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LEGISLATIVE EDUCATION STUDY COMMITTEE
BILL ANALYSIS
54th Legislature, 1st Session, 2019

Bill Number HB454 **Sponsor** Trujillo, C./Trujillo, L./Johnson/Thomson
Tracking Number .212690.1 **Committee Referrals** HEC/HSEIC
Short Title School District Gifted Education Requirements
Analyst Ochoa **Original Date** 2/14/19
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BILL SUMMARY

Synopsis of Bill

House Bill 454 (HB454) would require school districts offering a gifted education program to adopt policies allowing gifted students early entrance into kindergarten, the ability to skip grades, facilitated enrollment in dual credit courses, high school credit for college courses or demonstrated mastery of a subject, and the prioritization of federal funding for “research-based” interventions for gifted students. Additionally, the bill would amend the Public School Finance Act to allow students under the age of five who are enrolled in an academic acceleration program to be included in a school district’s student membership making them eligible to generate funding through the public school funding formula.

FISCAL IMPACT

The bill does not contain an appropriation; however, it could increase the number of program units generated by the public school funding formula. Without an increase in appropriations to the state equalization guarantee (SEG) distribution, an increase in the number of units would dilute the unit value, impacting school districts and charter schools statewide. The fiscal impact of HB454 would depend on the number of students who participate in early kindergarten enrollment as part of an academic acceleration program.

Annually, approximately 5 percent of students are identified as gifted, each grade cohort has about 25 thousand students, and assuming 5 percent of students would be identified as gifted, an additional 1,250 students could be eligible to enroll early in kindergarten. However, not all families would choose early kindergarten enrollment. Assuming 50 percent of eligible students enroll and each additional student generates 2 program units, school districts could generate additional program units equivalent to \$5 million at the FY19 preliminary unit value. HB454 would require school districts offering gifted education programs to consider the need for social work services, transportation costs, and occupational therapy. According to the Public Education Department (PED), social workers and occupational therapists that perform services pursuant to an individual education program (IEP) generate “related services” program units through the public school funding formula. It is not clear if HB454 would lead to a significant increase in FTE for “related

services” in order to generate program units. Transportation costs for school districts may increase if gifted students need to be transferred to other schools for accelerated study.

The fiscal impact on school districts would depend on how the provisions of HB454 are implemented. For example, the bill would require school districts to adopt a policy allowing “facilitated enrollment” in dual credit courses. It is not clear what level of service the school district would be required to adopt because “facilitated enrollment” is not defined (see Technical Issues). Similarly, HB454 would require “special supports” for disadvantaged and disabled students who are also identified as gifted.

SUBSTANTIVE ISSUES

HB454 would require school districts offering a gifted education program to adopt an academic acceleration policy that allows early entry into kindergarten, skipping grades, “facilitated enrollment” in dual credit courses and counting of college credit toward graduation, credit for “demonstrated mastery” of subject matter, and prioritization of federal funding for “research-based” interventions for gifted students. The bill would require the identification of a gifted student to not discriminate based on a student’s disability, language difference, and socioeconomic status. HB454 would require that students with disabilities who are also gifted must remain eligible for special education services. Under current rule, these “twice exceptional” students are eligible for special education services.

Under the required acceleration policy, a gifted student’s IEP team would make acceleration decisions, although the policy must include procedures for appealing an IEP team’s decision. If the decision of the IEP team is overturned, the IEP would likely need to be revised. Analysis from the New Mexico Attorney General’s office (AG) notes individual school districts would be required to adopt an acceleration policy unique to their district potentially leading to a variance in acceleration policies across the state.

HB454 would require the academic acceleration policy to prioritize “research-based interventions” for gifted students for expending federal Every Student Succeeds Act (ESSA) funds. Schools may use federal Title I funds to identify and serve gifted students and Title II funds to address the learning needs of all students, including children with disabilities, English learners, and gifted and talented students. Although schools are required by federal law to use federal funds to support gifted and talented students, a state policy making funds to gifted students a “priority” may limit the amount of funding available to address the needs of other students.

Page 8, lines 19-22 would define a “qualified student” as one who “is less than five years of age prior to 12:01a.m. on September 1 of the school year and is participating in kindergarten as part of an academic acceleration program pursuant to Section 22-13-6.1 NMSA 1978.” The wording would allow any child who is less than five years of age to qualify for early entry into kindergarten as a part of a gifted education program. This means not only four-year old students would qualify, but also children who are three or two years of age. It is unclear if this is the intent of the bill or if this is a technical issue. The sponsor may wish to amend the language to clearly delineate the age at which a student would be a “qualified student” under HB454.

ADMINISTRATIVE IMPLICATIONS

School districts and charter schools would be required to adopt policies to carry out the provisions of HB454.

TECHNICAL ISSUES

HB454 would require school districts to adopt policies that allow “facilitated enrollment” in dual credit courses, but the term “facilitated enrollment” is not defined. As a result, school districts might not clearly understand the intent of the provision when adopting acceleration policies.

OTHER SIGNIFICANT ISSUES

Current law requires the PED to adopt standards for identifying gifted children. Section 6.31.2.12 NMAC defines a gifted child as a child who scores two standard deviations above the mean on a properly administered intelligence measure paired with superior performance on tests involving a total subject area, creativity and divergent thinking, or problem solving and critical thinking. School districts are required to establish procedures for screening and referring potentially gifted students. PED analysis notes implementing the provisions of HB454 would cause schools to circumvent the Student Assistance Team (SAT) process. In order for students to be evaluated for any special education designation, they must undergo various levels of interventions to determine if the student’s needs can be met before referring the student for special education. It would be difficult to put interventions in place if a student is not yet enrolled in a school. Additionally, Section 3(2)(d) would allow for “safe reversion of placement within a reasonable time frame if the acceleration is ineffective.” The SAT process is in place to avoid inappropriately placing a student, calling to question whether it would be developmentally appropriate to place a young child in kindergarten and remove them soon after.

According to the American Association for Gifted Children, preschool students are rarely assessed for giftedness because programs have not been developed to meet students’ specific, developmental needs and assessment tools which would accurately determine a preschool student’s giftedness do not exist. Current assessment tools fail to identify giftedness in students who are economically disadvantaged, English learners, and minority students. Multimodal tools that would allow educators, parents, and other professionals determine a child’s level of giftedness with a more comprehensive approach are currently in the development stage.

ALTERNATIVES

HB454 could require school districts or PED to adopt an academic acceleration policy for gifted students without requiring specific policy details.

SOURCES OF INFORMATION

- LESC Files
- New Mexico Attorney General (AG)
- Public Education Department (PED)

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