

<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*

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*{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** 2/11/19  
**Original**        **Amendment**        **Bill No:** SB304/aSEC  
**Correction**        **Substitute**   

**Sponsor:** Sen. Mimi Stewart    **Agency Code:** 924  
**Short**    SCHOOL PHYSICAL ED IN    **Person Writing**    Daniel Manzano  
**Title:**    K-6TH GRADE    **Phone:** 505-670-3820    **Email** Daniel.Manzano@state.nm.us

**APPROPRIATION (dollars in thousands)**

Appropriation		Recurring or Nonrecurring	Fund Affected
FY19	FY20		
NFI	\$7,000.0	Nonrecurring	General

(Parenthesis ( ) Indicate Expenditure Decreases)

**REVENUE (dollars in thousands)**

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY19	FY20	FY21		
NFI	NFI	NFI	Nonrecurring	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>		See Fiscal Implications	See Fiscal Implications	See Fiscal Implications	See Fiscal Implications	General Fund and State Equalization Guarantee

(Parenthesis ( ) Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to: None as of 2/7/2019

Duplicates/Relates to Appropriation in the General Appropriation Act: None as of 12/7/2019

**SECTION III: NARRATIVE**

**BILL SUMMARY**

Synopsis of Senate Education Committee’s amendment to Senate Bill 304 (SB304aSEC)

SB304aSEC corrects a typo as indicated by the legislative sponsor of this bill. SB304aSEC changes the word “fifth” on line 3 on page 8 to reflect the original intent by replacing with the word “sixth”. This aligns with the previous part of the sentence and calls for all students in sixth grade in an elementary school that includes sixth grade participate in physical education each day beginning in the 2021-2022 school year.

Original Synopsis

Senate Bill 304 (SB304) amends § 22-8-23.7 requiring all students in kindergarten through sixth grade to participate in elementary school daily physical education and appropriates \$7,000.0 from the general fund to the State Equalization Guarantee (SEG) of the public school fund for physical education (PE) in public schools. SB304 amends 22-13-1 to require instruction in PE in Kindergarten. This appropriation is available for expenditure in the 2019-2020 school year and supports PE expenses specific to kindergarten and first-grade. SB308 requires a three-year phase-in through 2021-2022 to achieve universal elementary physical education. SB304 requires that physical education instruction be provided by a teacher with a license endorsement for physical education.

**FISCAL IMPLICATIONS**

SB304 would have an intermediate and long-term impact on the Public Education Department (PED) and to public schools. The intermediate impact would require the PED to develop a process for ensuring that school districts and charter schools currently receiving elementary physical education program units do not receive FY20 program units that are in excess of the average number of elementary students in physical education on the second and third reporting dates of school year 2018-2019 multiplied by .06.

SB304 requires a three-year phase-in which will have a slight intermediate and long-term impact on the PED through the replication of this process for each year of the three year phase in, assuming additional allocations were made in subsequent fiscal years.

The PED estimates SB304’s FY20 phase-in of universal kindergarten PE would result in 298.2 additional Elementary P.E. units or \$1,227.2. This would be a recurring cost.

## **SIGNIFICANT ISSUES**

SB304 provides funding only for the first year of the three-year phase-in. While physical education is required in grades 1-12 per the Physical Education Content Standards with Benchmarks and Performance Standards, universal funding is not currently provided. Schools that are not currently funded for the provision of elementary physical education or that do not have an instructor licensed in physical education have to determine a funding stream to support elementary physical education and/or integrate physical education in to their classroom. Because of this, elementary classroom teachers are responsible for the implementation of the standards. SB304 could result in financial hardship for schools identified in the phase-in if funds were not provided in subsequent years.

According to the 2018 Physical Activity Guidelines for Americans 2<sup>nd</sup> edition, published by the Department of Health and Human Services, “Children and adolescents ages 6 through 17 years should do 60 minutes (1 hour) or more of moderate-to-vigorous physical activity daily:

- Aerobic: Most of the 60 minutes or more per day should be either moderate- or vigorous intensity aerobic physical activity and should include vigorous-intensity physical activity on at least 3 days a week.
- Muscle-strengthening: As part of their 60 minutes or more of daily physical activity, children and adolescents should include muscle-strengthening physical activity on at least 3 days a week.
- Bone-strengthening: As part of their 60 minutes or more of daily physical activity, children and adolescents should include bone-strengthening physical activity on at least 3 days a week.”

Alex M Azar II, Secretary of the US Department of Health and Human Services wrote, “Regular physical activity is one of the most important things people can do to improve their health. Moving more and sitting less have tremendous benefits for everyone, regardless of age, sex, race, ethnicity, or current fitness level. Individuals with a chronic disease or a disability benefit from regular physical activity, as do women who are pregnant. The scientific evidence continues to build—physical activity is linked with even more positive health outcomes than we previously thought. And, even better, benefits can start accumulating with small amounts of, and immediately after doing, physical activity.”

[https://health.gov/paguidelines/second-edition/pdf/Physical\\_Activity\\_Guidelines\\_2nd\\_edition.pdf](https://health.gov/paguidelines/second-edition/pdf/Physical_Activity_Guidelines_2nd_edition.pdf)

## **PERFORMANCE IMPLICATIONS**

None

## **ADMINISTRATIVE IMPLICATIONS**

The intermediate and longer-term administrative effect of SB304 on the PED would be to review units in School Year (SY) 2018-2019 and to determine continuation of units in FY20 (and future fiscal years) as prescribed within SB304.

## **CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP**

None as of 2/7/2019

## **TECHNICAL ISSUES**

None as of 2/7/2019

## **OTHER SUBSTANTIVE ISSUES**

SB304 would require the PED to implement the language on page 2, lines 7-16 as a requirement to ensure that school districts or charter schools receive funding not in excess of their FY19/historic Elementary P.E. program unit calculation as demonstrated in their second and third reporting period.

The legislature passed HB208, School Physical Education Programs and Costs, during the 2007 legislative session. That bill added PE program units into the program cost of the state equalization guarantee (SEG). The stated goal was a four-year phase-in of Elementary PE across the state. The cost was \$8,000.0 in funds per year, benefitting approximately 40 - 50% of state elementary schools in the first two years, to be phased in based on historic free and reduced-fee lunch program (FRLP) percentages. Based upon an application process, the \$8,000.0 were earmarked in FY08 and FY09 and have been part of the SEG ever since. A full four-year phase-in did not occur due to unavailability of continued funds related to the economic downturn. The remaining \$16,000.0 was never appropriated and historic membership and the percentage of FRLP has been frozen in place since FY09 in order to fully phase-in the program on an equal and uniform basis, as provided in law (22-13-1.7 D. NMSA 1978).

## **ALTERNATIVES**

None

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

Physical education will continue to be taught by elementary and middle school teachers of self-contained classrooms or through a stand-alone class, where existing funding allows, taught by an instructor endorsed/licensed in physical education.

## **AMENDMENTS**

None