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## FISCAL IMPACT REPORT

**SPONSOR** SFC **ORIGINAL DATE** 02/24/21  
**LAST UPDATED** 03/18/21 **HB** \_\_\_\_\_  
**SHORT TITLE** K-5 Plus & Extended Learning at All Schools **SB** CS/SB40 /aHEC  
**ANALYST** Liu

### ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY21	FY22	FY23	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
<b>Total</b>	NFI	NFI	NFI			

(Parenthesis ( ) Indicate Expenditure Decreases)

Relates to HB84, HB130, HB138, HB171, HB175, HB184, HB247, SB131  
 Relates to Appropriation in the General Appropriation Act of 2021

### SOURCES OF INFORMATION

LFC Files

No Response Received From  
 Public Education Department (PED)

### SUMMARY

#### Synopsis of HEC Amendment

The House Education Committee amendment to Senate Finance Committee substitute for Senate Bill 40 removes the mandate to require statewide participation in K-5 Plus or Extended Learning Time Programs (ELTP) for FY22. The amendment also adds new provisions allowing public schools to renew participation in K-5 Plus through notification to PED rather than formal application each year.

#### Synopsis of Original Bill

The Senate Finance Committee substitute for Senate Bill 40 temporarily mandates that all elementary schools provide K-5 Plus programs or Extended Learning Time Programs (ELTP) and all secondary schools provide ELTP during FY22 if in-person instruction is not prohibited by executive order. Each public school will apply provisions of the Attendance for Success Act for the additional instructional days and PED can provide funding for these programs, regardless of formal application, based on FY21 or FY21 enrollment, whichever is higher.

The bill also amends the Public School Code, changing K-5 Plus programs to K-5 Plus schools, requiring K-5 Plus schools and ELTPs to add instructional (rather than contract) days to the calendar, establishes minimum instructional day requirements, clarifies that K-5 Plus schools and ELTPs will be schoolwide and considered an extension of the school calendar, and grandfathers existing K-5 Plus schools and ELTPs that provide the same number of instructional days and hours as prior years. The bill further removes evaluation and assessment requirements for K-5 Plus programs and deadlines for schools that apply for K-5 Plus if sufficient funding is available.

## FISCAL IMPLICATIONS

The bill does not contain an appropriation but requires all schools to participate in K-5 Plus or ELTP in FY22. The HEC amendment strikes this mandate. Assuming 146 thousand elementary students participate in K-5 Plus and 175 thousand secondary students participate in ELTP, the total cost of programming at the current unit value of \$4,536.75 would be approximately \$286.3 million. The HAFC Substitute for House Bill 2 includes \$280 million for K-5 Plus and ELTP formula funding and \$15 million for additional instructional time (AIT) pilots, which could be used to cover the costs of this bill.

Although the bill only mandates K-5 Plus and ELTP for FY22, statewide implementation of these programs would likely create recurring expenditures in subsequent years. The HEC amendment strikes this mandate. Over \$50 million of the aforementioned K-5 Plus and ELTP formula funding, \$15 million for AIT pilots, and \$5.3 million for K-5 Plus and ELTP transportation is appropriated from the public education reform fund (PERF) – a nonrecurring funding source. PERF balances are estimated to reach \$170 million by the end of FY21 after accounting for reversions from unspent K-5 Plus and ELTP general fund appropriations in FY20 and FY21 and PERF appropriations made for FY21 initiatives (See Attachment 2).

The federal American Rescue Plan of 2021 will provide an estimated \$979 million to New Mexico K-12 schools, of which \$225 million must be reserved by schools and PED for activities to address learning loss. PED must also reserve \$19.6 million for summer enrichment and afterschool programs. This federal aid, in combination with state appropriations for K-5 Plus and ELTP, would be sufficient to provide universal extended instructional time for all students in all schools across the state.

## SIGNIFICANT ISSUES

In spite of the Covid-19 public health emergency, plaintiffs in the consolidated education sufficiency cases of *Martinez v. New Mexico* and *Yazzie v. New Mexico* continue to argue the state has a constitutional obligation to provide a uniform and sufficient education for all students. The landmark *Martinez-Yazzie* ruling ordered the state to provide schools with the resources (such as instructional materials, properly trained staff, curricular offerings, and extended learning time) necessary to give at-risk students the opportunity to be college and career ready. Additionally, the order required the state to establish an accountability system that could measure the efficacy of programs and assure that local districts were spending funds in a way that efficiently and effectively met the needs of at-risk students.

In response to findings in the *Martinez-Yazzie* lawsuit, the state invested heavily in two evidence-based programs in FY20 – the K-5 Plus extended school year initiative, which adds 25 days to the regular school calendar and ELTP, which adds 10 additional school days and requires

schools to provide afterschool programming and 80 hours of teacher professional development. In FY20, 16 thousand students participated in K-5 Plus and 83 thousand students participated in ELTP (see Attachment 1).

Statewide adoption of K-5 Plus remains a challenge due to long-standing perceptions about school calendars. Voluntary participation in these programs could impact statewide equity of funding and programming, particularly for at-risk students. For example, the Los Alamos school district (one of the state’s highest performing districts) will implement a districtwide K-5 Plus program for all elementary students in FY21 while the Gallup school district, a *Martinez-Yazzie* lawsuit plaintiff, will not implement any K-5 Plus programming. Although the state argued PED lacked authority to enforce spending at a local level, court findings in the *Martinez-Yazzie* lawsuit opined that PED had interpreted its statutory authority too narrowly and noted the state was responsible for ensuring that all schools spent funding in a way that improved outcomes for all students.

PED notes participation in K-5 Plus has been far below expectations, and schools districts and charter schools have left significant portions of appropriations unspent. Since FY20, approximately \$200 million in unspent K-5 Plus and ELTP funds has reverted to PERF (estimated balances at the end of FY21 will be about \$170 million). School district and charter school leaders have cited various reasons for opting out of these programs, particularly K-5 Plus. Among the reasons were the inability to adhere to the cohort requirements for K-5 Plus (requiring K-3 Plus students to remain with the same teacher during the regular school year), a lack of buy-in on the part of staff, and resistance from community members who felt adding 25 school days during the summer conflicted with other community priorities. Of the 141 school districts and charter schools in the state, 40 districts and 45 charters participated in FY20. The pandemic contributed to a precipitous drop, with only 13 districts and 18 charters choosing to participate in K-5 Plus in FY21.

Despite low uptake in K-5 Plus, PED notes school districts and charter schools have increasingly opted in to ELTP. This is partly due to the requirement to add only 10 instructional days instead of 25 in K-5 Plus, which school districts and charters indicated was easier to accomplish and received more community support. Of the state’s 141 LEAs, 27 districts and 32 charters participated in FY20. That number increased to 46 district and 51 charters participating in FY21. Presumably, more schools would choose ELTP over K-5 Plus if required to select one.

Provisions of this bill would authorize PED to approve the following program designs:

- 5-day school week ELTP: 190 instructional days or 10 additional instructional days, whichever adds fewer days;
- 4-day school week ELTP: 160 instructional days or 8 additional instructional days, whichever adds fewer days;
- 5-day school week K-5 Plus: 205 instructional days or 25 additional instructional days, whichever adds fewer days;
- 4-day school week K-5 Plus: 175 instructional days or 20 additional instructional days, whichever adds fewer days; or
- Dual K-5 Plus and ELTP: 55 additional instructional hours through ELTP.

## PERFORMANCE IMPLICATIONS

PED notes by the end of the 2020-2021 school year, the Covid-19 pandemic will have forced New Mexico's schools to provide a mix of in-person and distance learning for more than an entire school year. Despite teachers' best efforts, most research estimates that students will be significantly behind where they would normally have been if able to attend full-time in-person school. A report from McKinsey & Company, for example, found students may lose between five and nine months of learning by the end of this school year. Students of color, the study found, may lose as many as 12 months of learning.

Two 2020 LFC evaluation reports reviewed the state's education system during the Covid-19 pandemic and found lower student engagement with remote learning, disparities in student access to educational technology, and limited assessment of student performance. The reports found middle and high school students were failing remote classes at high rates, teachers could not find or reach approximately one in five students, and social isolation posed serious mental health risk to students and families. The evaluations recommended a universal extension of the school calendar in FY22 through its existing K-5 Plus and ELTPs at an incremental cost of \$138 million to address learning lost during school closures.

K-3 Plus, the precursor to K-5 Plus, was scientifically shown to improve student performance relative to peers when programs are executed correctly. Students who participated in K-3 Plus in FY18 before entering kindergarten the same year were more likely to be at benchmark on the Istation assessment than students who did not attend K-3 Plus. One quarter, or 25 percent, of K-3 Plus students were proficient or above on Istation in the beginning of kindergarten, compared to 17 percent of students who were not in a K-3 Plus program. The benefits of K-3 Plus were even more pronounced for low-income students, where 24 percent of low-income students were at benchmark after participating in K-3 Plus compared with 12 percent of low-income students who did not participate in the program. The kindergarten readiness findings were similar to the Utah State University independent, scientific evaluation of the K-3 Plus program, published in 2015. The evaluation assessed students over four years and found students enrolled in K-3 Plus the summer prior to kindergarten were more ready for school and outperformed their peers.

Laws 2019, Chapters 206 and 207, which expanded K-3 Plus to K-5 Plus in FY20, required districts to implement the program correctly. LFC analysis shows students participating in both K-3 Plus and prekindergarten show improved academic achievement, with stronger gains in higher fidelity programs (i.e., high fidelity programs add at least 25 days, end no earlier than two weeks prior to the first day of the regular school year, and keep K-3 Plus students with the same teacher during the regular school year). Provisions of this bill would allow some schools to provide fewer than 25 days to qualify for K-5 Plus funding, depending on calendar schedules or school size.

Provisions of this bill would remove requirements to evaluate or assess K-5 Plus students. Currently, K-5 Plus students are assessed through the duration of the 25-day program using Istation – a K-2 math and reading test. Presumably, by foundationally extending the school year, the state would simply use annual (and interim) summative assessments to evaluate the effects of K-5 Plus rather than the beginning of the year as the program was previously designed.

The bill also would require school districts and charter schools to apply the provisions of the Attendance for Success Act to additional instructional days. The HEC amendment strikes this mandate. Because previous implementation models of K-5 Plus and ELTP were not always applied to whole school populations, PED notes the provisions of the Attendance for Success Act

did not apply. Subsequently absences during K-5 Plus and ELTP were not counted toward students' overall attendance.

## **ADMINISTRATIVE IMPLICATIONS**

Provisions of the bill would require the PED secretary to ensure each school district or charter school made plans in its operating budget to offer K-5 Plus or ELTP for all students prior to approving a school district's or charter school's FY22 operating budget. The HEC amendment strikes this mandate. As such, PED notes every school board and charter school governing council would have to change school calendars. Because some school boards adopt calendars two or three years ahead of time, some may have to adjust previously adopted calendars.

ECECD notes the department will need to modify child care contracts to meet the extended school year schedule. FIT/early intervention providers will have to schedule services and revise plans of care according to the extended school year schedule. School districts will need to evaluate facility and staffing needs to address extending learning programs. Child care facilities will need to adapt their out of school care program schedules, staffing levels, timeframes, and transition plans to accommodate the extended school year.

## **CONFLICT, RELATIONSHIP**

This bill relates to the state equalization guarantee (SEG) distribution appropriation in the General Appropriation Act of 2021. Currently, the HAFC Substitute for House Bill 2 includes sufficient appropriations from the general fund and PERF to address implementation of this bill in FY22.

This bill relates to House Bills 84, 130, 138, and 171, which would create new program units in the funding formula and consequently reduce the per unit cost of K-5 Plus and ELTP formula components (i.e. reduces fiscal impact of this bill). The bill also relates to House Bill 175, which holds district budgets harmless from Covid-19-related enrollment declines (and would also reduce the fiscal impact of this bill from unit value adjustments); House Bill 184, which establishes the AIT pilot and allows schools to provide K-5 Plus through the addition of equivalent instructional hours, rather than instructional days; House Bill 247, which makes an appropriation for afterschool and summer programs; and Senate Bill 131, which changes how K-5 Plus and ELTP program units are counted within the local-state match formula for public school capital improvement (SB-9) distributions.

## **OTHER SUBSTANTIVE ISSUES**

Prior to the Covid-19 pandemic, PED initially projected FY21 participation would be 50 thousand students for K-5 Plus and 150 thousand students for ELTP. However, in light of the pandemic, PED closed schools and cancelled K-5 Plus programs in summer 2020. As a result, participation in K-5 Plus programs in FY21 remained flat at 16 thousand students, an increase of 100 students from FY20. In contrast, participation in ELTPs grew to 134 thousand students in FY21, an increase of 51 thousand students, or 62 percent. Although participation was likely spurred in part by provisions during the special session requiring schools to make up lost instructional time, nearly half of all students statewide will participate in an ELTP during FY21. Some schools are also implementing universal K-5 Plus and ELTPs to provide an extended year and longer school day for all students, given the provision allowing conversion of ELTP time

into hours rather than days when done in conjunction with K-5 Plus.

For FY21, the Central, Cobre, Cuba, and Jemez Mountain school districts will implement both K-5 Plus and ELTP districtwide, providing an extended school year calendar for all students and staff. Scaling programs up allows schools to leverage economies of scale and provide additional instructional time for student enrichment, afterschool intervention, and educator professional development. Nine other school districts applied for both K-5 Plus and ELTP in FY21, generating up to \$1,858 more per student and providing upwards of 20 percent more in additional compensation for teachers.

The bill's temporary provision mandating K-5 Plus and ELTP implementation statewide for FY22 is dependent on whether the governor prohibits in-person instruction. The HEC amendment strikes this mandate. On March 13, 2020, the governor ordered schools to close for three weeks, starting on March 16, in response to the Covid-19 pandemic. On March 27, the governor extended school closures through the remainder of the school year. Although PED provided guidance for schools to reopen in a remote or hybrid setting in September 2020, the department limited in-person instruction to special education students, small school districts, and elementary grade levels. In January 2021, the governor announced that every school district would be able to reopen in a hybrid instructional setting beginning February 8, 2021. Despite declining transmission rates and increasing numbers of vaccinations, several schools districts (including Albuquerque) elected to remain in remote learning for the remainder of the school year.

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