

<b>LFC Requester:</b>	<b>Sunny Liu</b>
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**AGENCY BILL ANALYSIS  
2019 REGULAR SESSION**

**WITHIN 24 HOURS OF BILL POSTING, EMAIL ANALYSIS TO:**

**[LFC@NMLEGIS.GOV](mailto:LFC@NMLEGIS.GOV)**

*and*

**[DFA@STATE.NM.US](mailto:DFA@STATE.NM.US)**

*{Include the bill no. in the email subject line, e.g., HB2, and only attach one bill analysis and related documentation per email message}*

**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 1/17/19  
**Original**     **Amendment**        **Bill No:** SB26  
**Correction**     **Substitute**   

**Sponsor:** Michael Padilla    **Agency Code:** 924  
**Short Title:** STANDARDIZE SCHOOL BATHROOM USE POLICIES    **Person Writing:** Daniel Manzano  
**Phone:** 505-670-3820    **Email:** Daniel.Manzano@state.nm.us

**SECTION II: FISCAL IMPACT**

**APPROPRIATION (dollars in thousands)**

Appropriation		Recurring or Nonrecurring	Fund Affected
FY19	FY20		
NFI	NFI	N/A	N/A

(Parenthesis ( ) Indicate Expenditure Decreases)

**REVENUE (dollars in thousands)**

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY19	FY20	FY21		
NFI	NFI	NFI	N/A	N/A

(Parenthesis ( ) Indicate Expenditure Decreases)

**ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)**

	<b>FY19</b>	<b>FY20</b>	<b>FY21</b>	<b>3 Year Total Cost</b>	<b>Recurring or Nonrecurring</b>	<b>Fund Affected</b>
<b>Total</b>	NFI	NFI	NFI	NFI	N/A	

(Parenthesis ( ) Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to: None as of 1/17/19

Duplicates/Relates to Appropriation in the General Appropriation Act: None as of 1/17/19

**SECTION III: NARRATIVE**

**BILL SUMMARY**

Synopsis:

Senate Bill 26 (SB26) enacts a new section of the Public School Code which standardizes student bathroom use policies, prohibiting withdrawal of bathroom privileges as a form of discipline, and provides for dignified and incremental intervention by school staff during students' bathroom use.

**FISCAL IMPLICATIONS**

SB26 would not appear to have any fiscal implications for the New Mexico Public Education Department (PED). Although, it would require current staff to devote time to the promulgation of rules, research appropriate practices and recommendations, and communicate the rule requirements to school districts and charter schools.

**SIGNIFICANT ISSUES**

SB26 mandates that all public schools have standardized bathroom use policies to ensure equal access for all students, including students of varying “age, special needs, psychological and physical abilities and impairments.” Student bathroom use is an inevitable action during the school day, and it is important that all students have appropriate access to perform this bodily function. The fact that students with special needs and impairment are included in this legislation is important and in accordance with the Americans with Disabilities Act (ADA) which prohibits discrimination on the basis of disability and ensures “that programs, services, activities, and facilities are accessible.” It’s important to note that SB26 also requires timely permission be given to use the restroom once a child requests to go. Depending on student age and physical abilities, lack of immediate access may result in an accident which could in turn cause emotional and social distress for the student affected.

Source: <https://www.hhs.gov/civil-rights/for-individuals/disability/index.html>

SB26 does allow for some “dignified and incremental intervention” by the school staff during a student’s bathroom break. When abuse of bathroom use is a concern, this portion of SB26 may allow for the school staff to monitor or intervene when bathroom breaks are being used inappropriately by the student. However, SB26 is clear that bathroom use cannot be withheld for any reason. Other forms of punishment (e.g. withholding food, limiting outdoor activities, etc.) will also not be allowed due to the student requesting to use the bathroom.

**PERFORMANCE IMPLICATIONS**

None

**ADMINISTRATIVE IMPLICATIONS**

Current PED staff would be required to promulgate a new rule in accordance with SB26. This would entail researching appropriate practices and recommendations, initiating the agency rulemaking process, and communicating the rule requirements to school districts and charter schools.

**CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP**

None as of 1/17/19

**TECHNICAL ISSUES**

None

**OTHER SUBSTANTIVE ISSUES**

None

**ALTERNATIVES**

None

**WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL**

Current protections for students' access to restrooms would continue.

**AMENDMENTS**

None