

**LEGISLATIVE EDUCATION STUDY COMMITTEE  
BILL ANALYSIS**

**Bill No:** HB 691a

**49th Legislature, 1st Session, 2009**

**Short Title:** Public School Year & Length of Day

**Sponsor(s):** Representative Rhonda S. King and Others

**Analyst:** Kathleen Forrer

**Date:** March 17, 2009

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**AS AMENDED**

**The Senate Education Committee amendment:**

- inserts a new Subsection C that directs the Public Education Department to “provide for the length and number of school days for variable school year calendars in accordance with the *Variable School Calendar Act*,” the purpose of which is “to create an opportunity for public schools or school districts to operate beyond a nine-month period in any one calendar year in order to achieve optimum and maximum use of school facilities and personnel”;
- delays the implementation of the provisions in the bill until school year 2010-2011; and
- makes a technical correction regarding a reference to a subsequent subsection (see “Technical Issues” below).

The House Education Committee amendment changes the length of the school year for a school district on a four-day-a-week variable school calendar from one hundred fifty-one to one hundred fifty days.

**The House Consumer and Public Affairs Committee amendment:**

- adds the phrase “up to” before the number of hours that may be used for home visits or parent-teacher conferences to clarify that a school district is not required to set aside the total number of hours specified for such activities;
- adds sixth grade to the grade range for which up to 22 hours may be used for home visits or parent-teacher conferences;
- allows up to 12 hours of grades 7-12 programs to be used to consult with parents to develop Next Step Plans and for parent-teacher conferences; and
- allows the State Secretary of Public Instruction, in the case of undue hardship, to waive not only the minimum length but also the minimum number of school days (the Secretary must still ensure that students are receiving the same total instructional time as other students in the state).

**Original Bill Summary:**

HB 691 amends the *Public School Code* to:

- define the school year as consisting of 180 full instructional days for a regular school year calendar and 151 full instructional days for a variable school year calendar, exclusive of any release time for in-service training;

- require that days or parts of days that are lost to weather, in-service training, or other non-school directed events are made up in such a way that students are given a full instructional school year;
- delete all references to the total number of hours per grade configuration that are equivalent to a school year;
- remove as an option the ability of a school district to substitute the equivalent number of hours for the minimum number of full instructional days;
- expressly allow school districts to establish a school year (not just the length of the school day) that is longer than that provided in statute; and
- as in current statute, allow the State Superintendent of Public Instruction to waive the statutory minimums where such minimums would create undue hardships on a school district, with the added proviso that the school year be “adjusted to ensure that students in those school districts receive the same total instructional time as other students in the state.”

**Fiscal Impact:**

HB 691 makes no appropriation.

**Fiscal Issues:**

According to the Legislative Finance Committee’s Fiscal Impact Report (FIR), there will be no cost to the state if the provisions in the bill are implemented. LFC indicates that an estimated additional transportation cost of approximately \$600,000 statewide apparently “could be absorbed by the districts particularly since the amount allocated for fuel in FY 10 is about [56 cents] per gallon higher than the consensus forecast.”

In its analysis of HB 691, the Public Education Department (PED) notes that school districts “may need to modify their teacher contracts for in-service training or weather contingencies based on days in excess of the minimum instructional year requirements.”

**Issues:**

Current statute establishes the minimum length of the school day in one section and the length of the school year in another:

- Section 22-2-8.1 NMSA 1978 establishes the following minimum number of hours per grade configuration, during which “regular students shall be in school-directed programs, exclusive of lunch”:
  - 2.5 hours per day or 450 hours per year for half-day kindergarten programs;
  - 5.5 hours per day or 950 hours per year for full-day kindergarten programs;
  - 5.5 hours per day or 950 hours per year for grades 1-6; and
  - 6.0 hours per day or 1,080 hours per year for grades 7-12.
- Section 22-8-9 NMSA 1978 specifies that PED may not approve a school district operating budget that does not provide for:
  - a school year consisting of at least 180 full instructional days or the equivalent, “exclusive of any release time for in-service training”; or
  - a variable school year consisting of a minimum number of instructional hours established by PED.

Current statute also allows PED to waive provisions regarding the length of school day for an individual public school implementing a collaborative school improvement program, if “the local superintendent has demonstrated accountability for student learning through alternative planning and ... the participating teaching staff supports the implementation of a collaborative school improvement program.”

Information provided by PED indicates that, for school year 2007-2008, all school districts were in compliance with the equivalent number of hours per grade configuration required in current statute and that, in practice, most districts had school year calendars exceeding the required minimum number of hours per year. However, the data also show that only 23 of the 89 school districts were providing 180 or more instructional days. One school district on a four-day-a-week variable school calendar provided 144 instructional days.

The *Charter Schools Act* states that PED “shall waive requirements or rules and provisions of the Public School Code ... pertaining to individual class load, teaching load, length of the school day, staffing patterns, subject areas, purchase of instructional material, evaluation standards for school personnel, school principal duties and driver education.”

### **Technical Issues:**

In the following sentence, Subsection A of HB 691 includes a reference to provisions in Subsection B: “Except as provided in Subsection B of this section, days or parts of days that are lost to weather, in-service training or other events that are not school-directed programs shall be made up so that students are given a full instructional school year.” However, Subsection B as re-lettered in the bill refers to the minimum hours per day, per grade level configuration that a school district must provide. It appears that the reference in the sentence should be to Subsection C, which designates the instructional time that may be used for home visits or parent-teacher conferences.

### **Background:**

According to an article in the February 2008 issue of the *Phi Delta Kappan*, although most states establish a minimum number of instructional days and/or hours, few explicitly address whether certain nonteaching activities count toward that minimum.

The article cites Massachusetts as one state that is explicit, defining “structured learning time” as time during which students are engaged in regularly scheduled instruction, learning activities, or learning assessments within the curriculum. Specifically excluded are “breakfast, lunch, passing periods, homeroom, recess, nondirected study periods, receiving school services, and participating in optional school programs.”

Other states are much less precise. For example:

In Michigan, the minimum number of hours required is 900 and excludes lunch, study hall, strike time, and parent conferences. The 900 hours includes passing time. However, if a school requires 990 hours, it is allowed to count both study hall and passing time. Iowa sets the minimum school day at 5.5 hours and explicitly excludes counting lunch. In Alaska, the minimum school-day length is set at four hours for grades K-3 and five hours for grades 4-11, although the state commissioner may approve exceptions. South Dakota excludes recess and lunch, but most of the other states that exclude such “intermissions” do not define the

term, so it is difficult to determine whether it's passing time, lunch, or recess. In Delaware, lunch does not count toward the minimum day. Georgia disallows rest periods, recess, breaks, class changing time, and lunch. Utah disallows lunch and passing periods but allows recess to count. Wisconsin allows lunch to count, but excludes recess and passing times.

In *Expanding School Time to Expand School Learning*, a 2008 policy perspective report from WestEd,<sup>1</sup> the authors note the following:

To make a real difference in the depth and breadth of education, schools need to add hundreds of hours per year — not just a few minutes a day. While adding 10 minutes a day or an hour a week could help a little bit, it will not allow for whole school redesign; it will not resolve the unnecessary tension in today's schedule between math and music, between sports and reading. We see some real impact in schools that add one hour per day but see even more results when the new schedule adds closer to two hours per day or even more. Adding this much new time not only allows the school to make vital additions to core subjects and leaven academic time with enrichment time, it also makes for a more sensible pace to the day for all involved. It allows adding time to such so-called frills as lunch and recess — both of which humanize a school day currently in danger of becoming a treadmill for far too many kids and teachers.

**Related Bills:**

HB 331a *Public School Funding Formula*  
HB 442 *Increase Instructional School Year*  
SB 134 *Limit School Calendar Adjustments*  
SJM 36 *School District Incremental Day Increases*

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<sup>1</sup> WestEd is a nonprofit, public research and development agency serving Arizona, California, Nevada, and Utah as one of the nation's 10 regional educational laboratories.