LFC Requester:	Sunny Liu

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:

Original X **Amendment** ____
Correction ____ **Substitute** ____

Date January 29, 2017
Bill No: SB39

Sponsor: Senator Howie C. Morales
Short Title: "CURRENT YEAR MEM" IN SCHOOL CODE

Agency Code: 924
Person Writing Aguilar/Craig
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SECTION II: FISCAL IMPACT

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY17	FY18		
	Indeterminate; See below		

(Parenthesis ( ) Indicate Expenditure Decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY17	FY18	FY19	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total	Indeterminate; see below					

(Parenthesis ( ) Indicate Expenditure Decreases)

SECTION III: NARRATIVE

BILL SUMMARY

Synopsis:

SB 39 amends the public school code to clarify the definition of current membership in calculating enrollment growth program units.

FISCAL IMPLICATIONS

SB 39 provides that enrollment growth units are to be calculated using the current membership after membership for new formula-based programs are subtracted out. This will negatively impact charter schools and school districts that are adding new grades or other new programs for the current fiscal year and experiencing enrollment growth at the same time.

Approximately 10 to 20 charter schools and school districts add new grades each year, with the bulk being the phase-in of new grades in charter schools. The individual impacts to each entity will fluctuate greatly depending how big they are and how many students they serve as well as how many new grades they are adding.

SIGNIFICANT ISSUES

SB 39 appears to be focused specifically at charter schools although some districts will be affected. The current practice is for those school districts and charter schools with new programs or new grades to receive funding for both the new programs and the enrollment growth units generated year-over-year. This is done because provisions in state law provide State Equalization Guarantee (SEG) revenues for *both* adding a new program and enrollment growth [emphasis added], though only one of these provisions occurs in state statute (see technical issues below).

The LFC and LESC have commented for a number of sessions that these funding mechanisms result in these districts and charter schools receiving double funding. This analysis does not consider that the statewide average number of units per student is about 1.90 and the average student counted in the new programs at the most will generate 1.25 base units as an individual student. When growth is factored in, this amount may increase by an additional 1.5 units however the LFC/LESC analysis does not consider that when new programs are added in sufficient numbers to trigger growth units that the cost of educating these students is not sufficiently covered by either the base unit or enrollment growth increase. Even despite having two funding mechanisms for enrollment growth and new programs, the funding provided may not fully cover the associated costs of growing while implementing a new program, and entities often plan accordingly.

For this reason, raising the issue of double funding does not provide context to why such funding may be appropriate. There are numerous areas across the public school funding formula where students in one area of the funding formula are counted again for the purposes of another variable. For example, students in base grade membership funding are often counted again for the purposes of determining the at-risk multiplier, or for additional Fine Arts or Bilingual units. This is the result of past policy makers recognizing additional costs associated with these programs and creating new funding formula variables to direct SEG revenues that offset these costs. Though developed independently to address different costs, the two funding formula elements should and do not operate independently. In order to sufficiently fund the cost of providing an education to additional students in new programs, both funding components for enrollment growth and funding new programs in the current year are necessary.

SB 39 does not contain an effective date. There is the possibility that this could impact charter school budgets in the current fiscal year (FY17). When taken in concert with solvency reductions this could greatly impact charter school operations where new grades are being phased in and cause large

ADMINISTRATIVE IMPLICATIONS

If enrollment growth units are to be recalculated for the current fiscal year, it may cause the School Budget and Finance Analysis Bureau (SBFAB) to revise all of the work to develop State Equalization Guarantee (SEG) distributions; a significant core function. This could result in overtime costs.

TECHNICAL ISSUES

Funding for new programs on current year membership is only executed under provisions renewed yearly in the General Appropriations Act (GAA), a public session law. This language says "the general fund appropriation to the state equalization guarantee distribution includes sufficient funding for school districts and charter schools to implement a new formula-based program in the current school year based on the use of current-year first reporting date membership in the calculation of program units for the new formula-based program." This language has been included in the GAA since at least 2003.

Should this language ever be removed from the GAA, PED would have no ability to execute funding for new formula-based programs. Although this would have a chilling effect on school districts and charters establishing new grades or programs, it also is problematic from a legal perspective. In the scenario where SB 39 became law, and the language of the GAA were removed, PED would be placed in the position of having to remove student membership for new formula-based programs without any definition or mechanism for how to calculate funding for new formula-based programs. This would lead to uncertainty in the law as it becomes unclear whether PED would cease new program funding altogether or instead require PED to develop new program funding via administrative rule and/or policy and procedure before removing them from enrollment growth calculations. PED strongly recommends placing the language allowing new program funding based on current year membership into statute before addressing substantive policy changes to the practice of providing new program funding based on current year membership.