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FISCAL IMPACT REPORT

ORIGINAL DATE 02/06/10

SPONSOR Miera LAST UPDATED _____ HB 67

SHORT TITLE Extend Educational Testing Contract Lengths SB _____

ANALYST Sallee

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Non-Rec	Fund Affected
FY10	FY11		
	None		

(Parenthesis () Indicate Expenditure Decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY10	FY11	FY12	3 Year Total Cost	Recurring or Non-Rec	Fund Affected
Total		See Narrative				

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From

Public Education Department (PED)

Department of Finance and Administration (DFA)

SUMMARY

Synopsis of Bill

House Bill 67 amends the state Procurement Code (Section 13-1-150 (B) NMSA 1978) to allow for professional services contracts to extend up from four to 12 years for standardized education tests for K through 12 students and for teacher licensure tests. HB 67 is sponsored by the Legislative Education Study Committee.

FISCAL IMPLICATIONS

The Public Education Department (PED) would avoid the staff time and cost of procurement for these contracts. However, the long-term financial impact of the bill is unclear, and would be

dependent on the ability of the Public Education Department to procure a contract that would maintain the price of service below what may be achieved through a normal competitive procurement process.

SIGNIFICANT ISSUES

The potential long period of time (12 years) for a single vendor to provide service without market competition would make determining whether the State is receiving the best price difficult. One of the purposes of the Procurement Code is to “maximize the purchasing value of public funds.” Typically this is achieved through competition. PED would still presumably have flexibility to adjust the price of the contract each year.

PED recently procured a new testing vendor. The results of that process increased costs to the State and local school districts. Specifically, PED reports that “recent contracts with vendors for the Standards Based Assessment and the High School Competency Exam increased the cost of testing to school districts by more than 50%. Districts’ costs for the new English language proficiency assessment are 30% higher under the new contract. On average, PED costs under new contracts increased by 120%. Such cost increases have severely challenged the PED and school districts facing budget reductions.” It is unclear whether market prices have increased that significantly or whether insufficient competition existed for the recent procurement.

DFA notes that New Mexico has worked to build a system that has been nationally ranked and cites the use of assessment data to improve outcomes for students, schools and districts. DFA further cites the advantages of a long-term association with the same testing company as leading to greater efficiencies in analyzing data, improved rapidity of reporting and more consistency in comparability of test results. Moreover, DFA comments, the contract could be terminated should the PED determine the provider had not performed satisfactorily.

PED notes that:

Education assessments in effect now specify that the state owns all or almost all of the assessment items when the contract is terminated. This minimizes the impact of changes in test vendors because state-owned items can be transferred to a new vendor. However, the state and school districts incur additional costs for transferring a test to a new vendor. Such costs can equal as much as 1% of the value of a testing contract. They include costs for the transfer of items, report templates, scoring rubrics and other test deliverables and for studies to ensure comparable test scores across vendors. Transfer can add hundreds of thousands of dollars to the cost of a test.

OTHER SIGNIFICANT ISSUES

If the contracts are extended up to 12 years a separate and specific appropriation of existing resources could help to contain potential cost increases. Recent Legislative Finance Committee program evaluations have recommended that the Legislature consider pulling all testing contracts out of the State Equalization Guarantee funding formula and appropriations to PED into a new and separate categorical program to enhance the Legislature’s authority over funding for these services. This approach would help ensure that any cost increases for testing are not shifted to local school districts and avoid creating an unfunded cost. School districts are not a party to negotiating contract prices but are subject to a significant portion of their costs.

TECHNICAL ISSUES

It is unclear whether the current vendor would be “grandfathered” under the proposed provision or whether PED would need to go out to bid for another potentially 12 year contract. The length of award for a contract could change the bids received and negotiating power of PED.

ADMINISTRATIVE IMPLICATIONS

The use a long-term contract would allow internal staffing resources to be used for activities other than procurement and potential transition to a different vendor for these contracts.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

PED will continue to call for vendors every four years.

CS/mew