

SENATE FINANCE COMMITTEE SUBSTITUTE FOR
SENATE BILL 40

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

AN ACT

RELATING TO PUBLIC EDUCATION; SPECIFYING HOW INSTRUCTIONAL TIME IS CALCULATED FOR K-5 PLUS AND EXTENDED LEARNING TIME PROGRAMS; 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.

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

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

1 [Subsection B, C or D of] this section.

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

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

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

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

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

23 (1) a minimum of one hundred sixty
24 instructional days per school year or eight additional
25 instructional days per school year, whichever requires the

1 addition of the fewest number of instructional days, with at
 2 least six and one-half hours per instructional day for
 3 kindergarten through sixth grade and at least seven
 4 instructional hours per instructional day for seventh through
 5 twelfth grade;

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

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

13 D. With department approval, an elementary school
 14 that ~~[has an extended learning time program that]~~ qualifies for
 15 extended learning time program units ~~[pursuant to Subsection B~~
 16 ~~or C of this section]~~ that also has a qualifying K-5 plus
 17 program ~~[pursuant to the K-5 Plus Act]~~ may structure the school
 18 year to provide the additional instructional ~~[time]~~ days
 19 required pursuant to the applicable subsection of this section
 20 by extending ~~[existing instructional days]~~ the total number of
 21 instructional hours provided by the elementary school by no
 22 fewer than fifty-five additional instructional hours.

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

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1 considered an extended school calendar for all students in each
2 participating school.

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

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

14 MEM x 0.11."

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

18 "22-8-23.11. K-5 PLUS PROGRAM UNITS.--The number of K-5
19 plus program units is determined by multiplying the MEM in
20 department-approved K-5 plus ~~[programs]~~ schools by the cost
21 differential factor of 0.3 ~~[For each reporting date, MEM in K-5~~
22 ~~plus programs shall be equal to the number of qualified~~
23 ~~students on a reporting date chosen by the department.]~~;
24 provided that the cohort of students in a K-5 plus public
25 school that spans two fiscal years shall be funded for

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1 participation in the required additional instructional days in
 2 a single fiscal year."

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

6 "22-13D-2. K-5 PLUS--ELIGIBILITY--REQUIREMENTS.--

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

13 (1) in which eighty percent or more of the
 14 elementary school's students are eligible for free or reduced-
 15 fee lunch;

16 (2) that are low-performing elementary
 17 schools; and

18 [~~(3) that participated in the 2018 K-3 plus or~~
 19 ~~K-5 plus program; and~~

20 ~~(4)] (3) that meet criteria established by~~
 21 department rule.

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

23 (1) except as provided in Subsection C of this
 24 section, provide no fewer than two hundred five instructional
 25 days per school year or twenty-five additional instructional

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1 days ~~[prior to the start of the regular school year]~~ per school
2 year, whichever requires the addition of the fewest number of
3 instructional days, to all elementary school students enrolled
4 in the elementary school;

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

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

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

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

22 D. A school district or charter school that
23 qualified for K-5 plus program units in the prior fiscal year
24 shall not be required to add more instructional days to the
25 current school year to qualify for program units in the current

1 school year if the school district or charter school provides
 2 the same or more total instructional days and total
 3 instructional hours than it provided in the prior school year.

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

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

10 "22-13D-3. K-5 PLUS--OVERSIGHT--REPORTING.--~~[A.]~~ The
 11 department shall:

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

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

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

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

22 [~~(5)~~] E. establish reporting and evaluation
 23 requirements, including student and program assessments, for K-
 24 5 plus schools [~~participating in the program~~];

25 [~~(6)~~] F. annually report to the legislature and the

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1 governor on the efficacy of K-5 plus ~~[programs]~~ schools; and

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

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

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

16 "22-13D-4. K-5 PLUS--APPLICATION.--

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

22 B. For planning purposes, no later than October 15
23 of each year, a school district or charter school that wishes
24 to apply for a new K-5 plus ~~[program]~~ school for the next
25 fiscal year shall submit to the department the actual number of

1 students participating in its approved K-5 plus [~~programs~~]
 2 schools in the current year and an estimate of the number of
 3 students the school district or charter school expects will
 4 participate in each K-5 plus [~~programs~~] school in the next
 5 year. [~~The department shall not approve a new K-5 plus program~~
 6 ~~unless the school district or charter school notifies the~~
 7 ~~department of its intent to start a new program as required by~~
 8 ~~this section.~~] Nothing in this subsection shall be construed to
 9 prohibit the department from approving a new K-5 plus school in
 10 a school district or charter school that did not submit the
 11 information required by this subsection to the department if
 12 sufficient funding is available to fund the school.

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

19 **SECTION 6. TEMPORARY PROVISION--EXTENDED SCHOOL YEAR**
 20 **PROGRAMS FOR THE 2021-2022 SCHOOL YEAR--LIMITATION.--**

21 A. The legislature finds that learning loss during
 22 the 2019-2020 and 2020-2021 school year due to public school
 23 closures and extended periods of remote learning requires an
 24 increase in instructional time once it is safe to return to in-
 25 person instruction.

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

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

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

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

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

23 E. Notwithstanding the provisions of Chapter 22,
24 Articles 8 and 13 NMSA 1978, in lieu of submitting an
25 application in its annual educational plan, each school

1 district and charter school shall notify the department of its
2 intent to provide the additional instructional time required by
3 this section no later than April 15, 2021, and no formal
4 application process shall be required for the 2021-2022 school
5 year.

6 F. Notwithstanding the provisions of Sections
7 22-8-23.11 and 22-8-23.12 NMSA 1978, the number of MEM used to
8 calculate the number of approved K-5 plus program units or
9 extended learning time program units for each school district
10 or charter school with an approved program during the 2021-2022
11 school year shall be calculated using the greater of the
12 average of MEM in each approved public school on the second and
13 third reporting dates of the 2020-2021 school year or the MEM
14 in each approved public school on the first reporting date of
15 the 2021-2022 school year.

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

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