

LFC Requester:	Sunny Liu
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**AGENCY BILL ANALYSIS
2019 REGULAR SESSION**

WITHIN 24 HOURS OF BILL POSTING, EMAIL ANALYSIS TO:

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:

Original **Amendment**
Correction **Substitute**

Date 2/21/19
Bill No: SB554

Sponsor: Sen. Cervantes
INCREASE SCHOOL
Short Title: INSTRUCTIONAL HOURS &
DAYS

Agency Name and Code Number: 924 PED

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SECTION II: FISCAL IMPACT

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY19	FY20		

(Parenthesis () Indicate Expenditure Decreases)

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY19	FY20	FY21		
	(\$216,218.0)	(\$216,218.0)	Recurring	LGPF
	\$216,219.0	216,218.0	Recurring	General Fund (SEG)

(Parenthesis () Indicate Expenditure Decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY19	FY20	FY21	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
		\$213,420.5	213,420.5	\$426,841	Recurring	General Fund (SEG Compensation)
		\$177,271.8 - \$234,774.1	\$177,271.8 - \$234,774.1	\$354,543.6- \$469,548.2	Recurring	General Fund (SEG – Instructional Hours)
Total						

(Parenthesis () Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to: **SB1, HB 171, SJR 18, and Executive Budget Recommendation**
 Duplicates/Relates to Appropriation in the General Appropriation Act

SECTION III: NARRATIVE

BILL SUMMARY

Synopsis: SB 554 proposes to amend the Public School Codes, 22-2-8.1 NMSA 1978, to increase the minimum instructional time requirements, clarify non-instructional time and require part of this time to include job-embedded professional development; makes changes to the School Personnel Act, 22-10A NMSA 1978, to increase the teacher and administrator salaries; and propose an effective date from the point at which the SJR 18 enacted. SJR 18 proposes an amendment to the New Mexico Constitution, Article 12, Section 7, to allow for an annual 1% distribution from the Permanent School Fund to increase the instructional hours and days for students as proposed in SB 554.

Section 1. SB 554 amends the current Public School Code to increase the minimum requirements for instructional hours and days (p. 2, lines 2-15) as follows:

Proposed Minimum Instructional Hours	Current Minimum Instructional Hours
<ul style="list-style-type: none"> Half-day kindergarten: 500 hours in 200 instructional days 	<ul style="list-style-type: none"> Half-day kindergarten: 2.5 hours per day or 450 hours per year
<ul style="list-style-type: none"> Full-day kindergarten: 1000 hours in 200 instructional days 	<ul style="list-style-type: none"> Full-day kindergarten: 5.5 hours per day or 990 hours per year
<ul style="list-style-type: none"> Grades 1-5: 1100 hours in 200 days 	<ul style="list-style-type: none"> Grades 1-6: 5.5 hours per day or 990 hours per year
<ul style="list-style-type: none"> Grades 6-12: 1200 hours in 200 days 	<ul style="list-style-type: none"> Grades 7-12: 6 hours per day or 1080 hours per year

Part B clarifies the meaning of non-instructional time (lunchtime, recess, weather-related school delays or cancellations, staff in-service training, teacher planning and preparation, teacher collaboration and professional development, or other events that are not educational programs for students) and stipulates that this time shall not count toward the calculation of minimum

instructional hours (p.2, lines 16-22). Additionally, in Part C, SB 554 proposes that all school districts must require a minimum of 80 hours beyond instructional time for professional development for teachers at all grade levels (p. 2, lines 22-25) and further describes the nature of the professional development, specifying that it be (p.3, lines 1-6):

- high-quality job-embedded professional development;
- grounded in day-to-day teaching practice
- designed to enhance teachers' content-specific instructional practices with the intent of improving student learning; and
- school-or classroom-based and integrated into the workday

Additionally, this section amends current Public School Code to prohibit the Secretary of Education from waiving the total minimum instructional time or professional development required in this section (p.4, lines 6-8).

Section 2-4. SB 554 also proposes to amend the School Personnel Act, 22-10A NMSA 1978, to raise minimum teacher salaries. Section 2 deletes language referring to the adoption of “a highly objective uniform statewide standard of evaluation for level one teachers” and raises minimum level 1 teacher salaries from \$36,000 to \$45,000 (p. 6, lines 19-20). Section 3 deletes current language requiring teachers wishing to advance from level 1 to level 2 to demonstrate essential competency “through the highly objective uniform statewide standard of evaluation” (p.7, lines 16-18). Section 3 also deletes language referring to the adoption of “a highly objective uniform statewide standard of evaluation for level two teachers” (p.7, line 25 through p. 8, line 2) and raises minimum level 2 teacher salaries from \$44,000 to \$55,000). Section 4 deletes language referring to the adoption of “a highly objective uniform statewide standard of evaluation for level three A teachers” and raises minimum level 3 teacher salaries from \$54,000 to \$65,000.

Section 5. SB 554 proposes to also raise minimum salaries for administrators by deleting the current minimum of \$50,000 and replaces it with “the same as level three-A teachers” multiplied by the applicable responsibility factor (p. 10, lines 12-13). Section 5 also removes the Part D of statute which currently reads (p.10, lines 14-20):

D. The department shall adopt a highly objective uniform statewide standard of evaluation, including data sources linked to student achievement and an educational plan for student success progress, for school principals and assistant school principals and rules for the implementation of that evaluation system linked to the level of responsibility at each school level.

Section 6. SB 554 proposes that the date of these changes become effective upon the certification from the Secretary of State that the New Mexico Constitution has been amended as proposed by a joint resolution (SJR 18). SJR 18 proposes an amendment to Article 12, Section 7 of the New Mexico Constitution to provide for an additional annual distribution of 1% from the permanent school fund to be used to support the increase of instructional hours and days as proposed in SB 554.

FISCAL IMPLICATIONS

PED estimates that the cost to implement provisions of SB 554 increasing teacher salaries will be \$213.4 million, using a cost of benefits projection of 23.01%. If the Executive recommendation

and proposed General Appropriation Act language to apply an average 6% pay increase before new minimums were to be considered, the estimated cost of SB 554 would decrease to \$141.0 million.

SB 554 Teacher Salaries

Level 1	\$45,000	\$25,611,452.15
Level 2	\$55,000	\$71,574,039.11
Level 3	\$65,000	\$76,312,996.37
Subtotal		\$173,498,487.63
Benefits	23.01%	\$39,922,002.00
Total Cost		\$213,420,489.64

Source: STARS Certified 40th Day Data

PED also estimates that increasing the hours of instruction required by SB 544 would have significant cost increases as well, though these are more difficult to model, as different schools use different calendars that meet statutory requirements and SB 544 changes the grade bands to which these are applicable. Further complicating the estimate is that some schools use half day requirements to meet hours and it is unclear how much of the current day labelled instructional hours would be defined as non-instructional hours. Still, assuming that most school districts and charter schools would realign sixth grade to the grades 7-12 hours model, and using final FY18 Operational fund expenditures, PED estimates the range of cost to be between \$177.3 to \$234.7 million dollars where the low end estimate uses the average cost of an hour of instruction across statutory band ranges statewide the statewide estimated gap in instructional hours and the high end uses the individual school district/charter school’s average estimated cost of an hour of instruction times the individual entity’s estimated gap in instructional hours. In either instance, the cost for these added instructional hours using the same instruction delivery model as used in FY18 would be significant.

PED estimates the additional one percent of the average of the year-end market values of the fund for the immediately preceding five calendar years to provide approximately \$216.2 million per year using fiscal year-end asset valuations from the State Investment Council’s website.

SB 554 Land Grant Permanent Fund Distributions (1%)

Year End (6/30)	Balance
2014	\$20,106,758,420
2015	\$20,666,854,213
2016	\$20,226,202,902
2017	\$23,099,746,941
2018	\$24,009,455,009
5-Year Average	\$21,621,803,497
1.00%	\$216,218,034.97

Source: January 2019 SIC Dashboard Report

SIGNIFICANT ISSUES

If changes to professional development proposed in SB 554 are enacted, districts and charter schools will need to redesign current professional development practice to ensure compliance with law. Districts and charter schools should be able to document how it not only meets the 80

professional development requirement for its teachers, but also demonstrate how the professional development meets the criteria outline in SB 554 that is high-quality and job-embedded, and most importantly that it improves student learning.

PERFORMANCE IMPLICATIONS

Given the increase of instructional hours and establishment of new instructional year requirements (most districts and schools do not have calendars with 200 instructional days), it would be important for the Department to document and track if student learning and educational outcomes improve. Since SB 554 also removes language for a “highly objective uniform statewide standard of evaluation” and removes requirements that such evaluation be supported by data sources linked to student achievement, it may not be possible to determine whether not increased professional development of the type specifically proposed in this bill are effective in improving student learning outcomes.

ADMINISTRATIVE IMPLICATIONS

Department Administrative Implications. SB 554 proposes specific language about different minimum requirements for instructional days and hours by grade level. If enacted, the Department’s School Budget and Financial Analysis Bureau staff would be impacted administratively as new guidance to districts regarding school calendars will be necessary to ensure statewide compliance, especially to ensure only instructional time is appropriately included in calculations for meeting minimum instructional requirements.

In addition, SB 554 outlines expectations for professional development. The Department would be responsible for ensuring that it actively monitors for and enforces new law by ensuring it holds districts and charter schools accountable for meeting the new professional development requirements in terms of hours met and content/quality. This may impact the Educator Quality Division, which can incorporate this review into its current (onsite) monitoring processes and application review of federal Title II applications, which support professional development for educators. The school accountability system should account for new professional development expectations and reporting on student learning outcomes should be reported. It would be important to determine if the change in law requiring more instructional time and more teacher professional development is impactful on student learning. The Department should report such outcomes to relevant legislative committees.

School District and Charter School Administrative Implications. Given the increase in instructional hours and days proposed in this bill, there may additional needs for student transportation and meals that would need to factored into future planning for effective operational implementation. Additionally, school districts and charter schools will need to communicate any pertinent calendar changes with the community and families to ensure childcare can be coordinated.

The bill proposes increases in minimum salaries for teacher and administrators. The increased salary appears to be tied to the increased demand on staff time, including an additional 80 hours of professional development. School districts and charter schools may need to be prepared to address to renegotiate existing collective bargaining agreements with relevant parties to reflect any changes to law. However, the increase school day and year may have impacts on district and charter school needs for additional non-certified staff, which would need to carefully planned, especially in the light that there are other bills proposing to increase state minimum wages and

school personnel wages.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

There are other bills, introduced to date, that address an increase in minimum instructional hour requirements and different methods for supporting the associated increases (SB 1, HB 171). Additionally, there are other bills proposing different ways to increase required professional development for teachers and clarify non-instructional time (HB 171) and raise educator salaries (SB 1, SB 47, HB 171, Executive Budget Recommendation). Sponsors of relevant proposed legislation may wish to collaborate and amend bills in such a manner to reconcile several conflicting proposals and achieve agreement.

Depending on the bills that enacted, the Department may need to update and correspondingly amend pertinent rules to reflect changes in statute relating to licensure and other areas related to education growth and development. For example, the 6.65.2 NMAC, Professional Development Framework (2006) and the recently passed 6.60.10 NMAC, Mentorship Programs for Teachers (2018).

TECHNICAL ISSUES

OTHER SUBSTANTIVE ISSUES

ALTERNATIVES

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL?

Not enacting bills means that we would not have codified definitions for what constitutes instructional and non-instructional time, and how time should be accounted for in calculations. Not enacting this bill also means the Secretary can continue to waive instructional hour requirements. Not enacting this bill would mean there would be statutory expectations for having and implementing “a highly objective uniform statewide standard of evaluation” that would allow for the state to actually measure if increase inputs and resources are effectively stewarded to bring about desired changes in both adults (changes in instructional practices) and student learning outcomes (increased academic and language proficiency and growth, etc.). Not enacting this bill also means that teachers currently earning ratings of Effective, Highly Effective, and Exemplary, lose agency and will no longer be able advance to the next level on objective measures alone but will be reliant on district officials.

AMENDMENTS

While the Sponsors take care to describe expectations for professional learning at the local level, it is important that district and charter schools can demonstrate that requirement and resources used to support teachers strengthen their practice and improve instruction actually results in improved student learning. Therefore “intent” should be deleted. The Department recommends the following change:

C. Every school district shall require a minimum of eighty hours beyond instructional hours for teachers at all grade levels for professional development. This noninstructional time shall be used to provide high-quality job-embedded professional development that is grounded in day-to-day teaching practice and designed to enhance teachers' content-

specific instructional practices **[to improve]** ~~with the intent of improving~~ student learning. Noninstructional time shall be school- or classroom-based and integrated into the workday.

By amending the language as proposed above, the Department would in a stronger position and thereby supported in ensuring that it can hold districts and schools accountable for effectively supporting its teachers and thereby improving learning for students, which is a requirement of making sure the state can meet its demands related to the Martinez/Yazzie lawsuit.