

**LEGISLATIVE EDUCATION STUDY COMMITTEE
BILL ANALYSIS**

Bill Number: HB 21a

49th Legislature, 2nd Session, 2010

Tracking Number: .180394.1

Short Title: School Priority for Certain Students

Sponsor(s): Representative Karen E. Giannini

Analyst: David Harrell

Date: February 18, 2010

AS AMENDED

The Senate Floor amendment:

- **strikes the House Education Committee and House Consumer and Public Affairs Committee amendments;**
- **expands the first priority of student enrollment to include those students who had resided in the school's attendance area prior to an active-duty military parent's deployment, requiring the student to relocate outside the attendance area for custodial care; and**
- **retains priorities two, three, and four unchanged.**

The House Education Committee amendments specify that the military parent must be stationed in New Mexico.

The House Consumer and Public Affairs Committee amendments:

- **restore first priority for student enrollment to students residing within the school district and within the attendance area of a public school; and**
- **grant second priority for student enrollment to "students who have a parent who is an active duty member of the armed forces of the United States, whether serving in New Mexico or deployed elsewhere" (see "Technical Issues," below).**

Original Bill Summary:

House Bill 21 amends the open enrollment provisions in the *Public School Code* to grant first priority for student enrollment in a school to students whose parents are active duty members of the armed forces of the United States serving in New Mexico.

Original Fiscal Impact:

HB 21 makes no appropriation.

The bill could have a fiscal impact on school districts if the number of military children enrolled in a school required the district to hire more teachers to accommodate students who reside within the district and the attendance area of the particular school.

Substantive Issues:

The analysis of HB 21 by the Public Education Department (PED) identifies two substantive issues with the bill:

- an adverse effect on some school districts by compelling them to enroll children of military families – even if they reside outside the district or the school’s attendance area – ahead of students who do reside in the district or the school’s attendance area; and
- a potential conflict with a provision of the federal *No Child Left Behind Act of 2001* (NCLB), which requires Title I schools in school improvement status to allow students to transfer to a higher performing school, currently under the second enrollment priority, behind students who reside within the school district and the attendance area of the school.

On another point, the open enrollment provisions that HB 21 amends were enacted in 1998 to provide additional choices to parents who prefer to send their children to schools outside their attendance zone. Under current law, these students are the fourth priority, called “all other students.” If HB 21 were enacted, “all other students” would be the fifth priority, constricting somewhat the options of open enrollment and likely placing more such students on waiting lists, as provided in this section of law.

Technical Issues:

The PED analysis also identifies some technical issues with HB 21, among them:

- the phrase “whose parents are active duty members” (emphasis added) seems to require the military child to have two parents, both of whom are active duty members of the US armed forces; and
- the phrase “active duty members of the armed forces” excludes members of the Army National Guard or the Air National Guard because, under federal law, “The term *armed forces* means the Army, Navy, Air Force, Marine Corps, and Coast Guard.”

Related Bill(s):

HB 24a *Educational Opportunity for Military Children*
HJM 1 *Study Uniform Military Credit at NM Colleges*