

<b>LFC Requester:</b>	<b>Sunny Liu</b>
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**AGENCY BILL ANALYSIS  
2017 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: Date 1/30/2017  
**Original**     **Amendment**        **Bill No:** HB160  
**Correction**     **Substitute**   

**Sponsor:** Rep. Yvette Herrell    **Agency Code:** 924  
**Short Title:** SCHOOL DISTRICT FULL-TIME NURSES    **Person Writing:** Aguilar/Hopper  
**Phone:** 827-6519    **Email:** [PaulJ.Aguilar@state.nm.us](mailto:PaulJ.Aguilar@state.nm.us)

**SECTION II: FISCAL IMPACT**

**APPROPRIATION (dollars in thousands)**

Appropriation		Recurring or Nonrecurring	Fund Affected
FY17	FY18		
	\$1,650.0	Recurring	General Fund

(Parenthesis ( ) Indicate Expenditure Decreases)

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

	FY17	FY18	FY19	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
<b>Total</b>	NFI	See Fiscal Implications	See Fiscal Implications	See Fiscal Implications	Recurring	School District Budgets

(Parenthesis ( ) Indicate Expenditure Decreases)

Relates to Appropriations contained in the General Appropriation Act: State Equalization Guarantee

## **SECTION III: NARRATIVE**

### **BILL SUMMARY**

#### **Synopsis:**

House Bill 160 (HB160) amends the Public School Code, Section 22-8-9 NMSA 1978, to require that each school district employ a minimum of one full-time, department-licensed registered school nurse. The bill further requires the Public Education Department (PED) to promulgate rules for the implementation of this change to the Public School Code.

HB160 also appropriates \$1,650.0 from the general fund to the PED in fiscal year 2017 to assist schools districts, with enrollment less than 250, in employing a department-licensed registered school nurse for the 2017-2018 school year. For these districts, HB160 also states the PED may promulgate rules to allow for a waiver pending certain exemption criteria are met as outlined in HB160.

### **FISCAL IMPLICATIONS**

The appropriation of \$1,650.0 contained in this bill is a recurring expense to the general fund. Any unexpended or unencumbered balance remaining at the end of FY 2018 shall revert to the general fund.

HB160 appropriates \$1,650.0 to the PED in fiscal year 2018 to assist school districts with student enrollment of less than 250 students in employing a department-licensed registered school nurse for the 2017-2018 school year.

In relation to local school districts, HB160 requires districts to allocate a portion of their budget to employ a full-time, department-licensed registered school nurse. The current average annual salary for a registered school nurse in NM is \$44,534/yr, excluding benefits. For those districts with enrollments greater than 250 students, funding for employing a full-time, department-licensed registered school nurse would need to be allocated from existing resources.

The use of federal funds, such as Title I or Individuals with Disabilities Education Act (IDEA) funds, for this purpose would be considered supplanting of appropriated funding, which is not allowed under federal law. School districts that are found supplanting funds face various consequences including the loss of federal funds, withholding of payments, or repayment of funds.

As HB160 is silent on sustainable funding to support the requirement of the department-licensed registered school nurses beyond the 2017-2018 school year, this would result in an unfunded mandate. Future costs to school districts with an enrollment of less than 250 students are not quantifiable.

### **SIGNIFICANT ISSUES**

Prior to 1997, the Public School Code contained provisions in this same section of statute that required a school district's budget to contain funding for a full-time, department-certified nurse for each fifty-five teachers employed by a school district or the equivalent part-time, department-certified nurse for less than fifty-five teachers. This provision was deleted for the 1998 fiscal year.

As of the 2016-2017 school year, 65 districts (inclusive of state-chartered charter schools and state supported schools) report having an enrollment of less than 250 students. If enrollment data remains consistent in school year 2017-2018, and HB160 is enacted, then approximately 65 districts would be eligible for financial assistance from the PED in hiring a full-time, department-licensed registered school nurse. HB160, Section 1, Part A, states that a district budget will not be approved unless the budget provides for “a full-time, department-licensed registered school nurse employed in the school district” (page 2, lines 1 and 2). The mandate for the full-time licensed registered nurse to be “employed in the school district” may restrict district options and ability to contract with a full-time registered nurse or utilize a school nurse contracted through a Regional Education Cooperative (REC). In rural districts, where availability of school nurses is limited, it may be necessary to seek alternative hiring strategies, such as contracting a nurse through the district or through an REC. With other health or ancillary personnel, RECs often share a Full Time Equivalent (FTE) or FTEs with member districts.

HB160 requires the PED to promulgate rules allowing for a waiver of the new minimum requirement; however, the waiver process would only be available to districts with less than 250 students enrolled. Due to the rural nature of many NM districts, those districts with greater than 250 students may also encounter difficulty related to registered nurse availability in their geographic vicinity. HB160 does not address alternative plans for districts with greater than 250 students enrolled.

According to the 2015-2016 Annual School Health Services Summary Report ([http://ped.state.nm.us/sfsb/reports/2017/PED-MY\\_ASHSR%20Brochure%20Final-16Dec16.pdf](http://ped.state.nm.us/sfsb/reports/2017/PED-MY_ASHSR%20Brochure%20Final-16Dec16.pdf)) there were just under 2.1 million student visits to New Mexico (NM) school health offices. There are approximately 338,000 (<http://ped.state.nm.us/IT/schoolFactSheets.html>) students enrolled in New Mexico public schools. The top three reasons students visited the office were for acute illness (34.3%), chronic conditions (24.6%), and injury (10.7%). After visiting the school health office, 91% of students were able to return to class. The summary report also states that 20 out of the 86 reporting districts (inclusive of local charter schools) declared they had less than one full-time registered school nurse for the 2015-2016 school year to lead the school health team. Districts with less than one full-time registered school employed within the district have utilized alternative hiring strategies to address health services within the public school setting.

House Memorial 61 (HM61) of the 2015 legislative session called for the Secretary of Health and the Secretary of Public Education to convene a task force to assess the current New Mexico school nurse staffing models and to make recommendations to ensure safe and legal care for students in public, private and charter schools. The task force highlighted that existing staffing models vary widely, depending on funding, complexity of student health needs and availability of nurses.

The National Association of School Nurses (NASN) states that “The school nurse serves in a pivotal role to provide expertise and oversight for the provision of school health services and promotion of health education.” Districts are currently addressing this need through the employment of registered school nurses, supervised licensed practical nurses, health assistants, contracted nurses and School-Based Health Centers throughout the state.

#### **ADMINISTRATIVE IMPLICATIONS**

The PED will be required to identify eligible districts and to review school districts’ budgets to ensure compliance. The PED would need to promulgate rules for the implementation of the

minimum requirement for a full-time, department-licensed registered school nurse. Included in this would be a formal process for the promulgation of a rule requiring public notice, a public hearing, posting of the rule, and other legal processes and development of a waiver and waiver process for districts, unable to meet the new requirements in the public school code to request an exception. If enacted, HB160 will require the use of limited existing staff resources.

#### **TECHNICAL ISSUES**

HB160 is unclear if the term “district” includes state-chartered charter schools.

#### **OTHER SUBSTANTIVE ISSUES**

HB160 is an unfunded mandate after fiscal year 2018 for those districts with student enrollments of less than 250 students.

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

The school districts will continue to employ registered nurses, supervised licensed practical nurses, health assistants, contracted nurses and School-Based Health Centers throughout the state. Positions will be funded through the school district’s general fund operational dollars. RECs will continue to provide nursing services to their member districts that meet the needs of the individual school districts.