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FISCAL IMPACT REPORT

	02/04/11		
	ORIGINAL DATE	02/08/11	
SPONSOR <u>Chavez, Eleanor</u>	LAST UPDATED	<u>03/07/11</u>	HB <u>115/aHEC/aHFL#1</u>
SHORT TITLE <u>Title-1 Supplemental Education Services</u>			SB _____
		ANALYST	<u>Hoffmann</u>

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Non-Rec	Fund Affected
FY11	FY12		
NFI	NFI		

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From

Public Education Department (PED)

SUMMARY

Synopsis of House Floor Amendment #1

House Floor amendment #1 to House Bill 115 as amended by the House Education Committee proposes additional conditions on a school in need of improvement.

- The state, a school district or a charter school would not be allowed to enter into a management contract.
- A public school that is identified as a school in need of improvement that makes adequate yearly progress in the year that it is placed in school improvement 1, school improvement 2 or restructuring 1 shall not move to the next school improvement rank for one year. If the school makes adequate yearly progress for a second consecutive year it shall be removed from the ranks of schools in need of improvement.
- Nothing in the amended Section 22-2C-7 NMSA 1978 shall be construed language to the existing accountability requirements in state statute specific to Supplemental Educational Services (SES) programs operated under Title I of the No Child Left Behind Act (NCLB).

Synopsis of HEC Amendment

The House Education Committee amendment to House Bill 115 would remove the language specifying the local school board or governing body of a charter school may adopt a policy governing whether the school's teachers may be hired as tutors for the teachers' own students or for students from the teachers' school.

Synopsis of Original Bill

House Bill 115 would add language to the existing accountability requirements in state statute specific to Supplemental Educational Services (SES) programs operated under Title I of the No Child Left Behind Act (NCLB).

The bill adds three requirements.

- School districts would be allowed to adopt policies governing whether a school's teachers may be hired as tutors for the teachers' own students or for students from the teachers' school.
- The PED would establish a range of acceptable rates that providers may charge.
- SES providers would be required to provide documentation, as part of their application to the Public Education Department (PED), that their services are consistent with the instructional program in every school district in which they propose to provide services.

FISCAL IMPLICATIONS

House Bill 115 makes no appropriations.

SIGNIFICANT ISSUES

The PED provided the following background information.

The requirement to offer SES services originates in NCLB. The USDE has made reauthorization of NCLB a priority for spring 2011. As such, the need for amendments to state statute specific to SES may not be necessary or may conflict with the reauthorized federal law. Considerations include the following.

Establishment of local policies regarding a school's teachers tutoring students under Title I Supplemental Educational Services programs – Hiring a school's teachers as tutors for the teachers' own students or for students from the teachers' school is an allowable practice under NCLB. The PED will review development of rules so that teachers who are not highly effective are not among those who are allowed to tutor. Further, PED will review federal guidelines to make sure its rules are coordinated with federal guidance.

PED establishment of a range of acceptable provider rates – PED understands that a range of (or a cap on) acceptable rates that providers may charge in the state is to prohibit exorbitant or unrealistically low rates. The use of ranges helps to ensure the delivery of

quality services while providing necessary flexibility to accommodate fluctuations in attendance and variations in per-pupil funding among LEAs.

Current SES provider rates range from \$25.00 dollars per hour to \$130.00 per hour. However, approximately 80% of approved providers charge between \$50.00 and \$80.00 per hour. Establishing a range of acceptable rates effectively determines the number of hours a student may be tutored.

In the SES program, states are encouraged to provide parents with a variety of service options and models. Although the number of hours of service to be provided is important, parents should also review a provider's delivery model, location of services, and other factors in making decisions regarding which provider might be best for their child.

An unintended consequence of establishing a range of rates is that providers may view the range as a cap and establish their hourly rate at the maximum allowable. Providers may also increase the pupil-to-tutor ratio or change the quality of tutors, which affects the amount they pay their tutors, in order to maximize profit margins.

PED to require provider documentation demonstrating that services are consistent with each districts instructional program - In its application to the SEA, a provider should describe the connections between its SES program and the state's academic standards and, where possible, cite the specific academic standards the program addresses.'

Recent USDE guidance on this issue suggests that 'it may be helpful to bear in mind that the statute (NCLB) requires providers to provide services that are *consistent with the LEA's instructional program*. Consistency and alignment are not necessarily the same thing. "Consistency" has a less stringent denotation than "alignment" in this case.'

The current PED SES provider application requires, through a provider assurance, that SES program services are aligned with state performance standards and are consistent with an LEA's instructional program. Current SES state rule, 6.19.6.8 NMAC, states that each supplemental educational service provider must ensure that the academic services provided to each student are consistent with the individual school district curriculum and state performance standards.

The New Mexico Standards for Excellence, 6.29.1.11 NMAC, requires each district to align its curricula to meet state standards. As such, if SES provider programs are aligned with state standards, they should be consistent with local instructional programs.

As required in NCLB and 6.19.6.8 NMAC, districts are required to ensure that each student has a student improvement plan in place before services can be provided. The student improvement plan, developed jointly by the district and provider, includes specific state standards that will be addressed by the provider. As districts are approving the student improvement plan for each student, they have the ability to ensure consistency with their local instructional program.

PED through an annual review process will be reviewing SES provider outcomes to help districts make decisions about quality of instruction.

PERFORMANCE IMPLICATIONS

The PED states House Bill 115 does directly relate to the PED's performance measures. It does relate to the percentage of students showing academic proficiency. Further, PED, through an annual review process, will be reviewing SES provider outcomes to help districts make decisions about quality of instruction.

JCH/bym:mew