

LFC Requester:	Sunny Liu
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**AGENCY BILL ANALYSIS
2017 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 3/6/2017
Original **Amendment** **Bill No:** HB301/aHHHC
Correction **Substitute**

Sponsor: Rep. Doreen Y. Gallegos **Agency Code:** 924
Rep. Gail Chasey
Short Title: SUPPORT FOR **Person Writing** Aguilar/C. Ortiz
TRANSFERRING STUDENTS **Phone:** 827-6519 **Email** PaulJ.Aguilar@state.nm.us

SECTION II: FISCAL IMPACT

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY17	FY18		
	None Noted	Recurring	General

(Parenthesis () Indicate Expenditure Decreases)

Relates to SB213

SECTION III: NARRATIVE

BILL SUMMARY

Synopsis: House Bill 301 Amendment, Health & Human Services Committee

House Bill 301 Amendment (HB301/aHHHC) makes changes to the original HB301 by updating the definitions of homelessness and an abused or neglected child and provides a qualifier on delinquent youth reading “if the parent wishes to disclose the adjudication of delinquency”.

Significant Issues of HB301/aHHHC

Allowing the local school or school district to determine the status of homelessness for its student’s conflicts with the law.

The federal definition is clearly defined in the McKinney–Vento Homeless Assistance Act of 1987 (Pub. L. 100-77, July 22, 1987, 101 Stat. 482, 42 U.S.C. § 11301 et seq.) and as further reinforced in the Every Student Succeeds Act (ESSA) and must be used as both the definition and determination of homelessness. (See The McKinney-Vento Homeless Assistance Act, 2002, Section 725: <https://www2.ed.gov/policy/elsec/leg/esea02/pg116.html>.)

Furthermore, determining homelessness at the school or school district level could potentially have an impact on district and state chartered-charter schools, which participate in the United States Department of Agriculture’s (USDA) Community Eligibility Provision (CEP), as it could affect the Identified Student Percentage (ISP) qualifying rate for eligibility to participate in CEP and provide free meals to all students.

Performance Implications of HB301/aHHHC

The amendment to the definition of homelessness determined at the local school or school district level conflicts with the PED’s strategic plan to ensure that all children are ready for success, as it potentially creates barriers to established assistance to homeless children and youth and their ability to matriculate in schools and to graduate.

Administrative Implications of HB301/aHHHC

The amendment to the definition of homelessness to include being determined at the local school or school district level would jeopardize the PED’s relationship to the federal United States Department of Education and the required guidelines based on the statute of the McKinney-Vento Act. The PED would no longer be able to provide oversight of the Homeless Education Program as it now stands; schools would not be in compliance with the USDE, including the new ESSA regulations regarding homeless children and youth; the state’s homeless education plan would become unenforceable; and schools would not receive much needed funding, resources and technical assistance support as determined by the PED.

Other Substantive Issues of HB301/aHHHC

HB301hhhca would conflict with federal law.

Amendments to HB301/aHHHC

The legislature should replace the definition, as inserted by HB301hhhca on page 2, line 6, with the definition provided in the McKinney–Vento Homeless Assistance Act of 1987 (Pub. L. 100-77, July 22, 1987, 101 Stat. 482, 42 U.S.C. § 11301 et seq.) and as further reinforced in the Every Student Succeeds Act (ESSA) or the legislature should remove “as determined by the school or school district” after “Act” on page 2, line 6.

Synopsis of Original House Bill 301:

House Bill 301 (HB301) amends the public school code to require sending and receiving schools to provide high school students who have experience a disruption in the education process through no fault of their own (e.g., homeless youth, adjudicated youth, foster youth, and youth placed in a behavioral health treatment or habilitation program among others) opportunities to participate in school academic and extracurricular activities for which they are eligible.

HB301 also requires the sending school or school district to provide student records to the receiving school within two days of receipt of the request by the receiving school and addresses appropriate and expedited placement in both classes that meet the graduation requirement and elective classes in order that these students are able to earn credits to graduate in a timely manner

from high school.

FISCAL IMPLICATIONS

The New Mexico Public Education Department (PED) would need to ensure public schools and state chartered-charter schools are aware of the changes to the Public School Code (§ 22-2) and provide assistance as needed. This could be done with existing resources.

SIGNIFICANT ISSUES

Significant Issues of Original HB301:

The Joint Education Task Force was created in December 2012, through a New Mexico Supreme Court order establishing the Task Force. The Task Force, co-chaired by former Chief Justice Petra Jimenez Maes and Governor Susana Martinez, was charged with providing the Court with collaborative advice, recommendations, and proposed strategies for addressing the educational needs of high risk children and youth particularly children and youth in the state's custody. Specifically, the order required that the Task Force submit a report summarizing its activities, findings, and recommendations on the development of a sustainable collaborative model for ongoing systemic improvement of educational outcomes and the challenges and barriers to educational success.

The final report included recommendations for the creation of a credit recovery document that highlights best practices to assist districts and provides ongoing considerations of developing policies and practices that ensures students obtain eligible credit despite school placement changes. The recommendations also included statewide credit policies be developed. HB301, through the expedited placement in core and elective classes of students experiencing a disruption in the education process through no fault of their own, would, in part, align with these recommendations.

National research shows that students who experience disruption in their educational process are at high-risk of dropping out of school and are unlikely to attend or graduate from college. The frequent mobility of these students has been identified as a major barrier to their academic success. This population includes:

- Students experiencing homelessness as defined by the federal McKinney-Vento Homeless Assistance Act; and
- Students that are adjudicated and have experienced abuse or neglect as a child or is part of a family in need of court-ordered services voluntary placement; or as a delinquent.

Changing schools multiple times significantly impedes a student's academic and social growth. The research on highly mobile students, including homeless and foster care students, indicates that a student can lose academic progress with each school change. Students experiencing high mobility have also been found to have lower test scores and worse overall academic performance than peers who do not change schools frequently.

According to the New Mexico Consolidated State Performance Report (CSPR) for school year 2015-2016, New Mexico schools collectively reported 10,075 students statewide that are experiencing homelessness. The National Coalition for the Homeless reports that students'

experiencing homelessness often change schools because shelters or other temporary accommodations are not located in their school district. According to the Institute for Children and Poverty, in recent years, 42% of homeless children transferred schools at least once, and 51% of these students transferred twice or more (<http://www.icphusa.org/>).

The New Mexico Children Youth and Families Department (CYFD) reports that there are currently 2,663 children and youth in the foster care system. According to *Research Highlights of Education and Foster Care*:

- Students in foster care at the age of 17 are less likely to graduate from high school than their peers;
- 56%-75% of foster youth change schools when first entering care; and
- 34% of 17-18 year olds in care have experienced 5+ school changes.

Fostering Success in Education: National Factsheet on the Educational Outcomes of Children in Foster Care January 2014

(http://www.fostercareandeducation.org/DesktopModules/Bring2mind/DMX/Download.aspx?EntryId=1279&Command=Core_Download&method=inline&PortalId=0&TabId=124)

While options for credit recovery, such as courses offered through IDEAL New Mexico (<http://idealnewmexico.org/>), currently exist within the state, changes to the New Mexico Children's Code requiring expedited record transfers between sending and receiving schools for populations identified in HB301 would ensure that student course work completed at the time of transfer counts toward graduation requirements.

HB301 also ensures equal access to participate in sports and other extracurricular activities, career and technical programs or other special programs for which the student qualifies. Research has demonstrated that involvement in extracurricular activities helps at-risk students as the engagement in school extracurricular activities is linked to decreasing rates of early school dropouts in both boys and girls. (<http://www.ascd.org/publications/educational-leadership/dec99/vol57/num04/-Extracurricular-Activities@-The-Path-to-Academic-Success%2%A2.aspx>).

Finally, as IDEA Part B of the Individuals with Disabilities Education Act authorizes states to provide services for students with cognitive and /or physical disabilities, HB301 reinforces this federal requirement.

PERFORMANCE IMPLICATIONS

Performance Implications of HB301hhhca

The amendment to the definition of homelessness determined at the local school or school district level conflicts with the PED's strategic plan to ensure that all children are ready for success, as it potentially creates barriers to established assistance to homeless children and youth and their ability to matriculate in schools and to graduate.

Performance Implications of Original HB301

HB301 supports the PED's strategic plan through ensuring all children are ready for success and through removing potential barriers to graduation.

ADMINISTRATIVE IMPLICATIONS

Administrative Implications of HB301hhca

The amendment to the definition of homelessness to include being determined at the local school or school district level would jeopardize the PED's relationship to the federal United States Department of Education and the required guidelines based on the statute of the McKinney-Vento Act. The PED would no longer be able to provide oversight of the Homeless Education Program as it now stands; schools would not be in compliance with the USDE, including the new ESSA regulations regarding homeless children and youth; the state's homeless education plan would become unenforceable; and schools would not receive much needed funding, resources and technical assistance support as determined by the PED.

Administrative Implications of Original HB301

The PED would have to ensure public schools and state chartered-charter schools are aware of the changes to the Public School Code (§ 22-2) and provide assistance as needed. This could be done with existing resources.

OTHER SUBSTANTIVE ISSUES

Other Substantive Issues of HB301hhhca

HB301hhhca would conflict with federal law.

Substantive Issues of Original HB301

The Every Student Succeeds Act (ESSA) provides specific language addressing removing the barriers to education and educational opportunities for students experiencing homelessness and students in foster care. HB301 would reinforce the federal law.

AMENDMENTS

Amendments to HB301hhhca

The legislature should replace the definition, as inserted by HB301hhhca on page 2, line 6, with the definition provided in the McKinney-Vento Homeless Assistance Act of 1987 (Pub. L. 100-77, July 22, 1987, 101 Stat. 482, 42 U.S.C. § 11301 et seq.) and as further reinforced in the Every Student Succeeds Act (ESSA) or the legislature should remove "as determined by the school or school district" after "Act" on page 2, line 6.

Amendments to Original HB301

The legislature may wish to consider inserting, on page 3, line 18, after "activities" "under the jurisdiction of the New Mexico Activities Association" – this may provide clarity regarding extracurricular athletics and activities.

The title of the bill refers to "A HIGH SCHOOL STUDENT WHO HAS EXPERIENCED DISRUPTION IN THE EDUCATION PROCESS THROUGH NO FAULT OF THE STUDENT". It is unclear if delinquency can be defined as "no fault of the student". The legislature may wish to address this issue in its deliberations.