

**LEGISLATIVE EDUCATION STUDY COMMITTEE  
BILL ANALYSIS**

Bill Number: SB 360a

50th Legislature, 1st Session, 2011

Tracking Number: .184005.1

Short Title: Student Assessment Requirements Suspension

Sponsor(s): Senator Cynthia Nava

Analyst: Pamela Herman

Date: February 28, 2011

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**FOR THE LEGISLATIVE EDUCATION STUDY COMMITTEE**

**AS AMENDED**

**The Senate Finance Committee amendments:**

- **strike the Senate Education Committee (SEC) amendment Item 4 regarding the work force readiness assessment; and**
- **clarify that, in grade 11, only the requirement to administer an alternative demonstration of competency is restored (see ambiguity noted in “Senate Education Committee amendments” below, regarding SEC Item #4).**

**The Senate Education Committee amendments:**

- **delete the high school graduation assessment or portfolio from assessments that need not be administered;**
- **restore the requirement to administer the standards-based writing assessment in grades 3, 5, and 8;**
- **restore the requirement to administer an alternative demonstration of competency in grade 11; and**
- **add a subsection requiring that, during the temporary suspension of required assessments, schools shall use appropriate assessments for grades 9 and 10 to comply with the federal *Individuals with Disabilities Education Act*.**

**It should be noted that one of the amendments is ambiguous. Item 4 states that, on page 2, line 17, after “assessment”, the remainder of the line should be stricken; however, the word “assessment” occurs twice on line 17, leaving in question whether the grade 11 work force readiness assessment is to be suspended.**

**Original Bill Summary:**

Among its provisions, SB 360a:

- temporarily suspends the following required student assessments for school year 2011-2012:
  - eleventh grade standards-based social studies assessment;
  - fourth, sixth, and seventh grade standards-based writing assessment;

- ninth and tenth grade short-cycle diagnostic assessments in reading, language arts, and mathematics; and
- eleventh grade college placement or work force readiness assessments;
- makes explicit that, although schools would still be required to administer the high school graduation assessment or portfolio, students who have completed the course requirements for high school graduation in school year 2011-2012 are not required to demonstrate competence on the assessment or portfolio in order to graduate; and
- requires administration in grades 9 and 10 of appropriate assessments to comply with the federal *Individuals with Disabilities Education Act* (IDEA).

**Original Bill Summary:**

SB 360 temporarily suspends, for one school year, statutory requirements that:

- the Public Education Department (PED), school districts, charter schools, and state educational institutions administer certain student assessments; and
- students demonstrate competence through an exit test or portfolio in order to graduate.

Among its provisions, SB 360:

- makes a legislative finding that the financial crisis of calendar years 2008-2010 will continue into FY 12 and that, to balance the state budget, the Legislature must reduce general appropriations by several hundred million dollars; and
- toward that end, temporarily suspends the following required student assessments for school year 2011-2012:
  - eleventh grade high school graduation standards-based assessment or portfolio of standards-based indicators;
  - eleventh grade standards-based social studies assessment;
  - third through eighth and eleventh grade standards-based writing assessment;
  - ninth and tenth grade short-cycle diagnostic assessments in reading, language arts, and mathematics; and
  - eleventh grade college placement or work force readiness assessments or alternative demonstration of competency; and
- makes explicit that students who have completed the course requirements for high school graduation in school year 2011-2012 are not required to demonstrate competence in statutorily required subjects on a standards-based assessment or portfolio of standards-based indicators in order to graduate.

**Fiscal Impact:**

SB 360 does not contain an appropriation.

## **Fiscal Issues:**

In its analysis of SB 360, PED states that the intent of the bill is to reduce assessment-related costs to state government and public schools for FY 12. PED itemizes these potential immediate savings as follows:

- \$2.06 million to school districts for printing, distributing, and scoring tests and reporting test results; and
- \$427,000 savings to PED for activities related to test development and updating.

## **Substantive Issues:**

- Costs associated with educational testing are both nonrecurring and recurring. Nonrecurring costs, which PED generally pays, include initial test development and periodic updating; recurring costs include school district administrative costs such as printing, distribution, scoring, and reporting.
  - State costs: From 1999 to 2009, the Legislature appropriated a total of approximately \$23.2 million to PED to develop assessments mandated by state statute and by the federal *No Child Left Behind Act of 2001* (NCLB).<sup>1</sup> These appropriations include:
    - approximately \$17.2 million in nonrecurring funds through the 2007 session to PED for test development;
    - \$500,000 for the alternate assessment and \$1.5 million for development of a new eleventh grade assessment in the *General Appropriation Act of 2008*; and
    - \$4.0 million, including \$1.0 million from the General Fund and \$3.0 million from the Instructional Materials Fund, in the *General Appropriation Act of 2009*. In 2009, the Legislature also reauthorized the use of the \$1.5 million appropriation for the new eleventh grade assessment for expenditure through FY 09.
  - School district costs: From school year 1999-2009, the Legislature appropriated a total of approximately \$8.92 million in recurring dollars in the Public School Funding Formula to provide for school district administrative costs. These appropriations include:
    - \$7.4 million included in the base between 1999 and 2007;
    - \$465,000 added to the base in the *General Appropriation Act of 2008*, which PED indicates would not be sufficient to cover the costs of administering the new high school assessments; and
    - \$1.06 million added to the base in the *General Appropriation Act of 2009*.
- For school year 2009-2010, correspondence from PED to school districts, charter schools, and state educational institutions announced that, in response to concerns communicated by districts to PED about their ability to pay for all of required assessments, the department was cancelling the fall 2009 college and work force readiness assessments mandated in a 2007 law (see “Background,” below).

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<sup>1</sup> According to a January 15, 2009 program evaluation of the state assessment system by the Legislative Finance Committee, the Public Education Department also received approximately \$32.0 million in federal Title I appropriations from federal fiscal year 2002 to federal fiscal year 2008 to develop and implement NCLB-mandated assessments.

- During the 2010 interim, PED told the Legislative Education Study Committee (LESC) that it anticipated total school district assessment costs for FY 10 to total over \$12.0 million, more than \$3.0 million over the amount appropriated to the State Equalization Guarantee distribution for district assessment costs.
- In 2010, for FY 11, PED issued another memorandum instructing public schools that, if they so requested, they would be exempted from the duty to administer assessments required in state statute but not in federal law, including:
  - third, fifth, sixth, and eighth grade standards-based assessments in science;
  - Dynamic Indicators of Basic Early Literacy Skills (DIBELS) in kindergarten and K-3 Plus programs; and
  - eleventh grade college- and work force-readiness assessments.
- The 2010 memorandum also suspended the mandate in its guidelines to administer third through eighth grade short-cycle assessments associated with school improvement planning.
- According to PED, in December 2010, at the LESG's direction, the department met with 35 education stakeholders to determine priorities for student assessments through school year 2013-2014. Participants recommended suspension of the assessments named in SB 360.
- PED staff requested that, for the 2011 session, the LESG endorse legislation to provide for the suspension of those assessments, since the department did not have the authority to continue to waive statutory requirements by administrative action.

**Background:**

In 2006, the LESG heard the first in a series of annual presentations by the Office of Education Accountability (OEA) at the Department of Finance and Administration, regarding the percentage of New Mexico high school graduates who need remediation in higher education. The OEA study showed that, for the six cohorts of public high school graduates from 2000 to 2005, approximately 49 percent of those who entered a public postsecondary institution immediately after graduation took at least one remedial class in mathematics or reading and writing during their first semester of college.

In August 2006, the LESG, in conjunction with PED, convened a 60-member work group comprising representatives from the public schools – superintendents, principals and teachers; representatives from PED and the Higher Education Department (HED); tribal entities; two- and four-year postsecondary institutions; other educational organizations; and the business community. This work group met with the LESG monthly prior to the 2007 legislative session to examine all aspects of college- and workplace-readiness and high school redesign.

In 2007, based on the work group's recommendations, the LESG endorsed and the Legislature passed a high school redesign initiative that included among its provisions both a system of college- and workplace-readiness assessments and a new high school exit exam aligned with state high school standards. The system was intended to provide students, their families and their high schools as early as ninth grade with accurate measures of whether the students were on

track to graduate ready for the challenges of college and careers. Passage of SB 360 would result in a one-year suspension of all of the assessments mandated in that legislation.

Certain other assessments have been required in the *Assessment and Accountability Act* since it was revised and recompiled in the school reforms of 2003. For the most part, the requirements enacted in 2003 match those required in NCLB. According to testimony presented to the LESC after enactment of NCLB, the state must administer the federally required assessments to all students in grades 3 through 8 and once in high school or risk losing tens of millions of dollars in federal funding under Title I of NCLB. However, certain of the state-required assessments are not federally mandated, and those would also be suspended for one year if SB 360 is enacted.

**Related Bills:**

SB 425 *Payment of School Standards-based Tests*