

<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*

[DFA@STATE.NM.US](mailto: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** 1/29/17  
**Bill No:** HB190

**Sponsor:**    Rep. David E. Adkins  
                   Rep. Brian Egolf

**Short Title:**    SCHOOL DISTRICT  
                       EMPLOYEE BACKGROUND  
                       CHECKS

**Agency Code:**    924  
**Person Writing**    Matt Pahl  
**Phone:**            \_\_\_\_\_ **Email**    Matt.Pahl@state.nm.u

**SECTION II: FISCAL IMPACT**

**APPROPRIATION (dollars in thousands)**

Appropriation		Recurring or Nonrecurring	Fund Affected
FY17	FY18		

(Parenthesis ( ) Indicate Expenditure Decreases)

**REVENUE (dollars in thousands)**

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY17	FY18	FY19		

(Parenthesis ( ) Indicate Expenditure Decreases)

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

	<b>FY17</b>	<b>FY18</b>	<b>FY19</b>	<b>3 Year Total Cost</b>	<b>Recurring or Nonrecurring</b>	<b>Fund Affected</b>
<b>Total</b>						

(Parenthesis ( ) Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to:

Bill as is written now contains a potential conflict with 6.60.9.9 & .10 NMAC in that definition of “ethical misconduct” is not identical.

Duplicates/Relates to Appropriation in the General Appropriation Act

**SECTION III: NARRATIVE**

**BILL SUMMARY**

Synopsis:

HB190 seeks to amend the public school code to require that all public school district applicants for employment, current employees, and other persons allowed unsupervised access to students, provide proof of a finger-print based background check. All new employees will be required to provide the same proof of a qualifying background check prior to their date of hire and all employees must self-report to a designated administrator any conviction of a felony or misdemeanor involving moral turpitude.

**FISCAL IMPLICATIONS**

There may be no fiscal implications for local school districts, charters or RECs because the cost of background checks is generally borne by the school employee. However, some districts have expressed they would pay for the background checks under provisions of this law. In this case, there will be a voluntary fiscal impact.

**SIGNIFICANT ISSUES**

HB190 fixes a loophole in New Mexico statute that allowed school employees who received their license before May 20, 1998 to have a teaching license without completing a fingerprint-based background check. By providing for school employees to have a background check on file, regardless of hire date, it ensures that all school employees have a background check on file. From 1/1/2016-12-31/2016 there are 225 educators with no FBI Background checks.

On January 28<sup>th</sup> 2015 a significant comprehensive review of school background check policies and district/charter school compliance. Highlights of the review’s findings include:

- All school districts and charter schools have access to New Mexico’s background check system through the web-based Cogent portal;
- 183 districts and charters submitted board-approved background check policies – one district and four charters failed to make these submissions;

- 184 districts and charters submitted written assurance that their board approved background check policies comply with state law, and that they are in compliance with these policies – one district and three charters failed to make these submissions;
- Districts and charters reported that 14 of 1,758 administrators do not have a required background check on file – two districts and seven charters failed to report data on administrators; and,
- Districts and charters reported that 71 of 5,253 newly hired employees do not have a required background check on file – three districts and six charters failed to report data on newly hired employees.

The report also contained recommendations for PED:

- Update statutory language to require all employees, regardless of the date of hire, to have a background check prior to having direct access to children or school resources
- Ensure that no employee may begin working until they have satisfactorily completed a background check.
- Change “Subject to a fingerprint-based on background check” to “the satisfaction of the department.”

This bill would fulfill the recommendation of the first two recommendations.

## **OTHER SUBSTANTIVE ISSUES**