

**LEGISLATIVE EDUCATION STUDY COMMITTEE
BILL ANALYSIS**

Bill Number: HB 287

49th Legislature, 2nd Session, 2010

Tracking Number: .181115.1

Short Title: Kindergarten Student Age

Sponsor(s): Representative Rhonda S. King and Others

Analyst: James Ball

Date: February 13, 2010

Bill Summary:

HB 287 amends the *Public School Finance Act* to provide that a child who is at least five years of age at any time on September 1 of a school year shall be accepted for kindergarten enrollment.

Fiscal Impact:

HB 287 makes no appropriation.

While there appear to be no clear data on how many children are born on September 1 each year, including a full day in the age eligibility for kindergarten would likely have an impact on the funding formula by increasing the number of children of kindergarten age in the first year of implementation.

Substantive Issues:

HB 287 strikes language in current statute to eliminate the words “prior to 12:01 a.m.,” thereby allowing five-year old children born at any time on September 1 to be eligible for kindergarten enrollment in that school year.

According to the analysis of HB 287 by the Public Education Department (PED), parents who have children who are five years old and who were born on September 1, but after 12:01 a.m., as now required by statute, frequently call the department to ask if there are exceptions to this requirement to allow their children to be enrolled in kindergarten. According to PED, school districts may accept these children, but they do so knowing that they will not receive funding for them.

Technical Issues:

Two current age eligibility statutes appear to contain a conflict with each other regarding the requirements to be admitted to kindergarten. HB 287 retains – and to some extent expands – a conflict between two sections of the *Public School Code*:

- The *Public School Finance Act*, which HB 287 amends, currently states that a qualified student is one who “is at least five years of age prior to 12:01 a.m. on September 1 of the school year” (emphasis added).

- The early childhood education statutes state, “early childhood education programs’ means kindergarten programs for every child who has reached his fifth birthday prior to September 1 of the school year . . .” (emphasis added).

The conflict under current statute exists only for only one minute, namely the period between 12:00 a.m. and 12:01 a.m. on September 1. However, HB 287 would expand the conflict to include one full day, specifically to all children born on September 1.

It is difficult, therefore, to state definitively the kindergarten age in New Mexico. A case in point is a December 2009 review of the kindergarten entrance age in all 50 states by the Education Commission of the States. Citing the early childhood statutes, this review specifies age five “before September 1” as the entrance age in New Mexico. In terms of funding, however, as provided by the *Public School Finance Act*, this reported age is incorrect by one minute; under HB 287 it will be incorrect by 24 hours.

Finally, the PED analysis notes another timing issue: the *Pre-Kindergarten Act* in the *Children’s Code* defines “pre-kindergarten” as “a voluntary developmental readiness program for children who have attained their fourth birthday prior to September 1” (emphasis added).

Related Bills:

None as of 2-13-2010.