

**LEGISLATIVE EDUCATION STUDY COMMITTEE
BILL ANALYSIS**

Bill Number: SB 138

52nd Legislature, 1st Session, 2015

Tracking Number: .198009.1

Short Title: Repeal A-B-C-D-F School Rating Act

Sponsor(s): Senator Linda M. Lopez

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Bill Summary:

SB 138 repeals the *A-B-C-D-F Schools Rating Act* in the *Public School Code* [Sections 22-2E-1 through 22-2E-4 NMSA 1978].

Fiscal Impact:

SB 138 does not contain an appropriation.

Fiscal Issues:

According to the fiscal impact report (FIR) of the Legislative Finance Committee (LFC), the bill does not have any direct fiscal implications; however, the state has been granted an *Elementary and Secondary Education Act* (ESEA) flexibility waiver from certain provisions of the federal ESEA. This waiver allowed the state to redirect approximately \$10 million in federal Title I funds based on the new grading system rather than distributing pursuant to adequate yearly progress (AYP). If the state loses the waiver, funds will have to be distributed based on the AYP system and supplemental education services would be reinstated.

Substantive Issues:

In addition to the point in the FIR, one question that SB 138 raises is what effect repealing the *A-B-C-D-F Schools Rating Act* will have upon the state's waiver from the other requirements of the federal *No Child Left Behind Act* (see "Background," below).

The analysis by the Public Education Department (PED) contends that the school grading system produces a number of benefits, among them:

- the goal of accountability is to assist in the reform of poorly performing schools, while highlighting the methods of successful schools;
- schools can see how well they are growing students' learning over time. Moreover, the schools can differentiate whether their highest achieving students are learning better than their lowest achieving students;
- a letter grade is an easy metric to understand and compare;

- VAM (value-added modeling)¹ provides a more equitable system; and
- under AYP group size requirements, 260 schools were not held accountable for English language learners, 100 schools were not held accountable for low-income students, and 436 schools were not held accountable for student with disabilities. With the combined quartile subgroups under school grading, all schools are held accountable for all students.

However, different perspectives on school grading have emerged in testimony to the Legislative Education Study Committee (LESC) since the 2012 interim (see “Background,” below). To illustrate, during the 2014 interim, the LESL heard testimony by a member of the Coalition for Excellence in Science and Math Education (CESE).² According to this testimony, the *A-B-C-D-F Schools Rating Act* helps New Mexico schools in two ways: by providing immediate relief from requirements of the federal *No Child Left Behind Act of 2001* that all students be proficient in reading and math content areas by 2014; and by setting new goals for improvement through student growth targets. However, according to this testimony, the methods of grading the schools, which employ VAM, appear to be too complex to show a path to improvement, without which schools are unlikely to show real improvement. As an alternative, the CESE testimony suggested another method that includes: (1) mapping which schools significantly exceeded or significantly underperformed relative to their predicted performance; and (2) utilizing observation teams to visit those schools identified for best practices or areas for improvement.

Background:

A-B-C-D-F Schools Rating Act

Enacted in 2011, the *A-B-C-D-F Schools Rating Act* created a new public school accountability system that, beginning in school year 2011-2012, was to operate in addition to, and separate from, the existing AYP system created in state and federal law. Among its provisions, the legislation requires that:

- all public schools be graded annually on an A-F scale;
- the rating scale for elementary and middle schools include factors such as student proficiency and growth, as well as growth of the lowest 25th percentile of students;
- the rating scale for high schools include additional academic indicators such as high school graduation rates and growth in those rates;
- parents of a student in a public school rated F for two of the last four years have the right to transfer the student to any public school in the state or continue schooling through the statewide cyber academy; and
- PED ensure that a local school board or charter school governing body is prioritizing the resources of a public school rated D or F until the school earns a grade of C or better for two consecutive years.

¹ VAM uses statistical models to predict student test performance, controlling for potential variables that could affect performance such as student, teacher, or school characteristics. The difference between the predicted and actual scores, if any, is assumed to be due to the performance of the teacher, rather than to the student’s natural ability or socioeconomic circumstances.

² The CESE describes itself as a nonprofit, non-partisan 501(c)(3) charitable corporation, whose members include national laboratory personnel and retirees, industrial scientists, educators, parents, college professors, and others. CESE has analyzed New Mexico public education data and policy issues for more than 15 years, with a primary focus on helping improve New Mexico schools using data unique to the state.

While the overall grading system is prescribed in law, the details and many of the substantive provisions are in PED rule, first promulgated in December 2011 and then revised in May 2012.

Testimony to the LESC

At several meetings during the 2012 interim, the LESC heard testimony on the implementation of the *A-B-C-D-F Schools Rating Act*. During the August meeting, for example, staff from the University of New Mexico Center for Education Policy Research (CEPR) discussed plans to do exploratory analyses to understand how grades are assigned and how the system avoids grading schools with regard to circumstances outside their control. Geographic Information Systems mapping was identified as one means of doing so. CEPR staff added that interpreting grades is more complex under the A-F system, and identified aspects to study further, including:

- the relationship between specific economic disadvantaged areas and school grades;
- the relationship between the school grade and overall poverty level of the school;
- the application of a school grade to a school with a high special education population;
- how schools use data to improve; and
- how the system will mesh with other large changes like the Common Core State Standards and teacher evaluation.

As testimony continued throughout the 2012 interim, committee members raised a number of points. In particular, committee members:

- questioned whether the system properly accounts for such conditions as the high percentages of English language learners, students with reading problems, high truancy rates, and limited teacher professional development;
- questioned the utility of giving the opportunity to learn survey to lower-grade students, whose reading levels may not match that of the questions; and to high school students, who, because they have more than one teacher, will be unsure how to respond; and
- cautioned that high-performing schools are likely to be punished under this grading system.

Testimony during the 2013 interim focused on legislative appropriations relating to the school grading system, particularly those intended for PED's interventions in D and F schools. Also in 2013, the Secretary-designate of Public Education reported on the A-F school grades for school year 2012-2013. Her testimony noted that:

- the number of A schools in New Mexico more than doubled in a single year;
- A schools outgained F schools;
- almost 10 percent of the schools received an A, an increase of nearly 5.0 percent over the preceding year;
- for the first time, there are more A and B schools (306) than D and F schools (303); and
- more than 70 percent of schools either maintained or increased their school grade.

Elementary and Secondary Education Act Waiver Flexibility

On November 14, 2014, the US Department of Education granted New Mexico's request for an extension of the ESEA flexibility through the end of school year 2014-2015.

New Mexico's ESEA flexibility application includes sections that discuss three distinct principles:

1. college- and career-ready expectations for all students;
2. state-developed differentiated recognition, accountability, and support; and
3. supporting effective instruction and leadership.

Principle two specifically relates to New Mexico's *A-B-C-D-F Schools Rating Act*.

Additionally, based on the application, growth was specifically defined as learning a year's worth of knowledge in one year's time as demonstrated by student performance on the New Mexico Standards-Based Assessment³ in reading and mathematics. As such, the school grading model includes growth measures for students moving from one performance level to a higher performance level, students who remain proficient or advanced, as well as growth for students who remain in beginning step or nearing proficient but move a certain number of scale score points. Additionally, the act specifies that the state must also look explicitly at the bottom 25 percent of students within a school.

Committee Referrals:

SEC/SPAC

Related Bills:

- SB 202 *Public Education Data Advisory Council*
- SB 205 *Delay Use of Certain Test in Teacher Evals*
- HB 165 *Remove AYP References in School Code*
- HB 177 *Common Core Implementation Standards*
- HB 285 *Auditor Rules for Education Policies*

³ During school year 2014-2015, New Mexico will begin administering the Partnership for Assessment of Readiness for College and Careers (PARCC) assessment.