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**PUBLIC EDUCATION DEPARTMENT
BILL ANALYSIS
2023 REGULAR SESSION**

SECTION I: GENERAL INFORMATION

Check all that apply:

Original Amendment
Correction Substitute

Date Prepared: 03/08/23

Bill No: [HB130a/HFL#1](#)

Sponsor: Garratt
Short
Title: K-12 PLUS PROGRAM

Agency Name
and Code

Number: PED - 924

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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	\$310,659.0	\$310,659.0	\$621,318.0	Recurring	General Fund/ PERF

(Parenthesis () Indicate Expenditure Decreases)

Duplicates/Relates to Appropriation in the General Appropriation Act: The House Appropriations and Finance Committee Substitute for House Bill 2 (HB2cs/HAFc) includes in the state equalization guarantee \$310.659 million from the General Fund and \$60.0 million from the Public Education Reform Fund (PERF) to fund a bill meeting the criteria of HB130a/HFL#1. The provisions in HB2cs/HAFc would provide \$202 million to increase the minimum school calendar requirements and \$168.659 million for K-12 Plus programs. A portion of unused FY24 K-12 funds would revert to the PERF.

SECTION III: NARRATIVE

BILL SUMMARY

Synopsis of House Floor Amendment #1: House Floor amendment #1 to House Bill 130 (HB130a/HF1#1) changes the proposed funding formula factors for the K-12 Plus program to membership multiplied by 0.012 for each day added between 181-190 days for schools on a five-day week or 156-165 days for schools on a four-day week, and membership multiplied by 0.016 for each day added from 191-205 days on a five-day week or 166-175 days for schools on a four-day week.

Synopsis of Original Bill: House Bill 130 (HB130) is a Legislative Education Study Committee (LESC) endorsed bill. HB130 would repeal the existing K-5 Plus Act and extended learning time program in the Public School Code and enact a new section to create the K-12 Plus Program. The bill also defines instructional and professional hours and sets the minimum combined instructional and professional work time at 1,140 hours per calendar year for all grades (except half-day kindergarten programs, which shall have a minimum of 550 instructional hours per year). Schools may use up to 60 of the 1,140 hours as professional work hours for teachers.

FISCAL IMPLICATIONS

The bill does not contain an appropriation.

The FY24 LESL public school support budget recommendations include \$202 million in the public school funding formula (also referred to as the State Equalization Guarantee, or SEG) to increase instructional time to 1,140 hours and an additional \$50.3 million in the SEG to fund the K-12 Plus program proposed in HB130. The LESL also recommends \$50 million in nonrecurring funds from the Public Education Reform Fund (PERF) as additional funding for K-12 Plus if new demand exceeds current K-5 Plus and extended learning program participation.

SIGNIFICANT ISSUES

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 twelfth grade 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 as noted in the example below.

The average amount of professional development time in teacher contracts for the 2022-2023 school year is 76 hours, which is more than the amount of professional time that would be required by HB130.

For a secondary school at the current minimum number of instructional hours (1,080) that has the average number of teacher professional development hours (76), no additional hours would be needed to meet the proposed 1,140 minimum hours.

HB130 provides the following definitions:

- “instructional hours” are defined as a period at school during which students receive instruction aligned to academic content and performance standards and includes:
 - a school program set forth in Sections 22-13-1 and 22-13-1.1 NMSA 1978;

- enrichment programs that focus on problem solving and cognitive skills development;
 - content that provides technical knowledge, skills and competency-based applied learning;
 - research- or evidence-based social, emotional or academic interventions; and
 - instruction that occurs at the same time breakfast is served or consumed in accordance with the breakfast after the bell program or federal requirements.
- “professional work hour” means time during which a teacher participates in professional work aligned to challenging academic content and performance standards, including:
 - home visiting or parent-teacher conferences;
 - educator training or professional development; and
 - mentorship, coaching and collaboration between school employees.

Current statute provides for two extended-year options for schools: K-5 Plus, which adds 25 days to a school’s “base” calendar; and extended learning time (ELT), which adds 10 days to a school’s calendar. 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.

HB130 would create the K-12 Plus program to incentivize 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. Participating schools would generate program units in the SEG equal to MEM multiplied by a factor of 0.012 for each additional day added.

An example of how the HB2cs/H AFC appropriations along with the methodology in HB130a/HFI#1 might fund Las Cruces Public Schools in FY24 compared to FY23 is shown in the table below. Calculations made by PED staff are based on the proposed FY24 funding, current participation in ELT in FY23, and current year membership. Las Cruces would receive funding based on the four additional days they have in their Calendar 1 at a factor of 0.012 and the one additional day in Calendar 2 at a factor of 0.016.

**Las Cruces Public Schools FY23 ELT Funding
Compared with LESC HB130a/HFI#1 and proposed FY24 funding**

FY23 Calendars	Days in Calendar (includes 10 ELT days)	FY23 ELT funding	HB130a/HFI#1 and proposed FY24 funding
Calendar 1 Calendar 2	184 days 191 days	\$18.4 million	\$19.4 million
		Difference	+\$1.0 million

PERFORMANCE IMPLICATIONS

The goal of providing additional instructional time is to increase student academic performance statewide. Professional work hours are also included to preserve teacher professional time with a goal of improving instruction.

ADMINISTRATIVE IMPLICATIONS

Existing language in Subsection B of Section 2 of the bill directs PED to promulgate rule to establish the requirements for instructional days, standards for an instructional hour, and standards for a full-time teacher or equivalent. PED, therefore, would be required to update pertinent rule to reflect the new and amended requirements of HB130.

Since the school districts and charter schools must submit their SEG educational plan for FY24 in April 2023, the PED will have to issue implementation guidelines with procedures and definitions. This will need to be done since the PED will not be able to promulgate rules prior to the educational plan submission.

PED would have to check the prior year calendars instructional hours by school grade level and school site. This is complicated especially for the schools that have more than one calendar. The calendar review process is burdensome, it is also hard to monitor throughout the year when school's make changes to calendars which could cause them to fall below prior year hours. This would possibly lead to cuts in funding mid-year.

Lengthening the school year will require additional breakfasts and lunches to be provided for students. This will need to be planned for and the Student Success and Wellness Bureau will need to adjust the nutrition application for FY24.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

Relates to [HB194, Public School Finance Changes](#), 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 152 instructional days, both of which must meet additional requirements of the bill.

TECHNICAL ISSUES

HB130a/HF1#1 does not amend references to ELT or K-5 Plus in the following sections of law:

- the Public School Finance Act, sections 22-8-6 and 22-8-23.12 NMSA 1978; and
- the School Personnel Act, 22-10A-7, 22-10A-10 and 22-10A-11 NMSA 1978.

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.

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 in to 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.

HB2 indicates the following about the calendar/K-12 plus appropriations: "The public education department shall not approve the operating budget of any school district or charter school that provides fewer instructional hours to students in the 2023-2024 school year than instructional hours provided to students in the 2022-2023 school year."

PED would have to check the prior year calendars instructional hours by school grade level and school site. This is complicated especially for the schools that have more than one calendar. The calendar review process is burdensome, it is also hard to monitor throughout the year when school's make changes to calendars which could cause them to fall below prior year hours. This would possibly lead to cuts in funding mid-year.

ALTERNATIVES

The bill sponsors may want to consider excluding professional work time from instructional time, such that HB130 would require increasing the minimum number of instructional hours for secondary students.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

None.

AMENDMENTS

None.