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FISCAL IMPACT REPORT

ORIGINAL DATE 1/28/2007
 LAST UPDATED 2/27/2007 HB 34/aHEC/aSEC

SPONSOR Stewart

SHORT TITLE Public School Accountability & Assessment SB _____

ANALYST Aguilar

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY07	FY08	FY09	3 Year Total Cost	Recurring or Non-Rec	Fund Affected
Total		\$0.1			Recurring	General Fund

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From

Public Education Department (PED)
 Office of Educational Accountability (OEA)

SUMMARY

Synopsis of SEC Amendment

The Senate Education Committee amendment to House Bill 34 strikes the section of the bill that makes technical language changes to the statewide assessment and accountability system.

The amendment provides for community input in determining members to serve as the governing body of a failing school reopening as a charter school, and provides these members will serve on an interim basis.

TECHNICAL ISSUES

The SEC amendment provides the governing body will serve on an interim basis but does not appear to provide a framework for a permanent governing body to be selected.

Synopsis of HEC Amendment

The House Education Committee amendment to House Bill 34 makes technical changes to specifically focus on school improvement measures detailed in statute and provides for a school district to recommend reopening of a school failing to make adequate yearly progress for six consecutive years as one of four options available.

The amendment inserts language noting that the powers and duties of the secretary or department shall not be restricted by the provisions contained in the bill.

HB-34/aHEC changes the responsibility for recommending reopening a failing school as a charter school from the department to the school district in which the school is located.

Synopsis of Original Bill

House Bill 34 defines academic proficiency and distinguishes student academic proficiency from the adequate yearly progress (AYP) of schools and school districts. The bill aligns the identification and status of schools failing to achieve AYP with federal requirements, mandates that student achievement data be disaggregated by gender and provides a process for re-opening failing schools as state-chartered charter schools. Additionally, the bill makes technical corrections to language.

FISCAL IMPLICATIONS

While House Bill 34 does not contain an appropriation, under provisions contained in the bill approximately 52 schools would become immediately eligible to open as state-chartered charter schools with additional schools expected to be eligible annually. It is estimated this would have a significant impact on PED in overseeing the implementation of the program as well as providing direct oversight of these schools.

SIGNIFICANT ISSUES

Under provisions contained in HB-34, the term “academic proficiency” for students would for the first time be defined as “mastery of subject matter knowledge and skills specified in state academic content and performance standards for a student’s grade level.”

The Office of Educational Accountability notes that by removing the requirement that students make “adequate yearly progress” and instead require that students “demonstrate academic proficiency” is an important distinction. Adequate yearly progress (AYP) is based on the percent of students in disaggregated subgroups (ethnicity, disability, economically disadvantaged and English language learners) who meet proficiency and participation targets on the yearly standards-based assessment. The annual measurable objective used in calculating AYP is a moving target and is not appropriate in measuring a child’s academic proficiency.

The bill provides that when determining academic proficiency of students, a number of measurement tools be used and for students requiring academic remediation, a number of interventions be considered.

The bill makes technical changes to statute aligning the identification and status of schools failing to achieve AYP with the federal No Child Left Behind Act (NCLB). Further, the bill provides for delay status for a school when it makes AYP for one year and removal as a school in need of improvement when it achieves AYP for two consecutive years.

In addition to reporting achievement data by subgroups required by NCLB, the bill requires that proficiency data be disaggregated and be reported by gender. OEA raises a concern that if gender is added to the reporting structure, it might be interpreted that New Mexico commits to

adding an additional eight indicators to the existing 37 bringing the total number of indicators that may be used to determine AYP for a school up to 45.

HB-34 provides that for those schools failing to make AYP for five consecutive years and whose interventions have not been successful, PED may take the steps necessary to have the school re-open as a state-chartered charter school and specifies the steps to be taken; the Public Education Commission (PEC) must approve the charter, there must be a governing body of at least five qualified persons, the governing body must employ an administrator and must qualify as a board of finance and the governing body must develop a written plan detailing how it will operate the new charter school. The bill also provides that if a school is unable to have its charter approved within 90 days or is unable to meet other requirement, the school will not be reopened as a charter school. Portions of these requirements appear to be in conflict with Laws 2006, Chapter 94 (Charter Schools Act) which takes effect July 1, 2007. The Charter Schools Act provides that a governing board of a charter school provide written notice of intent to submit an application 180 days prior to submission and that the first year would be used as a planning year also the Charter Schools Act eliminated the conversion of schools to charter status.

TECHNICAL ISSUES

The Legislature may wish to consider the following:

A second provision for delay status specified in NCLB is not included in the bill, and is not in the current statute. NCLB also specifies that a public school or district is in delay status “if its failure to make Adequate Yearly Progress is due to exceptional or uncontrollable circumstances, such as natural disaster or precipitous and unforeseen decline in financial resources of the local educational agency or school (HR1, Title1, Part A, Subpart 1, Sect. 1116, 7, D).”

On Page 23, Line 17 after “gender” insert “,which shall be used for reporting purposes only”.

PA/csd