

LFC Requester:	Sunny Liu
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**AGENCY BILL ANALYSIS
2017 REGULAR SESSION**

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SECTION I: GENERAL INFORMATION

{Indicate if analysis is on an original bill, amendment, substitute or a correction of a previous bill}

Check all that apply: **Date** 2/19/17
Original **Amendment** **Bill No:** SB256/SECS
Correction **Substitute**

Sponsor: Senate Education Committee **Agency Code:** 924
Short Title: K-6 MINIMUM SCHOOL HOURS & DAYS **Person Writing:** Aguilar/Craig
Title: HOURS & DAYS **Phone:** 505-827-6519 **Email:** Paulj.aguilar@state.nm.us

SECTION II: FISCAL IMPACT

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY17	FY18		
	\$122,308.6	Recurring	Land Grant Permanent Fund, Public School Fund General Fund

(Parenthesis () Indicate Expenditure Decreases)

SECTION III: NARRATIVE

BILL SUMMARY

Synopsis:

SB256/SECS makes numerous changes to the minimum instructional hours and days in the school year, lengthening the school hours and days for some grades. SB256/SECS also removes provisions allowing the Secretary to waive the length of the school days in districts where the minimums would create undue hardships. SB256/SECS increases the cost differential for early childhood education, currently defined in statute as kindergarten, and all base level grades 1 through 5.

SB256/SECS contains a sunshine provision and only becomes operational upon a Constitutional

amendment being enacted that has a title identical to that proposed under SJR 14.

SJR 14 proposes to increase distributions from the Land Grant Permanent Fund by one percent of the average of the year-end market values of the permanent school fund for the immediately preceding five calendar years to increase the minimum instructional hours and days in a school year as provided by law.

FISCAL IMPLICATIONS

As shown in the chart below, based on the proposed cost differential factor changes and assuming all school districts and the FY 17 final unit value, implementation of the bill would have cost approximately \$122.3 million dollars due to the increase of 30,734 units generated. If the amount of funds generated by SJR 14 are insufficient to offset the increase in additional units as estimated in the section “Significant Issues” below, then the additional units will result in a decreased unit value in future years.

SB256/SECS COST ESTIMATE

Adj. Basic Program Units Current Law	430,549.502
Adj. Basic Program Units SB 256	461,283.159
Additional Units Generated	30,733.657
Times FY17 Unit Value	\$3,979.63
TOTAL ESTIMATED INCREASE	\$122,308,584.20

Changes to basic program cost differentials without a corresponding data analysis of costs or expenditures by grade level could have a disequalizing effect on the funding formula if the proposed changes violate the guiding principle of vertical equity (see “significant issues” and “other substantive issues” below).

Increases to the length of school day will have associated increases to costs to public education entities. Examples of increased costs include those for fixed costs with rising expenses for utilities and operations; transportation, when the ability to tier routes is diminished and more buses are required to run, and additional labor costs, among others.

SIGNIFICANT ISSUES

SB256/SECS makes numerous changes to the length of school day and minimum instructional hours section of the Public School code as outlined in the chart below. Entities must meet either the hours per day or the hours per year requirement. The state’s half-day Kindergarten program would be removed under these proposed changes, leaving in place only full-day Kindergarten. As explained in the technical issues section below, mid-year implementation will likely create large issues for teacher contracts negotiated in the prior year as these are often drafted and finalized prior to the Summer break, in almost every instance finalized prior to November, and generally are for approximately 180 days.

SB256/SECS COMPARISON OF MINIMUM INSTRUCTIONAL HOURS

	Current Law		CS/SB256	
	Hours Per Day	Hours Per Year	Hours Per Day	Hours Per Year
Half Day K	2.5	450	N/A	N/A
Full Day K	5.5	900	5.5 (min. 205 days)	1127.5
Grades 1 - 6	5.5	900	N/A	N/A
Grades 7 - 12	6	1080	N/A	N/A
Grades 1 - 5	N/A	N/A	5.5 (min. 205 days)	1127.5
Grades 6 - 12	N/A	N/A	6 (min. 180 days)	1080

SB256/SECS requires that weather-related delays, cancellation, professional development cannot count toward the instructional days. Additionally, SB256/SECS limits the Secretary’s ability to waive the length of the school days in districts where the minimums would create undue hardships. Though this may be in consideration of limiting exceptions to the increased minimum instructional time, there are many times in which waiving the hours of the day and allowing entities to adjust the hours per year, without changes to school calendars or renegotiating collective bargaining agreements, is the least disruptive option to the instructional program of students and is most often how this section of law is implemented.

The original SB 256 allows inclusion in the calculation of instructional hours of home visits by a teacher or parent teacher conference at the elementary level (grades K and 1 through 6) and consultation with parents on next step plans and parent teacher conferences at the junior high and high school level (grades 7-12). SB256/SECS makes changes to the original bill’s specific provisions related to these inclusion in instructional hours to allow the elementary level home visits and parent teacher inclusions to be grades K through 5) and consultation with parents on next step plans and parent teacher conferences at the junior high and high school level (grades 6-12).

SB256/SECS makes numerous changes to the cost differentials for basic program in the public school funding formula. In the public school funding formula, student membership (MEM) is multiplied times the cost differential provided in statute (and in the table below) to determine total units for the basic program.

COMPARISON OF BASIC PROGRAM COST DIFFERENTIALS

	Current Law	CS/SB256
ECE (K)	1.440	1.640
Grade 1	1.200	1.367
Grades 2 - 3	1.180	1.344
Grades 4 -6	1.045	
Grades 7-12	1.250	
Grades 4 - 5		1.190
Grades 6		1.140
Grades 7 - 12		1.250

The passage of SB256/SECS would move the state further away from a base cost differential weighting of 1.0 for basic program units. The reallocation of cost differentials appears to be based upon projected revenues that are generated from the Land Grant Permanent Fund under SJR 12 instead of based upon the expenditure data and a cost study methodology that informed cost differential changes in the past (see “Other Substantive Issues”). The provisions of SB256/SECS therefore may provide more money statewide for some grades than is necessary and underfund others. Without any sort of statewide study on expenditures by grade level there is no real way to know. This is important because any reweighting of grade level differences could have a disqualifying effect if we are violating the guiding principle of “unequal treatment of unequals”.

Termed “vertical equity” in the equalization literature, public school funding formulas that seek for “unequal treatment of unequals” recognize that differences among children mean that some students need more services than others. For instance, our public school funding formula allocates more special education funds for more severely disabled children (D-level) and less funding for less developmentally disabled children (A/B-level), based upon years of cost (expenditure) data for severely disabled students. By contrast, SB256/SECS breaks out sixth grade from current law and proposes assigning it a lower cost differential than grades four and five or seven through 12. PED has not seen any recent research on state-level expenditures by grade to support the assertion that a sixth grader is less expensive than fourth or fifth graders, or less expensive than a seventh through twelfth grader. Without conducting grade level expenditure analysis, the PED is unable to determine if these cost differentials adhere to the concept of vertical equity.

When using current membership data for FY17, the following chart shows the changes to how basic program units are generated. All basic program units in school districts and charter schools that are generated are multiplied times the training and experience (T&E) index to generate total adjusted program units before add-on units are included and the grand total is multiplied times the unit value. As such, in order to determine the best estimate of additional units generated by CS/SB 256, the proposed cost differentials and their outputs were multiplied times the statewide weighted average T&E index of 1.08 to determine total adjusted program units. To ease comparisons, half-day Kindergarten was included in the student membership of ECE, even though this includes students that may no longer have a program.

COMPARISON OF BASIC PROGRAM UNIT CALCULATIONS FY17 MEM

CURRENT LAW

ECE	GRADE 1	GRADES 2-3	GRADES 4-6	GRADES 7-12	Total Basic Program Units	Oct 15 T & E	Total Adj. Basic Prg Units
1.44	1.2	1.18	1.045	1.25	398,656.946	1.080	430,549.502
39,189.240	31,884.600	63,000.200	79,829.156	184,753.750			

CS/SB 256

ECE	GRADE 1	GRADES 2-3	GRADES 4-5	GRADES 6	GRADES 7-12	TOTAL ECE - 12	Oct 15 T & E	Total Adj. Basic Prg Units
1.640	1.367	1.344	1.190	1.140	1.250	427,114.036	1.080	461,283.159
44,632.190	36,321.901	71,756.160	61,016.655	28,633.380	184,753.750			

ADMINISTRATIVE IMPLICATIONS

There would be wide scale and significant administrative implications to PED to implement such a large policy change. There would likely be significant costs to PED to administer the provisions. For example, at PED, school calendar review processes would need to be changed, all guidance on the funding formula would need to be altered and many steps regarding program approval would be impacted among many other considerations.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

SB256/SECS should be viewed as a close companion to SJR 14 as without passage and adoption of SJR14 it does not carry the weight of law.

OTHER SUBSTANTIVE ISSUES

The funding formula as originally enacted in the 1970's used grades 4 through 6 as a base multiplier of 1.0 and scaled cost differentials in other grades based on comparison to students in these grades. Grades 4 through 6 were determined to be the lowest cost students using data-driven decision making until 1993.

The measurement of basic program costs (as measured by expenditures by grade level) was the work of the yearly Resource Input Methodology (RIM) studies conducted by the Legislative Education Study Committee (LESC) and submitted annually to the then Office of School Budget in the Department of Finance and Administration, later the School Budget Planning Unit of the State Board of Education and now located in the PED as the School Budget and Finance Analysis Bureau. These RIM studies provided expenditure data by grade level to inform any re-weighting of basic program unit cost differentials as well as other public school funding formula changes. At that time funding formula changes were largely under the purview of the School Budget division, primarily for issues related to objective finance analysis of impacts and available revenues, which is the reason for the language occurring in 22-8-12.1 Subsection C NMSA 1978.

This bill was not recommended by the Public Education Department to the Department of Finance and Administration as a proposed amendment to the public school finance formula pursuant to 22-8-12.1 Subsection C NMSA 1978.

AMENDMENTS

The sponsor may wish to re-insert the section allowing the waiver of instructional hours to minimize school calendar adjustments and teacher contract re-negotiations.