

**LEGISLATIVE EDUCATION STUDY COMMITTEE
BILL ANALYSIS**

Bill No: *HB 333a

49th Legislature, 1st Session, 2009

Short Title: Allow 5-Year Public School Graduation

Sponsor(s): Representative Rick Miera and Others

Analyst: Pamela Herman

Date: February 23, 2009

AS AMENDED

The House Education Committee amendment:

- **changes the title of the bill to clarify that the bill addresses the calculation of graduation rates, not the award of high school diplomas; and**
- **adds an emergency clause so that the provisions of the bill will be in effect when calculating the graduation rate for the class of 2009.**

Original Bill Summary:

HB 333 amends the *Public School Code* to allow a school system to include a student as a high school graduate for the year in which the student passes the required state graduation assessment and completes all other graduation requirements, if the student does so within five years of entering ninth grade, including a final summer session completed by August 1.

Fiscal Impact:

HB 333 does not make an appropriation.

In its bill analysis, the Public Education Department (PED) states that HB 333 has no fiscal impact.

Issues:

During the 2006 and 2007 interims, the Legislative Education Study Committee (LESC) heard testimony regarding high school graduation rates in New Mexico, which have variously been estimated by national researchers to be between 61 and 65 percent.

Testimony included information about students who were still in high school but not on track to graduate on time because they had not earned enough credits to be promoted with their classmates. Each year, the committee learned, this group comprised 16 percent or more of the original cohort.

According to PED there are approximately 3,000 high school students, or roughly 10 percent, from a cohort of 30,158 high school freshmen in 2004 who are still enrolled beyond their senior year in order to complete credits or pass exit examinations. To have graduated on time, those students should have completed their high school requirements by summer 2008. If HB 333 is

enacted and should all those students graduate by August 1, 2009, the five-year graduation rate for the cohort could be as much as 10 percentage points higher than the four-year rate.

PED notes that, if New Mexico wishes to use a five-year graduation rate as an additional accountability factor under the federal *No Child Left Behind Act of 2001* (NCLB), PED would have to submit the new definition and method of calculation for review by the US Department of Education (USDE). NCLB provides that a state may not use an additional indicator to reduce the number of, or change, the schools that would otherwise be subject to school improvement, corrective action or restructuring, but may use them to identify additional schools for school improvement.

PED states that 19 other states are already calculating a five-year graduation rates.

Technical Issue:

The effective date of bills without emergency clauses enacted in 2009 will be June 19, 2009. Should HB 333 be enacted, if a student's fifth year of high school is school year 2008-2009 and the student completes all the requirements for graduation before the effective date of the act, the student's school system would not be able to include that student as a high school graduate for that school year. However, it would be able to include a student who completes the requirements for high school graduation later, during the following summer term after the bill's effective date.

This issue could be resolved either by amending HB 333 to include an emergency clause, or by amending it to make the change apply to students who entered the ninth grade in school year 2005-2006 or later.

Background:

NCLB requires that each state have an approved statewide accountability system that ensures that all school districts and public schools make adequate yearly progress (AYP), including secondary school graduation rates, defined as the percentage of students who graduate from secondary school with a regular diploma in the standard number of years.

Until recently, the USDE left the definition of graduation rates to each state's approved Accountability Workbook. In October 2008, however, USDE published final regulations requiring all states to use the "four-year adjusted cohort graduation rate." Now all states must calculate a graduation rate based on the number of students who graduate in four years with a regular high school diploma divided by the number of students who entered high school four years earlier (adjusted for transfers in and out, émigrés, and deceased students).

The regulation regarding graduation rates also allows states, districts, and schools the option to propose one or more extended-year adjusted cohort graduation rates, for USDE approval, that take into account students who graduate in more than four years. An extended-year rate must be reported separately from the regular four-year adjusted cohort rate. A state that wishes to use such a rate must describe to USDE how it will use the extended-year rate along with the four-year adjusted cohort rate to determine whether its schools and districts make AYP, while still holding them accountable for graduating the "vast majority" of their students within four years.

In 2004, PED assigned unique student identification numbers for the first time to all enrolled public school students so as to track their progress through the public schools via the Student

Teacher Accountability Reporting System (STARS). PED states that it will release the four-year cohort graduation rate for that group in May 2009.

- The STARS system with unique student identifiers allowed New Mexico to amend its Accountability Workbook to provide that, beginning in 2009, the state would use a transitional cohort graduation rate, comprised of the number of first time ninth graders in 2004 that successfully met graduation requirements by September 2008.
- Beginning in 2009, the Workbook states that New Mexico's cohort graduation rate calculation will be one very similar to that prescribed in the October 2008 federal rule.