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**LEGISLATIVE EDUCATION STUDY COMMITTEE**  
**BILL ANALYSIS**  
**54th Legislature, 2nd Session, 2020**

<b>Bill Number</b>	<u>SB263/aSEC</u>	<b>Sponsor</b>	<u>O'Neill</u>
<b>Tracking Number</b>	<u>.217112.1</u>	<b>Committee Referrals</b>	<u>SEC/SFC</u>
<b>Short Title</b>	<u>Increase Fine Arts Ed Program Unit</u>		
<b>Analyst</b>	<u>Simon</u>	<b>Original Date</b>	<u>2/10/2020</u>
		<b>Last Updated</b>	<u>2/19/2020</u>

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**BILL SUMMARY**

Synopsis of SEC Amendment

Senate Education Committee Amendment to Senate Bill 263 (SB263/aSEC) would increase the cost differential used to calculate program units for fine arts education programs from 0.05 in FY20 to 0.054 in FY21. The amendment adds a \$3 million appropriation to the Public Education Department (PED) to cover the cost of additional elementary fine arts program units. The amendment also strikes obsolete language in the Public School Finance Act, which provides for a cost differential for fine arts education program units in FY04 through FY06. (See **Technical Issues**).

Synopsis of Original Bill

Senate Bill (SB263) would increase the cost differential used to calculate program units for elementary fine arts education programs from 0.05 in FY20 to 0.06 for FY21 and subsequent fiscal years.

**FISCAL IMPACT**

For FY20, the public school funding formula generated 8,141 program units for elementary fine arts programs, for a total of \$37.2 million at the preliminary FY20 unit value. Based on FY20 enrollment levels, SB263/aSEC would create 651.25 program units, at an estimated cost of \$3 million, based on the preliminary FY20 unit value. Analysis from the Public Education Department (PED) notes that state law only allows program unit generation for student membership in a program implemented in accordance with the Fine Arts Education Act. If an existing program's application is denied in FY21, the estimated impact to the state could change.

SB263/aSEC would increase the amount school districts and charter schools generate for each student enrolled in an eligible fine arts education program. Currently, school districts and charter schools generate \$228.27 per student in an elementary school fine arts program. SB263/aSEC would increase that to an estimated \$246.53, based on the preliminary FY20 unit value. This represents an increase of \$18.26, or 8 percent.

SB263/aSEC includes a \$3 million appropriation to the public education department/ to cover the cost of changing the fine arts education program cost differential. Funding for fine arts education program units flows through the state equalization guarantee (SEG) distribution. Typically, when the Legislature increases cost differentials in the public school funding formula, the Legislature appropriates additional funding to the SEG distribution. However, PED may be able to

The Senate Finance Committee Amendment to House Appropriations and Finance Committee Substitute for House Bills 2 and 3 does not include an appropriation to the SEG to increase fine arts education program units.

## **SUBSTANTIVE ISSUES**

Since FY04, the public school funding formula has allocated additional funding to school districts and charter schools with elementary schools that implement fine arts programs in accordance with the Fine Arts Education Act. Since FY06, school districts and charter schools have received 0.05 program units per MEM participating in a compliant fine arts education program, or about \$228 per student at FY20 preliminary unit value.

Prior to FY20, the funding formula's training and experience (T&E) index was multiplied by early childhood education program units, basic education program units, special education program units, bilingual multicultural education program units, fine arts education program units, and elementary physical education program units. Laws 2018, Chapter 55 (House Bill 188) aligned the T&E index with the three-tiered licensure system and addressed arguments in the consolidated *Martinez* and *Yazzie* lawsuit that identified the T&E index as a potential source of inequitable funding for education. The updated law reduced the weight of the T&E index in the funding formula by applying the factor only to early childhood education and basic education program units. Although this change reduced the number of program units, the Legislature did not decrease appropriations to the SEG to account for the decreased units, allowing the funding to flow back to school districts and charter schools in the form of a higher program unit value.

Historic guidance from PED had directed school districts and charter schools to include funding from the T&E index in elementary fine arts program budgets. However, this guidance was not immediately updated following the passage of HB188 in 2018, so a number of school districts and charter schools created FY20 budgets for fine arts that included both T&E funding and the higher program unit value that was made possible by the change to the T&E index. Had HB188 not been enacted, the FY20 program unit value would have been lower but school districts and charter schools would have generated more T&E program units. In effect, by including both extra T&E funding and the higher program unit value, some initial fine arts program budgets "double counted" a portion of education funding, creating an impression that funding was cut when schools were directed to correct the budget to account for the new law. This impression was compounded by a loss of nearly 5,000 students in elementary fine arts programs, which are funded on a per student basis. Table 1 below shows a summary of fine arts education funding by fiscal year.

**Table 1: Elementary Fine Arts Funding By Fiscal Year**

Fiscal Year	Students	Fine Arts Program Units	Fine Arts Funding	Per Student Funding	Program Units with T&E Index per PED Guidance	Fine Arts Funding with T&E Index per PED Guidance	Per Student Funding with T&E Index
FY15	166,157	8,308	\$33,295,786	\$200.39	9,047	\$36,259,111	\$218.22
FY16	166,780	8,339	\$33,670,797	\$201.89	9,031	\$36,465,473	\$218.64
FY17	171,708	8,820	\$35,100,774	\$204.42	9,526	\$37,908,836	\$220.78
FY18	170,180	8,509	\$34,752,866	\$204.21	9,173	\$37,463,590	\$220.14
FY19	167,780	8,389	\$35,157,041	\$209.54	9,060	\$37,969,604	\$226.31
FY20*	162,813	8,141	\$37,165,314	\$228.27	8,141	\$37,165,314	\$228.27
FY21 (SB263/aSEC)	162,813	8,792	\$40,138,539	\$246.53	8,792	\$40,138,539	\$246.53

\*For FY20 and FY21, total funding is based on the preliminary unit value.

Source: LESC Files

Guidance to include T&E funding within fine arts program budgets was inconsistent with how other formula factors were treated regarding T&E. For example, the state was not allowed by the federal government to apply T&E funding associated with special education programs as special education funding for the purposes of meeting maintenance of effort requirements under the federal Individuals with Disabilities Education Act. Similarly, PED’s annual bilingual multicultural education reports do not include amounts for T&E funding. Conceptually, it is difficult to allocate T&E funding to individual programs because all eligible employees are included in the calculation of the T&E index. As a result, including T&E funding in fine arts program budgets could lead to a budget increase or decrease when school personnel that have no connection to fine arts program are hired or leave the school district.

Analysis from PED notes that program units for elementary fine arts programs are one element of noncategorical funding within the SEG distribution. As such, expenditure of these funds are subject to local decision making to allocate funds among different fine arts programs within the school district.

**TECHNICAL ISSUES**

SEC Amendment #2 strikes language currently in the Public School Finance Act that provides for cost differentials in previous fiscal years. This amendment deleted the reference to 0.05 cost differential used in FY20. While it is general practice for the Legislature to delete obsolete language from statute when amending a section of law, SB263/aSEC does not carry an effective date and, if passed by the Legislature and signed by the governor, would become effective May 20, 2020, before the end of FY20. The sponsor may wish to consider an amendment to add an effective date of July 1, 2020.

**RELATED BILLS**

SB263/aSEC, as introduced, was a duplicate of HB239/aHAFC, Increase Fine Arts Education Program Units, as introduced.

**SOURCES OF INFORMATION**

- LESC Files
- Public Education Department (PED)