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FISCAL IMPACT REPORT

SPONSOR HEC DATE TYPED 3/15/05 HB 84/HECS

SHORT TITLE Public School Code Clean-up SB _____

ANALYST Segura/Baca

APPROPRIATION

Appropriation Contained		Estimated Additional Impact		Recurring or Non-Rec	Fund Affected
FY05	FY06	FY05	FY06		
			\$0.1	Recurring	General Fund

(Parenthesis () Indicate Revenue Decreases)

Conflicts with HB125 and SB368

SOURCES OF INFORMATION

LFC Files

Responses Received From
Public Education Department

SUMMARY

Synopsis of Bill

The House Education Substitute for House Bill 84 (HB84/HECS) clarifies, corrects and reconciles sections of the Public School Code to comply with the Education Reform Act of 2003.

The bill contains an emergency clause and becomes effective upon being signed by the Governor.

Significant Issues

HB 84/HECS clarifies Section 22-1-2 DEFINITIONS by clarifying the cross-reference to special education membership in Subsection O, amending the reference to the “New Mexico School for the Visually Handicapped” to the “New Mexico School for the Blind and Visually Impaired” in Subsection V and amending the definition of “teacher” in Subsection Z to include persons whose duties include curriculum development, peer intervention, peer coaching or mentoring or serving as a resource teacher for other teachers.

According to the PED, the House Education Committee Substitute for House Bill 84 also makes the following changes:

Section 2: Amends Section 22-2C-3 ACADEMIC CONTENT AND PERFORMANCE STANDARDS – [STATE BOARD] DEPARTMENT AND DUTIES to amend subsection A by requiring that the department adopt academic content and performance standards for grades three through 12 instead of the current grades one through 12.

Section 3: Amends Section 22-2C-4 STATEWIDE ASSESSMENT AND ACCOUNTABILITY SYSTEM – INDICATORS – REQUIRED TESTS – ALTERNATIVE TESTS – LIMITS ON ALTERNATIVES TO ENGLISH LANGUAGE READING TEST to remove diagnostic and standards-based reading tests on reading from the academic assessment program for adequate yearly progress for grades K-2.

Section 4: Amends Section 22-5-4 LOCAL SCHOOL BOARDS - POWERS - DUTIES to clarify that the local school board fixes the local superintendent's salary and reviews and approves the annual school district budget.

[Section 5: Adds a new Section 22-10A-21.1 DEFINITIONS – STATE AGENCY COVERAGE to provide that certain references in the School Personnel Act include state agencies and provides that licensed school employees in state agencies are subject to the School Personnel Act.]

[Section 6: Amends Section 22-10A-22 NOTICE OF REEMPLOYMENT – TERMINATION to provide that the school principal recommends to the local superintendent the reemployment or termination of each licensed school employee under the principal's supervision and clarifies references throughout the section.]

[Section 7: Clarifies references to licensed school employees in Section 22-10A-23 REEMPLOYMENT – ACCEPTANCE-REJECTION-BINDING CONTRACT.]

[Section 8: Amends Section 22-10A-24 TERMINATION DECISIONS – LOCAL SCHOOL BOARD – GOVERNING AUTHORITY OF A STATE AGENCY – PROCEDURES to provide that the school principal may recommend the termination of a school employee under the principal's supervision who worked for the school district or state agency for less than three years for any reason the principal deems sufficient and that based on the recommendation the local superintendent may terminate the employee and clarifies that the local superintendent is the decision-making authority in the termination process.]

[Section 9: Amends Section 22-10A-25 APPEALS – INDEPENDENT ARBITRATOR-QUALIFICATIONS - PROCEDURE-BINDING DECISION to clarify references to the local superintendent and local school district.]

[Section 10: Amends Section 22-10A-26 EXCEPTED FROM PROVISIONS to clarify statutory cross-references and clarify terminology.]

[Section 11: Amends Section 22-10A-27 DISCHARGE HEARING – PROCEDURES to

clarify that the local superintendent may discharge a school employee upon service of notice by the school principal.]

[Section 12: Amends Section 22-10A-28 APPEALS – INDEPENDENT ARBITRATOR QUALIFICATIONS – PROCEDURE – BINDING DECISION to clarify that the local superintendent is the discharge authority.]

[Section 13: Amends Section 22-10A-29 COMPENSATION PAYMENTS TO DISCHARGED PERSONNEL to clarify terms.]

[Section 14: Amends Section 22-10A-30 SUPERVISION AND CORRECTION PROCEDURES to clarify that the Public Education Department prescribe by rule procedures to be followed by a school district or state agency in supervising and correcting unsatisfactory work performance of school employees. This is a significant departure from current law by requiring a school district to follow yet-to-be-adopted rules applicable to non certified school employees. In essence, it adds a bureaucratic layer to the termination/discharge process as it now for the first time applies to non certified staff. Without this change, only certified school employees are covered by this section. The bill does not change the applicability of this section to school administrators facing termination/discharge, and failure to comply with this section could be grounds for a wrongful termination/civil rights violation lawsuit.]

Section 10: Amends subsection B of Section 22-13-1 SUBJECT AREAS – MINIMUM INSTRUCTIONAL AREAS REQUIRED – ACCREDITATION to apply required daily instruction areas to kindergarten through third grade classes. Subsection C is amended to include the requirement that all first, second and third grade classes provide instruction that meets content and performance standards in physical education and in health education. Subsection D is amended to add health education to the required instructional areas in fourth through eighth grades. In ninth through 12th grades, instruction that meets academic content and performance standards must be provided in health education.

Section 16: Amends Section 22-13-1.1 GRADUATION REQUIREMENTS to clarify references and include the requirement that health education be offered as an elective for students in ninth grade and above.

Changes are made throughout the amended sections to reflect governance changes as a result of the amendment to Article XII, Section 6 of the Constitution of New Mexico. In addition, technical corrections are made throughout the amended sections.

PERFORMANCE IMPLICATIONS

HB 84/HECS will support the Public Education Department’s (PED) performance with regard to the implementation of education reform initiatives.

FISCAL IMPLICATIONS

The Office of Education Accountability notes that:

expanding the definition of teachers to include persons whose duties include curriculum

development, peer intervention, peer coaching or mentoring or serving as a resource for other teachers will have an impact on the cost of implementing the three-tiered licensure system. The current estimates for the cost of the three-tiered system are based the position categories and position description codes in ADS for the 40th-day data in the 2004-2005 school year. These estimates use the more limited definition of teacher currently in statute. The two position categories included for the current definition of teacher are "Teacher" (21,593.99 FTE) and "Library/Media Specialist" (291.38 FTE). Expanding the definition of teacher as outlined in Enacting HB 84/HECS will mean including some of the licensed teachers who are currently being classified in ADS as "Resource and Testing Coordinators" (768.83 FTE). A recent PED survey of the districts identified approximately 340 teachers classified as resource teachers who would be added to the costs of the three-tiered system. Different districts place teachers whose duties would fall under the expanded definition in wide range of position categories and descriptions on the ADS system. Because these figures are estimates, it is difficult to calculate a projected cost of these additional teachers.

ADMINISTRATIVE IMPLICATIONS

The PED will have to develop the instruction areas and performance standards for all first, second and third grade classes so that instruction in these grades meets the adopted PED adopted content and performance standards. In addition, the PED will have to develop academic and performance standards for health education in grades nine through twelve.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

HB84/HECs conflicts with House Bill 125, NATIVE AMERICAN TERMINATION REQUIREMENT and with SB368, SCHOOL BOARD APPROVAL FOR PERSONNEL DECISIONS.

RMS/sb