



Assuming the FY19 kindergarten cohort grew by 4.5 percent, an additional 1,189 students would have been eligible for funding. Using the FY19 preliminary unit value of \$4,190.85 and average unit factor of 1.9, the fiscal impact of these additional units is estimated at up to \$9.4 million if all eligible students enroll.

## **SIGNIFICANT ISSUES**

Under HB 454, school districts offering a gifted program must consider the potential need for social work services, transportation costs, and occupational therapy for students identified as gifted. School districts must also offer a nondiscriminatory academic acceleration policy that provides a range of options, including early entry into kindergarten and skipping grades, for gifted students and an individual education plan team to make acceleration decision, with due process and appeal provisions, for gifted students. Advanced students not identified as gifted can also benefit from acceleration. These districts must uphold home-schooled students' right to accelerate through a dual-credit or concurrent credit course and must accept accelerated or college credit toward graduation from the students' home high school. "Twice exceptional" students, students who qualify as gifted and meets the criteria for a disability under federal law, shall continue to be eligible for special education and related services even when they achieve a high score on an intelligence test.

HB 454 amends Section 22-1-2 NMSA 1978, altering the definition of "school-age person" to allow a student who has been identified as qualifying for gifted education to begin kindergarten early. PED notes currently a student may enter kindergarten at an earlier age than is expected, however, students must be at least 5 years old prior to 12:01 am on September 1 of the school year in order to be a "qualified student" who earns state funding to the district or charter school. Therefore, early kindergarten admission is not available in New Mexico at this time, unless the district or charter school agrees to admit the student and not count him or her for funding. HB 454 also amends Section 22-8-2 NMSA 1978, altering the definition of "qualified student" to allow children under the age of 5 to attend kindergarten.

PED offers the following analysis:

The ratio of staff to students would change following the current special education NMAC 6.29.1.9 PROCEDURAL REQUIREMENTS: H (5) The student/adult caseload shall not exceed 4:1 for center-based special education services in which one of the adults in the program is a properly licensed professional providing three- and four-year old children with the amount of special education needed to implement each child's IEP. This includes a child who will turn three at any time during the school year, and who is determined to be eligible for Part B services. The child may be enrolled in a Part B preschool program at the beginning of the school year if the parent so chooses, whether or not the child has previously been receiving Part C services.

Additional funding would need to be allocated. Schools would receive gifted funding but the numbers of staff would increase due to age of student.

Early admission would need to change within the in the Public School Finance Act.  
Public School Finance Act [22-8-1 NMSA 1978]:

M. "qualified student" means a public school student who:  
(1) has not graduated from high school;

- (2) is regularly enrolled in one-half or more of the minimum course requirements approved by the department for public school students; and
  - (3) is at least five years of age prior to 12:01 a.m. on September 1 of the school year; or
  - (4) is at least three years of age at any time during the school year and is receiving special education services pursuant to rules of the department; or
  - (5) has not reached the student's twenty-second birthday on the first day of the school year and is receiving special education services pursuant to rules of the department;
- Note: if additional operating budget impact is estimated, assumptions and calculations should be reported in this section.

**Section 22 page 3; section 19 page 8**

Since giftedness (only and not in the presence of another disability under the IDEA) is not a disability category recognized under the IDEA, the federal term FAPE does not apply to students who are gifted in New Mexico. That is because although state rules for developing an “appropriate” IEP for students who are gifted contain many of the same required elements, some of the IDEA’s substantive requirements are specifically exempted by state special education rule. In other words, students who are gifted only are not entitled to a FAPE as defined by the IDEA. Instead, state special education rules for gifted education determine what procedures and programmatic standards apply as an “appropriate” free public school education for students who are gifted. “Gifted child” means a school-age person, as defined in Section 22-13-6 (D) NMSA 1978, whose intellectual ability paired with subject matter, aptitude/achievement, creativity/divergent thinking or problem-solving/critical thinking meets the eligibility criteria in 6.31.2.12 NMAC, and for whom a properly constituted IEP team determines that special education services are required to meet the child’s educational needs. The public agency responsibilities set forth in 6.31.2.9 NMAC do not apply to gifted education programs.

According to a 2010 Journal of Advanced Academics study, “both grade-based and content based acceleration are effective interventions in academic and social-emotional domains for high-ability students. Grade-accelerated students generally outperform their chronologically older classmates academically, and both groups show approximately equal levels of social and emotional adjustment.” The study noted there was no evidence that acceleration had a negative effect on a student’s social-emotional development and recommended the following framework for acceleration options:

**Content-based acceleration**

- Single-subject acceleration, in which a student is temporarily transferred to a higher grade level for one subject area such as math, but returns to take all other grade level courses;
- Curriculum compacting, in which a student engages in advanced content or skill development in a specific area while remaining in the regular classroom;
- Dual enrollment, in which students enroll in higher level coursework;
- Credit by examination or prior experience, in which a student’s instruction entails reduced amounts of introductory material based on preassessment of the student’s mastery;
- Advanced placement programs, which allow students to earn university credit based on exams; and

- International baccalaureate programs, which allow students to take corresponding university curricula and complete international exams.

**Grade-based acceleration**

- Early entrance to school, typically early entrance to kindergarten or first grade, which shortens the wait time to start school;
- Whole-grade acceleration, commonly known as “grade skipping,” where a student is placed in a grade above the subsequent grade the following year;
- Grade telescoping, in which a group of advanced students is accelerated through more than one year’s curriculum in one year for all academic areas; and
- Early entrance to college; in which a student receives an early diploma or enrolls in a college program early.

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