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## FISCAL IMPACT REPORT

ORIGINAL DATE 1/28/15  
 SPONSOR Soules LAST UPDATED 3/18/15 HB \_\_\_\_\_  
 SHORT TITLE Clarify School Test Individual Choice SB 217  
 ANALYST Chavez

### REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY15	FY16	FY17		
	Possible reductions (See Fiscal Implications)	Possible reductions (See Fiscal Implications)	Recurring	Title I

(Parenthesis ( ) Indicate Revenue Decreases)

Duplicates Senate Bill 217  
 Relates to House Bill 156, House Bill 15

### SOURCES OF INFORMATION

LFC Files

#### Responses Received From

Attorney General's Office (AGO)  
 Public Education Department (PED)

### SUMMARY

#### Synopsis of Bill

Senate Bill 217 allows a parent to submit a request for a waiver for their child from taking any standards-based assessment that is not factored into the students' grade point average, effective for the entire school year. Under the bill, waivers will not affect the student's ability to participate in any activity sanctioned by the school, the student's ability to graduate from high school, receive a legislative lottery tuition scholarship, or student promotion and retention decisions. The absence of assessment shall also not affect school personnel decisions or school ratings.

### FISCAL IMPLICATIONS

This bill contains no appropriation. A reduction of the number of students taking tests may lead to savings for school districts and charter schools as testing costs are also reduced. PED notes that as a condition of receiving federal ESEA funds, 95 percent of students are required to participate in federally-required accountability assessments. If a fewer number of

students participate, the state could risk losing up to \$400 million in federal funds.

## **SIGNIFICANT ISSUES**

This bill would prevent a parents' waiver request from affecting a student's ability to participate in sports or other activities, move up in grade level and graduate, or schools from having their grade affected. In addition, teachers' annual evaluations would not be affected.

PED notes that this bill may impact department initiatives in addition to the possible repercussions regarding federal funds. Some initiatives that may be affected if this bill is enacted are: A – F school grades, the Educator Effectiveness System (EES), and graduation requirements. Federal Title I requirements require New Mexico under the ESEA waiver to have both a school accountability system that rates every school and an educator effectiveness system. Since the New Mexico A – F School Grades and Educator Effectiveness System (EES) are both data-driven, PED argues the elimination of significant student data would make the current accountability models incomplete and ineffective.

PED adds that districts each set their own policy as it relates to which assessments are factored into a student's course grade or overall grade point average. PED argues this bill is unnecessary as districts have full flexibility to determine which factors are considered in both course grades and grade point averages; however, this bill ensures that students whose parents sign a waiver would not be negatively impacted, which districts currently do not have the ability to do.

Many districts currently provide guidance in relation to allowing students to opt out of assessments. In the example of Albuquerque Public Schools as provided by PED, parents who sign a waiver are informed that signing the waiver may jeopardize a schools' rating; this bill prohibits the absence of assessment results from affecting schools' ratings. As such, schools and school districts would be protected from having their grade affected if a large number of parents chose to opt out of assessments for their children.

PED notes that in addition to putting federal ESEA funds at risk, the possibility of a number of children opting out of tests may affect school districts' ability to accurately gauge the progress of their students, which may affect overall student achievement. PED analysis for a previous bill noted standards-based assessments are the only rigorous, objective, indicator for students, parents, teachers, and administrators of whether students are on grade level and progressing adequately to be college and career ready.

A recent LFC report, however, shows that standards-based assessment scores in the state do not necessarily reflect college readiness. Large numbers of students meeting the assessment standards required to graduate still require remediation in college.

PED argues that allowing districts to determine which assessments are counted for graduation purposes will have a negative impact across New Mexico. However, it is not clear that provisions of this bill have the impact of enabling school districts to determine assessments for graduation purposes. Also, Section 22-13-1.1 NMSA 1978, which outlines graduation requirements, states standards-based assessments "may" be used to determine eligibility for graduation. However, there are other options provided to meet those requirements, including a "portfolio of standards-based indicators established by the department by rule" which may also be considered as the assessment required for graduation.

Finally, PED notes this bill is in conflict with Section 22-2C-4 NMSA 1978 –“ Statewide assessment and accountability system; indicators; required assessments; alternative assessments; limits on alternatives to English language reading assessments” requires in Subsection D that “all students shall participate in the academic assessment program.”

Concerns exist that students are currently over tested; however, little data is available regarding instructional time used for test preparation and time used for tests other than the state standards-based assessment. As a result, HB 2 currently includes the following language that requires each school district and charter school to conduct an audit of their assessment practices by mid-October 2015 as a condition of continued receipt of operational funding:

The secretary of public education shall not distribute a school district's or charter school's state equalization guarantee distribution after the first reporting date, which is October 14, 2015, if, by that date, the school district or charter school has not conducted an assessment of its student assessment practices using a public education department-approved audit tool and submitted the results of the audit to the public education department and the local school board or governing body of the charter school. The public education department shall provide a report of the assessment audit results to the legislative education study committee by December 2015.

## **PERFORMANCE IMPLICATIONS**

PED notes that schools use results of summative assessments to identify strengths and weaknesses of students and teachers. Elimination of this information would negatively impact schools and students as they implement the Common Core State Standards.

## **DUPLICATION, RELATIONSHIP**

House Bill 129 is a duplicate.

House Bill 156 grants a waiver from results of standards-based assessments in teacher evaluations and A – F school ratings for two years to teachers and schools who meet conditions under the proposed “Innovations in Teaching Act”. However, students are still required to participate in standards-based assessments under the proposed legislation. House Bill 15 limits the number of days that can be spent on assessments.

## **TECHNICAL ISSUES**

Page 1, line 22-23 refers to a “school leader” of a charter school. However, the term “head administrator” is the term used in statute.

Subsection 4 of the bill provides that a student's eligibility to receive a New Mexico Legislative Lottery Scholarship shall not be affected by the absence of assessment results as provided for in the bill. However, lottery scholarship eligibility is determined in the first semester of college; there are no high school requirements to receive the scholarship.

Section 22-2C-4(D) NMSA 1978 requires that “all students shall participate in the academic assessment program.” This section of law would have to be amended as well to not be in conflict with this bill if enacted.

## OTHER SUBSTANTIVE ISSUES

AGO notes SB 217 may require Federal Approval from U.S. Dept. of Education:

The state would need to develop new and achievable measurable objectives to guide and support efforts for the schools and students, including, but not limited to:

- Detailed plans for implementing college and career ready standards and assessments;
- The implementation of Achievement Compacts – partnership agreements between the state and each school district – expressing the contributions school districts should make toward statewide goals for education outcomes, as well as the resources, supports, and flexibility provided by the state;
- Identification of higher- and lower-performing schools and focus on continuous improvement for all schools;
- An emphasis on measuring student growth to determine whether schools are succeeding;
- A focus on closing the achievement gap between all students and those historically underserved; and,
- A statewide system of teacher and principal evaluations to promote and support educator effectiveness.

Concerns have been raised by stakeholders and schools nationally regarding the amount of testing students undergo in a given school year. Previous LFC analysis for related bills showed that Artesia high schools report that when the SBA, high school graduation assessment (HSGA), EOC assessments and career and college readiness tests (CCR) such as the ACT and SAT are considered, students may take between 15 to 27 assessments in each of five subject matters for a total of 93 testing opportunities in high school. When other curricular assessments such as short-cycle assessments are considered, students in Artesia are tested 474 days throughout their time in high school. Other school districts also reported that tests take a significant portion of instructional time; Dexter Consolidated Schools reports the three schools in the district each take about 50 hours for the SBA to test and do make-up tests. Additionally, employees spend approximately 7 hours per employee to attend trainings and to prepare to administer the test.

## ALTERNATIVES

AGO notes Section 21-1-10 NMSA 1978 may enable the PED secretary to effectuate waivers so long as the US Department of Education concurs.

KC/bb