as the appropriate response to an active shooter situation as opposed to a shelter in place drill and protocol as required in SB147hec.

Consequences of not enacting SB147

Schools will continue to follow current law on emergency drills, which require twelve annual emergency drills consisting of: one fire drill each week during the first four weeks of the school year and at least one each month thereafter, as well as two shelter-in-place-drills and one evacuation drill.

AMENDMENTS

Amendment to SB147hec

Strike out the words “shelter in place” on page 2 and replace with “lockdown”.