

<b>LFC Requester:</b>	<b>Klundt</b>
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**AGENCY BILL ANALYSIS  
2021 REGULAR SESSION**

**WITHIN 24 HOURS OF BILL POSTING, EMAIL ANALYSIS TO:**

[LFC@NMLEGIS.GOV](mailto:LFC@NMLEGIS.GOV)

*and*

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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** 2/16/2021  
**Bill No:** SB302

**Sponsor:** Sen. Antoinette Sedillo Lopez

**Agency Name and Code**    PED - 924  
**Number:** \_\_\_\_\_  
**Person Writing:**    John Sena

**Short Title:**    EDUCATIONAL EMPLOYEE PTSD

**Email**  
**Phone:** 505-570-7816 :    John.Sena@state.nm.us

**SECTION II: FISCAL IMPACT**

**APPROPRIATION (dollars in thousands)**

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

(Parenthesis ( ) Indicate Expenditure Decreases)

**REVENUE (dollars in thousands)**

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

(Parenthesis ( ) Indicate Expenditure Decreases)

**ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)**

	<b>FY21</b>	<b>FY22</b>	<b>FY23</b>	<b>3 Year Total Cost</b>	<b>Recurring or Nonrecurring</b>	<b>Fund Affected</b>
<b>Total</b>	NFI	NFI	NFI	N/A	N/A	NFI

(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: Senate Bill 302 (SB302) proposes a new section of the New Mexico Occupational Disease Disablement Law to create a rebuttable presumption that an educational employee’s posttraumatic stress disorder (PTSD) was caused by their educational employment. If after the relevant employment, a physician or psychologist diagnoses an educational employee with PTSD that results in physical impairment, primary or secondary mental impairment, or death, and there is no evidence the PTSD preexisted the employment, it is presumed to be proximately caused by that employment. An employer would be required to provide medical treatment as for a job-related illness or injury, until this presumption is successfully rebutted. This presumption may be rebutted in a court of competent jurisdiction by a preponderance of evidence that the employee engaged in conduct outside of their relevant employment that posed a significant risk of PTSD. If the court determines the presumption does not apply or that the PTSD is not job-related, the employee’s medical or health insurance plan or benefit provided by the employer would be required to reimburse the employer’s worker’s compensation insurance. However, even if this presumption is inapplicable, an educational employee may still demonstrate by a preponderance of evidence the necessary causal connection between relevant employment and their diagnosed PTSD.

SB302 defines an “educational employee” as a licensed or unlicensed employee of a school district or a private school.

**FISCAL IMPLICATIONS**

SB302 does not contain an appropriation.

The bill would require public and private schools to use existing resources through employee workers’ compensation insurance to pay for medical care for school employees experiencing PTSD unless the presumption of proximate cause is inapplicable or successfully rebutted in court. The bill may result in an increase to workers’ compensation insurance for schools. Further, because successful rebuttal of the presumption created by SB302 requires adjudication by a court of competent jurisdiction, it would likewise require work by an employer’s attorney that may or may not be covered by existing resources.

**SIGNIFICANT ISSUES**

This presumption of proximate cause to educational employment created by SB302 would require PTSD be treated as a job-related illness or injury that educators can receive reimbursement for under workers' compensation, unless successfully rebutted in court. [Benefits](#) from workers' compensation could provide educational employees with time off from work, treatment resources, payment for lost wages and coverage for medical treatment related to PTSD.

Several [states](#), including Massachusetts, New Jersey, New York, and Rhode Island, "generally provide workers' compensation benefits for stress-related injuries that do not result from a physical injury," including PTSD in some cases.

Educators, like other adults, can develop PTSD due to a variety of factors. [PTSD](#) is a "mental health condition that is triggered by a terrifying event" that is either experienced or witnessed. [PTSD](#) "can develop after exposure to a potentially traumatic event that is beyond a typical stressor," including, but not limited to, "violent personal assaults, natural or human-caused disasters, combat, accidents or other forms of violence." Environmental stressors can contribute to PTSD, and could be anything that is considered stressful, including working in a stressful environment.

Between 9.7 percent and 12.8 percent of U.S. women and between 3.6 percent and 5.7 percent of U.S. men develop PTSD once during their lives. Symptoms may include "persistent, frightening thought and memories of the event(s), sleep problems, feelings of detachment or numbness, or becoming easily startled." PTSD can also [impact](#) the ability of an individual to function at work. Protective factors such as good coping skills, optimal adaptation, high levels of preparedness, and social support can assist in protecting a person from developing PTSD.

According to a 2016 [Issue Brief](#) developed by Penn State, Teacher Stress and Health: Effects on Teachers, Students and Schools, "teaching is one of the most stressful occupations in the U.S." Sources of stress include a lack of supportive school environment and leadership, high job demands, and low social-emotional competences and classroom management skills. Consequences of teacher stress can lead to poor teacher health and well-being, absenteeism, and high teacher turnover. It can also contribute to poor teacher performance, lower student achievement, and a loss of continuity in relationships for students and families. Additionally, teacher well-being and stress levels have been impacted by the [COVID-19 pandemic](#), including their own concerns about illness and addressing students' increased needs and challenges related to online learning, concrete supports such as food and housing, mental health issues, and overall access to resources and services.

## **PERFORMANCE IMPLICATIONS**

N/A

## **ADMINISTRATIVE IMPLICATIONS**

If SB302 is enacted, PED should communicate to school districts and schools their employees' diagnoses of PTSD are presumed to be work-related, requiring that worker's compensation insurance be used to pay for related PTSD services, unless that presumption is successfully rebutted in court or otherwise found to be inapplicable.

## **CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP**

N/A

## **TECHNICAL ISSUES**

N/A

## **OTHER SUBSTANTIVE ISSUES**

N/A

## **ALTERNATIVES**

A bill could be introduced requiring schools to implement programs that focus on reducing stress, building teacher social supports, increasing coping skills, and improving overall teacher well-being and performance. Some [successful programs](#) include teacher induction and mentoring programs, school work place wellness programs and policies, stress management programs, and social and emotional learning programs that help improve student behavior and outcomes.w

## **WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL**

N/A

## **AMENDMENTS**

N/A