

LFC Requester:

Becerra

**AGENCY BILL ANALYSIS
2021 REGULAR SESSION**

WITHIN 24 HOURS OF BILL POSTING, EMAIL ANALYSIS TO:

LFC@NMLEGIS.GOV

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{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 2/21/2021

Bill No: HB237

Sponsor: Reps. Antonio "Moe" Maestas
& Rebecca Dow
Short Title: PUBLIC & SCHOOL FOR
THE DEAF COOPERATION

**Agency Name
and Code** PED - 924
Number: _____

Person Writing: John Sena

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SECTION II: FISCAL IMPACT

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY21	FY22		
NFI	N/A	N/A	N/A

(Parenthesis () Indicate Expenditure Decreases)

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY21	FY22	FY23		
N/A	N/A	N/A	N/A	N/A

(Parenthesis () Indicate Expenditure Decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY21	FY22	FY23	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total	N/A	NFI	NFI	NFI	Recurring	PED's operating budget

(Parenthesis () Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to: N/A

Duplicates/Relates to Appropriation in the General Appropriation Act: N/A

SECTION III: NARRATIVE

BILL SUMMARY

Synopsis: House Bill 237 (HB237) would require greater coordination and cooperation between the New Mexico School for the Deaf (NMSD) and public schools. Specifically, the bill would amend Section 21-6-2 NMSA 1978 to allow the NMSD to provide services to deaf or hard-of-hearing students who attend public school. NMSD shall not charge public schools when participating in the development of individualized educational plans (IEPs) for deaf or hard-of-hearing students or providing student evaluations or student observations. The bill would also amend the allowance that the NMSD board of regents may make expenditures for undergraduate collegiate expenses of graduates of New Mexico schools.

Additionally, the bill would amend the requirement that deaf or hard-of-hearing children from other states who wish to be educated on the NMSD's campus in the state may be admitted upon the payment or guaranty of the cost of tuition, room, and board at the school.

HB237 would create a new section of the Public School Code to require the Public Education Department (PED) to employ a deaf services coordinator. The coordinator would be charged with: (1) working with school districts and charter schools in which deaf or hard-of-hearing students are enrolled and with the NMSD in ensure that the range of services need by a deaf or hard-of-hearing student will be provided in the most efficient, equitable, and cost-effective manner; (2) overseeing the equitable distribution of deaf-related resources to all deaf and hard-of-hearing students across the state; (3) documenting and compiling data on all deaf and hard-of-hearing students in public schools, including the NMSD; (4) compiling data on teachers, in collaboration with the Department of Health and the Early Childhood Education Care Department, who are deaf or hard-of-hearing or who are fluent in American Sign Language (ASL); (5) during the calendar years 2021 and 2022, studying the current funding for deaf and hard-of-hearing students and make recommendations on equalizing public funding for the education of deaf and hard-of-hearing students and ways to make the current educational delivery system more effective and equitable; and (6) proposing a supplemental state equalization guarantee (SEG) distribution-based deaf and hard-of-hearing educational funding index that equalizes public funding for deaf and hard-of-hearing students and defines ways to make the current educational delivery system more equitable.

Finally, the bill would amend the Educational Rights of Deaf and Hard-of-Hearing Children statute to ensure an equal education is provided for all deaf and hard-of-hearing students regardless of the school they attend.

FISCAL IMPLICATIONS

HB237 does not contain an appropriation.

The bill would allow the NMSD board of regents to make expenditures for undergraduate collegiate expenses of graduates of New Mexico schools, which opens this opportunity for any deaf or hard-of-hearing student who graduated from a New Mexico school to have parts of the student's collegiate expenses paid for. It is unclear how many students this could benefit or what impact this would have on the funds the NMSD board of regents receives.

SIGNIFICANT ISSUES

Background on NMSD and services provided:

The NMSD is recognized under the New Mexico Constitution, Article XII, Sections 11, 12, and 13; and under the state's Enabling Act. Specifically, Article XII, Section 11 lists NMSD as "the New Mexico school for the deaf, at Santa Fe...hereby confirmed as state educational institution. All lands...held in trust for the institutions, respectively." As such, the schools, including the NMSD, listed in Article XII, Section 11, are entitled to funds from the Land Grant Permanent Fund (LGPF).

According to the New Mexico State Investment Council (NMSIC), the LGPF also known as the Permanent School Fund, is one of the largest funds of its kind in the country, and every year provides over three-quarter of a billion dollars in benefits to the state's public schools, universities, and other beneficiaries. The LGPF has evolved and grown over time due to revenue from leases and royalties produced by non-renewable natural resources in New Mexico (primarily oil and gas), and income from returns on invested capital. As of July 31, 2020, the NMSIC stated that the NMSD's LGPF ownership was 1.7 percent, as a beneficiary of the fund.

In addition to funds annually provided from the LGPF, the NMSD receives funds from the state general fund, federal funds, and other funds through operating sales and services. According to the New Mexico State Land Office's FY20 annual report, the NMSD received approximately \$5.26 million from the LGPF and \$352 thousand from the Land Maintenance Fund, which is bonus income revenue from each sale that goes directly to the beneficiary of the acreage.

Currently, the NMSD does not charge for its outreach services to public schools, except for some joint power agreements (JPAs) with school districts for preschool services and minimal fees for public school staff participation in ASL classes. Services for students and supports for the administrators and educational team members who work with them, are provided on a consultation basis, and are free. Additionally, school districts can request student evaluation services or consultations at no charge. There is no charge to attend meeting and providing planning for deaf or hard-of-hearing students.

The PED's current work with deaf and hard-of-hearing students:

The PED's Special Education Division (SED) currently employs an education administrator (EA) whose duties include many of those detailed in HB237 related to services for deaf and hard-of-hearing students. The chart below details what the current EA within the SED focuses on related to the proposed provisions of HB237:

HB237 Proposed Duties of Deaf Services Coordinator	Current Duties of EA within PED's SED
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<p>Work closely with school districts and charter schools in which deaf or hard-of-hearing students are enrolled and with the NMSD to ensure that the range of services will be provided in the most efficient, equitable, cost-effective manner (page 4, lines 17-22)</p>	<p>Currently, the EA within SED is responsible for examining and monitoring the federal Individuals with Disabilities Education Act (IDEA) funds that school districts and charter schools receive. The SED is charged with the oversight of the IDEA funds. Once a school district or charter school receives IDEA funds, it is required to submit to the SED what it anticipates budgeting the IDEA funds for and the SED is required to approve the expenditures for the IDEA funds.</p>
<p>Oversee the equitable distribution of deaf-related resources to all deaf and hard-of-hearing students statewide (page 4, lines 23-25)</p>	<p>Currently, the SED refers parents and guardians of deaf or hard-of-hearing students directly to the NMSD. Additionally resources are posted on the SED's webpage regarding resources specifically related to deaf or hard-of-hearing students.</p>
<p>Document and compile data on all deaf and hard-of-hearing students in the public education system, including NMSD (page 5, lines 1-4)</p>	<p>Currently, the SED collects data on deaf and hard-of-hearing students in public schools through its STARS system.</p> <p>NMSD collects data connected with deaf and hard-of-hearing students, as well.</p> <p>The SED could collaborate with the NMSD to ensure complete reporting occurs for this specific provision.</p>
<p>Compile data, and work in collaboration with DOH and ECECD, on teachers who are deaf or hard-of-hearing or who are fluent in ASL (page 5, lines 5-10)</p>	<p>Currently, the SED works in collaboration on transitional services for deaf and hard-of-hearing students with other executive agencies.</p> <p>The SED could presumably create a reporting code within the current STARS system for school districts and charter schools to report on teachers within this provision.</p>
<p>During calendar year 2021 and 2022, study the current funding for deaf and hard-of-hearing students and make recommendations on equalizing public funding for the education of deaf and hard-of-hearing students and ways to make the current educational delivery system more effective and equitable (page 5, lines 11-16)</p>	<p>Currently, deaf and hard-of-hearing students are funding through different funding mechanisms. Additional funding could depend on the student's IEP and may generate additional funding in the public school funding formula under the specific components for special education (A, B, C, or D). School districts and charter schools decide locally how these funds will be used that are generated through the public school funding formula, and there is no guarantee that these funds will be used specifically for the student who generated them. The SED does not control how these funds are required to be used.</p>

	A working group could be established and led by current PED staff related to this requirement.
Propose a supplemental SEG distribution-based deaf and hard-of-hearing educational funding index that equalizes public funding for deaf and hard-of-hearing students and defines ways to make the current educational delivery system more equitable (page 5, lines 17-21)	A working group could be established and led by current PED staff related to this requirement.

Additionally, the SED has worked in collaboration with the NMSD on a variety of activities, including: development of the IEP communications considerations document and training required by schools; technical assistance document in educational interpreting; Deaf Education Bill of Rights; coordination of Deaf Education Task Force and compilation of report with multiple stakeholders, including individuals from the deaf community; and the development of support to families and student access to information about NMSD services in the summer of 2020 on 6.31.2 NMAC, Children with Disabilities/Gifted Children.

Potential conflicts with federal and/or state law:

On page 4, lines 23-25, this specific language may conflict with the federal and state IDEA, which mandates IEPs depending on the specific needs of the child, not the same or equal programs. NMSD’s school program on campus is part of the continuum of placement options required by IDEA that is provided in New Mexico for all students where it is determined that this is their least restrictive environment through the IEP process.

Additionally, the requirement for all children to receive a free and appropriate education is already guaranteed in the New Mexico Constitution. This provision within the state constitution includes all children, including deaf and hard-of-hearing students. Since this requirement is already established within the state constitution, this may not need to be reflected in the Educational Rights of Deaf and Hard-of-Hearing Children statute.

PERFORMANCE IMPLICATIONS

N/A

ADMINISTRATIVE IMPLICATIONS

The SED would be required to specifically hire a deaf services coordinator, whose duties are outlined in HB237. It is unclear if the current EA position would suffice as the deaf services coordinator detailed in the bill.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

N/A

TECHNICAL ISSUES

N/A

OTHER SUBSTANTIVE ISSUES

Under the bill, some of the provisions can already occur, including: (1) allowing the NMSD to provide services to deaf or hard-of-hearing students who attend public school; (2) NMSD not charging public schools when participating in the development of IEPs for deaf or hard-of-hearing students or providing student evaluations or student observations; and (3) ensuring an equal education for all deaf and hard-of-hearing students regardless of the school they attend. These are outlined in 6.31.2 NMAC, Children with Disabilities/Gifted Children, and the state constitution.

ALTERNATIVES

N/A

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

N/A

AMENDMENTS

N/A