

**LEGISLATIVE EDUCATION STUDY COMMITTEE
BILL ANALYSIS**

Bill Number: HB 112

51st Legislature, 1st Session, 2013

Tracking Number: .190499.3SA

Short Title: Data in School Accountability Reports

Sponsor(s): Representatives Jane E. Powdrell-Culbert and Sheryl Williams Stapleton and Others

Analyst: LaNysha Adams

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Bill Summary:

HB 112 amends the accountability reporting provisions in the higher education statutes and the *Public School Code* to require public school and public postsecondary educational institution accountability reports to include student achievement disaggregated by certain factors.

Among its provisions, the bill requires:

- the Higher Education Department (HED) to disaggregate student progress and success in the annual accountability report by ethnicity and race as follows:
 - Caucasian, non-Hispanic;
 - Hispanic;
 - African American;
 - Native American;
 - Asian; and
 - Other, which includes the sample of students in any category enumerated above small enough to identify the student and potentially violate the federal *Family Educational Rights and Privacy Act*; and
- public schools to report disaggregated data and the Public Education Department (PED) to include disaggregated data in school grades by using:
 - the above-mentioned categories for ethnicity and race;
 - limited English proficiency;
 - students with disabilities;
 - poverty; and
 - gender.

Fiscal Impact:

HB 112 does not contain an appropriation.

Fiscal Issues:

According to HED's bill analysis, HB 112, if enacted, would require HED to work with higher education institutions to develop and adopt the data collection format for additional information to be included in the accountability report provided annually to the Governor and the Legislature. According to a New Mexico State University (NMSU) bill analysis, a new data collection system would need to be designed, tested, and implemented at each higher education institution, which would require additional resources if HB 112 were enacted.

According to a Western New Mexico University (WNMU) bill analysis, HED's data system would need additional programming and personnel training to collect and disaggregate data required by HB 112. The WNMU analysis estimates costs ranging from \$5,000 to \$10,000 per year for institutions serving approximately 3,300 students.

A bill analysis by PED states that the ethnicity and race categories required by HB 112 do not align with the US Department of Education's (USDE) definition of racial and ethnic data reporting, thereby requiring PED to maintain two classifications systems. The PED analysis indicated that HB 112 would require changes to the current school grade report card, which would require additional resources.

Substantive Issues:

HED, NMSU, WNMU, UNM, and PED have noted that HB 112 requires a different set of reporting requirements than the ones currently in place, which suggests that two reporting systems would need to be maintained.

According to HED's bill analysis, as a member state of Complete College America¹, HED completes reports that specify progress and success measures in greater detail than requested in HB 112.

According to a report released in August 2012 by the Center for Education Policy Research (CEPR) at UNM detailing many gaps in data on African Americans throughout the state, only four school districts and six counties had enough data for CEPR to conduct explanatory analyses of education, economic, and health indicators.

Finally, HB 112 treats the "Hispanic" category as both race and ethnicity when USDE reporting requirements require a two-part question for education institutions collecting information on race and ethnicity (see "Background," below).

Background:

In 2000, the US Census allowed individuals to self-identify with more than one race for the first time since the first US decennial census in 1790. The US Census Bureau collects race and ethnicity information following the guidance of the US Office of Management and Budget's (OMB) *1997 Revisions to the Standards for the Classification of Federal Data on Race and Ethnicity*, which specifies:

¹ Complete College America is a national nonprofit that was established in 2009 to create a coalition of states to increase the number of career certificates and/or college degrees and to close attainment gaps for traditionally underrepresented college students.

- five categories for data on race, including:
 - American Indian or Alaska Native;
 - Asian;
 - Black or African American;
 - Native Hawaiian or Other Pacific Islander; and
 - White;
- two categories for data on ethnicity, including:
 - Hispanic or Latino; and
 - Not Hispanic or Latino; and
- that race and Hispanic origin (i.e., ethnicity) are separate and distinct concepts and that when collecting these data via self-identification, two different questions must be used.

In 2003, the New Mexico Legislature passed and the Governor signed comprehensive education reform legislation that included a provision requiring PED to issue a state ID number for each public school student as part of the state’s assessment and accountability system. Additionally, federal data reporting requirements under the *No Child Left Behind Act* required state assessment systems to produce results disaggregated by gender, major racial and ethnic groups, English proficiency, migrant status, disability, and status as economically advantaged.

In 2010, legislation was enacted to establish a data system partnership between PED and HED, with the goal of codifying requirements for a pre-kindergarten through postsecondary (P-20) education accountability data system in order to:

- collect, integrate, and report longitudinal student-level and educator data required to implement federal or state education performance accountability measures;
- conduct research and evaluation of federal, state, and local education programs; and
- audit program compliance with federal and state requirements.

In 2010, the USDE implemented ethnicity reporting for public education institutions to include a two-part question when collecting data on race and ethnicity. In these reporting requirements, which are published in the *Final Guidance on Maintaining, Collecting, and Reporting Racial and Ethnic Data to the U.S. Department of Education*, educational institutions are required to report disaggregated race and ethnicity data for students and staff in the following seven categories:

- Hispanic or Latino of any race and, for individuals who are non-Hispanic or Latino only;
- American Indian or Alaska Native;
- Asian;
- Black or African American;
- Native Hawaiian or Other Pacific Islander;
- White; and
- two or more races.

On the 2010 Census, the ethnicity “Hispanic or Latino” referred to a person of Cuban, Mexican, Puerto Rican, South or Central American, or other Spanish culture or origin regardless of race.

On February 15, 2012, New Mexico became the eleventh state to receive an *Elementary and Secondary Schools Act* (ESEA) Flexibility Waiver. While the ESEA Flexibility Waiver exempts New Mexico from having to meet its progress goals of “adequate yearly progress” toward an ultimate goal of 100 percent of students proficient in math and reading on the New Mexico Standards-Based Assessment by 2014, New Mexico is still required to:

- report progress on annual measurable objectives;
- prepare and release annual report cards for parents and the public on the academic achievement of all schools and districts disaggregated by the following subgroups:
 - American Indian (Race);
 - Asian (Race);
 - Black or African American (Race);
 - Hispanic (Ethnicity);
 - White (Race);
 - Economically Disadvantaged (Lunch Status);
 - English Language Learners (ELLs);
 - Students with Disabilities (SWDs); and
 - All Students.

On September 21, 2012, the Office of African American Affairs hosted a one-day summit examining disparities in economics, education, and health that affect the African American community throughout the state. One of the major recommendations to come out of the summit, which was attended by approximately 100 business people, educators, healthcare providers, advocates, public officials, and government officials, was for disaggregated data related to African Americans on key education, economic, and health indicators to be collected and reported.

During the December 2012 interim meeting, the Legislative Education Study Committee (LESC) staff reported that on December 6, 2012, the USDE announced that New Mexico received \$25.0 million in Phase 2 of the Race to the Top-Early Learning Challenge (RTT-ELC) grant competition to support the three state agencies that provide early childhood care and education programs. LESC staff explained that:

- the \$25.0 million would be split between the Children, Youth and Families Department (CYFD), PED, and the Department of Health (DOH) to implement five areas of education reform specified in the RTT-ELC grant application;
- according to the RTT-ELC application abstract, some of the funds would be used for a Data Systems Project to have CYFD, PED, and the DOH work collaboratively to develop and implement an unified early learning data system that will provide educators, families and policymakers with the information to:
 - provide the most current information educators need to nurture and teach the children in their programs;
 - provide families with the information they need in order to make informed choices about which programs are best for their young children;
 - track young children’s development and progress as they are increasingly ready for school;
 - measure the quality and improvement of New Mexico’s early learning and development programs;
 - assess the status of young children as they enter kindergarten; and

- follow students from their earliest enrollment in early childhood programs through entrance into kindergarten, elementary, middle and high school, higher education, and the workforce.

Committee Referrals:

HEC

Related Bills:

HB 215 *Remove School AYP & Funding Incentives*
HB 339 *Annual Educator Accountability Report Date*
*HB 513 *Certain School Tests as Competence*
SJM 14 *Study New Approaches to Education Reform*