

**LEGISLATIVE EDUCATION STUDY COMMITTEE  
BILL ANALYSIS**

**Bill Number:** HB 96

**50th Legislature, 1st Session, 2011**

**Tracking Number:** .183506.1

**Short Title:** Educational Test Service Multi-Year Contracts

**Sponsor(s):** Representative Rick Miera

**Analyst:** Kevin Force

**Date:** February 4, 2011 (revised)

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**FOR THE LEGISLATIVE EDUCATION STUDY COMMITTEE**

**Bill Summary:**

HB 96 amends the *Procurement Code* to extend from four to twelve years, the period of contracts for services related to:

- development and implementation of standardized tests for students in kindergarten through twelfth grade; and
- teacher tests required to obtain licensure.

**Fiscal Impact:**

HB 96 does not contain an appropriation.

**Fiscal Issues:**

- According to the Public Education Department (PED) analysis:
  - extending the term of a contract for educational assessment services beyond the current four years could allow for improved efficiencies by protecting against cost increases under new contracts;
  - new contracts for the Standards Based Assessment and the High School Competency Exam increased:
    - the cost of testing to school districts by more than 50 percent;
    - districts costs for the new English language proficiency assessment by 30 percent higher;
    - on average, PED costs by 120 percent; and
  - when contracts for teacher licensure testing are renegotiated, costs to prospective teachers can escalate. The extension of the term of these contracts would facilitate better cost management.

- The Fiscal Impact Report (FIR) of the Legislative Finance Committee states, “PED asserts that extending the term of a contract for educational assessment services and teacher licensure beyond four years could protect against cost increases under new contracts. PED further asserts that on average, costs under these new contracts can increase by 120 percent.” This statement might be interpreted to suggest that contracts negotiated under the exception proposed by HB 96 would raise costs by 120 percent, when in actuality, it is the contracts that were negotiated under the *current law* that raised PED costs.
- For consideration of the 2011 Legislature, the Legislative Education Study Committee (LESC) endorsed legislation (SB 360) that proposes to suspend, for one year, all student assessments currently required in state law, but not in federal law.

### **Substantive Issues:**

- According to PED, the costs associated with educational assessments include:
  - nonrecurring costs, which PED generally pays, including initial test development and periodic updating of assessments;
  - recurring costs, which include school district administrative costs such as printing, distribution, scoring, and reporting;
  - the development of an educational assessment, such as the New Mexico Standards Based Assessment, is a multi-year process:
    - Needed improvements in assessment design are often requested in the second year of a contract, after PED and local districts have formed opinions about the services rendered in the first one-year cycle.
    - Significant improvements in assessment design typically require two or more years to implement.
    - This improvement cycle leaves a year or less before a contract expires.
    - An established assessment such as the Standards Based Assessment is affected by many changes under a new contractor, such as:
      - test contractors’ methods for test design and item writing differ, significantly affecting the difficulty and appearance of an assessment;
      - studies of score continuity may be necessary;
      - cut scores must be adjusted to maintain consistency when tests are transferred from one contractor to another;
      - assessment changes can impact data accuracy that is necessary for longitudinal student growth models that PED is planning on implementing in the future; and
  - The *State Procurement Code* (See Background) limits the term of professional services contracts to four years. Exceptions to that limit are permitted for services that:
    - support Medicaid, financial assistance, and child support enforcement;
    - design, develop, and implement Taxation and Revenue information systems;

- provide forms of credit enhancement;
  - implement and manage the Education Trust Act; and
  - measure and verify conservation-related cost savings and utility cost savings.
- HB 96 would create a new exception to the provision that limits extensions of personal services contracts to four years.

**Background:**

The *State Procurement Code* establishes different terms for extending various types of state contracts, including:

- four years for contracts for tangible personal property, construction, or services except for professional services, under \$25,000;
- eight years for contracts for tangible personal property, construction, or services except for professional services, in amounts of \$25,000 or over;
- 25 years for contracts entered into pursuant to the *Public Facility Energy Efficiency and Water Conservation Act*; and
- four years for most contracts for professional services contracts, except for contracts:
  - to support or operate management information or payment systems for federally certified Medicaid, financial assistance, and child support enforcement;
  - to design, develop, or implement taxation and revenue information management services;
  - for certain fiscal fiduciaries, excluding bond attorneys, underwriters, and financial advisors in matters related to public securities, which may be for the life of the securities or as long as they remain outstanding;
  - related to the implementation, operation, and administration of the *Education Trust Act*; and
  - related to measurement and verification of conservation-related and utility cost savings pursuant to the *Public Facility Energy Efficiency and Water Conservation Act*.

**Related Bills:**

SB 360 *Student Assessment Requirements Suspension*