

SENATE FINANCE COMMITTEE SUBSTITUTE FOR  
SENATE BILL 40

55TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2021

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This document may incorporate amendments proposed by a committee, but not yet adopted, as well as amendments that have been adopted during the current legislative session. The document is a tool to show amendments in context and cannot be used for the purpose of adding amendments to legislation.

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AN ACT

RELATING TO PUBLIC EDUCATION; SPECIFYING HOW INSTRUCTIONAL TIME IS CALCULATED FOR K-5 PLUS AND EXTENDED LEARNING TIME PROGRAMS  
HEC→; ~~REQUIRING K-5 PLUS AND EXTENDED LEARNING TIME PROGRAMS AT ALL PUBLIC SCHOOLS FOR THE 2021-2022 SCHOOL YEAR IF IN-PERSON INSTRUCTION IS NOT PROHIBITED BY EXECUTIVE ORDER.~~←HEC

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BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

.219676.4AIC      March 18, 2021 (9:29am)

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SECTION 1. Section 22-8-23.10 NMSA 1978 (being Laws 2019, Chapter 206, Section 16 and Laws 2019, Chapter 207, Section 16) is amended to read:

"22-8-23.10. EXTENDED LEARNING TIME PROGRAM.--

A. A school district or charter school is eligible for additional program units if it establishes within its department-approved educational plan ~~[an]~~ a schoolwide extended learning time program that meets the requirements of ~~[Subsection B, C or D of]~~ this section.

B. ~~[An extended learning time program shall include]~~ Program eligibility requires:

(1) except as provided in Subsections C and D of this section, a minimum of one hundred ninety instructional days per school year or ten additional instructional days per school year, whichever requires the addition of the fewest number of instructional days, with at least five and one-half instructional hours per instructional day for kindergarten through sixth grade and at least six instructional hours per day for seventh through twelfth grade;

(2) after-school program opportunities for academic learning, ~~[or]~~ extracurricular or enrichment ~~[to]~~ programming for students that do not supplant federally funded programs; and

(3) a minimum of eighty noninstructional hours per school year for professional development for instructional

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staff.

C. An extended learning time program in a school district operating a four-day school week in fiscal year 2019 or in a school district with fewer than one thousand MEM operating a four-day school week [~~shall~~] may include:

(1) a minimum of one hundred sixty instructional days per school year or eight additional instructional days per school year, whichever requires the addition of the fewest number of instructional days, with at least six and one-half hours per instructional day for kindergarten through sixth grade and at least seven instructional hours per instructional day for seventh through twelfth grade;

(2) after-school program opportunities for academic learning, [~~or~~] extracurricular or enrichment [~~to~~] programming for students that do not supplant federally funded programs; and

(3) a minimum of eighty noninstructional hours per school year for professional development for instructional staff.

D. With department approval, an elementary school that [~~has an extended learning time program that~~] qualifies for extended learning time program units [~~pursuant to Subsection B or C of this section~~] that also has a qualifying K-5 plus program [~~pursuant to the K-5 Plus Act~~] may structure the school year to provide the additional instructional [~~time~~] days required pursuant to the applicable subsection of this section by extending [~~existing instructional days~~] the total number of

instructional hours provided by the elementary school by no fewer than fifty-five additional instructional hours.

E. The additional instructional days required for an extended learning time program shall be implemented for all students in a participating public school and shall be considered an extended school calendar for all students in each participating school.

F. A school district or charter school that qualified for extended learning time program units in the prior fiscal year shall not be required to add more instructional days in the current school year than it did in the prior school year to qualify for program units in the current school year if the school district or charter school provides the same or more total instructional days and total instructional hours than it provided in the prior school year.

~~[E.]~~ G. The number of additional units to which a school district or charter school is entitled under this section is computed in the following manner:

MEM x 0.11."

**SECTION 2.** Section 22-8-23.11 NMSA 1978 (being Laws 2019, Chapter 206, Section 17 and Laws 2019, Chapter 207, Section 17) is amended to read:

"22-8-23.11. K-5 PLUS PROGRAM UNITS.--The number of K-5 plus program units is determined by multiplying the MEM in department-approved K-5 plus ~~[programs]~~ schools by the cost

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differential factor of 0.3 [~~For each reporting date, MEM in K-5 plus programs shall be equal to the number of qualified students on a reporting date chosen by the department.~~]; provided that the cohort of students in a K-5 plus public school that spans two fiscal years shall be funded for participation in the required additional instructional days in a single fiscal year."

SECTION 3. Section 22-13D-2 NMSA 1978 (being Laws 2019, Chapter 206, Section 3 and Laws 2019, Chapter 207, Section 3) is amended to read:

"22-13D-2. K-5 PLUS--ELIGIBILITY--REQUIREMENTS.--

A. A school district or charter school may apply to participate in the K-5 plus program and is eligible to receive program units for students enrolled in elementary schools approved by the department to participate in the K-5 plus program. In approving schools for participation in K-5 plus, the department shall prioritize elementary schools:

- (1) in which eighty percent or more of the elementary school's students are eligible for free or reduced-fee lunch;
- (2) that are low-performing elementary schools; and  
[~~(3) that participated in the 2018 K-3 plus or K-5 plus program; and~~  
~~(4)]~~ (3) that meet criteria established by department rule.

B. Each K-5 plus [program] school shall:

- (1) except as provided in Subsection C of this

section, provide no fewer than two hundred five instructional days per school year or twenty-five additional instructional days [prior to the start of the regular school year] per school year, whichever requires the addition of the fewest number of instructional days, to all elementary school students enrolled in the elementary school;

(2) provide a good-faith attempt to keep students [that participate in the K-5 plus program] with the same teacher and cohort of students during K-5 plus and the regular school year and minimize mid-year transfers to only those transfers that are in the best interest of the student;

(3) include additional professional development for teachers teaching at a K-5 plus [teachers] school in how young children learn to read; and

(4) be [implemented school-wide] considered an extended school calendar for all students in each participating school.

C. An elementary school operating a four-day school week shall provide no fewer than one hundred seventy-five instructional days per school year or twenty additional instructional days per school year, whichever requires the addition of the fewest number of instructional days to all elementary students enrolled in the elementary school.

D. A school district or charter school that qualified for K-5 plus program units in the prior fiscal year

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shall not be required to add more instructional days to the current school year to qualify for program units in the current school year if the school district or charter school provides the same or more total instructional days and total instructional hours than it provided in the prior school year.

[~~6.~~] E. An elementary school is ineligible for K-5 plus program units if it fails to meet the requirements of [~~Subsection B of~~] this section."

**SECTION 4.** Section 22-13D-3 NMSA 1978 (being Laws 2019, Chapter 206, Section 4 and Laws 2019, Chapter 207, Section 4) is amended to read:

"22-13D-3. K-5 PLUS--OVERSIGHT--REPORTING.--[~~A.~~] The department shall:

[~~(1)~~] A. enforce the provisions of the K-5 Plus Act;

[~~(2)~~] B. issue rules for the development and implementation of K-5 plus [~~programs~~] schools;

[~~(3)~~] C. assist school districts and charter schools in developing and evaluating K-5 plus [~~programs~~] schools;

[~~(4)~~] D. develop and disseminate information on best practices in the area of academic success of early learners;

[~~(5)~~] E. establish reporting and evaluation requirements, including student and program assessments, for K-5 plus schools [~~participating in the program~~];

[~~(6)~~] F. annually report to the legislature and the governor on the efficacy of K-5 plus [~~programs~~] schools; and

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~~[(7)]~~ G. establish a K-5 plus advisory committee composed of representatives of school districts and charter schools that ~~[participate in the]~~ have K-5 plus ~~[program]~~ schools, the legislative education study committee, the legislative finance committee and other stakeholders. The advisory committee shall meet twice a year to advise the department on K-5 plus implementation.

~~[B. Students participating in K-5 plus shall be evaluated at the beginning of K-5 plus, and their progress shall be measured through department-approved summative and formative assessments.]"~~

SECTION 5. Section 22-13D-4 NMSA 1978 (being Laws 2019, Chapter 206, Section 5 and Laws 2019, Chapter 207, Section 5) is amended to read:

"22-13D-4. K-5 PLUS--APPLICATION.--

A. School districts and charter schools that wish to ~~[participate in the]~~ establish a HEC~~→~~new~~←~~HEC K-5 plus ~~[program]~~ school shall apply ~~[to participate in]~~ through their annual educational plans submitted to the department pursuant to the Public School Finance Act.

~~HEC~~~~→~~B. For public schools that previously offered a K-5 plus program, each school district and charter school, in lieu of submitting an application in its annual educational plan, shall notify the department of its intent to provide the K-5 plus program and no formal application shall be required.~~←~~HEC

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HEC→~~B.~~←HEC HEC→~~C.~~←HEC For planning purposes, no later than October 15 of each year, a school district or charter school that wishes to apply for a new K-5 plus [program] school for the next fiscal year shall submit to the department the actual number of students participating in its approved K-5 plus [programs] schools in the current year and an estimate of the number of students the school district or charter school expects will participate in each K-5 plus [programs] school in the next year. ~~[The department shall not approve a new K-5 plus program unless the school district or charter school notifies the department of its intent to start a new program as required by this section.]~~ Nothing in this subsection shall be construed to prohibit the department from approving a new K-5 plus school in a school district or charter school that did not submit the information required by this subsection to the department if sufficient funding is available to fund the school.

HEC→~~C.~~←HEC HEC→~~D.~~←HEC No later than November 15 of each year, the department shall notify the legislature of the number of students participating in K-5 plus [programs] schools in the current school year and of the number of students projected to participate in K-5 plus [programs] schools in the next school year."

~~HEC→SECTION 6. TEMPORARY PROVISION--EXTENDED SCHOOL YEAR PROGRAMS FOR THE 2021-2022 SCHOOL YEAR--LIMITATION.--~~

~~A. The legislature finds that learning loss during the 2019-2020 and 2020-2021 school year due to public school closures and extended periods of remote learning requires an~~

~~increase in instructional time once it is safe to return to in-person instruction.~~

~~B. For the 2021-2022 school year, if in-person instruction is not prohibited by executive order:~~

~~(1) each public elementary school shall provide K-5 plus pursuant to the K-5 Plus Act or an extended learning time program pursuant to Section 22-8-23.10 NMSA 1978; and~~

~~(2) each public school that is not an elementary school as provided in Paragraph (1) of this subsection shall provide an extended learning time program pursuant to Section 22-8-23.10 NMSA 1978.~~

~~C. Prior to approving a school district's or charter school's fiscal year 2022 operating budget, the secretary of public education shall ensure that each school district or charter school has made plans in its operating budget to require K-5 plus or extended learning time programs for all students.~~

~~D. Student participation in a K-5 plus school or an extended learning time program shall be mandatory and in person if in-person instruction is not prohibited by executive order. Each public school shall apply the provisions of the Attendance for Success Act to additional instructional days required by this section.~~

~~E. Notwithstanding the provisions of Chapter 22,~~

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~~Articles 8 and 13 NMSA 1978, in lieu of submitting an application in its annual educational plan, each school district and charter school shall notify the department of its intent to provide the additional instructional time required by this section no later than April 15, 2021, and no formal application process shall be required for the 2021-2022 school year.~~

~~F. Notwithstanding the provisions of Sections 22-8-23.11 and 22-8-23.12 NMSA 1978, the number of MEM used to calculate the number of approved K-5 plus program units or extended learning time program units for each school district or charter school with an approved program during the 2021-2022 school year shall be calculated using the greater of the average of MEM in each approved public school on the second and third reporting dates of the 2020-2021 school year or the MEM in each approved public school on the first reporting date of the 2021-2022 school year.~~

~~G. Subject to the availability of funds, nothing in this section shall be construed to prohibit a public elementary school from participating in both K-5 plus and an extended learning time program.~~←HEC