

SENATE BILL 1

54TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2019

INTRODUCED BY

Mimi Stewart and Gay G. Kernan and William P. Soules

Pursuant to House Rule 24-1, this document incorporates amendments that have been adopted prior to consideration of this measure by the House. It is a tool to show the amendments in context and is not to be used for the purpose of amendments.

FOR THE LEGISLATIVE EDUCATION STUDY COMMITTEE

AN ACT

RELATING TO PUBLIC EDUCATION; MAKING CHANGES TO THE PUBLIC SCHOOL FUNDING FORMULA; CHANGING THE DEFINITION OF "SCHOOL-AGE PERSON"; REQUIRING PERFORMANCE-BASED BUDGETING; CREATING A RURAL POPULATION RATE; LIMITING SCHOOL SIZE ADJUSTMENTS; SEC → ~~LIMITING CHARTER SCHOOL MEMBERSHIP~~; ← SEC PROVIDING FOR EXTENDED LEARNING TIME; CREATING A REFORM FUND; MAKING K-5 PLUS AN ONGOING PROGRAM; INCREASING TEACHER AND PRINCIPAL MINIMUM SALARIES; REPEALING THE K-3 PLUS PROGRAM; MAKING AN APPROPRIATION.

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

SECTION 1. Section 22-1-2 NMSA 1978 (being Laws 2003, Chapter 153, Section 3, as amended by Laws 2015, Chapter 58, Section 2 and by Laws 2015, Chapter 108, Section 1) is amended to read:

"22-1-2. DEFINITIONS.--As used in the Public School Code:

A. "academic proficiency" means mastery of the subject-matter knowledge and skills specified in state academic content and performance standards for a student's grade level;

B. "charter school" means a school authorized by a chartering authority to operate as a public school;

C. "commission" means the public education commission;

D. "department" means the public education department;

E. "home school" means the operation by the parent of a school-age person of a home study program of instruction that provides a basic academic educational program, including reading, language arts, mathematics, social studies and science;

F. "instructional support provider" means a person who is employed to support the instructional program of a school district, including educational assistant, school counselor, social worker, school nurse, speech-language pathologist, psychologist, physical therapist, occupational therapist, recreational therapist, marriage and family

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therapist, interpreter for the deaf and diagnostician;

G. "licensed school employee" means teachers, school administrators and instructional support providers;

H. "local school board" means the policy-setting body of a school district;

I. "local superintendent" means the chief executive officer of a school district;

J. "parent" includes a guardian or other person having custody and control of a school-age person;

K. "private school" means a school, other than a home school, that offers on-site programs of instruction and that is not under the control, supervision or management of a local school board;

L. "public school" means that part of a school district that is a single attendance center in which instruction is offered by one or more teachers and is discernible as a building or group of buildings generally recognized as either an elementary, middle, junior high or high school or any combination of those and includes a charter school;

M. "school" means a supervised program of instruction designed to educate a student in a particular place, manner and subject area;

N. "school administrator" means a person licensed to administer in a school district and includes school

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principals, central district administrators and charter school head administrators;

O. "school-age person" means a person who is at least five years of age prior to 12:01 a.m. on September 1 of the school year, ~~[and]~~ who has not received a high school diploma or its equivalent ~~[A maximum age of twenty-one shall be used for a person who is classified as special education membership as defined in Section 22-8-21 NMSA 1978 or as a resident of a state institution]~~ and who has not reached the person's twenty-second birthday on the first day of the school year and meets other criteria provided in the Public School Finance Act;

P. "school building" means a public school, an administration building and related school structures or facilities, including teacher housing, that is owned, acquired or constructed by the school district as necessary to carry out the functions of the school district;

Q. "school bus private owner" means a person, other than a school district, the department, the state or any other political subdivision of the state, that owns a school bus;

R. "school district" means an area of land established as a political subdivision of the state for the administration of public schools and segregated geographically for taxation and bonding purposes;

S. "school employee" includes licensed and

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nonlicensed employees of a school district;

T. "school principal" means the chief instructional leader and administrative head of a public school;

U. "school year" means the total number of contract days offered by public schools in a school district during a period of twelve consecutive months;

V. "secretary" means the secretary of public education;

W. "state agency" or "state institution" means the New Mexico military institute, New Mexico school for the blind and visually impaired, New Mexico school for the deaf, New Mexico boys' school, girls' welfare home, New Mexico youth diagnostic and development center, Sequoyah adolescent treatment center, Carrie Tingley crippled children's hospital, New Mexico behavioral health institute at Las Vegas and any other state agency responsible for educating resident children;

X. "state educational institution" means an institution enumerated in Article 12, Section 11 of the constitution of New Mexico;

Y. "substitute teacher" means a person who holds a certificate to substitute for a teacher in the classroom;

Z. "teacher" means a person who holds a level one, two or three-A license and whose primary duty is classroom instruction or the supervision, below the school principal level, of an instructional program or whose duties include

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curriculum development, peer intervention, peer coaching or mentoring or serving as a resource teacher for other teachers;

AA. "certified school instructor" means a [~~teacher or instructional support provider~~] licensed school employee; and

BB. "certified school employee" or "certified school personnel" means a licensed school employee."

SECTION 2. A new section of the Public School Code is enacted to read:

"[NEW MATERIAL] SHORT TITLE.--Sections 2 through 5 of this act may be cited as the "K-5 Plus Act"."

SECTION 3. A new section of the Public School Code is enacted to read:

"[NEW MATERIAL] K-5 PLUS--ELIGIBILITY--REQUIREMENTS.--

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

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

(2) that are low-performing elementary schools;

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

(4) that meet criteria established by department rule.

B. Each K-5 plus program shall:

(1) provide no fewer than twenty-five additional instructional days prior to the start of the regular school year;

(2) keep students that participate in the K-5 plus program with the same teacher and cohort of students during the regular school year;

(3) include additional professional development for K-5 plus teachers in how young children learn to read; SEC→and←SEC

(4) be implemented school-wide SEC→;and .←SEC  
SEC→(5) be mandatory for all students in the participating elementary school no later than the 2022-2023 school year.←SEC

C. An elementary school is ineligible for K-5 plus program units if it fails to meet the requirements of Subsection B of this section."

SECTION 4. A new section of the Public School Code is enacted to read:

"[NEW MATERIAL] K-5 PLUS--OVERSIGHT--REPORTING.--

A. The department shall:

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- (1) enforce the provisions of the K-5 Plus Act;
- (2) issue rules for the development and implementation of K-5 plus programs;
- (3) assist school districts and charter schools in developing and evaluating K-5 plus programs;
- (4) develop and disseminate information on best practices in the area of academic success of early learners;
- (5) establish reporting and evaluation requirements, including student and program assessments, for schools participating in the program;
- (6) annually report to the legislature and the governor on the efficacy of K-5 plus programs; and
- (7) establish a K-5 plus advisory committee composed of representatives of school districts and charter schools that participate in the K-5 plus program, the legislative education study committee, the legislative finance committee and other stakeholders. The advisory committee shall meet twice a year to advise the department on K-5 plus implementation.

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

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SECTION 5. A new section of the Public School Code is enacted to read:

"[NEW MATERIAL] K-5 PLUS--APPLICATION.--

A. School districts and charter schools that wish to participate in the K-5 plus program shall apply to participate in their annual educational plans submitted to the department pursuant to the Public School Finance Act.

B. No later than October 15 of each year, a school district or charter school that wishes to apply for a new K-5 plus program for the next fiscal year shall submit to the department the actual number of students participating in its K-5 plus programs in the current year and an estimate of the number of students the school district or charter school expects will participate in K-5 plus programs in the next year. The department shall not approve a new K-5 plus program unless the school district or charter school notifies the department of its intent to start a new program as required by this section.

C. No later than November 15 of each year, the department shall notify the legislature of the number of students participating in K-5 plus programs in the current school year and of the number of students projected to participate in K-5 plus programs in the next school year."

SECTION 6. Section 22-8-2 NMSA 1978 (being Laws 1978, Chapter 128, Section 3, as amended) is amended to read:

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"22-8-2. DEFINITIONS.--As used in the Public School

Finance Act:

A. "ADM" or "MEM" means membership;

B. "membership" means the total enrollment of qualified students on the current roll of a class or school on a specified day. The current roll is established by the addition of original entries and reentries minus withdrawals. Withdrawals of students, in addition to students formally withdrawn from the public school, include students absent from the public school for as many as ten consecutive school days; provided that withdrawals do not include students in need of early intervention and habitual truants the school district is required to intervene with and keep in an educational setting as provided in Section 22-12-9 NMSA 1978;

C. "basic program ADM" or "basic program MEM" means the MEM of qualified students but excludes the full-time-equivalent MEM in early childhood education and three- and four-year-old students receiving special education services;

D. "cost differential factor" is the numerical expression of the ratio of the cost of a particular segment of the school program to the cost of the basic program in grades four through six;

E. "department" or "division" means the public education department;

F. "early childhood education ADM" or "early

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childhood education MEM" means the full-time-equivalent MEM of students attending approved early childhood education programs;

G. "full-time-equivalent ADM" or "full-time-equivalent MEM" is that membership calculated by applying to the MEM in an approved public school program the ratio of the number of hours per school day devoted to the program to six hours or the number of hours per school week devoted to the program to thirty hours;

H. "operating budget" means the annual financial plan and educational plan required to be submitted by a local school board or governing body of a state-chartered charter school;

I. "performance measure" means a quantitative indicator used to assess the output or outcome of an approved program;

J. "performance target" means the expected level of performance of a program's performance measure;

[F.] K. "program cost" is the product of the total number of program units to which a school district is entitled multiplied by the dollar value per program unit established by the legislature;

[J.] L. "program element" is that component of a public school system to which a cost differential factor is applied to determine the number of program units to which a school district is entitled, including MEM, full-time-

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equivalent MEM, teacher, classroom or public school;

[K-] M. "program unit" is the product of the program element multiplied by the applicable cost differential factor;

[L-] N. "public money" or "public funds" means all money from public or private sources received by a school district or state-chartered charter school or officer or employee of a school district or state-chartered charter school for public use;

[M-] O. "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) in terms of age and other criteria:  
(a) is at least five years of age prior to 12:01 a.m. on September 1 of the school year;

(b) 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]

(c) except as provided in Subparagraph (d) of this paragraph, 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~~

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~~the department~~]; or

(d) has reached the student's twenty-second birthday on the first day of the 2019-2020 school year, is counted in a school district's or charter school's MEM on the third reporting date of the 2018-2019 school year, has been continuously enrolled in the same public school since that reporting date and is still enrolled in that school;

P. "rural population rate" means that proportion of the total population within a school district's geographic boundaries that lives in a rural area and not in an urban area as defined by the United States census bureau;

[N.] Q. "staffing cost multiplier" means:

(1) for fiscal year 2019, the instructional staff training and experience index;

(2) for fiscal year 2020, the weighted average of the instructional staff training and experience index at seventy-five percent and the teacher cost index at twenty-five percent;

(3) for fiscal year 2021, the weighted average of the instructional staff training and experience index at fifty percent and the teacher cost index at fifty percent;

(4) for fiscal year 2022, the weighted average of the instructional staff training and experience index at twenty-five percent and the teacher cost index at seventy-five percent; and

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(5) for fiscal year 2023 and subsequent fiscal years, the teacher cost index; and

[~~0-~~] R. "state superintendent" means the secretary of public education or the secretary's designee."

**SECTION 7.** Section 22-8-5 NMSA 1978 (being Laws 1967, Chapter 16, Section 59, as amended) is amended to read:

"22-8-5. RULES--PROCEDURES.--

A. The department, in consultation with the state auditor, shall establish rules and procedures for a uniform system of accounting and budgeting of funds for all public schools and school districts of the state. The rules, including revisions or amendments, shall become effective [~~only~~] upon [~~approval by the state board and~~] filing with the state records center and archives and publication. A copy shall also be filed with the department of finance and administration.

B. All public schools and school districts shall comply with the rules and procedures prescribed and shall, upon request, submit additional reports concerning finances to the department, including an accounting of the costs of services related to providing a program included in the educational plan approved by the department. In addition, upon request, all public schools and school districts shall file reports with the department containing pertinent details regarding applications for federal money or federal grants-in-aid or regarding federal

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money or federal grants-in-aid received, including details of programs, matching funds, personnel requirements, salary provisions and program numbers, as indicated in the catalog of federal domestic assistance, of the federal funds applied for and of those received.

C. Upon request by the department of finance and administration, the legislative finance committee or the legislative education study committee, the department shall [~~timely~~] furnish information and data obtained from public schools and school districts [~~pursuant to Subsection B of this section~~] and information compiled by the department related to public school finances within ten business days."

SECTION 8. Section 22-8-6 NMSA 1978 (being Laws 1967, Chapter 16, Section 60, as amended by Laws 1999, Chapter 281, Section 21 and by Laws 1999, Chapter 291, Section 2) is amended to read:

"22-8-6. OPERATING BUDGETS--EDUCATIONAL PLANS--  
SUBMISSION--FAILURE TO SUBMIT.--

A. Prior to April 15 of each year, each local school board shall submit to the department an operating budget for the school district and any locally chartered charter [~~schools~~] school in the school district for the ensuing fiscal year.  
[~~Upon written approval of the state superintendent~~]

B. The date for the submission of the operating budget for each school district and each charter school as

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required by this section may be extended to a later date fixed by the [~~state superintendent~~] secretary.

[~~B.~~] C. The operating budget required by this section may include:

(1) estimates of the cost of insurance policies for periods up to five years if a lower rate may be obtained by purchasing insurance for the longer term; or

(2) estimates of the cost of contracts for the transportation of students for terms extending up to four years.

[~~C.~~] D. The operating budget required by this section shall include a budget for each charter school of the membership projected for each charter school, the total program units generated at that charter school and approximate anticipated disbursements and expenditures at each charter school.

E. For fiscal year 2021 and subsequent fiscal years, each school district's and each locally chartered or state-chartered charter school's educational plan shall include:

(1) information on the instructional time offered by the school district or charter school, including the number of instructional days by school site and the number of hours in each instructional day and the frequency of early-release days;

(2) a narrative explaining the identified services to improve the academic success of at-risk students;

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(3) a narrative explaining the services provided to students enrolled in the following programs:

(a) bilingual multicultural education programs;

(b) extended learning time programs, including a report of how the extended learning time is used to improve the academic success of students and professional learning of teachers; and

(c) K-5 plus programs;

(4) a narrative explaining the school district's or charter school's beginning teacher mentorship programs as well as class size and teaching load information;

(5) a narrative explaining supplemental programs or services offered by the school district or charter school to ensure that the Bilingual Multicultural Education Act, the Indian Education Act and the Hispanic Education Act are being implemented by the school district or charter school;

(6) a narrative describing the amount of program cost generated for services to students with disabilities and the spending of these revenues on services to students with disabilities, which shall include the following:

(a) program cost generated for students enrolled in approved special education programs;

(b) budgeted expenditures of program cost, for students enrolled in approved special education

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programs, on students with disabilities;

(c) the amount of program cost generated for personnel providing ancillary and related services to students with disabilities;

(d) budgeted expenditures of program cost for personnel providing ancillary and related services to students with disabilities, on special education ancillary and related services personnel; and

(e) a description of the steps taken to ensure that students with disabilities have access to a free and appropriate public education; and

(7) a common set of performance targets and performance measures, as determined by the department in consultation with the department of finance and administration, the legislative finance committee and the legislative education study committee.

[D.] F. If a local school board or governing board of a charter school fails to submit [a] an operating budget pursuant to this section, the department shall prepare the operating budget for the school district or charter school for the ensuing fiscal year. A local school board or governing board of a charter school shall be considered as failing to submit [a] an operating budget pursuant to this section if the budget submitted exceeds the total projected resources of the school district or charter school or if the budget submitted

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does not comply with the law or with rules and procedures of the department."

SECTION 9. Section 22-8-6.1 NMSA 1978 (being Laws 1993, Chapter 227, Section 8, as amended) is amended to read:

"22-8-6.1. CHARTER SCHOOL OPERATING BUDGETS--MAXIMUM MEM.--

A. Each state-chartered charter school shall submit to the charter schools division of the department a school-based operating budget. The operating budget shall be submitted to the division for approval or amendment pursuant to the Public School Finance Act and the Charter Schools Act. Thereafter, the operating budget shall be submitted to the [~~public education~~] commission for review.

B. Each locally chartered charter school shall submit to the local school board a school-based operating budget for approval or amendment. The approval or amendment authority of the local school board relative to the charter school operating budget is limited to ensuring that sound fiscal practices are followed in the development of the operating budget and that the charter school operating budget is within the allotted resources. The local school board shall have no veto authority over individual line items within the charter school's proposed financial budget or over any item in the educational plan, but shall approve or disapprove the operating budget in its entirety. Upon final approval of the [~~local~~]

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charter school operating budget by the local school board, the individual charter school operating budget shall be included separately in the budget submission to the department required pursuant to the Public School Finance Act and the Charter Schools Act.

C. For its first year of operation, a charter school's operating budget shall be based on the projected number of program units generated by the school and its students using the at-risk index and the staffing cost multiplier of the school district in which the charter school is located, and the charter school's operating budget shall be adjusted using the qualified MEM on the first reporting date of the current school year. For its second and subsequent fiscal years of operation, a charter school's operating budget shall be based on the number of program units generated by the charter school and its students using the average of the MEM on the second and third reporting dates of the prior year, the at-risk index of the school district in which the charter school is located and the charter school's staffing cost multiplier. SEC→”←SEC

~~SEC→D. For fiscal year 2020, maximum MEM in each charter school shall be determined by the department. The department shall ensure that aggregate MEM for all charter schools does not exceed twenty-seven thousand. Prior to the deadline for the submission of a charter school's operating budget, the department shall notify each charter school of the~~

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~~maximum MEM that will be used to calculate the charter school's program cost. When considering increases or decreases to a charter school's maximum MEM, the department shall prioritize increases to charter schools with a demonstrated track record of success in meeting the academic and development needs of students and meeting performance targets pursuant to Paragraph (7) of Subsection E of Section 22-8-6 NMSA 1978. When allocating maximum MEM in each charter school, the department shall ensure that aggregate charter school MEM in a school district with fewer than one thousand three hundred MEM does not exceed ten percent of the total MEM in the school district."~~←SEC

SECTION 10. Section 22-8-9 NMSA 1978 (being Laws 1967, Chapter 16, Section 63, as amended) is amended to read:

"22-8-9. BUDGETS--MINIMUM REQUIREMENTS.--

A. [A] An operating budget for a school district shall not be approved by the department [~~that~~] if the educational plan does not provide for:

(1) a school year and school day as provided in Section 22-2-8.1 NMSA 1978; and

(2) a pupil-teacher ratio or class or teaching load as provided in Section 22-10A-20 NMSA 1978.

B. The department shall, by rule, establish the requirements for an instructional day, the standards for an instructional hour and the standards for a full-time teacher and

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for the equivalent thereof."

SECTION 11. Section 22-8-10 NMSA 1978 (being Laws 1967, Chapter 16, Section 65, as amended) is amended to read:

"22-8-10. BUDGETS--FIXING THE OPERATING BUDGET.--

A. Prior to June 20 of each year, each local school board and each governing board of a charter school shall, at a public hearing of which notice has been published by the local school board or governing board of a charter school, fix the operating budget for the school district or charter school for the ensuing fiscal year. At the discretion of the [~~state superintendent~~] secretary or the local school board or governing body of a charter school, the department may participate in the public hearing.

B. Prior to the public hearing held to fix the operating budget for the school district or charter school, the local school board or governing body of a charter school shall give notice to parents explaining the budget process and inviting parental involvement and input in that process prior to the date for the public hearing. The educational plan submitted by the local school board or the governing body of a charter school to the department shall include information on parental involvement and input."

SECTION 12. Section 22-8-11 NMSA 1978 (being Laws 1967, Chapter 16, Section 66, as amended) is amended to read:

"22-8-11. BUDGETS--APPROVAL OF OPERATING BUDGET.--

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A. The department shall:

(1) on or before July 1 of each year, approve and certify to each local school board and governing body of a charter school an operating budget for use by the school district or charter school;

(2) ensure that each program in a school district or charter school's operating budget meets the requirements of law and the department's rules and procedures and that no school district or charter school generates program units for a program not meeting the requirements of law and the department's rules or procedures;

[~~(2)~~] (3) make corrections, revisions and amendments to the operating budgets fixed by the local school boards or governing bodies of charter schools and the secretary to conform the operating budgets to the requirements of law and to the department's rules and procedures; and

[~~(3)~~] (4) ensure that a local school board or ~~[for a charter school the]~~ governing body of ~~[the]~~ a charter school is prioritizing resources ~~[of a public school rated D or F]~~ toward proven programs and methods that are linked to improved student achievement ~~[until the public school earns a grade of C or better for two consecutive years]~~.

B. No school district or charter school or officer or employee of a school district or charter school shall make any expenditure or incur any obligation for the expenditure of

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public funds unless that expenditure or obligation is made in accordance with an operating budget approved by the department. This prohibition does not prohibit the transfer of funds pursuant to the department's rules and procedures.

C. The department shall not approve and certify an operating budget of any school district or charter school that fails to demonstrate that parental involvement in the budget process was solicited.

D. The department shall not approve and certify an operating budget of any school district or charter school that the secretary determines has failed to provide sufficient data and information to determine if the school district or charter school is meeting the requirements of law or the department's rules and procedures."

SECTION 13. Section 22-8-18 NMSA 1978 (being Laws 1974, Chapter 8, Section 8, as amended) is amended to read:

"22-8-18. PROGRAM COST CALCULATION--LOCAL RESPONSIBILITY.--

A. [~~For fiscal year 2019, the total program units for the purpose of computing the program cost shall be calculated by multiplying the sum of the program units itemized as Paragraphs (1) through (6) in this subsection by the staffing cost multiplier and adding the program units itemized as Paragraphs (7) through (14) in this subsection. For fiscal year 2020 and subsequent fiscal years]~~ The total program units for

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the purpose of computing the program cost shall be calculated by multiplying the sum of the program units itemized as Paragraphs (1) and (2) in this subsection by the staffing cost multiplier and adding the program units itemized as Paragraphs (3) through [~~(14)~~] (16) in this subsection. The itemized program units are as follows:

- (1) early childhood education;
- (2) basic education;
- (3) special education, adjusted by subtracting the units derived from membership in class D special education programs in private, nonsectarian, nonprofit training centers;
- (4) bilingual multicultural education;
- (5) fine arts education;
- (6) elementary physical education;
- (7) size adjustment;
- (8) at-risk [~~program~~];
- (9) enrollment growth or new district adjustment;
- (10) special education units derived from membership in class D special education programs in private, nonsectarian, nonprofit training centers;
- (11) national board for professional teaching standards certification;
- (12) home school student [~~program unit~~];
- (13) home school student activities; [~~and~~]

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(14) charter school student activities;

(15) K-5 plus; and

(16) extended learning time.

B. The total program cost calculated as prescribed in Subsection A of this section includes the cost of early childhood, special, bilingual multicultural, fine arts and vocational education and other remedial or enrichment programs. It is the responsibility of the local school board or ~~[for a charter school the]~~ governing body of ~~[the]~~ a charter school to determine its priorities in terms of the needs of the community served by that board. Except as otherwise provided in this section, funds generated under the Public School Finance Act are discretionary to local school boards and governing bodies of charter schools; provided that the special program needs as enumerated in this section are met; and provided further that ~~[if a public school has been rated D or F for two consecutive years]~~ the department shall ensure that the local school board or ~~[for a charter school, the]~~ governing body of ~~[the]~~ a charter school is prioritizing resources for the public school toward proven programs and methods linked to improved student achievement ~~[until the public school earns a C or better for two consecutive years]."~~

SECTION 14. Section 22-8-23 NMSA 1978 (being Laws 1975, Chapter 119, Section 1, as amended) is amended to read:

"22-8-23. SIZE ADJUSTMENT PROGRAM UNITS.--

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A. An approved public school, including a charter school, with a MEM of [~~less~~] fewer than [~~400~~] four hundred, including early childhood education full-time-equivalent MEM but excluding membership in class C and class D programs and excluding full-time-equivalent membership in three- and four-year-old developmentally disabled programs, that is geographically located in a school district with fewer than two thousand MEM, is eligible for additional program units. Separate schools established to provide special programs, including but not limited to vocational and alternative education, shall not be classified as public schools for purposes of generating size adjustment program units. The number of additional program units to which a school district or charter school is entitled under this subsection is the sum of elementary-junior high units and senior high units computed in the following manner:

$$\begin{array}{r} \text{Elementary-Junior High Units} \\ 200 - \text{MEM} \\ \hline 200 \end{array} \times 1.0 \times \text{MEM} = \text{Units}$$

where MEM is equal to the membership of an approved elementary or junior high school, including early childhood education full-time-equivalent membership but excluding membership in class C and class D programs and excluding full-time-equivalent membership in three- and four-year-old developmentally disabled

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programs;

Senior High Units

200 - MEM

\_\_\_\_\_ x 2.0 x MEM = Units

200

or,

Senior High Units

400 - MEM

\_\_\_\_\_ x 1.6 x MEM = Units

400

whichever calculation for senior high units is higher, where MEM is equal to the membership of an approved senior high school excluding membership in class C and class D programs.

B. An approved public school with a MEM of fewer than four hundred, including early childhood education full-time-equivalent MEM but excluding MEM in class C and class D programs and excluding full-time-equivalent MEM in three- and four-year-old developmentally disabled programs, geographically located in a school district with two thousand MEM or more is eligible for additional program units computed in the following manner:

(1) for fiscal year 2020, sixty-six percent of the sum of elementary-junior high units and senior high units as prescribed in Subsection A of this section;

(2) for fiscal year 2021, thirty-three percent

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of the sum of elementary-junior high units and senior high units as prescribed in Subsection A of this section; and

(3) for fiscal year 2022 and subsequent fiscal years, no elementary-junior high units and senior high units as prescribed in Subsection A of this section.

[B.] C. A school district with total MEM of [less] fewer than [4,000] four thousand, including early childhood education full-time-equivalent MEM, is eligible for additional program units. The number of additional program units to which a school district is entitled under this subsection is the number of district units computed in the following manner:

$$\begin{array}{r} \text{District Units} \\ 4,000 - \text{MEM} \\ \hline 4,000 \end{array} \quad \times 0.15 \times \text{MEM} = \text{Units}$$

where MEM is equal to the total district membership, including early childhood education full-time-equivalent membership.

~~[C. A school district with over 10,000 MEM with a ratio of MEM to senior high schools less than 4,000:1 is eligible for additional program units based on the number of approved regular senior high schools that are not eligible for senior high units under Subsection A of this section. The number of additional program units to which an eligible school district is entitled under this subsection is the number of~~

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~~units computed in the following manner:~~

$$\begin{array}{r} 4,000 - \text{MEM} \\ \hline \hline \qquad \qquad \qquad \times 0.50 = \text{Units} \\ \text{Senior High Schools} \end{array}$$

~~where MEM is equal to the total district membership, including early childhood education full-time-equivalent membership, and where senior high schools are equal to the number of approved regular senior high schools in the school district.]~~

D. A school district, as defined in Subsection R of Section 22-1-2 NMSA 1978, with a MEM of [~~less~~] fewer than [~~200~~] two hundred, including early childhood education full-time-equivalent MEM, is eligible for additional program units [~~provided that~~] if the department certifies that the school district has implemented practices to reduce scale inefficiencies, including shared service agreements with regional education cooperatives or other school districts for noninstructional functions and distance education. The numbers of additional program units to which a school district is entitled under this subsection is the number of units computed in the following manner:

$$200 - \text{MEM} = \text{Units}$$

where MEM is equal to the total district MEM, including early childhood education full-time-equivalent MEM.

E. A school district with a rural population rate greater than forty percent or a charter school initially

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chartered before July 1, 2018 and geographically located in a school district with a rural population rate greater than forty percent is eligible for additional program units. The number of additional program units to which a school district or charter school is entitled pursuant to this subsection is determined by multiplying the full-time-equivalent MEM by the rural population rate and the cost differential factor of 0.0333 for fiscal year 2020, 0.0667 for fiscal year 2021 and 0.1 for fiscal year 2022 and subsequent fiscal years."

SECTION 15. Section 22-8-23.3 NMSA 1978 (being Laws 1997, Chapter 40, Section 7, as amended) is amended to read:

"22-8-23.3. AT-RISK PROGRAM UNITS.--

A. A school district is eligible for additional program units if it establishes within its department-approved educational plan identified services to assist students to reach their full academic potential. A school district receiving additional at-risk program units shall include a report of specified services implemented to improve the academic success of at-risk students. The report shall identify the ways in which the school district and individual public schools use funding generated through the at-risk index and the intended outcomes. For purposes of this section, "at-risk student" means a student who meets the criteria to be included in the calculation of the three-year average total rate in Subsection B of this section. The number of additional units to which a

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school district is entitled under this section is computed in the following manner:

$$\text{At-Risk Index} \times \text{MEM} = \text{Units}$$

where MEM is equal to the total district membership, including early childhood education, full-time-equivalent membership and special education membership and where the at-risk index is calculated in the following manner:

~~[(1) for fiscal year 2019,~~

~~Three-Year Average Total Rate x 0.130 = At-Risk Index;~~

~~(2) for fiscal year 2020,~~

~~Three-Year Average Total Rate x 0.140 = At-Risk Index; and~~

~~(3) for fiscal year 2021 and subsequent fiscal years]~~

Three-Year Average Total Rate x ~~[0.150]~~ 0.25 = At-Risk Index.

B. To calculate the three-year average total rate, the department shall compute a three-year average of the school district's percentage of membership used to determine its Title [F] 1 allocation, a three-year average of the percentage of membership classified as English language learners using criteria established by the ~~[federal]~~ office ~~[of]~~ for civil rights of the United States department of education and a three-year average of the percentage of student mobility. The department shall then add the three-year average rates. The number obtained from this calculation is the three-year average

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total rate.

C. The department shall recalculate the at-risk index for each school district every year."

SECTION 16. A new section of the Public School Finance Act is enacted to read:

"[NEW MATERIAL] 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 extended learning time program that meets the requirements of Subsection B, C or D of this section.

B. An extended learning time program shall include:

(1) a minimum of one hundred ninety instructional days per school year, with at least five and one-half instructional hours per instructional day for kindergarten through sixth grade and at least six instructional hours per day for seventh through twelfth grade;

(2) after-school program opportunities for academic learning or extracurricular enrichment to students that do not supplant federally funded programs; and

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

C. An extended learning time program in a school district operating a four-day school week in fiscal year 2019 or

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in a school district with fewer than one thousand MEM operating a four-day school week may include:

(1) a minimum of one hundred sixty instructional days per school year with at least six and one-half hours per instructional day for kindergarten through sixth grade and at least seven instructional hours per instructional day for seventh through twelfth grade;

(2) after-school program opportunities for academic learning or extracurricular enrichment to students that do not supplant federally funded programs; and

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

D. With department approval, an elementary school that has an extended learning time program that qualifies for extended learning time program units pursuant to Subsection B or C of this section that also has a qualifying K-5 plus program pursuant to the K-5 Plus Act may structure the school year to provide the additional instructional time required pursuant to the applicable subsection of this section by extending existing instructional days.

E. The department shall establish standard requirements for school districts and charter schools to generate program units for after-school extended learning time, including standards, MEM calculations and hourly requirements

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for programs.

F. The number of additional units to which a school district or charter school is entitled under this section is computed in the following manner:

- (1) for fiscal year 2020,  
(MEM x 0.04) + (MEM in after-school extended learning time programs x 0.01);
- (2) for fiscal year 2021,  
(MEM x 0.06) + (MEM in after-school extended learning time programs x 0.06); and
- (3) for fiscal year 2022 and subsequent fiscal years,  
(MEM x 0.08) + (MEM in after-school extended learning time programs x 0.11)."

SECTION 17. A new section of the Public School Finance Act is enacted to read:

"[NEW MATERIAL] K-5 PLUS PROGRAM UNITS.--The number of K-5 plus program units is determined by multiplying the MEM in department-approved K-5 plus programs by the cost differential factor of 0.3. For each reporting date, MEM in K-5 plus programs shall be equal to the number of qualified students enrolled in an elementary school participating in the K-5 plus program."

SECTION 18. A new section of the Public School Finance Act is enacted to read:

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"[NEW MATERIAL] NEW PROGRAM FUNDING.--For the first year of programs operating pursuant to the K-5 Plus Act, the Bilingual Multicultural Education Act, the Fine Arts Education Act or for extended learning time programs, a school district or charter school shall generate the applicable program units. A school district's or charter school's budget shall be based on the projected number of program units for the program's first year of operation and shall be adjusted using the qualified MEM on the first reporting date of the current school year."

SECTION 19. A new section of the Public School Finance Act is enacted to read:

"[NEW MATERIAL] PUBLIC EDUCATION REFORM FUND CREATED.--

A. The "public education reform fund" is created as a nonreverting fund in the state treasury and consists of appropriations; unspecified gifts, grants and donations to the fund; and income from investment of the fund.

B. Subject to legislative appropriation, money in the fund is appropriated to the department for the purposes of implementing evidence-based public education initiatives related to high-quality teaching and school leadership, extended learning opportunities for students, educational interventions for at-risk students, effective and efficient school administration or promoting public education accountability."

SECTION 20. Section 22-8B-6 NMSA 1978 (being Laws 1999, Chapter 281, Section 6, as amended) is amended to read:

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"22-8B-6. CHARTER SCHOOL REQUIREMENTS--APPLICATION  
PROCESS--AUTHORIZATION--STATE BOARD OF FINANCE DESIGNATION  
REQUIRED--PUBLIC HEARINGS--SUBCOMMITTEES.--

A. A local school board has the authority to approve the establishment of a locally chartered charter school within that local school board's district.

B. No later than the second Tuesday of January of the year in which an application will be filed, the organizers of a proposed charter school shall provide written notification to the commission and the school district in which the charter school is proposed to be located of their intent to establish a charter school. Failure to notify may result in an application not being accepted.

C. A charter school applicant shall apply to either a local school board or the commission for a charter. If an application is submitted to a chartering authority, ~~[it must]~~ the chartering authority shall process the application.

Applications for initial charters shall be submitted by June 1 to be eligible for consideration for the following fiscal year; provided that the June 1 deadline may be waived upon agreement of the applicant and the chartering authority.

D. An application shall include the total number of grades the charter school proposes to provide, either immediately or phased. A charter school may decrease the number of grades it eventually offers, but it shall not increase the

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number of grades or the total number of students proposed to be served in each grade.

E. An application shall include the total number of students the charter school proposes to serve in each of the charter school's first three years of operation. No later than June 15, each local school board and the commission shall notify the department as to the number of students each charter school applicant proposes to serve in each year.

[E.] F. An application shall include a detailed description of the charter school's projected facility needs, including projected requests for capital outlay assistance that have been approved by the director of the public school facilities authority or the director's designee. The director shall respond to a written request for review from a charter applicant within forty-five days of the request.

[F.] G. An application may be made by one or more teachers, parents or community members or by a public post-secondary educational institution or nonprofit organization. Municipalities, counties, private post-secondary educational institutions and for-profit business entities are not eligible to apply for or receive a charter.

[G.] H. An initial application for a charter school shall not be made after June 30, 2007 if the proposed charter school's proposed enrollment for all grades or the proposed charter school's proposed enrollment for all grades in

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combination with any other charter school's enrollment for all grades would equal or exceed ten percent of the total MEM of the school district in which the charter school will be geographically located and that school district has a total enrollment of not more than one thousand three hundred students.

[H.] I. A state-chartered charter school shall not be approved for operation unless its governing body has qualified to be a board of finance.

[I.] J. The chartering authority shall receive and review all applications for charter schools submitted to it. The chartering authority shall not charge application fees.

[J.] K. The chartering authority shall hold at least one public hearing in the school district in which the charter school is proposed to be located to obtain information and community input to assist it in its decision whether to grant a charter school application. The chartering authority may designate a subcommittee of no fewer than three members to hold the public hearing, and, if so, the hearing shall be transcribed for later review by other members of the chartering authority. Community input may include written or oral comments in favor of or in opposition to the application from the applicant, the local community and, for state-chartered charter schools, the local school board and school district in whose geographical boundaries the charter school is proposed to be located.

[K.] L. The chartering authority shall rule on the

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application for a charter school in a public meeting by September 1 of the year the application was received; provided, however, that prior to ruling on the application for which a designated subcommittee was used, any member of the chartering authority who was not present at the public hearing shall receive the transcript of the public hearing together with documents submitted for the public hearing. If not ruled upon by that date, the charter application shall be automatically reviewed by the secretary in accordance with the provisions of Section 22-8B-7 NMSA 1978. The charter school applicant and the chartering authority may, however, jointly waive the deadlines set forth in this section.

[L.] M. A chartering authority may approve, approve with conditions or deny an application. A chartering authority may deny an application if:

- (1) the application is incomplete or inadequate;
- (2) the application does not propose to offer an educational program consistent with the requirements and purposes of the Charter Schools Act;
- (3) the proposed head administrator or other administrative or fiscal staff was involved with another charter school whose charter was denied or revoked for fiscal mismanagement or the proposed head administrator or other administrative or fiscal staff was discharged from a public

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school for fiscal mismanagement;

(4) for a proposed state-chartered charter school, it does not request to have the governing body of the charter school designated as a board of finance or the governing body does not qualify as a board of finance; or

(5) the application is otherwise contrary to the best interests of the charter school's projected students, the local community or the school district in whose geographic boundaries the charter school applies to operate.

~~[M.]~~ N. If the chartering authority denies a charter school application or approves the application with conditions, it shall state its reasons for the denial or conditions in writing within fourteen days of the meeting. If the chartering authority grants a charter, the approved charter shall be provided to the applicant together with any imposed conditions.

~~[N.]~~ O. A charter school that has received a notice from the chartering authority denying approval of the charter shall have a right to a hearing by the secretary as provided in Section 22-8B-7 NMSA 1978."

**SECTION 21.** Section 22-10A-7 NMSA 1978 (being Laws 2003, Chapter 153, Section 38, as amended) is amended to read:

"22-10A-7. LEVEL ONE LICENSURE.--

A. A level one license is a provisional five-year license for beginning teachers that requires as a condition of licensure that the licensee undergo a formal mentorship program

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for at least one full school year and an annual intensive performance evaluation by a school administrator for at least three full school years before applying for a level two license.

B. Each school district, in accordance with department rules, shall provide for the mentorship and evaluation of level one teachers. At the end of each year and at the end of the license period, the level one teacher shall be evaluated for competency. If the teacher fails to demonstrate satisfactory progress and competence annually, the teacher may be terminated as provided in Section 22-10A-24 NMSA 1978. If the teacher has not demonstrated satisfactory progress and competence by the end of the five-year period, the teacher shall not be granted a level two license.

C. Except in exigent circumstances defined by department rule, a level one license shall not be extended beyond the initial period.

D. The department shall issue a standard level one license to an applicant who is at least eighteen years of age who:

- (1) holds a baccalaureate degree from an accredited educational institution;
- (2) has successfully completed a department-approved teacher preparation program from a nationally accredited or state-approved educational institution;
- (3) has passed the New Mexico teacher

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assessments examination, including for elementary licensure beginning January 1, 2013, a rigorous assessment of the candidate's knowledge of the science of teaching reading; and

(4) meets other qualifications for level one licensure, including clearance of the required background check.

E. The department shall issue an alternative level one license to an applicant who meets the requirements of Section 22-10A-8 NMSA 1978.

F. The department shall establish competencies and qualifications for specific grade levels, types and subject areas of level one licensure, including early childhood, elementary, middle school, secondary, special and vocational education.

G. [~~With the adoption by the department of a highly objective uniform statewide standard of evaluation for level one teachers~~] The minimum salary for a level one teacher [~~shall be thirty-six thousand dollars (\$36,000)~~] is SEC→:←SEC

SEC→(1)←SEC forty thousand dollars (\$40,000) for a standard nine and one-half month contract;

SEC→(2)←SEC ~~forty-two thousand two hundred dollars (\$42,200) for a teacher in an extended learning time program;~~  
and

~~(3) forty-five thousand six hundred dollars (\$45,600) for a teacher in a K-5 plus program.~~←SEC SEC→provided  
that teachers in an extended learning program or K-5 plus

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program shall receive additional salary at the same rate as  
their base salary for that teaching time."←SEC

SECTION 22. Section 22-10A-10 NMSA 1978 (being Laws 2003, Chapter 153, Section 41, as amended) is amended to read:

"22-10A-10. LEVEL TWO LICENSURE.--

A. A level two license is a nine-year license granted to a teacher who meets the qualifications for that level and who annually demonstrates essential competency to teach. If a level two teacher does not demonstrate essential competency in a given school year, the school district shall provide the teacher with additional professional development and peer intervention during the following school year. If by the end of that school year the teacher fails to demonstrate essential competency, a school district may choose not to contract with the teacher to teach in the classroom.

B. The department shall issue a level two license to an applicant who successfully completes the level one license or is granted reciprocity as provided by department rules; demonstrates essential competency required by the department as verified by the local superintendent through the highly objective uniform statewide standard of evaluation; and meets other qualifications as required by the department.

C. The department shall provide for qualifications for specific grade levels, types and subject areas of level two licensure, including early childhood, elementary, middle,

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secondary, special and vocational education.

D. ~~[With the adoption by the department of the statewide objective performance evaluation for level two teachers]~~ The minimum salary for a level two teacher ~~[for a standard nine and one-half month contract shall be forty-four thousand dollars (\$44,000)]~~ is ~~SECs:~~←SEC

~~SEC→(1)←SEC~~ fifty thousand dollars (\$50,000) for a standard nine and one-half month contract;

~~SEC→(2)←SEC~~ ~~fifty-two thousand eight hundred dollars (\$52,800) for a teacher in an extended learning time program; and~~

~~(3)←SEC~~ ~~fifty-six thousand nine hundred dollars (\$56,900) for a teacher in a K-5 plus program.~~←SEC SEC→provided that teachers in an extended learning program or K-5 plus program shall receive additional salary at the same rate as their base salary for that teaching time."←SEC

SECTION 23. Section 22-10A-11 NMSA 1978 (being Laws 2003, Chapter 153, Section 42, as amended) is amended to read:

"22-10A-11. LEVEL THREE LICENSURE--TRACKS FOR TEACHERS.--

A. A level three-A license is a nine-year license granted to a teacher who meets the qualifications for that level and who annually demonstrates instructional leader competencies. If a level three-A teacher does not demonstrate essential competency in a given school year, the school district shall provide the teacher with additional professional development and

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peer intervention during the following school year. If by the end of that school year the teacher fails to demonstrate essential competency, a school district may choose not to contract with the teacher to teach in the classroom.

B. The department shall grant a level three-A license to an applicant who has been a level two teacher for at least three years and holds a post-baccalaureate degree or national board for professional teaching standards certification; demonstrates instructional leader competence as required by the department and verified by the local superintendent through the highly objective uniform statewide standard of evaluation; and meets other qualifications for the license.

C. [~~With the adoption by the department of a highly objective uniform statewide standard of evaluation for level three-A teachers~~] The minimum salary for a level three-A teacher [~~for a standard nine and one-half month contract shall be fifty-four thousand dollars (\$54,000)~~] is SEC→(1)←SEC

SEC→(1)←SEC sixty thousand dollars (\$60,000) for a standard nine and one-half month contract;

SEC→(2)←SEC ~~sixty-three thousand three hundred dollars (\$63,300) for a teacher in an extended learning time program; and~~

(3) ~~sixty-eight thousand three hundred dollars (\$68,300) for a teacher in a K-5 plus program.~~←SEC SEC→provided

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that teachers in an extended learning program or K-5 plus program shall receive additional salary at the same rate as their base salary for that teaching time."←SEC

D. The minimum salary for a counselor who holds a level three or three-A license as provided in the School Personnel Act and rules promulgated by the department shall be the same as provided for level three-A teachers pursuant to Subsection C of this section."

SECTION 24. Section 22-10A-11.4 NMSA 1978 (being Laws 2015, Chapter 74, Section 2) is amended to read:

"22-10A-11.4. LEVEL THREE-B ADMINISTRATOR'S LICENSE-- TRACKS FOR SCHOOL ADMINISTRATOR LICENSURE.--

A. A level three-B administrator's license is a five-year license granted to an applicant who meets the qualifications for that license. Licenses may be renewed upon satisfactory annual demonstration of instructional leader and administrative competency.

B. The department shall grant a level three-B administrator's license to an applicant who:

- (1) has completed a department-approved administrator preparation program;
- (2) holds a current level two or level three teacher's license; and
- (3) holds a post-baccalaureate degree or national board for professional teaching standards

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certification.

C. The minimum annual salary for a licensed school principal or assistant school principal [~~shall be fifty thousand dollars (\$50,000)~~] is the minimum salary for a level three-A teacher at the public school in which the school principal or assistant school principal is employed multiplied by the applicable responsibility factor.

D. The department shall adopt a highly objective uniform statewide standard of evaluation, including data sources linked to student achievement and an educational plan for student success progress, for school principals and assistant school principals and rules for the implementation of that evaluation system linked to the level of responsibility at each school level.

E. As used in this section, "level three-B administrator's license" means a five-year license granted to an applicant who meets the qualifications pursuant to this section and department rules."

**SECTION 25. TEMPORARY PROVISION--FUND TRANSFER.--**Any unexpended or unencumbered balances remaining in the K-3 plus fund on July 1, 2020 shall be transferred to the state-support reserve fund.

**SECTION 26. REPEAL.--**Sections 22-13-28 and 22-13-28.2 NMSA 1978 (being Laws 2007, Chapter 12, Section 1 and Laws 2016, Chapter 62, Section 1, as amended) are repealed.

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underscored material = new

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Amendments: new = → bold, blue, highlight ←

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SECTION 27. DELAYED REPEAL.--Section 22-13-28.1 NMSA 1978 (being Laws 2012, Chapter 21, Section 2) is repealed effective July 1, 2020.

SECTION 28. APPLICABILITY.--The provisions of Sections 2 through 19 of this act apply to the program cost calculation in fiscal year 2020 and subsequent fiscal years. The provisions of Sections 21 through 24 of this act apply to school personnel contracted to provide services for summer 2019 K-5 plus programs in fiscal year 2019 and to all school personnel in fiscal year 2020 and subsequent fiscal years.

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