

1 HOUSE BILL 194

2 **56TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2023**

3 INTRODUCED BY

4 Nathan P. Small and Mimi Stewart

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7  
8 FOR THE LEGISLATIVE FINANCE COMMITTEE

9  
10 AN ACT

11 RELATING TO PUBLIC SCHOOL FINANCE; CREATING A K-12 PLUS FACTOR;  
12 INCREASING THE LENGTH OF A SCHOOL YEAR; INCREASING THE AT-RISK  
13 PROGRAM UNIT; INCREASING THE RESPONSIBILITY FACTOR FOR  
14 PRINCIPALS AND ASSISTANT PRINCIPALS BY A PERCENTAGE OF THE  
15 FAMILY INCOME INDEX; PROVIDING TECHNICAL CLEANUP; REPEALING  
16 SECTIONS OF THE NMSA 1978 REGARDING THE K-5 PLUS AND EXTENDED  
17 LEARNING TIME PROGRAMS.

18  
19 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

20 SECTION 1. A new section of the Public School Finance Act  
21 is enacted to read:

22 "[NEW MATERIAL] K-12 PLUS FACTOR--TIERS--CALCULATION.--

23 A. A school district or charter school is eligible  
24 for the K-12 plus program unit if it provides more than one  
25 hundred eighty instructional days for a public school with a

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1 five-day school week, or one hundred fifty-two days for a  
2 public school with a four-day school week, and meets the  
3 requirements of this section.

4 B. The number of K-12 plus program units is  
5 determined by multiplying the MEM in department-approved K-12  
6 plus schools by the cost differential factor of sixteen-  
7 thousandths and the number of instructional days provided  
8 between:

9 (1) one hundred eighty-one and one hundred  
10 ninety instructional days for a public school with a five-day  
11 school week; and

12 (2) one hundred fifty-three and one hundred  
13 sixty instructional days for a public school with a four-day  
14 school week.

15 C. The number of K-12 plus program units is  
16 determined by multiplying the MEM in department-approved K-12  
17 plus schools by the cost differential factor of twenty-four  
18 thousandths and the number of instructional days provided  
19 between:

20 (1) one hundred ninety-one and two hundred  
21 five instructional days for a public school with a five-day  
22 school week; and

23 (2) one hundred sixty-one and one hundred  
24 seventy-two instructional days for a public school with a four-  
25 day school week.

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1 D. To be eligible for the K-12 plus program unit as  
2 provided in Subsection C of this section, a school district or  
3 charter school shall provide:

4 (1) out-of-school time program opportunities  
5 for academic learning, extracurricular or enrichment  
6 programming for students that do not supplant federally funded  
7 programs; and

8 (2) a minimum of eighty noninstructional hours  
9 per school year for professional work time for instructional  
10 staff.

11 E. As used in this section, "K-12" means  
12 kindergarten through twelfth grade."

13 SECTION 2. Section 22-2-8.1 NMSA 1978 (being Laws 1986,  
14 Chapter 33, Section 2, as amended by Laws 2011, Chapter 35,  
15 Section 1 and by Laws 2011, Chapter 154, Section 1) is amended  
16 to read:

17 "22-2-8.1. SCHOOL YEAR--LENGTH OF SCHOOL DAY--  
18 MINIMUM.--

19 A. Except as otherwise provided in this section,  
20 regular students shall be in school-directed programs,  
21 exclusive of lunch, for a minimum of the following:

22 (1) kindergarten, [~~for half-day programs, two~~  
23 ~~and one-half hours per day or four hundred fifty hours per year~~  
24 ~~or, for full-day programs]~~ five and one-half hours per day or  
25 [~~nine hundred ninety]~~ one thousand one hundred forty hours per

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1 year;

2 (2) grades one through six, five and  
3 one-half hours per day or [~~nine hundred ninety~~] one thousand  
4 one hundred forty hours per year; and

5 (3) grades seven through twelve, six hours per  
6 day or one thousand [~~eighty~~] one hundred forty hours per year.

7 B. Up to thirty-three hours of the full-day  
8 kindergarten program may be used for home visits by the teacher  
9 or for parent-teacher conferences. Up to twenty-two hours of  
10 grades one through six programs may be used for home visits by  
11 the teacher or for parent-teacher conferences. Up to twelve  
12 hours of grades seven through twelve programs may be used to  
13 consult with parents to develop next step plans for students  
14 and for parent-teacher conferences.

15 C. Nothing in this section precludes a local school  
16 board from setting a school year or the length of school days  
17 in excess of the minimum requirements established by Subsection  
18 A of this section.

19 D. The secretary may waive the minimum length of  
20 school days in those school districts where such minimums  
21 would create undue hardships as defined by the department as  
22 long as the school year is adjusted to ensure that students  
23 in those school districts receive the same total  
24 instructional time as other students in the state.

25 E. Notwithstanding any other provision of this

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1 section, provided that instruction occurs simultaneously,  
2 time when breakfast is served or consumed pursuant to a state  
3 or federal program shall be deemed to be time in a school-  
4 directed program and is part of the instructional day."

5 SECTION 3. Section 22-8-6 NMSA 1978 (being Laws 1967,  
6 Chapter 16, Section 60, as amended) is amended to read:

7 "22-8-6. OPERATING BUDGETS--EDUCATIONAL PLANS--  
8 SUBMISSION--CERTAIN REPORTS--FAILURE TO SUBMIT.--

9 A. Prior to April 15 of each year, each local  
10 school board shall submit to the department an operating  
11 budget for the school district and any locally chartered  
12 charter school in the school district for the ensuing fiscal  
13 year.

14 B. The date for the submission of the operating  
15 budget for each school district and each charter school as  
16 required by this section may be extended to a later date  
17 fixed by the secretary.

18 C. The operating budget required by this section  
19 may include:

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

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

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1           D. The operating budget required by this section  
2 shall include a budget for each charter school of the  
3 membership projected for each charter school, the total  
4 program units generated at that charter school and  
5 approximate anticipated disbursements and expenditures at  
6 each charter school.

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

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

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

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

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

24                                 ~~(b) K-5 plus programs;~~

25                   ~~(4)]~~ (3) a narrative explaining the school

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1 district's or charter school's beginning teacher mentorship  
2 programs as well as class size and teaching load information;

3 ~~[(5)]~~ (4) a narrative explaining  
4 supplemental programs or services offered by the school  
5 district or charter school to ensure that the Bilingual  
6 Multicultural Education Act, the Indian Education Act and the  
7 Hispanic Education Act are being implemented by the school  
8 district or charter school;

9 ~~[(6)]~~ (5) a narrative describing the amount  
10 of program cost generated for services to students with  
11 disabilities and the spending of these revenues on services  
12 to students with disabilities, which shall include the  
13 following:

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

16 (b) budgeted expenditures of program  
17 cost, for students enrolled in approved special education  
18 programs, on students with disabilities;

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

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

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

4 ~~[(7)]~~ (6) a common set of performance  
5 targets and performance measures, as determined by the  
6 department in consultation with the department of finance and  
7 administration, the legislative finance committee and the  
8 legislative education study committee.

9 F. In addition to the requirements of Subsection  
10 E of this section, a school district or charter school that  
11 receives federal or local revenue shall include in its  
12 educational plan a narrative explaining how the school  
13 district or charter school will use the federal or local  
14 revenue to improve outcomes for students or to improve the  
15 condition of a school building. No later than October 1 of  
16 each year, a school district or charter school that received  
17 federal or local revenue in the prior fiscal year shall  
18 report to the department on the actual uses of that revenue,  
19 including a comprehensive evaluation of how the programs and  
20 services provided with that revenue improved outcomes for  
21 students or how capital projects undertaken improved the  
22 condition of a school building. A school district or charter  
23 school that is required under federal law to consult with  
24 tribal entities as a condition of receiving impact aid funds  
25 shall include in its educational plan a detailed narrative of

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1 its consultations with tribal entities and the results of  
2 those consultations. The school district or charter school  
3 shall transmit the October 1 spending and outcomes report to  
4 the appropriate tribal authorities. No later than November  
5 15 of each year, the department shall compile the federal and  
6 local revenue outcomes reports into a statewide report to the  
7 legislative education study committee and the legislative  
8 finance committee that includes an analysis and  
9 identification of effective programs and strategies that  
10 improve outcomes for students.

11 G. A school district or charter school operating  
12 budget and educational plan shall prioritize federal and  
13 local revenue for purposes relating to the Indian Education  
14 Act; for capital expenditures authorized by the Public School  
15 Capital Outlay Act, the Public School Capital Improvements  
16 Act or the Public School Buildings Act; or for research-based  
17 or evidence-based social, emotional or academic interventions  
18 for which at-risk program units may be used.

19 H. If a local school board or governing board of  
20 a charter school fails to submit an operating budget pursuant  
21 to this section, the department shall prepare the operating  
22 budget for the school district or charter school for the  
23 ensuing fiscal year. A local school board or governing board  
24 of a charter school shall be considered as failing to submit  
25 an operating budget pursuant to this section if the budget

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1 submitted exceeds the total projected resources of the school  
2 district or charter school or if the budget submitted does  
3 not comply with the law or with rules and procedures of the  
4 department.

5 I. As used in this section:

6 (1) "federal revenue" means seventy-five  
7 percent of the revenue derived from:

8 (a) federal forest reserve funds  
9 distributed in accordance with Section 22-8-33 NMSA 1978; or

10 (b) federal assistance to those areas  
11 affected by federal activity authorized in accordance with  
12 Title 20 of the United States Code, commonly known as "PL 874  
13 funds" or "impact aid funds"; and

14 (2) "local revenue" means seventy-five  
15 percent of the revenue from a school district one-half mill  
16 school district property tax and revenue from the Oil and Gas  
17 Ad Valorem Production Tax Act and the Oil and Gas Production  
18 Equipment Ad Valorem Tax Act."

19 SECTION 4. Section 22-8-18 NMSA 1978 (being Laws 1974,  
20 Chapter 8, Section 8, as amended by Laws 2019, Chapter 206,  
21 Section 13 and by Laws 2019, Chapter 207, Section 13) is  
22 amended to read:

23 "22-8-18. PROGRAM COST CALCULATION--LOCAL  
24 RESPONSIBILITY.--

25 A. The total program units for the purpose of  
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1 computing the program cost shall be calculated by multiplying  
2 the sum of the program units itemized as Paragraphs (1) and  
3 (2) in this subsection by the staffing cost multiplier and  
4 adding the program units itemized as Paragraphs (3) through  
5 [~~(16)~~] (15) in this subsection. The itemized program units  
6 are as follows:

7 (1) early childhood education;

8 (2) basic education;

9 (3) special education, adjusted by

10 subtracting the units derived from membership in class D

11 special education programs in private, nonsectarian,

12 nonprofit training centers;

13 (4) bilingual multicultural education;

14 (5) fine arts education;

15 (6) elementary physical education;

16 (7) size adjustment;

17 (8) at-risk;

18 (9) enrollment growth or new district

19 adjustment;

20 (10) special education units derived from

21 membership in class D special education programs in private,

22 nonsectarian, nonprofit training centers;

23 (11) national board for professional

24 teaching standards certification;

25 (12) home school student;

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- 1 (13) home school student activities;
- 2 (14) charter school student activities; and
- 3 [~~(15) K-5 plus; and~~
- 4 ~~(16) extended learning time]~~
- 5 (15) K-12 plus.

6 B. The total program cost calculated as  
7 prescribed in Subsection A of this section includes the cost  
8 of early childhood, special, bilingual multicultural, fine  
9 arts and vocational education and other remedial or  
10 enrichment programs. It is the responsibility of the local  
11 school board or governing body of a charter school to  
12 determine its priorities in terms of the needs of the  
13 community served by that board. Except as otherwise provided  
14 in this section, funds generated under the Public School  
15 Finance Act are discretionary to local school boards and  
16 governing bodies of charter schools; provided that the  
17 special program needs as enumerated in this section are met;  
18 and provided further that the department shall ensure that  
19 the local school board or governing body of a charter school  
20 is prioritizing resources for the public school toward proven  
21 programs and methods linked to improved student achievement."

22 SECTION 5. Section 22-8-23.3 NMSA 1978 (being Laws  
23 1997, Chapter 40, Section 7, as amended) is amended to read:

24 "22-8-23.3. AT-RISK PROGRAM UNITS.--

25 A. A school district is eligible for additional

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1 program units if it establishes within its department-  
2 approved educational plan identified services to assist  
3 students to reach their full academic potential. A school  
4 district receiving additional at-risk program units shall  
5 include a report of specified services implemented to improve  
6 the academic success of at-risk students. The report shall  
7 identify the ways in which the school district and individual  
8 public schools use funding generated through the at-risk  
9 index and the intended outcomes. For purposes of this  
10 section, "at-risk student" means a student who meets the  
11 criteria to be included in the calculation of the three-year  
12 average total rate in Subsection B of this section. The  
13 number of additional units to which a school district is  
14 entitled under this section is computed in the following  
15 manner:

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

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

$$\text{Three-Year Average Total Rate} \times [\text{0.30}] \text{ 0.33} = \text{At-Risk Index.}$$

23 B. To calculate the three-year average total  
24 rate, the department shall compute a three-year average of  
25 the school district's percentage of membership used to  
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1 determine its Title 1 allocation, a three-year average of the  
2 percentage of membership classified as English language  
3 learners using criteria established by the office for civil  
4 rights of the United States department of education and a  
5 three-year average of the percentage of student mobility.  
6 The department shall then add the three-year average rates.  
7 The number obtained from this calculation is the three-year  
8 average total rate.

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

11 D. For purposes of this section, "services" means  
12 research-based or evidence-based social, emotional or  
13 academic interventions, such as:

14 (1) case management, tutoring, reading  
15 interventions and after-school programs that are delivered by  
16 social workers, counselors, teachers or other professional  
17 staff;

18 (2) culturally relevant professional and  
19 curriculum development, including those necessary to support  
20 language acquisition, bilingual and multicultural education;

21 (3) additional compensation strategies for  
22 high-need schools;

23 (4) whole school interventions, including  
24 school-based health centers and community schools;

25 (5) educational programming intended to

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1 improve career and college readiness of at-risk students,  
2 including dual or concurrent enrollment, career and technical  
3 education, guidance counseling services and coordination with  
4 post-secondary institutions; and

5 (6) services to engage and support parents  
6 and families in the education of students."

7 SECTION 6. Section 22-8-23.12 NMSA 1978 (being Laws  
8 2019, Chapter 206, Section 18 and Laws 2019, Chapter 207,  
9 Section 18) is amended to read:

10 "22-8-23.12. NEW PROGRAM FUNDING.--For the first year  
11 of programs operating pursuant to [~~the K-5 Plus Act~~] the  
12 Bilingual Multicultural Education Act, the Fine Arts  
13 Education Act or for [~~extended learning time~~] K-12 plus  
14 programs, a school district or charter school shall generate  
15 the applicable program units. A school district's or charter  
16 school's budget shall be based on the projected number of  
17 program units for the program's first year of operation and  
18 shall be adjusted using the qualified MEM on the first  
19 reporting date of the current school year."

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

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

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

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

5 B. Each school district, in accordance with  
6 department rules, shall provide for the mentorship and  
7 evaluation of level one teachers. At the end of each year  
8 and at the end of the license period, the level one teacher  
9 shall be evaluated for competency. If the teacher fails to  
10 demonstrate satisfactory progress and competence annually,  
11 the teacher may be terminated as provided in Section  
12 22-10A-24 NMSA 1978. If the teacher has not demonstrated  
13 satisfactory progress and competence by the end of the five-  
14 year period, the teacher shall not be granted a level two  
15 license.

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

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

22 (1) holds a baccalaureate degree from an  
23 accredited educational institution;

24 (2) has successfully completed a department-  
25 approved teacher preparation program from a nationally



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1 accredited or state-approved educational institution;

2 (3) has passed the New Mexico teacher  
3 assessments examination, including for elementary licensure  
4 beginning January 1, 2013, a rigorous assessment of the  
5 candidate's knowledge of the science of teaching reading; and

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

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

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

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

23 SECTION 8. Section 22-10A-10 NMSA 1978 (being Laws  
24 2003, Chapter 153, Section 41, as amended) is amended to  
25 read:

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1 "22-10A-10. LEVEL TWO LICENSURE.--

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

13 B. The department shall issue a level two license  
14 to an applicant who has successfully taught at least three,  
15 but no more than five, years as a level one teacher or an  
16 alternative level one teacher, or a combination of the two,  
17 or is granted reciprocity as provided by department rules.  
18 An applicant for a level two license shall:

19 (1) demonstrate essential competency  
20 required by the department as verified by the local  
21 superintendent through the highly objective uniform statewide  
22 standard of evaluation; and

23 (2) meet other qualifications as required by  
24 the department.

25 C. The department shall provide for

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1 qualifications for specific grade levels, types and subject  
2 areas of level two licensure, including early childhood,  
3 elementary, middle, secondary, special and vocational  
4 education.

5 D. The minimum salary for a level two teacher is  
6 sixty thousand dollars (\$60,000) for a standard nine and one-  
7 half month contract [~~provided that teachers in an extended~~  
8 ~~learning time program or K-5 plus program shall receive~~  
9 ~~additional salary at the same rate as their base salary for~~  
10 ~~that teaching time]."~~

11 SECTION 9. Section 22-10A-11 NMSA 1978 (being Laws  
12 2003, Chapter 153, Section 42, as amended) is amended to  
13 read:

14 "22-10A-11. LEVEL THREE LICENSURE--TRACKS FOR  
15 TEACHERS.--

16 A. A level three-A license is a nine-year license  
17 granted to a teacher who meets the qualifications for that  
18 level and who annually demonstrates instructional leader  
19 competencies. If a level three-A teacher does not  
20 demonstrate essential competency in a given school year, the  
21 school district shall provide the teacher with additional  
22 professional development and peer intervention during the  
23 following school year. If by the end of that school year the  
24 teacher fails to demonstrate essential competency, a school  
25 district may choose not to contract with the teacher to teach

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1 in the classroom.

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

11 C. The minimum salary for a level three-A teacher  
12 is seventy thousand dollars (\$70,000) for a standard nine and  
13 one-half month contract [~~provided that teachers in an~~  
14 ~~extended learning time program or K-5 plus program shall~~  
15 ~~receive additional salary at the same rate as their base~~  
16 ~~salary for that teaching time].~~

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

22 E. The responsibility factor for principals and  
23 assistant principals, as defined in Section 22-10A-2 NMSA  
24 1978, shall be multiplied by 0.1 of the school's family  
25 income index amount as calculated in the Family Income Index

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Act."

SECTION 10. REPEAL.--Sections 22-8-23.10, 22-8-23.11 and 22-13D-1 through 22-13D-4 NMSA 1978 (being Laws 2019, Chapter 206, Section 16 and Laws 2019, Chapter 207, Section 16; Laws 2019, Chapter 206, Section 17 and Laws 2019, Chapter 207, Section 17; Laws 2019, Chapter 206, Section 2 and Laws 2019, Chapter 207, Section 2; Laws 2019, Chapter 206, Section 3 and Laws 2019, Chapter 207, Section 3; Laws 2019, Chapter 206, Section 4 and Laws 2019, Chapter 207, Section 4; and Laws 2019, Chapter 206, Section 5 and Laws 2019, Chapter 207, Section 5, as amended) are repealed.

SECTION 11. APPLICABILITY.--The provisions of this act apply to the 2023-2024 school year and subsequent school years.