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FISCAL IMPACT REPORT

ORIGINAL DATE 02/06/13

SPONSOR Candelaria LAST UPDATED _____ HB _____

SHORT TITLE Public Education Dept. Rules Procedures SB 157

ANALYST Roberts

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY13	FY14	FY15	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total	NFI	\$1.0 - \$5.0	\$1.0 - \$5.0	\$2.0 - \$10.0	Recurring	PED Operating Budget

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From

Public Education Department (PED)

Attorney General's Office (AGO)

SUMMARY

Synopsis of Bill

Senate Bill 157 amends the Public Education Department Act, adding new language to create a notice and public hearing requirement when the Public Education Department intends to adopt, amend or appeal a rule. It creates definitions not found in section 12-8-3 NMSA 1978 regarding rulemaking for the state of New Mexico. It creates requirements for notice of all rulemaking to be made in English and Spanish, and to be posted at numerous places, including every public school, district offices, and provided to legislative interim committees, to name a few.

FISCAL IMPLICATIONS

There were no fiscal implications identified in this bill, however, the PED reported that passage of this bill would create an expense to the department in order for them to meet the notice requirements. At this time, the department could not identify the exact expenses that the passage of this bill would create.

SIGNIFICANT ISSUES

The PED notes that the new notice requirements would be practically impossible not to violate.

If one public school was not noticed correctly, or if for any reason an interim legislative committee was not properly noticed, the rulemaking would not be achievable.

The AGO cites the New Mexico Administrative Code Rule, Section 1.24.10.16(E) NMAC, which states:

“No rule shall be valid and enforceable until it is filed with the records center and published in the New Mexico register as provided by the State Rules Act.” Page 6, Lines 14-19 appear to conflict with this Administrative Code Rule and appear contrary to the intent of Senate Bill 157. As such, Subsection D on the aforementioned page should be reviewed for further amendments.

There are existing notice requirements in state statute that the PED already follows.

ADMINISTRATIVE IMPLICATIONS

The Public Education Department would be responsible for administering changes in the Public Education Act (section 9-24-3 NMSA 1978) to ensure that the department is meeting rulemaking with the notice requirements proposed.

MR/svb:bm