

**LEGISLATIVE EDUCATION STUDY COMMITTEE
BILL ANALYSIS**

Bill Number: HB 355aa

50th Legislature, 1st Session, 2011

Tracking Number: .184861.1

Short Title: Enact “A-B-C-D-F Schools Rating Act”

Sponsor(s): Representatives Dennis J. Roch and Jimmie C. Hall and Others

Analyst: Pamela Herman

Date: March 22, 2011

AS AMENDED

The House Education Committee (HEC) amendments:

- **strike House Consumer and Public Affairs Committee amendments that:
 - **make reference to scientifically based instructional programs; and**
 - **include cyber academies offered or approved by any other state and the Public Education Department (PED) among the options for children in schools rated F;****
- **strike language creating the New Mexico Public School Recognition Program;**
- **include local cyber academies among the options for children in schools rated F;**
- **strike language giving the Secretary the power to require that the school district’s budget for such a school be directed toward programs and methods grounded in scientifically based research substitute; and**
- **replace the deleted language with language that requires PED to ensure that school boards or charter school governing authorities are prioritizing resources of a school rated D or F toward proven programs and methods linked to improved students achievement.**

The HEC amendments make the bill identical to its companion bill, SB 427aa, *A-B-C-D-F Schools Rating System*.

The House Consumer and Public Affairs Committee (HCPAC) amendments:

- **require input from the Secretary’s Superintendents’ Council prior to the rule-making that establishes the rating system;**
- **include growth in high school graduation rates as an additional academic indicator for high school ratings;**
- **change to classroom “personnel,” from classroom “teachers,” those to whom Public School Recognition Awards may be distributed if the staff and advisory council cannot otherwise agree how the funds should be expended;**
- **clarify that the awards are to be made to public schools;**
- **delete the word “merit” in reference awards to faculty as a possible use of the awards;**

- add that faculty awards shall be determined by the staff and school advisory council to encourage whole-school reforms;
- regarding funds and resources that the Public Education Department (PED) can direct toward certain programs and methods, insert the phrase “of a public school rated D or F” and add “until the public school earns a grade of “C” or better for two consecutive years”; and
- add a severability section to preserve the applicability of the remainder of the act, in the event that any part or section of it is held invalid.

The HCPAC amendments make the bill identical to its companion bill, SB 427a, *A-B-C-D-F Schools Rating System*

Original Bill Summary:

HB 355 enacts new sections of the *Public School Code* to create the *A-B-C-D-F School Ratings Act* and the New Mexico Public School Recognition Program; and it amends sections of the *Public School Finance Act* to authorize PED to direct funds and resources toward certain types of programs and methods.

Among its provisions, HB 355:

- requires that, beginning in school year 2011-2012, PED shall annually grade public schools;
- defines terms used in the rating system;
- requires that PED assign a letter grade from A through F to each school pursuant to department-established criteria that include, as a minimum, the following factors:
 - for elementary and middle schools:
 - ✓ student proficiency, including achievement on the New Mexico standards-based assessments;
 - ✓ student growth in reading and mathematics; and
 - ✓ the growth of the lowest 25th percentile of students in the school in reading and mathematics; and
 - for high schools:
 - ✓ student proficiency, including achievement on the New Mexico standards-based assessments;
 - ✓ student growth in reading and mathematics;
 - ✓ growth of the lowest 25th percentile of students in the school in reading and mathematics; and
 - ✓ additional academic indicators such as high school graduation rates, Advanced Placement and International Baccalaureate courses, dual enrollment courses, and SAT and ACT scores;

- gives parents of a student in a public school rated F for two of the last four years the right to:
 - transfer the student to any public school in the state not rated F; or
 - have the student continue schooling by means of distance learning through the Statewide Cyber Academy or a cyber academy currently offered and approved by any other state, the cost of which is to be shouldered by the school district or charter school in which the student is enrolled;
- provides that the options available in the act are in addition to any remedies provided for in the *Assessment and Accountability Act* for students in schools in need of improvement, or any other intervention prescribed by the federal *No Child Left Behind Act of 2001* (NCLB); and
- finds a need for incentives for outstanding personnel in highly productive schools, and finds that performance-based incentives are common in the private sector and should be infused into the public sector as a reward for productivity.

HB 355 also creates the New Mexico Public School Recognition Program, as follows:

- the program is to provide financial awards to public schools that:
 - demonstrate high performance by earning or maintaining a school grade of A; or
 - demonstrate improvement by improving a letter grade;
- all public schools including charter schools are eligible to participate, and if they meet either criterion above, may receive financial awards depending on the availability of funds and the number and size of schools selected;
- awards are to be distributed to the school district for use by the school only for the following purposes, as determined by the school's staff and advisory council:
 - nonrecurring merit awards to school personnel;
 - nonrecurring expenditures for educational equipment or materials to assist in maintaining and improving student performance;
 - temporary personnel, for the same purpose; or
 - if the staff and advisory council cannot otherwise agree, equally distributed to all classroom teachers currently teaching at the school; and
- notwithstanding any other laws or agreements, awards are not subject to collective bargaining.

Finally, HB 355 authorizes PED, in the budget approval process, to direct funds and resources toward programs and methods grounded in scientifically based research linked to improved student achievement if a public school has been rated D or F for two consecutive years, until the public school earns a C or better for two consecutive years.

Fiscal Impact:

HB 355 does not contain an appropriation.

Fiscal Issues:

HB 355 establishes a system of School Recognition Awards contingent on the availability of funds, but does not create a fund from which those awards shall be made. Current statute contains an “Incentives for School Improvement Fund” tied to the “adequate yearly progress” (AYP) system of school accountability; however, neither the Legislative Education Study Committee (LESC), the Legislative Finance Committee, nor PED has recommended that any monies be appropriated to that fund for FY 12.

The PED bill analysis states that a state appropriation will be apportioned to high-achieving schools based on the following factors:

- number of high-achieving schools identified (receiving an A); and
- number of students enrolled in a high-achieving school.

PED further notes that use of federal Title I funds to assist failing schools and high-achieving schools under a state-mandated program would supplant state funds in violation of federal law.

PED indicates that the department intends to hire a half-time statistician and a quarter-time database administrator to assist with computation and reporting of school ratings, at an estimated cost of approximately \$54,000, including salary and benefits.

Technical Issues:

HB 355 gives the Secretary of Public Education authority during the budget approval process to redirect the State Equalization Guarantee (SEG) funds of a failing school to scientifically based instructional programs and models linked to improved student achievement.

- That provision may not accurately be reflected in language in the title of the bill regarding “providing funding for failing schools to implement scientifically based instructional programs linked to improved student achievement.”
- ~~The PED analysis of HB 355 also refers to “funding for failing schools” and indicates that “a state appropriation will be apportioned to failing schools” based on certain factors that are not, in fact, listed in the bill.~~
- While HB 355 does provide for financial awards for outstanding schools, the bill does not provide any additional funding for a failing school beyond what would be generated through the SEG by the existing public school funding formula.

The title of HB 355 indicates that it provides for a rating system to grade public schools “in a way easily understandable by parents, school personnel, and the community”; however, the bill does not contain any public reporting requirements, nor does it amend the reporting requirements already in statute for the state’s existing accountability system based on federally defined AYP.

Regarding the bill's purpose to establish a state rating system for public schools that operates independently of, or parallel to, the provisions of the *Assessment and Accountability Act*,¹ if enacted HB 355 would likely make redundant the "Alternative School Accountability Pilot Project" enacted by the Legislature in 2009 [Section 22-2C-12]. If that is the intent of the legislation, and since the Alternative Accountability Pilot Project was never implemented, the sponsor may wish to consider amending the bill to repeal Section 22-2C-12.

Substantive Issues:

The Florida A+ Plan: In November 2010, the LESC heard a presentation regarding the Florida A+ Plan for school accountability, which was initiated in 1999, two years before the enactment of NCLB.

According to the presentation, the Florida A+ Plan uses a grading system similar to that proposed in HB 355. It provides that:

- 50 percent of a school's grades is based on proficiency demonstrated by students on state standards-based assessments in reading, math, writing and science;
- 25 percent is based on the progress of all students in reading and math;
- 25 percent is based on the progress of the lowest 25 percent of students, regardless of their demographic characteristics; and
- schools receive a \$100 per student bonus if they:
 - score an A, or
 - improve by one letter grade; and
- schools receive a \$700 bonus for students passing one or more Advanced Placement exams.

The presentation included a graph showing the change in the number of schools excelling and failing based on the A+ Plan over time:

- in 1999, 677 school were graded D or F and 515 were graded A; and
- by 2009, 217 schools were graded D or F and 2,317 were graded A.

A challenge with use of student growth in school accountability in New Mexico: HB 355 requires that student growth be a factor in grading elementary, middle, and high schools, and defines "growth" to mean learning a year's worth of knowledge in one year's time, as demonstrated by a student's performance on the New Mexico standards-based assessments that show that a student:

- moved from one performance level to a higher performance level (performance levels being "beginning step," "nearing proficient," "proficient" and "advanced");

¹ Provisions in the state *Assessment and Accountability Act* closely track the requirements of the federal NCLB.

- maintained a proficient or advanced performance level as provided by department rule; or
- remained in beginning step or nearing proficient but improved a number of scale score points as specified by department rule.

The challenge with using this model for some elementary schools and all high schools in New Mexico is that standards-based assessments are only administered in grades 3 through 8 and grade 11. Therefore, primary schools (composed of students in pre-k through second grade) and high schools will not have two, or in some cases even one, year of data by which to measure student growth.

PED suggests amendments to HB 355 to address this problem. PED suggests that for high schools, 75 percent of the school grade be based on (1) student proficiency; (2) student growth in reading and mathematics; and (3) growth of the lowest 25th percentile; and the remaining 25 percent on (a) high school graduation rate; (b) the graduation rate of students who scored at “beginning step” on the eighth grade standards-based assessment; and (c) the growth or decline in student proficiency and growth components. However, that suggestion still appears to rely on a student growth calculation not available based on the grade levels tested in New Mexico.

Related Bills:

SB 427aa *A-B-C-D-F Schools Rating System* (Identical)