

**LEGISLATIVE EDUCATION STUDY COMMITTEE  
BILL ANALYSIS**

**Bill Number:** CS/SB 306

**51nd Legislature, 2nd Session, 2016**

**Tracking Number:** .204056.1

**Short Title:** School Funding Flexibility & Waivers

**Sponsor(s):** Senator Gerald Ortiz y Pino

**Analyst:** David Craig

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**Bill Summary:**

CS/SB 306 amends the *Public School Code* to reinstate, for the 2016-2017 through 2018-2019 school years, a provision that allows the Secretary of Public Education to waive certain requirements for public schools that need financial flexibility to meet decreased support.

**Fiscal Impact:**

CS/SB 306 does not contain an appropriation.

CS/SB 306 provides school districts flexibility in meeting statutory requirements related to class size, length of school day, and availability of subjects or instructional materials due to financial circumstances and budgetary constraints.

**At a Glance:**

- CS/SB 306 may allow school districts financial flexibility to maintain staff levels in times of budget shortfalls. CS/SB 306 may impact some students' class size, length of school day, and availability of subjects or instructional materials.

**Detailed Bill Provisions:**

CS/SB 306 amends the *Public School Code* to reinstate, for the 2016-2017 through 2018-2019 school years, a temporary provision that allows the Secretary of Public Education to waive statutory and regulatory requirements relating to: individual class load, teaching load, length of school day, staffing patterns, subject areas, and purchases of instructional materials. CS/SB 306 also requires the Public Education Department (PED) to monitor any waivers and report to the Legislative Education Study Committee (LESC) and the Legislative Finance Committee (LFC) on any matters that appear to adversely affect student learning. CS/SB 306 repeals Section 22-10A-20.1 NMSA 1978, a section of law relating to a three-year phase-in of adherence to individual class loads and teaching loads (see **Attachment**).

**Substantive Issues:**

Provisions identical to those in CS/SB 306 were in effect for the 2009-2010 through 2013-2014 school years. During this time, the LESL did not receive any report regarding how the waived provisions may have adversely affected student learning. In addition, it is unclear to what extent

PED was monitoring the impact of these waivers. The provisions were not in place during the 2014-2015 or 2015-2016 school years. However, Section 22-10A-20.1 NMSA 1978 was enacted in 2014 and CS/SB 306 repeals this section of law.

If enacted, the primary benefit to school districts will be the waiver of individual class loads and teaching load requirements due to financial limitations. These waivers may allow school districts that are experiencing enrollment growth and budget shortfalls to maintain current staffing levels, and avoid additional costs of hiring more teachers to meet requirements. However, there are existing provisions that allow PED to waive the individual class load and teaching load requirements if the school district presents a viable alternative curriculum plan that is supported by impacted teaching staff; see below.

## **Background:**

### ***Statutory Class Sizes***

Section 22-10A-20 NMSA 1978 establishes class loads for elementary schools teachers up to grade six, and daily teaching load per teacher for grades 7 through 12. The average class load for kindergarten teachers is 20 students – classes with 15 or more students are entitled to an educational assistant. The average class load for teachers in grades 1 through 3 is 22 students averaged among the grades – classes with 21 or more students are entitled to an educational assistant. The average class load for teachers in grades 4, 5, and 6 is 24 students when averaged among the grades. The average daily teaching load for grades 7 through 12 is 160 students, with a lower average daily teaching load established for required English courses.

### ***Existing Waivers to Individual Class and Teaching Loads***

Provisions in the *Public School Code* allow PED to waive requirements, including those related to individual class load and teaching load requirements, for programmatic reasons, but do not address financial flexibility. Section 22-10A-20 NMSA 1978 allows PED to waive individual class load and teaching load requirements if it finds that a viable alternative curricular plan has been presented to, and is supported by, the affected teaching staff and is in the best interest of the school district. PED must evaluate the impact of the alternative curricular plan annually and make these annual reports available to the LESC.

Section 22-2-2.1 NMSA 1978 requires the Secretary to grant all reasonable requests to waive the individual class load requirements pursuant to Section 22-10A-20 NMSA 1978, for all schools that exceed educational standards. Waivers pursuant to this section begin in the school year following that in which a public school exceeds the educational standards and may remain in effect as long as the school continues to exceed educational standards. Statute does not define “educational standards,” nor has the department promulgated regulations defining educational standards.

Section 22-8B-5 NMSA 1978 exempts all charter schools from requirements pertaining to the length of the school day, staffing patterns, subject areas, and instructional materials. Section 22-15-9 NMSA 1978 of the *Instructional Material Law* allow school district superintendents to request waivers of the use of funds for the purchase of instructional material either included or not included on the multiple list.

**22-10A-20.1. Individual class load and teaching load; three-year phase-in.**

Now that the emergency economic need to grant fiscal solvency waivers for mandatory individual class loads and teaching loads established in Section 22-10A-20 NMSA 1978 and waived pursuant to Section 22-1-10 NMSA 1978 has lessened, these requirements shall be reinstated. The return to statutory mandatory individual class loads and teaching loads shall be phased in over a three-year period. During the 2014-2015 school year, each school district shall develop a plan for implementing the requirements of this section and Section 22-10A-20 NMSA 1978, including the cost of complying with Section 22-10A-20 NMSA 1978. This section does not affect the ability of a school district to apply for and the department to grant a waiver pursuant to Section 22-10A-20 NMSA 1978.

History: Laws 2014, ch. 77, § 1.

**Effective dates.** — Laws 2014, ch. 77 contained no effective date provision, but, pursuant to N.M. Const., art. IV, § 23, was effective May 21, 2014, 90 days after the adjournment of the legislature.