

**LEGISLATIVE EDUCATION STUDY COMMITTEE
BILL ANALYSIS**

Bill Number: SB 328

52nd Legislature, 1st Session, 2015

Tracking Number: .198109.1

Short Title: Graduation Standards to School Boards

Sponsor(s): Senators John M. Sapien and Mimi Stewart

Analyst: Travis Dulany

Date: March 10, 2015

Bill Summary:

SB 328 amends a section of the *Public School Code* relating to graduation requirements to allow local school boards or charter school governing bodies to establish criteria for the portfolio of standards-based indicators (commonly referred to as the Alternative Demonstration of Competence, or ADC) required for students graduating with a New Mexico Diploma of Excellence (see “Technical Issues,” below).

Fiscal Impact:

SB 328 does not contain an appropriation.

Substantive Issues:

Statutory provisions for high school graduation with a Diploma of Excellence require two things: (1) completion of 24 units in certain subject areas (see “Background,” below); and (2) demonstration of competence.

Demonstration of Competence

With regard to demonstration of competence, provisions in current law provide a student two options: (1) a student must achieve certain scores on standards-based assessments in certain subject areas;¹ *or* (2) the student may demonstrate competence in certain subject areas through a portfolio of standards-based indicators established by Public Education Department (PED) rule (see “Technical Issues,” below).

PED Rule

Turning to PED rule, Section 6.19.7.10 NMAC, *Alternative Demonstration of Competency Using Standards-based Indicators* (see **Attachment**) sets forth criteria for what standards-based indicators may be used for the ADC option for high school graduation. Specifically, the rule, which was promulgated in 2009, states that “school administrators shall establish local procedures for determining whether the alternative demonstration of competency:

¹ The Partnership for Assessment of Readiness for College and Careers (commonly known as PARCC) assessment is scheduled to serve as the state’s standards-based assessment in mathematics and English language arts/literacy in school year 2014-2015 and succeeding school years.

- is complete and scorable;
- addresses the appropriate academic content standards; and
- be determined as adequately showing competency.”

The plain language of the PED rule appears to indicate that local school administrators are responsible for determining whether a student has demonstrated competence through the ADC portfolio. Likewise, the PED bill analysis for SB 328 states that currently each school district has the autonomy to approve district-specified ADC options for students.

Enactment of SB 328, therefore, would ensure that provisions in state law allow local school boards and charter school governing bodies to retain the ability to determine ADC requirements for all future high school students, regardless of any future changes to PED rule.

LESC 2014 Interim Testimony

During the 2014 interim, Legislative Education Study Committee (LESC) staff highlighted the 2009 PED rule that allows school districts to determine requirements for an ADC. Although PED has expressed its intent to amend the rule so that all ADC requirements would be uniform for all New Mexico students, regardless of the district in which they are enrolled, the rule is still intact. Additionally, a 2014 statute change requires that, “Once a student has entered the ninth grade, the graduation requirements shall not be changed for that student from the graduation requirements specified in law at the time the student entered the ninth grade.” As a result, all current high school students have the option of demonstrating competence through a district-determined ADC, regardless of any changes made to PED rule in the future.

Technical Issues:

According to the analysis by PED, SB 328 transfers “responsibility of determining student competence standards for graduating with a New Mexico diploma [sic] of Excellence from the PED to local school boards and governing bodies of charter schools.” Although this reading of the bill seems consistent with the bill’s title, LESC staff interpret the amendment contained in SB 328 as applying only to the portfolio of standards-based indicators referenced on page 8, line 21. To clarify the effect of the bill, the sponsors may wish to amend the language, perhaps by inserting the phrase “based on” before “a portfolio of standards-based indicators” on page 8, line 21.

Background:

Unit Requirements

For students who entered grade 9 beginning in school year 2009-2010, successful completion of a minimum of 24 units aligned to state academic and content standards is required to earn a New Mexico Diploma of Excellence as follows:

- **four units in English**, with major emphasis on grammar, nonfiction writing, and literature;
- **four units in mathematics**, of which one must be the equivalent to or higher than the level of Algebra II, unless the student’s parent submits written, signed permission for the student to complete a lesser mathematics unit, and provided that a financial literacy

course that meets state mathematics academic content and performance standards qualifies as one of the four required math units;

- **three units in science**, two of which must have a laboratory component;
- **three and a half units in social science**, which must include US history and geography, world history and geography, government and economics, and one-half unit in New Mexico history;
- **one unit in physical education (PE)**, as determined by each school district, which may include PE program that meets state content and performance standards or participation in marching band, junior reserve officers' training corps or interscholastic sports sanctioned by the New Mexico Activities Association, or any other co-curricular physical activity;
- **one unit** in a career cluster course, workplace readiness, or a language other than English; and
- **seven and one-half elective units** that meet department content and performance standards; financial literacy must be offered as an elective, and pre-apprenticeship programs and media literacy may be offered as electives.

Further, for students entering grade 8 in or after school year 2012-2013, a course in health education is required prior to graduation. The course may be required in either middle school or high school, as determined by the school district, and must include age-appropriate sexual abuse and assault awareness training that meets PED standards.

Finally, provisions in current statute require that at least one of the units noted above must be earned as an Advanced Placement (AP) or honors course, a dual credit course offered in cooperation with a higher education institution, or a distance learning course.

New Mexico High School Competency Exam

- Since 1986, to graduate from high school in New Mexico, students had been required to pass the New Mexico High School Competency Exam (NMHSCE) in certain required subjects. In testimony during the 2006 interim regarding college- and career-readiness of New Mexico high school students, the LESC heard from representatives from PED and other sources that the NMHSCE:
 - tested skills only at the eighth grade level; and
 - was not aligned with state high school standards.

2007 Legislature

- In 2007, LESC-endorsed legislation was enacted to require that, beginning in school year 2010-2011, in order to graduate from high school with a Diploma of Excellence, a student must demonstrate competence:
 - in required subject areas on a standards-based assessment or assessments; or
 - by means of a portfolio of standards-based indicators established by PED rule.
- These provisions allow PED to establish one exam, a series of exams such as end-of-course assessments, or a standards-based portfolio, for the following:

- mathematics;
 - reading and language arts;
 - writing;
 - social studies, including sections on the constitutions of the United States and New Mexico; and
 - science.
- Other provisions require students who exit the school system at the end of grade 12 without having demonstrated competence on a standards-based assessment or by means of a portfolio of standards-based indicators to receive an appropriate state certificate indicating the number of credits earned and the grade completed; it further allowed students who demonstrate competence on a standards-based assessment or portfolio of standards-based indicators within five years of exiting the school system to receive a New Mexico Diploma of Excellence.
 - Until spring 2009, high school students who took the NMHSCE in their sophomore year had five additional opportunities to retake the exam and pass it before they were scheduled to graduate, and they had five years after they completed the course requirements for graduation to successfully complete all six portions of the exam to earn a diploma.
 - Because statute still requires that students be given five years after they exit high school to pass the test, versions of the NMHSCE may still be required to be administered by some school districts until as late as school year 2017-2018 for some students.

2011 Legislature

- During the 2011 regular session, LESC-endorsed legislation was enacted to temporarily suspend, for school year 2011-2012, requirements to administer the following assessments:
 - in grade 11, a standards-based assessment in social studies;
 - in grades 4, 5, 7, and 11, a standards-based writing assessment;
 - in grades 9 and 10, a short-cycle diagnostic assessment in reading, language arts, and mathematics; and
 - in grade 11, a college placement assessment or a workforce readiness assessment.
- Additional provisions of the 2011 legislation permitted students graduating in school year 2011-2012 to graduate high school without demonstrating competence in required subject areas on standards-based assessments or indicators.

2014 Legislature

Multiple Amendments Reconciled

During the 2014 legislative session, two bills amending graduation requirements for PE courses were enacted – SB 122 (Laws 2014, Chapter 71) and SB 307 (Laws 2014, Chapter 70). Though similar, the two bills had slight differences (denoted by italics):

- SB 122 requires “one unit in physical education, as determined by each school district, which may include a physical education program that meets state content and performance standards or participation in marching band, junior reserve officers’ training corps or *interscholastic sports sanctioned by the New Mexico activities association*”; and
- SB 307 requires “one unit in physical education, as determined by each school district, which may include a physical education program that meets state content and performance standards or participation in marching band, junior reserve officers’ training corps or *any other co-curricular physical activity*.”

In such situations when the Legislature enacts two bills amending the same section of New Mexico Statutes Annotated (NMSA), regardless of the effective date of the acts, the last act signed by the Governor is compiled into NMSA. If the New Mexico Compilation Commission, after consulting with the Legislative Council Service, determines that the provisions of the earlier signed act can be reconciled with the last-signed act, those provisions are to be incorporated into the last-signed act and compiled into NMSA.

As such, current PE unit requirements for graduation reflect both SB 122 and SB 307, specifying that students must complete “one unit in physical education, as determined by each school district, which may include a physical education program that meets state content and performance standards or participation in marching band, junior reserve officers’ training corps or *interscholastic sports sanctioned by the New Mexico activities association or any other co-curricular physical activity*.”

Limitation of Changes to Graduation Requirements

In addition to changes in PE course requirements, both SB 122 and SB 307 added a subsection to the *Public School Code*² stipulating, “Once a student has entered the ninth grade, the graduation requirements shall not be changed for that student from the requirements specified in law at the time the student entered ninth grade.”

Age-appropriate Sexual Abuse and Assault Awareness and Prevention Training

Finally, the 2014 legislative session saw the enactment of House Judiciary Committee Substitute for House Bills 92 and 101 (Laws 2014, Chapter 9), which added the following language for health education courses required for graduation:

“Health education shall include age-appropriate sexual abuse and assault awareness and prevention training that meets department standards developed in consultation with the federal centers for disease control and prevention that are based on evidence-based methods that have proven to be effective.”

Committee Referrals:

SPAC/SEC

² [22-13-1.1.F, NMSA 1978]

Related Bills:

HB 15 *Limit School Days for Statewide Tests*
HB 145 *Graduation Standards to School Boards (Identical)*
HB 177 *Common Core Implementation Standards*
HB 178a *Career Technical Education Courses & Terms*
HB 308a *School Workforce Assessment System*
HB 345 *Gov't Literacy as Elective & Dual Credit*
SB 14 *Computer Programing for Language Credit*
SB 127a *Development of End-of-course Tests by Teacher*
SB 157 *High School Work Force Assessment System*
SB 203a *Certain Students Tested in Native Language*
SB 229 *Remove Requirement for Certain School Classes*
SB 390a *Align School Code with Assessment Practices*
SB 445 *Gov't Literacy as Elective & Dual Credit*
SB 496 *Career Tech Education Courses as Electives*
SM 21 *"New Mexico GRADS Day"*

6.19.7.10 ALTERNATE DEMONSTRATION OF COMPETENCY USING STANDARDS-BASED INDICATORS

A. Alternate demonstration of competency of high school exit requirements using standards-based indicators may include, but is not limited to the following:

- (1) results from post-secondary nationally-normed assessments;
- (2) results from workforce readiness assessments;
- (3) results from end-of-course examinations;
- (4) school-based projects such as extended papers, themes, theses, or research projects;
- (5) performances or works of art that can be recorded in an electronic format; and
- (6) community-based projects such as internships, service learning, pre-apprenticeship, or

after-school job performance.

B. The alternate demonstration of competency must not contain the following:

- (1) products not the result of the student's independent work;
- (2) projects that involve vertebrate animal subjects;
- (3) collaborations where an individual student's contributions cannot be distinguished;
- (4) course grades, teacher or employer recommendations or testimonials;
- (5) artifacts that are not related to the content standards required for graduation;
- (6) material that is inflammatory, derogatory, or humiliating.

C. All projects, including those involving human subjects and microorganisms, or other potentially hazardous biological agents, must follow the international rules and guidelines governing the international science and engineering fair.

D. Requirements for alternate demonstration of competency using standards-based indicators:

(1) Students must have participated in the short-cycle diagnostic type assessments at ninth and tenth grades in the required subject areas at least once and before submitting artifacts to be considered for alternate demonstration of competency.

(2) Students who have participated in a college placement or workplace readiness assessment may create a portfolio of artifacts as further evidence of competency or to submit to postsecondary institutions, potential employers, businesses, community organizations, or any institution that requires educational credentials for admission, scholarships, employment, partnerships, internships, apprenticeships, or any opportunity for advancement in learning, earning potential, military service, and citizenship.

(3) Assembly of the portfolio may incorporate artifacts from as early as grade nine.

(4) Students may submit a portfolio in English, Spanish, or in a Native American language of an Indian nation, tribe or pueblo located in New Mexico as per conditions of a tribal/public education department memorandum of agreement.

(5) Alternate demonstrations of competency shall not be used for federal accountability requirements and will not be included in adequate yearly progress (AYP) calculations. Students who receive a New Mexico diploma of excellence and who have demonstrated competency through the compilation of a portfolio shall be considered to have graduated and shall count as high school graduates.

(6) Students may provide alternate demonstrations of competency using standards-based indicators within five years of exiting a public school or state educational institution in order to satisfy competency in required subject areas and receive a New Mexico diploma of excellence.

(7) Unless special accommodations are required, portfolios shall be submitted to school authorities electronically, use uniform templates, and follow procedures established by the department.

(8) School administrators shall establish local procedures for determining whether the alternate demonstration of competency:

- (a)** is complete and scorable;
- (b)** addresses the appropriate academic content standards; and
- (c)** be determined as adequately showing competency.

(9) Electronic documentation of alternate demonstrations of competency shall be stored electronically by the district for five years from the time of submission.

(10) If at the end of grade twelve a student has not demonstrated competency in the required subject areas on standards-based indicators, the student will be issued a certificate indicating course credits earned and grade level completed.

[6.19.7.10 NMAC - N, 1/30/09]