

LFC Requester:

Liu

**AGENCY BILL ANALYSIS
2023 REGULAR SESSION**

SECTION I: GENERAL INFORMATION

Check all that apply:

Original Amendment
 Correction Substitute

Date Prepared: 01/30/23

Bill No: [HB194](#)

Sponsor Small
 Short PUBLIC SCHOOL FINANCE
 Agency Name and Code Number: PED - 924
 Person Writing Gregory Frostad
 Phone: (505) 470-5752 Email: gregory.frostad@ped.nm.gov

SECTION II: FISCAL IMPACT**APPROPRIATION (dollars in thousands)**

Appropriation		Recurring or Nonrecurring	Fund Affected
FY23	FY24		
None	None	N/A	NFA

(Parenthesis () Indicate Expenditure Decreases)

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY23	FY24	FY25		
None	None	None	N/A	NFA

(Parenthesis () Indicate Expenditure Decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY23	FY24	FY25	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total	None	\$327,585.0	\$327,585.0	\$982,755.0	Recurring	General Fund

(Parenthesis () Indicate Expenditure Decreases)

Duplicates/Relates to Appropriation in the General Appropriation Act: See Fiscal Implications below

SECTION III: NARRATIVE**BILL SUMMARY**

Synopsis: House Bill 194 (HB194) is a Legislative Finance Committee (LFC) bill. HB194 would

amend the Public School Finance Act and other sections of the Public School Code to:

- repeal existing K-5 Plus and extended learning programs that provide funding for schools to extend their schools years through factors in the funding formula and create a K-12 Plus program and corresponding funding formula factor;
- increase the length of a school year to 1,140 hours for kindergarten through grade 12;
- increase the multiplier used to calculate the at-risk index; and
- increase the responsibility factor for principals based on the Family Income Index (FII) (see “Technical Issues” below).

FISCAL IMPLICATIONS

HB194 does not contain an appropriation.

The LFC FY24 budget recommendations include:

- \$161.3 million to extend the school year to 1,140 hours and \$79.6 million to fund the K-12 Plus program proposed in HB194, as well as an additional \$150 million designated for any increase in demand to participate in the proposed K-12 Plus program compared to existing demand for current programs;
- \$31.9 million for an increase in the at-risk index; and
- \$7.9 million for an increase to the principal responsibility factor.

The Executive Budget and Public Education Department (PED) recommendations include a total of \$327.585 million for the proposals in HB194: \$221 million to increase the school year to 1,140 hours; \$40 million for increased teacher professional work time; \$50 million for enhanced extended learning time (K-12 Plus); \$53.3 million for the increase in the at-risk factor; and \$3.285 million to increase the principal responsibility factor.

SIGNIFICANT ISSUES

HB194’s proposed K-12 Plus program compared to current extended learning options. Current statute – Section 22-13D-2 NMSA 1978 (K-5 Plus) and Section 22-8-23.10 NMSA 1978 (Extended Learning) - provides for two extended-year options for schools:

- K-5 Plus, which, among other requirements, requires 205 instructional days, or an additional 25 days added to a school’s “base” calendar for schools with 5-day weeks, and no fewer than 175 instructional days per school year or 20 additional instructional days for schools on a 4-day week (whichever requires the addition of fewest days); and
- extended learning time (ELT), which requires 190 instructional days or an additional 10 days added to a school’s base calendar for schools with 5-day weeks and 160 days or 8 additional days for schools on 4-day weeks (whichever requires the addition of fewest days).

The Public School Finance Act includes funding formula multipliers of student membership (MEM) multiplied by 0.3 for K-5 Plus schools and MEM multiplied by 0.11 for ELT. The multipliers generate program units for schools, which multiplied by the unit value provides the funding participating schools receive for the programs.

The K-12 Plus program in HB194 would fund school districts and charter schools through a factor in the public school funding formula on a tiered scale based on the amount of days added to the school calendar and whether they operate on a 5-day week or a 4-day week:

Days in Calendar	Length of	Program Unit Calculation
------------------	-----------	--------------------------

	Week	
181 – 190 days	5-day week	MEM x 0.016 x days added
153 – 160 days	4-day week	MEM x 0.016 x days added
191 – 205 days	5-day week	MEM x 0.024 x days added
161 – 172 days	4-day week	MEM x 0.024 x days added

Participating schools would be required to provide out-of-school time program opportunities for academic learning, extracurricular or enrichment programming for students and 80 noninstructional hours per school year for instructional staff. HB194 does not define noninstructional hours. Most schools are currently meeting or very close to meeting the noninstructional hours requirement in HB194. The average amount of professional development time in teacher contracts for the 2022-2023 school year is 76 hours.

An example of how the LFC budget recommendations along with the methodology in HB194 might fund Las Cruces Public Schools in FY24 compared to FY23 is shown in Table 1 below. A comparison with the Legislative Education Study Committee’s (LESC’s) similar bill, House Bill 130 (HB130) is included. Calculations are based on proposed FY24 funding and current participation in ELT in FY23.

Las Cruces has two school calendars, both of which operate on 5-day week and would receive funding under both the LFC and LESC proposals based on the 4 additional days they have in their Calendar 1 and the 11 additional days in Calendar 2.

Table 1. Las Cruces Public Schools FY23 ELT Funding Compared with LFC HB194, LESC HB130, and LFC and LESC proposed FY24 funding

FY23 Calendars	Days in Calendar (includes 10 ELT days)	FY23 ELT funding	LFC HB194: FY24 K-12 Plus and calendar funding	LESC HB130: FY24 K-12 Plus and calendar funding
Calendar 1 Calendar 2	184 days 191 days	\$18.4 million	\$21.1 million	\$22.2 million
Difference over FY23			+\$2.7 million	+\$3.8 million

HB194 also amends various sections of the Public School Code to reflect the repeal of K-5 plus and existing ELT programs and replacement with K-12 Plus.

- *Comparison: The LESC’s HB130 would also create a K-12 Plus program that incentivizes schools on a 5-day week to adopt more than 180 school days and schools on 4-day weeks to adopt more than 155 school days and would generate units at a rate of MEM multiplied by a factor of 0.012 for each additional day added.*

Increased school year. Current statute requires that students in full-day kindergarten through sixth grade participate in “school-directed programs” for a minimum of 990 hours, and students in seventh through 12th grade participate in “school-directed programs” for a minimum of 1,080 hours. Local school boards and charter school governing bodies have authority to set local school calendars within statutory guidelines to meet local need. Some schools operate on a 5-day-per-

week schedule and some on a 4-day week. All districts and charters submit their school calendars to PED for approval. It is not uncommon for school districts to have several different calendars for different schools or grades.

HB194 would increase the required length of the school year from 990 hours to 1,140 hours for full day kindergarten through sixth grade and increase the required length of the school year from 1,080 hours to 1,140 hours for grades seven through 12.

- Of the 159 districts and charters with elementary grades in school year 2022-2023, 66, or 41.5 percent, exceed 1,140 hours.
- Of the 172 districts or charters with secondary grades, 116 or 67.4 percent exceed 1,140 hours in school year 2022-2023.

HB194 would also:

- eliminate the school year and length of day requirements in statute related to half-day kindergarten (according to data at the Public Education Department (PED) there are no longer any remaining half-day kindergarten programs in the state);
- preserve the statutory minimum lengths of day of five and a half hours for kindergarten through grade six and six hours per day for grades seven through twelve;
- preserve the existing language in the school year provisions that reads, “regular students shall be in school-directed programs”; neither of the terms “regular students” and “school-directed programs” are defined in the Public School Code and have been the subject of some debate; and
- preserve the existing stipulation that up to 33 hours of full day kindergarten and up to 22 hours of grades one through six may be used for home visits or parent-teacher conferences and that 12 hours of grades seven through twelve may be used for next-step plans and parent-teacher conferences (HB194 does not propose minimum professional time or noninstructional hours for teachers outside of the K-12 Plus program).
- Comparison: *The LESC-endorsed legislation, HB130, also proposes to increase the length of the school year to 1,140 instructional hours for kindergarten through grade twelve. HB130 would also:*
 - *preserve language on half-day kindergarten and set the required hours to 550;*
 - *strike the minimum lengths of the school day;*
 - *change the language in the school year provisions to “...students shall be in school programs”;*
 - *strike the current provisions related to home visits and parent teacher conferences but replace them with up to 60 instructional hours per school year that may be used as professional work hours for teachers (which may include home visits and parent-teacher conferences) and allow those 60 hours to be used as part of the 1140 hour per year minimum; and*
 - *define instructional hour and professional work hour.*

By allowing districts to count up to 60 hours as part the minimum of 1140 hours per year of instructional time, the approach taken in HB 130 would dilute increases in student learning time in many districts and completely negate any increases in student learning time in others. Secondary schools already must provide 1080 hours per year, so those districts adding 60 hours of professional work time would not add any student learning time. Similarly, elementary schools on average provide 1076 hours per year, according to PED, so the same resulting lack of student instructional time would apply to districts whose elementary schools are at, near, or above that average. Conversely, HB 194 does not allow for any professional work time to count in the 1140

hours, except for the current parent-teacher conference hours noted in the previous bullet. This significant policy difference in these two approaches would lead to greater actual student instructional time under HB 194.

At-risk index. HB194 increases the at-risk multiplier used to calculate the at-risk index in the Public School Finance Act from 0.30 to 0.33. A school district’s at-risk index is based on the three-year average rate of the percentage of student membership who are from low-income families, the percentage of students who are English learners, and student mobility.

- Comparison: HB199 increases the at-risk index from 0.3 to 0.35

Responsibility factor for leaders. HB194 would provide that the responsibility factor for principals and assistant principals, as defined in Section 22-10A-2 NMSA 1978, shall be multiplied by 0.1 of the school's Family Income Index (FII) amount as calculated in the Family Income Index Act (FIIA), which was enacted in 2021.

The FIIA defines the calculation of FII for a school as the percentage of students in each income category (see “FII Calculation,” below); Table 2 describes the current leadership factors.

Table 2. Current Leadership Factors

Leadership Position (Principals)	Current factor
Elementary Principal	1.2
Middle/Junior High Principal	1.4
High School Principal	1.6
Elementary Assistant Principal	1.1
Middle/Junior High Assistant Principal	1.15
High School Assistant Principal	1.25

As noted below, under “Technical Issues,” the sponsor may wish to consider an amendment to the methodology for calculating the new factors. As calculated according to current wording in the bill, the new factor for an Elementary Principal at a school with an FII of 20 percent would be calculated as follows:

$$\text{leadership factor} \times 0.1 \times \text{FII} = 1.2 \times 0.1 \times 0.2 = \mathbf{0.024}$$

This significantly *decreases* the leadership factor. If the intent is to increase the leadership factors by 10 percent, language in the bill should be amended to multiply the responsibility factor by 1.1. If the intent is also to tie the leadership factor increase to school need through FII, closer study would be necessary to determine the correct methodology, as FII is a percentage and mathematically represented in decimals would decrease a number in multiplication.

If calculated properly, tying the leadership factor to the FII of an individual school would pose issues with implementation as this method would essentially create a different leader pay scale for every school in the state, and also potentially create significant pay inequities among leaders within a school district.

- Comparison: HB199 increases each of the leadership factors by 0.05

FII Calculation. The FIIA defines the FII calculation for each public school as follows:

- for FY22, the total of the percentages of the public school's students in the extremely low and very low income categories during the preceding fiscal year;
- for FY23, the average of the sum of the percentages of the public school's students in the extremely low and very low income categories during the immediately preceding two fiscal years; and
- for FY24 and each subsequent fiscal year, the average of the sum of the percentages of the public school's students in the extremely low and very low income categories during the immediately preceding three fiscal years.

The act defines the income categories according to family household income as a percentage of the federal poverty level as follows:

- "above average income" is 225 percent or higher;
- "moderate income" is 185 to 225 percent;
- "low income" is 130 to 185 percent;
- "very low income" is 75 to 130 percent; and
- "extremely low income" is under 75 percent.

PERFORMANCE IMPLICATIONS

N/A

ADMINISTRATIVE IMPLICATIONS

HB194 would be applicable to the 2023-2024 school year, and the bill would become effective June 16, 2023. Implementation in school year 2023-2024 would require an expedited building out of validation reports in STARs to appropriately track MEM and school days.

HB194 does not specify that, within a district, participating K-12 schools must adhere to the same schedule, which could lead to a wide array of calendars per district and increase the administrative time needed for PED to approve district calendars.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

- Relates to [HB130, K-12 Plus Program](#), which proposes to establish a K-12 Plus Program for schools on a five-day calendar with more than 180 instructional days and for schools on a four-day calendar with more than 155 instructional days, both of which must meet additional requirements of the bill.
- Also relates to [HB199, Increase School At-Risk Index](#), which modify the SEG to increase the cost differentials used to calculate program units starting in FY24 for:
 - at-risk students from 0.30 to 0.35;
 - fine arts education from 0.05 to 0.055;
 - the leadership factor for each category of school leaders by 0.05.

TECHNICAL ISSUES

K-12 Plus. Although HB194 cleans up language related to the repeal of K-5 Plus and extended learning time in 22-8-23.12 NMSA 1978, New Program Funding, the bill should also add to this section the anticipated number of days for a new program since the new calculation is based on both membership and days added.

Among the changes that would be made by HB194 to amend current statutory language in the repeal of existing programs, HB194 would amend each of the sections defining Level 1, 2, and 3

teacher licenses as follows:

- The minimum salary for a level one teacher is fifty thousand dollars (\$50,000) for a standard nine and one-half month contract [~~provided that teachers in an extended learning time program or K-5 plus program shall receive additional salary at the same rate as their base salary for that teaching time~~]

Considering that HB194 would increase the length of school year, PED recommends striking language related to the “standard nine and one-half month contract” and referring instead to the section of the Public School Code related to the length of school year 22-2-8.1 NMSA 1978, which is defined in HB194 as 1,140 hours.

Leadership Factor. As noted above in “Substantive Issues,” the sponsor may wish to consider an amendment to the methodology for calculating the new leadership factors, as the calculation specified in HB194 *decreases* the responsibility factors.

OTHER SUBSTANTIVE ISSUES

New Mexico has continued to linger at the bottom of national educational performance reports for decades despite numerous comprehensive educational reforms over the years. Studies have demonstrated the benefits of extended learning time for students, including the American Institutes for Research (AIR) study commissioned by the New Mexico Legislature in 2008 to determine the cost of providing a sufficient education for all public schools in New Mexico.

Among AIR’s recommendations not yet implemented by policymakers was the recommendation to extend the school year to 185 days and add four planning days for teachers for a total of approximately 1,512 hours.

In 2021 the Legislature appropriated additional funds for a pilot K-12 Plus Program and funding for schools participating in existing extended learning programs to provide a 3% raise to staff at participating schools.

Of the 189 school districts and charter schools in the state, only 13 are participating in K-5 Plus during the 2022-2023 school year. Among the reasons cited for low participation were the inability to adhere to the strict teacher/class cohort requirements of the K-5 Plus statute, a lack of buy-in on the part of staff, and resistance from community members who felt adding additional school days during the summer conflicted with other community priorities.

School districts and charter schools have opted into the existing ELT program at a slightly higher rate. This is partly due to the requirement to add only 10 instructional days instead of 25 days in K-5 Plus, which school district and charter leaders said was easier to accomplish and received more community support. Of the state’s 189 school districts and charter schools, 84 are participating in ELT during the 2022-2023 school year.

ALTERNATIVES

N/A

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

N/A

AMENDMENTS

The sponsors may want to consider adding a minimum requirement for professional work time hours for educators as that is key to improving classroom instruction.

The sponsors may want to consider converting the minimum number of days to hours for districts earning the K-12 Plus funding formula multiplier enhancements to effectively incentivize more student learning time because some schools, including charter schools, have fewer school days but more hours per day.

DRAFT