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## FISCAL IMPACT REPORT

SPONSOR SEC ORIGINAL DATE 03/11/15  
LAST UPDATED 03/12/15 HB \_\_\_\_\_  
SHORT TITLE Auditor Rules For Education Policies SB 263/SECS  
ANALYST Cerny

### ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY15	FY16	FY17	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
<b>Total</b>		Indeterminate	Indeterminate			

(Parenthesis ( ) Indicate Expenditure Decreases)

Relates to HB 285 Auditor Rules for Education Policies

### SOURCES OF INFORMATION

LFC Files

#### Responses Received From

Public Education Department (PED)

Office of the State Auditor (OSA)

Office of the Attorney General (AGO)

### SUMMARY

#### Synopsis of SEC Substitute

Senate Education Committee Substitute for Senate Bill 263 would amend the Public School Code, Section 22-1-11 NMSA 1978, by adding a new section.

CS/263 provides that audits of teacher evaluations, merit pay and school ratings pursuant to the A-B-C-D-F Schools Rating Act shall be adopted in accordance with the Audit Act.

The bill provides the audits will test the:

- soundness of programmatic designs and the formulas used to calculate teacher quality and pay;
- selection of teachers to receive merit pay;
- performance grades issued to public schools; and
- accuracy of data relied on and the calculations used to evaluate people, salary increases and public schools.

The primary difference between CS/263 and the original bill is that the substitute removes

specific directives to the state auditor on how to conduct the audit, and amends the Public School Code rather than to the Audit Act.

The language now states that the audit must be conducted “in accordance with the Audit Act and rules adopted in accordance with that act.” It eliminates any reference to “quality and accuracy audits” and their pre- and post-implementation and does mandate the state auditor to provide a list of auditors qualified to conduct such audits. Otherwise the bill is unchanged.

## **FISCAL IMPLICATIONS**

SB 263 carries no appropriation and has indeterminate fiscal impact. The costs of any audits that might result for SB 263 would be borne by PED.

## **SIGNIFICANT ISSUES**

A review of data quality and methods for school grades and teacher evaluations prepared by The Coalition for Excellence in Science and Math Education presented in August 2014 to the Legislative Education Study Committee and the LFC concluded that New Mexico’s student performance has not significantly improved over the last several years, that the A-B-C-D-F Schools Rating Act needs to be modified to provide information that educators can use to help foster educational improvement, and that teacher evaluations based on student growth are not leading to improvement nor providing accurate assessment of most teachers’ performance.

(<http://www.nmlegis.gov/lcs/handouts/ALESC%20082514%20Item%2010%20Review%20of%20Data%20Quality%20and%20Methods%20for%20School%20Grades%20and%20Teacher%20Evaluations.pdf> )

PED analysis states:

The Office of the State Auditor has two statutory purposes under the Audit Act, §§ 12-6-1 to 12-6-14, NMSA 1978: (1) to ensure that the financial affairs of every agency shall be thoroughly examined and audited each year by the state auditor, personnel of the state auditor’s office designated by the state auditor or independent auditors approved by the state auditor and (2) cause the financial affairs and transactions of an agency to be audited in whole or in part (Section 12-6-3, NMSA 1978).

While the agency’s authority is financial, they conduct special audits as needed where there are claims of fraud, waste or abuse.

It is unclear where an annual appraisal of PED non-financial, policy program areas fits into the objectives and authority of the state auditor. It is clearly not the auditor’s role to appraise the “soundness of programmatic designs” as this is a **policy issue** specifically prohibited under the office’s statutory authority.

The OSA website, in a page titled “Issues other Agencies Handle,” states:

Policy related issues are handled by the Governing Body (Commission or Board) associated with the organization and/or by the Independent Public Accountant (IPA) that audits the organization.

( [http://www.saonm.org/types\\_of\\_issues\\_other\\_agencies\\_handle](http://www.saonm.org/types_of_issues_other_agencies_handle))

While this does indeed suggest that policy-related issues are not considered the purview of the OSA--even by the OSA itself--the Audit Act does not specifically “prohibit” such audits, as PED argues, either. Analysis by the AGO on the committee substitute states that:

As drafted, SB 263S, appears not to differ from the original SB 263 in terms of the substance of the bill. It is still unclear whether the Office of the State Auditor can perform the types of audits proposed in CS/263. For example, Sec. 12-6-3A provides that “the financial affairs of every agency shall be thoroughly examined and audited each year by the state auditor.” It is unclear whether audits of “teacher evaluations” and “school ratings” fall within the definition of “financial affairs” of the agency; however, there is less of a concern with the ability of the State Auditor to audit teacher "merit pay."

PED analysis further states:

The bill presumes that the two systems, school grading and teacher effectiveness, are lacking in accuracy and accountability. The following is direct evidence to the contrary:

1. All data sources leading to both the A-F School Grading and Educator Effectiveness evaluations are vetted by district officers prior to its use in accountability. These include:
  - 4-year, 5-year, and 6-year graduation cohorts;
  - Student identification and participation in each assessment;
  - College and career readiness (ACT, PSAT, SAT, PLAN, IB, dual credit, career coursework, AccuPlacer, Compass, ASVAB, TABE, and WorkKeys), and
  - Teacher-course-student data linkage.
2. Data leading to accountability, which are submitted by districts into the STARS data warehouse, are reviewed for accuracy and out-of-range or miskeyed values at the time of submission. Districts are required to correct and resubmit data where needed. These include:
  - Attendance;
  - Student-location linkages;
  - Student demographics (English learner, student with disabilities, free/reduced lunch, ethnicity);
  - Teacher observations, and
  - Parent and student surveys.
3. Districts and schools are allowed liberal opportunities to challenge, appeal, and receive investigatory findings on any perceived data irregularity.
4. Business rules for the calculations of both accountability systems are publically available.
5. Calculations are verified by a second statistician internally and beginning in the spring, an external statistician and value-added modeling expert will also review and verify the calculation. Cross-calculation includes graduation, college and career readiness, value added modeling, proficiency rates, academic growth, observations, surveys, and attendance.
6. The United States Department of Education has peer reviewed both the A-F system and

NMTEACH system and approved them for sound practice and policy.

7. Since 2012, the PED has convened a school grading Technical Working Group (TWG) which has now extended its work to educator effectiveness. This group represents the technical expertise in the state and meets quarterly to review elements surrounding school and educator accountability. The current participants include the following:

Cecile Hemez	New Mexico School for the Arts
Dr. Happy Miller	Rio Rancho Schools
Dr. Patricio Rojas	Statistical Consultant, various charter schools
Marybeth Schubert	Schubert Consulting
Dr. Richard Bowman	Santa Fe Schools
Dr. Suchint Saragarm	Hobbs Schools
Dr. Kim Johnson	Retired LANL scientist
Pascal Buser	Data Analyst PED
Dr. Cindy Gregory	Chief Statistician PED
Judy Harmon	Data Analyst PED
Matt Goodlaw	Senior Statistician, PED
Dr. Pete Goldschmidt	Statistical Consultant

## **PERFORMANCE IMPLICATIONS**

While the PED has systems in place to accommodate data and process review, it is “likely the audit would interrupt work flow. Scheduling would need to respect other urgent deadlines required for state and federal initiatives.”

## **ADMINISTRATIVE IMPLICATIONS**

PED is unable to share student data without proper review and agreements. As such, Memoranda of Understanding would need to be put in place for sharing of sensitive student information.

OSA analysis states that the OSA “could carry out the provisions of the bill with existing resources.”

## **RELATIONSHIP**

SB 263 is related to, but no longer duplicates, HB 285 Auditor Rules for Education Policies.

## **TECHNICAL ISSUES**

On page one, lines 20 and 21, delete the word “and” while adding a comma between “teacher evaluations” and “merit pay.”

CAC/bb/je