

LFC Requester:	Sunny Liu
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**AGENCY BILL ANALYSIS
2017 REGULAR SESSION**

WITHIN 24 HOURS OF BILL POSTING, EMAIL ANALYSIS TO:

LFC@NMLEGIS.GOV

and

DFA@STATE.NM.US

{Include the bill no. in the email subject line, e.g., HB2, and only attach one bill analysis and related documentation per email message}

SECTION I: GENERAL INFORMATION

{Indicate if analysis is on an original bill, amendment, substitute or a correction of a previous bill}

Check all that apply: Date 1/31/17
Original **Amendment** **Bill No:** SB40
Correction **Substitute**

Sponsor: Senator Howie C. Morales **Agency Code:** 924
Short Title: STATE SCHOOL GRADES COUNCIL **Person Writing:** Christopher N. Ruskowski
Title: _____ **Phone:** _____ **Email:** _____

SECTION II: FISCAL IMPACT

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY17	FY18		

(Parenthesis () Indicate Expenditure Decreases)

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY17	FY18	FY19		

(Parenthesis () Indicate Expenditure Decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY17	FY18	FY19	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total						

(Parenthesis () Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to:

SB 62 also establishes a work group to revise A-F School Grading.

SECTION III: NARRATIVE

BILL SUMMARY

SB 40 revokes/eliminates current school grading procedures, mandates a new system for school grading during an interim period, and establishes a statewide council to create another replacement school grading system, thus contemplating several new school grading systems over the next few school years.

FISCAL IMPLICATIONS

The elimination of the A-F School Grading system would not remove the requirement for school and LEA accountability under the federal Elementary and Secondary Education Act (ESEA, reauthorized as *Every Student Succeeds Act* in 2001 and again in 2015). If a State fails to meet these federal requirements, the Secretary of the U.S. Department of Education may withhold funds, which for New Mexico would jeopardize approximately \$120 million of federal Title I funding (figures from 2013).

Creating several new School Grading systems includes significant investment: pre-rule meetings, hearings, associated filing fees, meeting costs, and legal fees are estimated at upwards of \$500,000. This does not include PED administrative costs, e.g., salaries/benefits, nor does it include local costs pertaining to re-training and re-education of local stakeholders.

Per diem and mileage costs for proposed council meetings could total upwards of \$50,000.

SIGNIFICANT ISSUES

Create a School Grades Council

Members would consist of:

- Teachers (3)
- Instructional support (3)
- Principals (3)
- Superintendents (3)
- School board members (3)
- Charter schools (3)
- Educational experts (3)
- Governor appointee (1)
- Speaker of the house appointee (1)
- President pro tempore appointee (1)

The bill notes that a final report of a second replacement system (after the interim system is implemented) would be presented to LESC in November 2018, after which the council would terminate. The replacement system would require approval through legislation to be operational in SY 2019-20. The frequency or duration of meetings is not specified but a suggestion is made that the team may want to meet around the state for stakeholder input.

The makeup of this council consists almost entirely of school officials who are the recipients of school grading accountability. While these stakeholders should have, and have had a seat at the table, it may not be in the best interest of students, parents, post-secondary institutions, and community members that they are the sole designers of their own accountability. Membership should include at least 50% representatives from the PED, higher education, school oversight agencies, legislative analysts, business and workforce representatives, and similar stakeholders. Most notably, parents/families and community members should be a major voice at the table, as they are the primary consumers of school grading, and deserve to have their voice heard. The idea that the proposed council would not put consumer advocacy front and center is concerning.

The bill notes that meetings would be held around the state and members would be reimbursed for travel and time under the Per Diem and Travel Mileage Act for state employees. As noted above, this comes with fiscal implications and additional costs to the taxpayer.

The bill noted that the newly-established school grading council would develop a new grading system and then dissolve. This timeline does not account for additional data collection processes, significant new data analyses, student assessment vendor contract modifications, revision of local information systems, federal, state and district authorizations, and other external constraints, which are outlined below:

Interim Accountability System (as proposed)

An alternate system (created without any stakeholder input) would commence immediately (SY 2017-18) and would undermine the current A-F School Grading paradigm with these proposed revisions:

- Growth is *redefined* as evidence over a three year period that the student has advanced by one or more scaled score points. This sets incredibly low expectations for our children. Currently student growth is a student meeting or exceeding expectations in the current year based on their academic peer group's historic performance.
- Opportunity to learn (OTL) is *redefined* as participation in extracurricular activities, truancy rates, attendance, and teacher training and experience. Currently OTL is measured by attendance and results from a student classroom survey. Both attendance and the classroom survey have ample research supporting their relationship to student success.

Research indicates that inputs such as teacher experience, training, and credentials have little or no relationship with student learning. A recent LFC report on the impact of tiers and student achievement corroborated the existing literature's findings. Explicitly including teacher experience has at least two substantial problems. One, this would further disadvantage challenged, rural, and hard-to-staff schools as these schools are faced with the greatest turnover and thus may create a disincentive for new teachers to go to these schools. Two, it is well established that (except for the first 2 or 3 years) teacher experience is unrelated to student achievement, hence schools with bright young teachers

would by definition be considered poor performing schools, without consideration of the actual performance of teachers. While teacher experience is considered an important factor in school success (see NM’s “Excellent Educators for All” plan), scoring (as opposed to simply reporting) teacher experience as part of school grades could have negative consequences for our highest-need schools under the current state structure.

While a “teacher index” does exist as part of the funding formula, it is unclear if it would meet the requirements of SB 40. As such, it is likely that new data collection efforts would need to be put in place, requiring a minimum of one-year planning due to contractual arrangements with information system vendors, which would compromise the timeline of the bill.

Preliminary work by the PED with extracurricular activities has shown this indicator to be unreliably collected and sparsely reported with the exception of reporting of sports activities. For this reason, the current model incorporates extracurricular activities into parent/student engagement for “Bonus Points” and requires schools to provide defensible evidence in support of their petition. At most, this information can currently earn a school 5% of the points toward school grading. To integrate such activities into the prominent role mandated by SB 40 requires construction of a rigorous data collection system which, like a teacher index, would compromise the timeline of the bill.

Additionally, OTL is characterized by SB 40 as the school’s “provision to students of opportunities” to participate, which means schools would earn points for offering a chess club even if no students participated. Such a weak accountability indicator, that generates up to 67% of a school’s grade, would be difficult to defend.

Additional challenges include:

- Language noting that “no grade indicator shall cause a drop in the school’s letter grade” (see Technical Issues).
- School grading that will account for proportion of students in poverty, English Learner (EL) status, and the school’s overall letter grade from the prior grading season. Using student attributes to adjust expectations for schools and students was explicitly forbidden by the U.S. Department of Education during negotiations over the original A-F School Grading system. Moreover, classifying schools into groups based on their prior letter grade deters schools setting aspirational goals to improve.
- The weighting of school grading components would be altered as shown in the following tables (the double weighting of the OTL category in the EL/MS model is intentional):

Elementary and Middle Schools (EL/MS Model)	Current*	Proposed
Overall Grade	100	100
Current Standing (current model includes 25% for student proficiency)	40	5
Student Growth (represented as “School Growth”)	10	8
Q1 Growth	20	10
Q3 Growth	20	10
OTL	10	67
Parent engagement	(2)	(5)
Improvements in Truancy, Chronic Absenteeism	(2,0)	

Activities	(1)	
(awarded through bonus points, capped at 5)		

High Schools (HS Model)	Current*	Proposed
Overall Grade	100	100
Proficiency (current model includes 20% for student proficiency)	30	9
Q1 Growth	10	12
Q3 Growth	10	12
OTL	8	33
Parent Engagement	(2)	(5)
Improvements in Truancy, Chronic Absenteeism	(2,0)	0
Activities	(1)	0
Graduation, School Growth	17, 10	17
College and Career Readiness	15	17
(awarded through bonus points, capped at 5)		

* Codified in NMAC 6.19.8.9

In addition, the use of school grading results by parents/families was modified in the proposed bill language:

- The right to transfer a student from a failing school was altered. Currently a school rated F in two of the last four years (NMSA 22-2E-4.F) would now be two of the last three years.
- “Results are not to be used in teacher evaluation” is inserted into the bill’s language, thus intentionally becoming a bill legislating on the state’s teacher evaluation system as well
- Low performing charter schools are no longer required to prioritize resources toward proven programs and methods under this proposal.
- “Standards Based Assessment” is redefined to qualify any assessment administered annually. Accountability would no longer be limited to assessments aligned with State Standards. The relaxing of this definition would allow the substitution of short-cycle and locally-authored assessments that are not aligned to state standards. This substitution would not be allowed under New Mexico’s former approved ESEA Waiver Requests to the U.S. Department of Education and would likely not qualify under the Every Student Succeeds Act (ESSA). In order to ensure that all students have equal opportunity to reach their learning potential and to demonstrate this potential in an egalitarian method across New Mexico, all students must have access to rigorous and reliable tests from which valid claims can be made. Without a systematic approach to an assessment system, students in different schools and districts would not have comparable results.

The interim system also fails to account for the progress of English learner proficiency (ELP) which must be integrated into school accountability under ESSA.

Replacement System

SB 40 would repeal the current *A-B-C-D-F Schools Rating Act* in its entirety. There is no mention of the related rule NMAC 6.19.8 Grading of Public Schools.

PERFORMANCE IMPLICATIONS

The PED has successfully implemented the A-F grading system and the related Educator

Effectiveness System, both of which are required and approved for federal and state accountability. Intensive effort has gone into aligning and disseminating the calculations and principles of the models to constituents and stakeholders, and gaining approval from the federal government which has translated into favorable acceptance and meaningful accountability. To alter the model at this time would risk nullifying those efforts.

ADMINISTRATIVE IMPLICATIONS

SB 40 would significantly de-emphasize student achievement and student academic growth, while placing substantially heavier emphasis on a weakened version of “Opportunity to Learn”. To revalue these components implies that the New Mexico community confirms these expectations for schools, a questionable assumption. To nullify the A-F School Grading dissemination of the past several years would prove costly, and it is highly unlikely that these grading changes would be allowed under the PED’s ESSA State Plan. Further, the net result of such changes would likely be an overnight inflation of every school’s grade, thus communicating to stakeholders (notably parents/families) that there is very little work to be done in NM’s schools.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

A similar bill is being proposed, SB 62.

TECHNICAL ISSUES

SB 40 requires that no indicator should “drop a public school’s grade by an entire letter grade.” [pg 5, line 22] The intent of this language is unclear. The bill may propose that schools cannot drop more than one letter grade from one year to the next, or that a single component such as Current Standing cannot influence the overall grade.

The first interpretation would imply that schools not go from a C to an A in one year, which would contravene a valuable tenet of school grading – that schools can experience dramatic improvement in one year based on vigorous reforms. The second interpretation implies that the components of school grading cannot influence the overall grade, which is illogical. The meaning of this language requires clarification.

Another interpretation of this language could be related to those schools that do not meet the federal student participation threshold, which impacted significantly fewer schools in the most recent year.

The bill refers to “parent participation” as an opportunity to gain bonus points. This was interpreted to be synonymous with “parent engagement” which is currently in school grading.

OTHER SUBSTANTIVE ISSUES

ALTERNATIVES

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

AMENDMENTS