



LFC Requester: Liu

**PUBLIC EDUCATION DEPARTMENT
BILL ANALYSIS
2025 REGULAR SESSION**

SECTION I: GENERAL INFORMATION

Check all that apply:

Original Amendment
Correction Substitute

Date Prepared: 03/13 /25

Bill No: [SB434/SECS/aSFC/aSF1](#)

Sponsor: Lanier/Tobiassen/
Townsend/Woods

Agency Name and Code: PED - 924

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SECTION II: FISCAL IMPACT

(Parenthesis () Indicate Expenditure Decreases)

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY26	FY27		
None	None	N/A	NFA

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY26	FY27	FY28		
None	None	None	N/A	NFA

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY26	FY27	FY28	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total	\$78,410.0	\$78,410.0	\$78,410.0	\$235,230.0	Recurring	GF

Duplicates/Relates to Appropriation in the General Appropriation Act: None.

SECTION III: NARRATIVE

BILL SUMMARY

Synopsis of the Senate Floor Amendment of the SFC amendment: The Senate Floor amendment to the Senate Finance Committee amendment to the Senate Education Committee substitute to Senate Bill 434 (SB434/SECS/aSFC/aSF1) would include volunteers and charitable organizations on the list that may be licensed or approved by the department for high-impact tutoring. It would limit the student age range subject to the provisions of the bill to students in Grades 4 through 8. It would add a deadline of the 30th day of each school year for students to be identified with academic deficiencies in math or reading based on the previous year's accountable test scores. The amendment would strike the requirement for sharing the name of the tutor with parents. It would allow high-impact tutoring to be provided in lieu of or in addition to remediation or academic improvement programs required by the [Assessment and Accountability Act](#).

Synopsis of SFC amendment to SEC substitute: The Senate Finance Committee amendment to the Senate Education Committee substitute to Senate Bill 434 (SB434/SECS/aSFC) would allow the required high-impact tutoring time to occur outside of school.

Synopsis of SEC Substitute: The Senate Education Committee Substitute to Senate Bill 434 (SB434/SECS) defines "high-quality tutor" to be "a person licensed or approved by the department to provide high-impact tutoring and includes current or retired licensed school personnel or a private tutoring provider."

It changes the definition of "mathematics deficiency" and "reading deficiency" from scoring at the "lowest performance level" to scoring "in the bottom quartile," effectively labeling one-quarter of all 150,000 students participating in statewide assessments (or 37,500 students) as deficient without reference to educational standards.

In the place of "accelerated" instruction, as in the original bill, SB434/SECS further requires that schools provide the identified students with high-impact tutoring. It then delineates the requirements related to high-impact tutoring to be:

- initiated within 30 days of the student's designation as "deficient";
- individualized to meet a student's specific needs for improvement;
- *provided by a high-quality tutor;
- delivered at least three times per week for a minimum of 30 minutes;
- *provided at a ratio of no more than four students for one high-quality tutor; and
- based on high-quality instructional materials (HQIM) aligned with the subject's content and performance standards.

(Note: * denotes new provisions of SB434/SECS)

SB434/SECS would require individualized "high-impact tutoring plans" for students to be explained to parents in detail. To each parent whose student is receiving high-impact tutoring, schools would be required to provide:

- the name of the high-quality tutor;
- the subject matter and the schedule and duration of the accelerated instruction; and
- information and guidance for the parents' support of the student's learning at home.

Regarding provisions for the frequency of written progress reports to parents, SB434/sSEC substitutes “periodic” reports for the original bill’s stringent requirement of exactly 15-day intervals.

Synopsis of original bill: Senate Bill 434 (SB434) would create a new section of [Public School Code](#) establishing requirements for “accelerated” instruction as an intervention for students who have not made adequate progress with only the general instruction in mathematics and reading. The bill would define a student’s score within lowest level of performance on the previous year’s academic summative achievement tests as “mathematics deficiency” and “reading deficiency.” Parents of students identified to have such deficiencies would be notified immediately.

SB434 directs that accelerated instruction be:

- initiated within 30 days of the student’s designation as “deficient”;
- individualized to meet a student’s specific needs for improvement;
- provided by a trained, licensed school employee;
- based on high-quality instructional materials (HQIM) aligned with the subject’s content and performance standards;
- additional to any minimum instruction in mathematics and reading; and
- delivered at least three times per week for a minimum of 30 minutes.

Licensed, qualified providers of interventions described in SB434 would be required to have department-approved training to deliver the interventions.

SB434 would also require individualized “accelerated instruction plans” for students to be explained to parents. To each parent whose student is receiving accelerated instruction, schools would be required to provide:

- the name of the licensed school employee providing the instruction,
- the subject matter and the schedule and duration of the accelerated instruction,
- written progress reports for the student every 15 days during accelerated instruction; and
- information and guidance for the parents’ support of the student's learning at home.

FISCAL IMPLICATIONS

The bill does not contain an appropriation.

The services required of SB434/SECS/aSFC/aSF1 would be designed to meet the need of one-quarter of the students in Grades 4-8 participating in Assessment and Accountability Act achievement tests. The bottom quartile definition of deficiency would identify precisely one quarter of the population of these grades, currently about 27,000 students for each academic subject.

This fiscal impact analysis assumes that the required remediation programs of Section 22-2C-6 NMSA 1978, last amended in 2007, are not being implemented by schools, as explained below. Given the choice offered by SB434/SECS/aSFC/aS1 of implementing remediation programs for Grades 1-8 or high-impact tutoring programs for Grades 4-8, districts will most likely choose the high-impact tutoring option because it does not include strict consequences for retention and serves a narrower grade band.

At a ratio of one tutor to four students for the minimum 90 minutes per week in each subject, one FTE may serve 60 students in 15 groups of four. Although this may occur during the student’s

regular class time, the tutor’s attention could not be divided among multiple groups, and each group would address either mathematics or reading needs, requiring an estimated additional 900 FTE of high-impact tutors newly hired or diverted from other teaching assignments. At a total personnel cost of \$87,000 per instructional FTE on average, providing for SB434/SECS/aSFC may cost \$78.3 million each year.

At least one FTE additional personnel would be required for the Public Education Department (PED) to administer the provisions of the bill for training 900 FTE high-impact tutors, at an annual cost of \$110,000.

SIGNIFICANT ISSUES

High-impact tutoring in relationship to existing requirements for remediation and academic improvement programs. SB434/SECS/aSFC/aS1 offers high-impact tutoring for Grades 4-8 in lieu of required remediation programs for Grades 1-8. Since at least 1993, all school districts are required to implement remediation and academic improvement programs for Grades 1-8 and to have retention and promotion policies aligned to the requirements of [Section 22-2C-6 NMSA 1978](#), of the Assessment and Accountability Act. SB434/SECS/aSFC/aS1 would require schools to implement either high-impact tutoring based on strict identification standards or remediation programs, which may have more flexible identification standards but with strict retention consequences.

Remediation programs are required by Assessment and Accountability Act to be incorporated into the district’s Ed Plan and filed with the PED. At present, the Ed Plan template prompts districts and charter schools to address the range of programs and services intended to support student growth and inspire successful outcomes in the ensuing school year. This includes any initiatives to target academic improvement and remediation, as well as the details involved in implementing these services. However, a recent review of submitted Ed Plans does not reveal details that are in alignment with this section of statute. The Assessment and Accountability Act was last amended in 2019 with no change to the requirement for remediation program since 2007.

High-stakes decision-making based on a single indicator. High-stakes educational decisions should not be based on a single indicator, such as proposed by SB434/SECS/aSFC/aSF1, according to the testing [standards](#) of the American Educational Research Association (AERA), the American Psychological Association (APA), and the National Council on Measurement in Education (NCME). The AERA [Position Statement on High-stakes Testing](#) explains that “decisions that affect individual students’ life chances or educational opportunities should not be made on the basis of test scores alone,” as SB434/SECS/aSFC/aSF1 proposes.

Proposing an overly restrictive system of interventions in place of MLSS. The requirements for interventions provided for in this bill restrict local decision-making more than the current [Multi-layered System of Supports](#) (MLSS) administered by PED.

[6.29.1 NMAC, General Provisions](#) defines MLSS as:

“. . . a coordinated and comprehensive framework that uses increasingly intensive evidence-based academic and behavioral supports that address student needs as evidenced by student data. It is a model for holistic school improvement that provides progress measures for additional supports such as school-based team structures, professional development, health

and wellness, and family and community engagement. MLSS satisfies the definition of ‘multi-tiered system of supports’ contained within the Every Student Succeeds Act.”

Data used to make decisions about student interventions and regarding layered interventions are chosen by classroom teachers and support personnel closest to the students. Balanced assessment systems are used for decision-making, which better conform to [Standards for Educational and Psychological Testing](#). Both academic and behavioral evidence may be considered in determining academic and behavioral interventions. Compared to previous intervention models, MLSS reduces paperwork and time in meetings to make decisions regarding layered interventions.

PED requires that all school districts and charter schools:

- provide specific support and interventions for students who have academic needs;
- assign a point of contact (POC) for MLSS;
- ensure that the POC attends monthly statewide webinars;
- submit the *MLSS Self-Assessment* to PED.

Duplicating individualized planning for students with disabilities. SB434/SECS/aSFC/aSF1 does not account for the existing individualized instructional plans addressing the academic needs of students with disabilities, for whom a detailed plan is incorporated into an Individualized Education Program (IEP). The services and plans required of the bill would duplicate the provisions for students with disabilities pursuant to the Individuals with Disabilities Education Act (IDEA), 20 U.S.C. § 1414(d), which mandates IEPs with academic goals and services. The number of students with disabilities in the table below includes 6,670 students (47 percent) with disabilities in the bottom quartile for only one subject and 7,484 students (53 percent) with disabilities in the bottom quartile for both subjects. The 14,154 unique students with disabilities make up 37 percent of all students whom SB434/SECS/aSFC/aS1 would identify as having math or reading deficiencies.

Estimating the number of students who must have intervention plans. One-quarter of all students in grades 4-8 would be required to receive mathematics tutoring, and one-quarter of these grades would be required to receive reading tutoring. Each year there would be approximately 27,000 students required to have individualized plans for reading and 27,000 students required to have individualized plans in mathematics. This would impose a burden on all schools, but it would impose the heaviest burden on small school districts and charter schools. The table below shows the actual count of students in the bottom quartile for each grade and subject area in the 2023-2024 school year (SY24).

SY24 Count	Grade Level					Total
	4	5	6	7	8	
LA 1st Quartile	5,225	5,340	5,278	5,323	5,375	26,541
Math 1st Quartile	5,229	5,342	5,288	5,329	5,376	26,564
Total	10,454	10,682	10,566	10,652	10,751	53,105

The number of unique students in the counts above include 22,889 students (60 percent) in the bottom quartile for only one subject and 15,108 students (40 percent) in the bottom quartile for both subjects, a total of 37,997 unique students.

PERFORMANCE IMPLICATIONS

When scheduling high-impact tutoring within the school day, the requirements of the bill may exacerbate inequities in access and participation in the arts, physical education, and other required subjects in elementary and middle school, and reduce participation in elective courses in high school. PED studied formal course enrollment in the 2022-2023 school year and found that at elementary schools where arts courses were available, 10 percent of students were not enrolled in them, highlighting a possible inequity related to participation in competing academic interventions or services for English learners.

Additionally, PED found a positive effect on attendance rates for students enrolled in arts courses even when controlling for other individual variables such as poverty, gender, race, and grade level. For each arts course in which they were enrolled, a student's odds of regular attendance increased by 10 percent, and in the secondary grades an additional 10 percent increase to the odds of regular attendance was observed. Further, chronically absent students in urban high schools enrolled in one arts course attended 3.6 days more on average than those not enrolled in an arts course in the 2022-2023 school year.

ADMINISTRATIVE IMPLICATIONS

Increasing the number of licensed teaching positions statewide. About 900 FTE licensed teachers would be needed to fulfill the requirements of SB434/SECS/aSFC/aSF1, to an unknown extent diverting current teachers from some portion of their current teaching assignment. This would impose a substantial administrative burden on charter schools and small and medium-sized districts.

SB434/SECS/aSFC/aSF1 refers to a "high-impact tutoring plan" for students, and requires that it be explained to parents, but the bill does not elaborate on the school's obligation to develop the plan. It is assumed in calculating the administrative burden to schools that the teachers providing the service would also develop and communicate the plans.

The 900 FTE of licensed providers of high-impact tutoring described in SB434/SECS/aSFC/aSF1 would be required to have department-approved training to deliver the interventions. The PED does not currently have a program for professional learning that could accommodate the new program. At least one FTE additional member of staff would be required to develop the training program, potentially through promulgation of rule, and to administer the provisions of the bill.

Developing, implementing, and communicating with parents about individualized high-impact tutoring plans, as required by SB434/SECS/aSFC/aSF1, would be redundant and unnecessary for students with IEPs, which are required by law to include appropriate academic goals and appropriate individualized services to meet those goals.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

Conflicts with Senate Bill 38/aSFC, The Special Education Act, would codify MLSS which conflicts with provisions of SB434/SECS/aSFC/aSF1 for academic interventions.

Relates to Senate Bill 235/aSEC, School Math Changes, which would require MLSS for students identified as having difficulty with mathematics.

TECHNICAL ISSUES

The definition of bottom quartile on achievement tests for academic deficiency will perpetually identify one-quarter of all students in the applicable grades as having a deficiency in math and one-quarter as having a reading deficiency. Approximately 40 percent of students will be identified with both deficiencies, and 60 percent will be identified with deficiencies in one subject, a total of about 38,000 students would be served each year, or one of every eight students in public schools in the state. Using a single, norm-referenced measure for identification of students rather than multiple, criterion-referenced measures of identification based on grade-level performance standards is likely to result in technical issues over time. Assuming the intervention works extremely well, if all students receiving high-impact tutoring would make academic gains, most would remain in the bottom quartile year after year, even as they improve their knowledge and skill in reading or math, while a few on the threshold are likely to jockey for position with those in the second quartile, exchanging identification with them each year as having or not having deficiencies, and thus receiving or not receiving the intervention.

OTHER SUBSTANTIVE ISSUES

SB434/SECS/aSFC/aSF1 would provide for a student to receive a designation of deficiency at the start of a school year, but it does not describe how a student may exit from status during the school year, other than through the annual academic summative achievement tests. This would require students to receive interventions for the entirety of the school year, even if, with tutoring they begin to demonstrate academic proficiency.

If allowing high-impact tutoring to occur outside of the regular school day, as provided for in the amended bill, is intended to reduce its impact on teacher vacancies, the change in impact would be difficult to estimate. The number of current teachers who would choose to work beyond contract hours as high-quality tutors on school days or weekends is unknown, as is the extent to which this may reduce the impact of the bill on teacher vacancies.

ALTERNATIVES

None.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

None.

AMENDMENTS

The sponsor may consider amending the bill to provide a means for students to exit deficiency status prior to the end of the school year.

The sponsor may wish to consider amending the bill to remove intervention plan requirements for students with disabilities.