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FISCAL IMPACT REPORT

ORIGINAL DATE 2/4/15

SPONSOR Roch LAST UPDATED _____ HB 165

SHORT TITLE Remove AYP References in School Code SB _____

ANALYST Chavez

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

| | FY15 | FY16 | FY17 | 3 Year Total Cost | Recurring or Nonrecurring | Fund Affected |
|--------------|------|------|------|----------------------|------------------------------|------------------|
| Total | | NFI | | | | |

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From

Attorney General’s Office (AGO)
Public Education Department (PED)

SUMMARY

Synopsis of Bill

House Bill 165 removes references to adequate yearly progress (AYP) throughout statute and reconciles multiple amendments to the same section of law in Laws 2007. It also repeals three sections of the Assessment and Accountability Act, and enacts a new section requiring the Public Education Department to report to the Legislative Education Study Committee the department’s proposed changes to law to comport with applicable federal requirements by the end of the 2015 calendar year and subsequent years.

The bill makes other technical corrections that bring statute into compliance with current practice:

- Changes references to the generalized educational development certificate (GED) to the more generic “high school equivalency credential.”
- Strikes achievement testing in social studies (discontinued in 2012).
- Removes references to state school board and state superintendent.

The bill repeals Sections 22-2C-7 (Adequate yearly progress; school improvement plans; corrective action; restructuring), 22-2C-7.1 (Failing school subject to reopening as state-charter school; requirements) and 22-2C-12 NMSA 1978 (Alternative School Accountability System Pilot Project).

FISCAL IMPLICATIONS

This bill does not make an appropriation. The bill makes changes to statute that align with current practices.

SIGNIFICANT ISSUES

Adequate yearly progress (AYP) was a federal law construct under “No Child Left Behind” (NCLB), requiring schools to be rated as failing when and if students failed to improve under current schools and teachers. New Mexico has been granted a waiver from calculating AYP and is instead required to calculate school grades for federal accountability purposes.

PED notes that among the department initiatives already approved through the federal waiver of NCLB’s AYP provisions are grading schools as A-F and establishing means of evaluating teacher performance aside from AYP.

The repeal of NMSA 1978 Section 22-2C-7 and 22-2C-7.1 in HB 165, which lay out the mechanism for restructuring schools, replaces those sections of law with expansion of PED’s ability to establish content and performance standards and measurement of school performance statewide. PED is limited in how it does so by its assurances to the federal government under its approved NCLB waiver. Under similar analysis for a previous bill, PED noted the academic, content and school performance measures PED used under either the current law or under HB 165, if passed and signed, will be constant as stated in its federal waiver request.

House Bill 165 amends the following sections of the Public School Code to eliminate reference to AYP:

- Section 22-1-1.2 Legislative Findings and Purpose; Section 22-1-2 Definitions; Section 22-1-4 Free Public Schools--Exception--Withdrawing and Enrolling--Open Enrollment; Assessment and Accountability Act – Section 22-2C-4 Statewide Assessment and Accountability System – Indicators – Required Assessments - -Alternative Assessments – Limits and Alternatives to English Language Reading Assessments; Section 22-2C-5 Student Achievement Ratings – Calculation of Adequate Yearly Progress; Section 22-2C-8 Adequate Yearly Progress--Supplemental Incentive Funding--State Program for Other Achievement; Section 22-2C-9 Incentives for School Improvement Fund—Created—Distributions; Section 22-2C-10 Schools in Need of Improvement Fund—Created; and Section 22-2C-11 Assessment and Accountability System Reporting—Parent Survey—Data System—Fiscal Information
- Charter School District Act of 2005 – Section 22-8E-6 Renewal of Charter;
- School Personnel Act – Section 22-10A-14 Certificates of Waiver;
- Hispanic Education Act – Section 22-23B-6 Statewide Status Report

Other changes include:

- Section 22-2C-5 removes language requiring that the statewide standards-based assessments shall conform to nationally-recognized professional and technical standards, and instead provides that “The department shall adopt the process and methodology for measuring students’ academic performance”.

- Section 22-2C-9 removes language that distributes from the fund based on a public school’s approved improvement plan and instead makes funding distributions based solely on applications approved by PED. Language that refers to “public schools subject to corrective action” is also removed.
- The amendment to Section 22-1-4 NMSA 1978 proposes changes to the priorities for student enrollment within a district at particular schools, giving second enrollment priority to students in schools rated “F” for two of the prior four years, rather than schools ranked as “needing improvement or subject to corrective action”. (See Technical Issues)

ADMINISTRATIVE IMPLICATIONS

The PED will be required to report to the Legislative Education Study Committee on the department’s proposed changes to law to comport with applicable federal requirements by the end of 2014 and subsequent years. However, the Legislature may wish to consider an earlier reporting deadline to give the LESC time to take any necessary action during the following legislative session.

TECHNICAL ISSUES

Section 13 of the bill (p. 30, lines 24-25) removes language that “a teacher who holds a teaching or assignment waiver shall not be assigned to a school that has not made adequate yearly process for two consecutive years.” The Legislature may consider adding language that keeps a similar provision but with schools that receive an “F” grade for two or more consecutive years.

AGO notes HB 165 removes the term “corrective action” from Section 22-1-4 NMSA 1978, Section 22-2C-3 NMSA 1978, and 22-2C-11 NMSA 1978, but, the term is still used in other sections of the Public School Code. AGO states consideration should be given whether all references of the terms “corrective action” and “corrective action plan” should be deleted, replaced with a new defined term, or clarified with a clear definition and applicability.

OTHER SUBSTANTIVE ISSUES

Under the waiver requirements developed by the U.S. Department of Education, states with waivers must identify three categories of schools based on their performance: Reward, Priority, and Focus schools. Reward schools are those with high performance or high levels of progress. Priority schools are among the lowest-performing schools in the state and must total at least 5 percent of the state’s Title I schools; these schools must undergo comprehensive and intensive intervention to improve their performance that are aligned with several specific “turnaround principles” outlined in PED’s waiver guidance. Reward schools are those with high performance or high levels of progress. Priority schools are among the lowest-performing schools in the state and must total at least 5 percent of the state’s Title I schools; these schools must undergo comprehensive and intensive intervention to improve their performance that are aligned with several specific “turnaround principles” outlined in PED’s waiver guidance.