

LFC Requester:	Liu / Helms
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**AGENCY BILL ANALYSIS
2023 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 01/24/23
Original **Amendment** **Bill No:** HB108
Correction **Substitute**
Sponsor: Block **Agency Name and Code**
Number: PED - 924
Person Writing Gregory Frostad
Short Title: TRANSFER OF CERTAIN SCHOOL STUDENTS **Phone:** 505-470-5752 **Email:** gregory.frostad@ped.nm.gov

SECTION II: FISCAL IMPACT

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY23	FY24		
None	None	N/A	NFA

(Parenthesis () Indicate Expenditure Decreases)

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY23	FY24	FY25		
None	None	None	N/A	NFA

(Parenthesis () Indicate Expenditure Decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY23	FY24	FY25	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected

Total	None	None	None	None	N/A	NFA
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(Parenthesis () Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to: None
 Duplicates/Relates to Appropriation in the General Appropriation Act: None

SECTION III: NARRATIVE

BILL SUMMARY

Synopsis: House Bill 108 (HB108) would allow a student enrolled in a school needing targeted support and improvement (TSI) or more rigorous interventions (MRI) to transfer to a school that does not require any improvement interventions, including a school that is not part of the school district in which the student resides. The bill defines “attendance area” and “improvement interventions” specific to the amended Section 22-1-4 NMSA 1978.

FISCAL IMPLICATIONS

This bill does not contain an appropriation.

SIGNIFICANT ISSUES

PED uses specific indicators to categorize schools in designations that meet requirements of the federal Elementary and Secondary Schools Act (ESEA).

- New Mexico Spotlight Schools score above the 75th percentile.
- Traditional Support Schools score above thresholds for support improvement.
- Schools in need of TSI have one or more subgroups consistently underperforming.
- Additional Targeted Support (ATSI) schools have one or more subgroups performing as poorly as the lowest performing 5 percent of Comprehensive Support (CSI) schools below.
- CSI schools have any of the following indicators:
 - Performing in the bottom 5 percent of all Title I schools;
 - High school failing to graduate 33 percent or more of students; or
 - Not having exited ATSI designation within a predetermined number of years.
- MRI schools would be current CSI schools not exiting within 3-year time frame, or by the 2025-2026 school year.

Of New Mexico’s 867 public schools . . .

- 95 schools (11 percent) currently have TSI designation in 34 school districts (24 percent).
- 94 schools (11 percent) currently have CSI designation in 40 school districts (28 percent).
- No schools have MRI designation.

Over 30,000 students attend the 95 TSI schools. HB108 would prioritize transfer enrollment for these students to open seats in any of the 78% of schools statewide that do not require improvement interventions. Two factors that would be crucial to estimating the impact of HB108 on transfer of students are the number of open seats in higher performing schools and the proximity of these schools to lower performing schools. These factors would be difficult to estimate with any degree of certainty. However, the capacity of nearby schools that do not

require improvement interventions would most likely be a very small fraction of the number of students who would be eligible for priority transfer under HB108. If even 5 percent of eligible students (1,500 students statewide at a minimum) could be accommodated at higher performing schools, assuming distance and transportation were not an obstacle to their transfer, any benefits to them would be inaccessible to 95 percent of students at TSI schools, rendering the equity impact of HB108 negligible. This projected movement of students between schools would also reduce the operational budgets of schools by at least \$15 million where 95 percent of eligible students would remain.

HB108 would reintroduce a degree of parental choice to public school enrollment policy. School choice was a mandatory school improvement strategy under the previous version of federal K-12 law, the No Child Left Behind Act. The current [Every Student Succeeds Act](#) (ESSA) allows public schools to accommodate transfer from underperforming schools, but with priority for those who are lowest achieving and from low-income families. Studies have shown, however, that public school choice widens inequality and fails to produce hoped-for learning gains. Such policies may be viewed as empowering to parents, with “potential to decrease school segregation and increase educational equity,” according to [Winchell Lenhoff](#) (2020), who further clarified, however, that “this promise is undermined when school choice creates greater opportunity for those who are already privileged while limiting access to students from historically marginalized groups.”

In an international survey of educational policymaking, [Cairney and Kippin](#) (2021) contrasted public school policies that focus on access at the expense of “meaningful redistribution of resources,” and those that focus on outcomes and invest in resources to improve school outcomes. They cited findings that “socioeconomic status influences the ability and willingness to exploit school choice.” According to Cairney and Kippin, citing the Organization for Economic Cooperation and Development’s [No More Failures: Ten Steps to Equity in Education](#), “parental choice on where to send their children can exacerbate inequalities related to demand (e.g., some have more resources to gather information and to pay for transport) and supply (e.g., the discriminatory rules for entry).”

PERFORMANCE IMPLICATIONS

N/A

ADMINISTRATIVE IMPLICATIONS

N/A

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

N/A

TECHNICAL ISSUES

HB108 specifies school designations of TSI and MRI but not CSI. There are no New Mexico schools identified as in need of More Rigorous Interventions (MRI) because the indicator for MRI relates to a three-year time frame concluding in SY26.

Although the language suggests it, it is not completely clear from Subparagraph (3)(b) of

Subsection E of Section 1 of the bill that the intent was to allow students from not just outside the attendance zone of a particular school, but also outside the school district to have enrollment priority. The sponsor may wish to consider clarifying the intent of that subparagraph. See, “Amendments,” below.

OTHER SUBSTANTIVE ISSUES

N/A

ALTERNATIVES

HB108 provides for priority transfer for students in TSI schools and MRI schools, but neglects to include students in comprehensive support and improvement (CSI) schools which are at a higher level of need than TSI schools. The bill sponsor may want to include students in CSI schools.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

N/A

AMENDMENTS

The sponsor may wish to consider clarifying intent in Section 22-1-4(E)(3)(b) NMSA 1978. If the intent is to allow students to transfer to a school not in need of improvement interventions from outside the school district, the subparagraph might read, “[s]econd, students who live outside the school district but who transfer from a public school . . .”

If the intent is to only allow students from within the school district to transfer to a school outside their attendance zone, the subparagraph might read, “[s]econd, students who live within the school district but outside the attendance area but who transfer from a public school . . .”