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FISCAL IMPACT REPORT

ORIGINAL DATE 1/25/07

SPONSOR Vigil LAST UPDATED _____ HB 416

SHORT TITLE Multi-Term Education Related Testing Services Contract to Extend Beyond Four Years SB _____

ANALYST Propst

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Non-Rec	Fund Affected
FY07	FY08		
	NFI		

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From
Public Education Department (PED)

SUMMARY

Synopsis of Bill

House Bill 416 allows Certain Multi-Term Education Related Testing Services Contract to Extend beyond Four Years.

HB 416 would create an exception to the Procurement Code which would allow certain professional services contracts (specifically contracts for educational assessment testing) to extend beyond the statutorily mandated 4-year term. The exception would allow such contracts to extend for a 6-year term.

FISCAL IMPLICATIONS

According to PED, developing assessments is a costly process. The current test which assesses New Mexico public school students in grades 3-9 cost \$17,683,453.00 in Federal funding (contract period 2003-2007) as well as an additional \$2,587,430.00 from the General Fund (contract period 2002-2006). This cost is for development only and does not include costs to school districts to administer the assessment. Reducing the number of times the Public Education Department is required to contract for new test development may significantly reduce assessment costs that PED incurs over the next several years.

SIGNIFICANT ISSUES

PED notes that, at present, contracts for educational assessment have to be renewed every four years in keeping with the Procurement Code. Generally, once a contract has been awarded, it takes a contractor a year to develop the assessment tool and another year to field-test it. This allows for only two years of data to be obtained by the contractor from that particular assessment tool. At this point, the contract would have to be rebid and the process would have to start over from the beginning. This creates a waste of time and resources. It also makes the assessment of student growth for the public education system very difficult to track as only two years of data are obtained from each contract. And comparing various assessments (performed by different contractors) can be extremely problematic. The Federal No Child Left Behind Act of 2001 requires that public schools ensure all children are proficient in math and reading by the year 2014. Every time the Public Education Department institutes a new testing vehicle the baselines have to be reset. Essentially, this nullifies the previous assessment tool and the data acquired from it.

Teacher assessments, while not subject to the proficiency deadlines of the above-referenced Federal legislation, suffer the same consequences of comparability between tests developed by different (and often competing) vendors.

In terms of the Procurement Code, the 4 year restriction on contract terms for professional services contracts serves to increase competition between vendors and allows the State to find the best vendor for each procurement in keeping with the intent of the Procurement Code (Section 13-1-29 et seq. NMSA 1978). In this case, that intention is actually thwarted by the 4 year limitation since this term makes it so difficult to establish valid, usable data. In order to best maximize the purchasing value of public funds, an exception to the 4 year term in this instance is required. Further, concerns of the Procurement Code in regard to obtaining the best value for the State are also addressed in that the legislation reads that the contract can be in place for periods "up to six years." All professional services contracts allow for early termination with or without cause if a contractor is not meeting the needs and requirements of the State.

PERFORMANCE IMPLICATIONS

The enactment of this legislation would allow the Public Education Department to collect longitudinal student and teacher assessment information. Such information is vital in improving student achievement as well as qualifying educators to be in compliance with the Federal No Child Left Behind Act of 2001.

ADMINISTRATIVE IMPLICATIONS

From the perspective of the Public Education Department, the enactment of this legislation would modestly reduce the agency's workload. A new procurement would not have to be initiated every 4 years for this type of contract. The request for proposals process is time-consuming and requires intense labor resources from the agency's procurement and legal staffs.

Further, PED's workload would be reduced in that the step of resetting baselines and comparing assessment results from varied tools would be reduced to every six years instead of performing such intensive tasks every four years.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

The consequences of retaining the status quo would be a continuation of a lack of consistency and continuity in assessment of New Mexico students and teachers. Assessment tools would continue to be used for only two years, for all practical purposes, and then have to be replaced with a new vehicle. This would continue to provide only two years of usable data per each 4 year term contract. Further, the data obtained from different assessment tools may not be comparable because the measurements of educational standards made by different vendors may be made in different proportions and with differing emphases.

WEP/nt