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FISCAL IMPACT REPORT

ORIGINAL DATE 02/04/14

SPONSOR Roch LAST UPDATED _____ HB 111

SHORT TITLE Remove AYP References in School Code SB _____

ANALYST Chavez

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY14	FY15	FY16	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total		NFI	NFI	NFI		

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From

Public Education Department (PED)

Higher Education Department (HED)

SUMMARY

Synopsis of Bill

House Bill 111 removes references to adequate yearly progress (AYP) throughout statute and reconciles multiple amendments to the same section of law in Laws 2007. It also repeals three sections of the Assessment and Accountability Act, and enacts a new section requiring the Public Education Department to report to the Legislative Education Study Committee the department's proposed changes to law to comport with applicable federal requirements by the end of the 2014 calendar year and subsequent years.

House Bill 111 amends the following sections of the Public School Code to eliminate reference to AYP:

- Section 22-1-1.2 Legislative Findings and Purpose; Section 22-1-2 Definitions; Section 22-1-4 Free Public Schools--Exception--Withdrawing and Enrolling--Open Enrollment; Assessment and Accountability Act – Section 22-2C-4 Statewide Assessment and Accountability System – Indicators – Required Assessments - -Alternative Assessments – Limits and Alternatives to English Language Reading Assessments; Section 22-2C-5 Student Achievement Ratings – Calculation of Adequate Yearly Progress; Section 22-2C-8 Adequate Yearly Progress--Supplemental Incentive Funding--State Program for Other Achievement; Section 22-2C-9 Incentives for School Improvement Fund—Created—

Distributions; Section 22-2C-10 Schools in Need of Improvement Fund—Created; and Section 22-2C-11 Assessment and Accountability System Reporting—Parent Survey—Data System—Fiscal Information

- Charter School District Act of 2005 – Section 22-8E-6 Renewal of Charter;
- School Personnel Act – Section 22-10A-14 Certificates of Waiver;
- Hispanic Education Act – Section 22-23B-6 Statewide Status Report

Other changes:

- In Section 22-2C-3, the bill inserts “any applicable” between “exceed” and “federal” in the following phrase: “academic content and performance standards shall be sufficiently challenging to meet or exceed federal requirements”.
- In Section 22-2C-4, the bill removes social studies as a required subject for standards-based assessments for grades three through eight and grade 11.
- Section 22-2C-5 removes language requiring that the statewide standards-based assessments shall conform to nationally-recognized professional and technical standards, and instead provides that “The department shall adopt the process and methodology for measuring students’ academic performance”.
- Section 22-2C-9 removes language that the adequate yearly progress program shall account for 60 percent of the fund, including federal funds and up to 40 percent of the fund may be used for the state improving schools program. Language in that distributes from the fund based on a public school’s approved improvement plan is removed and instead makes funding distributions based solely on applications approved by PED. Language that refers to “public schools subject to corrective action” is also removed.
- The amendment to Section 22-1-4 NMSA 1978 proposes changes to the priorities for student enrollment within a district at particular schools, giving second enrollment priority to students in schools rated “F” for two of the prior four years, rather than schools ranked as “needing improvement or subject to corrective action”.

The bill repeals Sections 22-2C-7 (Adequate yearly progress; school improvement plans; corrective action; restructuring), 22-2C-7.1 (Failing school subject to reopening as state-charter school; requirements) and 22-2C-12 NMSA 1978 (Alternative School Accountability System Pilot Project).

FISCAL IMPLICATIONS

The changes to the incentives for school improvement fund allow the PED to use the funds for the state improving schools program. But it is unclear what this program is or if a state improving schools program exists. The PED is able to retain 3 percent of the fund for administrative purposes.

SIGNIFICANT ISSUES

Adequate yearly progress (AYP) was a federal law construct under “No Child Left Behind” (NCLB), requiring schools to be rated as failing when and if students failed to improve under current schools and teachers. New Mexico has been granted a waiver from calculating AYP and is instead required to calculate school grades for federal accountability purposes. However, the current waivers are effective only through the end of school year 2013-14; states will have to request an extension for future years if waivers are still available. It is not clear if PED has

received a waiver for future school years. Additionally, Congress is considering legislative proposals to revamp NCLB that may not align with requirements of the current flexibility waiver.

PED reports that among the department initiatives already approved through the federal waiver of NCLB's AYP provisions are grading schools as A-F and establishing means of evaluating teacher performance. PED adds that HB 111 maintains these current assessment and evaluation initiatives without change.

The repeal of NMSA 1978 Section 22-2C-7 and 22-2C-7.1 in HB 111, which lay out the mechanism for restructuring schools, replaces those sections of law with expansion of PED's ability to establish content and performance standards and measurement of school performance statewide. PED is limited in how it does so by its assurances to the federal government under its approved NCLB waiver. PED notes the academic, content and school performance measures PED will use under either the current law or under HB 111, if passed and signed, will be constant as stated in its federal waiver request. (See Other Substantive Issues)

PERFORMANCE IMPLICATIONS

PED received an Elementary and Secondary Education Act waiver to No Child Left Behind through the 2013-2014 school year. No deviation from the approved waiver is allowed without risk to New Mexico's federal funding for education. It is not clear if HB 111 deviates substantially from the waiver already submitted and if it would put federal funds at risk.

ADMINISTRATIVE IMPLICATIONS

The PED will be required to report to the Legislative Education Study Committee on the department's proposed changes to law to comport with applicable federal requirements by the end of 2014 and subsequent years. However, the Legislature may wish to consider an earlier reporting deadline to give the LESC time to take any necessary action during the following legislative session.

TECHNICAL ISSUES

Section 13 of the bill (p. 30, lines 24-25) removes language that "a teacher who holds a teaching or assignment waiver shall not be assigned to a school that has not made adequate yearly process for two consecutive years." The Legislature may consider adding language that keeps a similar provision but with schools that receive an "F" grade for two or more consecutive years.

Section 14 of the bill (p. 31, lines 22-24) removes language that "the number of Hispanic students in schools that make adequate yearly progress and in schools at each level of school improvement or restructuring" shall be included in an annual statewide Hispanic education status report. The Legislature may wish to consider language that tracks the progress of Hispanic students that does not include adequate yearly progress.

A similar bill in the 2013 Session (HB 215) also changed the A-B-C-D-F Schools Rating Act – Section 22-2E-4 Annual Ratings--Letter Grades—"Ratings Based on Standards-Based Tests" to "Ratings Based on Standards Based Assessments" and removed the language regarding the School Ratings Act as an addition to any other interventions described by the No Child Left

Behind Act. This change is not included in this bill.

OTHER SUBSTANTIVE ISSUES

Under the waiver requirements developed by the U.S. Department of Education, states with waivers must identify three categories of schools based on their performance: Reward, Priority, and Focus schools. Reward schools are those with high performance or high levels of progress. Priority schools are among the lowest-performing schools in the state and must total at least 5 percent of the state's Title I schools; these schools must undergo comprehensive and intensive intervention to improve their performance that are aligned with several specific "turnaround principles" outlined in PED's waiver guidance. Reward schools are those with high performance or high levels of progress. Priority schools are among the lowest-performing schools in the state and must total at least 5 percent of the state's Title I schools; these schools must undergo comprehensive and intensive intervention to improve their performance that are aligned with several specific "turnaround principles" outlined in PED's waiver guidance.

POSSIBLE QUESTIONS

Do the changes in this bill subject the state to liability in regards to federal funding?

What is the intention of removing social studies as a required assessment subject from Section 22-2C-3?

KC/ds