

<b>LFC Requester:</b>	<b>Esquibel, Ruby Ann</b>
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**AGENCY BILL ANALYSIS  
2014 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**     **Amendment**      
**Correction**     **Substitute**   

**Date** January 31, 2014

**Bill No:** HB279-305 Jan 31

**Sponsor:** Rep. Brian F. Egolf, Jr.

**Reviewing** Attorney General's Office

**Short** School Administration of

**Person Writing** Mary H. Smith

**Title:** Emergency Medication

**Phone:** 222 9093    **Email** msmith@nmag.gov

**SECTION II: FISCAL IMPACT \*\*\*\*FOR LFC OFFICIAL PURPOSES\*\*\*\***  
**AGO STAFF SHOULD LEAVE SHADED AREAS BLANK**

**APPROPRIATION (dollars in thousands)**

Appropriation		Recurring or Nonrecurring	Fund Affected
FY14	FY15		

(Parenthesis ( ) Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to:

Duplicates/Relates to Appropriation in the General Appropriation Act:

**REVENUE (dollars in thousands)**

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY14	FY15	FY16		

(Parenthesis ( ) Indicate Expenditure Decreases)

Duplicates, Relates to, Conflicts with, Companion to: HB 49, HB 52

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

	FY14	FY15	FY16	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
<b>Total</b>						

(Parenthesis ( ) Indicate Expenditure Decreases)

**SECTION III: NARRATIVE**

This analysis is neither a formal Attorney General’s Opinion nor an Attorney General’s Advisory Opinion Letter. This is a staff analysis in response to the agency’s, committee’s or legislator’s request.

**BILL SUMMARY**

Summary Synopsis: HB 279 is the third bill this session — in addition to HB 49, HB 52 — proposing to enact a new “Emergency Medication in Schools Act” within the Public School Code and amending the Public Health Act so as to mandate that a public, charter and private school obtain, store and administer (1) albuterol to students in apparent respiratory distress and (2) epinephrine to students having an anaphylactic reaction.

HB 279 contains an emergency clause.

The Attorney General’s comprehensive analysis of, and the specific issues identified in, HB 49 also apply to this analysis of HB 279, and will not be repeated here.

**FISCAL IMPLICATIONS WITH ENACTING THIS BILL**

None for the AGO.

**SIGNIFICANT LEGAL ISSUES**

HB 279 is, for the most part, identical or substantially similar to HB 49 and HB 52. Different from these two previous bills, HB 279:

- a. contains no appropriations;
- b. substitutes the newly defined “governing body” [Section 2(G)] for all previous references to local school boards and charter schools governing bodies;
- c. defines “governing body” [Section 2(G)] and “school” [Section 2(J)] to include a private school;
- d. adds to the requirements for maintaining stock supplies of emergency albuterol and emergency epinephrine [Section 3(A) and (B)], that each “school shall handle and store a stock supply;”
- e. adds to emergency medications policies [Section 4(A)] a requirement that a person administering emergency albuterol is restricted to the school nurse or another person “who has received training provided or approved by” the department of health — similar language is newly added to the documentation policies [Section 4(B) that trained personnel “have been trained by a school nurse or person authorized by the department;”
- f. adds entirely new language [Section 4(C)] requiring a governing body to develop an “anaphylactic reaction prevention protocol” that addresses, and provides training regarding, food allergies and the handling, service and consumption of food on school premises;
- g. adds an entirely new section to the Public School Code [Section 5] to mandate annual

reporting of medication incidents, trainings and implementation of the new Emergency Medications in Schools Act;

h. adds new language [Section 6(A)(1)-(5)] to the Public Health Act requiring the Department of Health to promulgate rules and make recommendations regarding the administration of albuterol in schools; and

i. adds new language [Section 6(C)] to the Public Health Act requiring the department of health to annually report to the legislature a summary and analysis of the implementation of the new Emergency Medications in Schools Act.

#### **PERFORMANCE IMPLICATIONS WITH ENACTING THIS BILL**

None for the AGO.

#### **ADMINISTRATIVE IMPLICATIONS WITH ENACTING THIS BILL**

None for the AGO.

#### **CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP WITH BILLS INTRODUCED THIS SESSION**

HB 279 is nearly identical to HB 49 and HB 52.

#### **TECHNICAL ISSUES OR DRAFTING ERRORS**

See AGO's analysis of HB 49.

#### **OTHER SUBSTANTIVE LEGAL ISSUES**

While Section 2(G) defines "governing body" to include a *private* school, Sections 1 through 5 create new sections of the *Public* School Code.

#### **ALTERNATIVES TO ENACTING THIS BILL**

See AGO's analysis of HB 49.

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

See AGO's analysis of HB 49.

#### **AMENDMENTS NEEDED TO IMPROVE THIS BILL**

See AGO's analysis of HB 49.