

1 AN ACT

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

10
11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

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

16 "22-1-2. DEFINITIONS.--As used in the Public School
17 Code:

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

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

24 C. "commission" means the public education
25 commission;

1 D. "department" means the public education
2 department;

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

8 F. "instructional support provider" means a person
9 who is employed to support the instructional program of a
10 school district, including educational assistant, school
11 counselor, social worker, school nurse, speech-language
12 pathologist, psychologist, physical therapist, occupational
13 therapist, recreational therapist, marriage and family
14 therapist, interpreter for the deaf and diagnostician;

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

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

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

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

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

1 local school board;

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

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

12 N. "school administrator" means a person licensed
13 to administer in a school district and includes school
14 principals, central district administrators and charter
15 school head administrators;

16 O. "school-age person" means a person who is at
17 least five years of age prior to 12:01 a.m. on September 1 of
18 the school year, who has not received a high school diploma
19 or its equivalent and who has not reached the person's
20 twenty-second birthday on the first day of the school year
21 and meets other criteria provided in the Public School
22 Finance Act;

23 P. "school building" means a public school, an
24 administration building and related school structures or
25 facilities, including teacher housing, that is owned,

1 acquired or constructed by the school district as necessary
2 to carry out the functions of the school district;

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

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

11 S. "school employee" includes licensed and
12 nonlicensed employees of a school district;

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

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

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

21 W. "state agency" or "state institution" means the
22 New Mexico military institute, New Mexico school for the
23 blind and visually impaired, New Mexico school for the deaf,
24 New Mexico boys' school, girls' welfare home, New Mexico
25 youth diagnostic and development center, Sequoyah adolescent

1 treatment center, Carrie Tingley crippled children's
2 hospital, New Mexico behavioral health institute at Las Vegas
3 and any other state agency responsible for educating resident
4 children;

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

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

10 Z. "teacher" means a person who holds a level one,
11 two or three-A license and whose primary duty is classroom
12 instruction or the supervision, below the school principal
13 level, of an instructional program or whose duties include
14 curriculum development, peer intervention, peer coaching or
15 mentoring or serving as a resource teacher for other
16 teachers;

17 AA. "certified school instructor" means a licensed
18 school employee; and

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

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

23 "SHORT TITLE.--Sections 2 through 5 of this act may be
24 cited as the "K-5 Plus Act"."

25 **SECTION 3.** A new section of the Public School Code is

1 enacted to read:

2 "K-5 PLUS--ELIGIBILITY--REQUIREMENTS.--

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

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

12 (2) that are low-performing elementary
13 schools;

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

16 (4) that meet criteria established by
17 department rule.

18 B. Each K-5 plus program shall:

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

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

25 (3) include additional professional

1 development for K-5 plus teachers in how young children learn
2 to read; and

3 (4) be implemented school-wide.

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

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

9 "K-5 PLUS--OVERSIGHT--REPORTING.--

10 A. The department shall:

11 (1) enforce the provisions of the K-5 Plus
12 Act;

13 (2) issue rules for the development and
14 implementation of K-5 plus programs;

15 (3) assist school districts and charter
16 schools in developing and evaluating K-5 plus programs;

17 (4) develop and disseminate information on
18 best practices in the area of academic success of early
19 learners;

20 (5) establish reporting and evaluation
21 requirements, including student and program assessments, for
22 schools participating in the program;

23 (6) annually report to the legislature and
24 the governor on the efficacy of K-5 plus programs; and

25 (7) establish a K-5 plus advisory committee

1 composed of representatives of school districts and charter
2 schools that participate in the K-5 plus program, the
3 legislative education study committee, the legislative
4 finance committee and other stakeholders. The advisory
5 committee shall meet twice a year to advise the department on
6 K-5 plus implementation.

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

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

13 "K-5 PLUS--APPLICATION.--

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

18 B. No later than October 15 of each year, a school
19 district or charter school that wishes to apply for a new K-5
20 plus program for the next fiscal year shall submit to the
21 department the actual number of students participating in its
22 K-5 plus programs in the current year and an estimate of the
23 number of students the school district or charter school
24 expects will participate in K-5 plus programs in the next
25 year. The department shall not approve a new K-5 plus

1 program unless the school district or charter school notifies
2 the department of its intent to start a new program as
3 required by this section.

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

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

11 "22-8-2. DEFINITIONS.--As used in the Public School
12 Finance Act:

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

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

25 C. "basic program ADM" or "basic program MEM"

1 means the MEM of qualified students but excludes the full-
2 time-equivalent MEM in early childhood education and three-
3 and four-year-old students receiving special education
4 services;

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

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

11 F. "early childhood education ADM" or "early
12 childhood education MEM" means the full-time-equivalent MEM
13 of students attending approved early childhood education
14 programs;

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

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

25 I. "performance measure" means a quantitative

1 indicator used to assess the output or outcome of an approved
2 program;

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

5 K. "program cost" is the product of the total
6 number of program units to which a school district is
7 entitled multiplied by the dollar value per program unit
8 established by the legislature;

9 L. "program element" is that component of a public
10 school system to which a cost differential factor is applied
11 to determine the number of program units to which a school
12 district is entitled, including MEM, full-time-equivalent
13 MEM, teacher, classroom or public school;

14 M. "program unit" is the product of the program
15 element multiplied by the applicable cost differential
16 factor;

17 N. "public money" or "public funds" means all
18 money from public or private sources received by a school
19 district or state-chartered charter school or officer or
20 employee of a school district or state-chartered charter
21 school for public use;

22 O. "qualified student" means a public school
23 student who:

24 (1) has not graduated from high school;

25 (2) is regularly enrolled in one-half or

1 more of the minimum course requirements approved by the
2 department for public school students; and

3 (3) in terms of age and other criteria:

4 (a) is at least five years of age prior
5 to 12:01 a.m. on September 1 of the school year;

6 (b) is at least three years of age at
7 any time during the school year and is receiving special
8 education services pursuant to rules of the department;

9 (c) except as provided in Subparagraph
10 (d) of this paragraph, has not reached the student's
11 twenty-second birthday on the first day of the school year;
12 or

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

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

24 Q. "staffing cost multiplier" means:

25 (1) for fiscal year 2019, the instructional

1 staff training and experience index;

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

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

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

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

16 R. "state superintendent" means the secretary of
17 public education or the secretary's designee."

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

20 "22-8-5. RULES--PROCEDURES.--

21 A. The department, in consultation with the state
22 auditor, shall establish rules and procedures for a uniform
23 system of accounting and budgeting of funds for all public
24 schools and school districts of the state. The rules,
25 including revisions or amendments, shall become effective

1 upon filing with the state records center and archives and
2 publication. A copy shall also be filed with the department
3 of finance and administration.

4 B. All public schools and school districts shall
5 comply with the rules and procedures prescribed and shall,
6 upon request, submit additional reports concerning finances
7 to the department, including an accounting of the costs of
8 services related to providing a program included in the
9 educational plan approved by the department. In addition,
10 upon request, all public schools and school districts shall
11 file reports with the department containing pertinent details
12 regarding applications for federal money or federal grants-
13 in-aid or regarding federal money or federal grants-in-aid
14 received, including details of programs, matching funds,
15 personnel requirements, salary provisions and program
16 numbers, as indicated in the catalog of federal domestic
17 assistance, of the federal funds applied for and of those
18 received.

19 C. Upon request by the department of finance and
20 administration, the legislative finance committee or the
21 legislative education study committee, the department shall
22 furnish information and data obtained from public schools and
23 school districts and information compiled by the department
24 related to public school finances within ten business days."

25 SECTION 8. Section 22-8-6 NMSA 1978 (being Laws 1967,

1 Chapter 16, Section 60, as amended by Laws 1999, Chapter 281,
2 Section 21 and by Laws 1999, Chapter 291, Section 2) is
3 amended to read:

4 "22-8-6. OPERATING BUDGETS--EDUCATIONAL PLANS--
5 SUBMISSION--FAILURE TO SUBMIT.--

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

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

15 C. The operating budget required by this section
16 may include:

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

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

23 D. The operating budget required by this section
24 shall include a budget for each charter school of the
25 membership projected for each charter school, the total

1 program units generated at that charter school and approximate
2 anticipated disbursements and expenditures at each charter
3 school.

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

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

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

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

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

21 (b) K-5 plus programs;

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

25 (5) a narrative explaining supplemental

1 programs or services offered by the school district or charter
2 school to ensure that the Bilingual Multicultural Education
3 Act, the Indian Education Act and the Hispanic Education Act
4 are being implemented by the school district or charter
5 school;

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

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

12 (b) budgeted expenditures of program
13 cost, for students enrolled in approved special education
14 programs, on students with disabilities;

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

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

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

25 (7) a common set of performance targets and

1 performance measures, as determined by the department in
2 consultation with the department of finance and
3 administration, the legislative finance committee and the
4 legislative education study committee.

5 F. If a local school board or governing board of a
6 charter school fails to submit an operating budget pursuant to
7 this section, the department shall prepare the operating
8 budget for the school district or charter school for the
9 ensuing fiscal year. A local school board or governing board
10 of a charter school shall be considered as failing to submit
11 an operating budget pursuant to this section if the budget
12 submitted exceeds the total projected resources of the school
13 district or charter school or if the budget submitted does not
14 comply with the law or with rules and procedures of the
15 department."

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

18 "22-8-6.1. CHARTER SCHOOL OPERATING BUDGETS--MAXIMUM
19 MEM.--

20 A. Each state-chartered charter school shall
21 submit to the charter schools division of the department a
22 school-based operating budget. The operating budget shall be
23 submitted to the division for approval or amendment pursuant
24 to the Public School Finance Act and the Charter Schools Act.
25 Thereafter, the operating budget shall be submitted to the

1 commission for review.

2 B. Each locally chartered charter school shall
3 submit to the local school board a school-based operating
4 budget for approval or amendment. The approval or amendment
5 authority of the local school board relative to the charter
6 school operating budget is limited to ensuring that sound
7 fiscal practices are followed in the development of the
8 operating budget and that the charter school operating budget
9 is within the allotted resources. The local school board
10 shall have no veto authority over individual line items within
11 the charter school's proposed financial budget or over any
12 item in the educational plan, but shall approve or disapprove
13 the operating budget in its entirety. Upon final approval of
14 the charter school operating budget by the local school board,
15 the individual charter school operating budget shall be
16 included separately in the budget submission to the department
17 required pursuant to the Public School Finance Act and the
18 Charter Schools Act.

19 C. For its first year of operation, a charter
20 school's operating budget shall be based on the projected
21 number of program units generated by the school and its
22 students using the at-risk index and the staffing cost
23 multiplier of the school district in which the charter school
24 is located, and the charter school's operating budget shall be
25 adjusted using the qualified MEM on the first reporting date

1 of the current school year. For its second and subsequent
2 fiscal years of operation, a charter school's operating budget
3 shall be based on the number of program units generated by the
4 charter school and its students using the average of the MEM
5 on the second and third reporting dates of the prior year, the
6 at-risk index of the school district in which the charter
7 school is located and the charter school's staffing cost
8 multiplier."

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

11 "22-8-9. BUDGETS--MINIMUM REQUIREMENTS.--

12 A. An operating budget for a school district shall
13 not be approved by the department if the educational plan does
14 not provide for:

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

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

19 B. The department shall, by rule, establish the
20 requirements for an instructional day, the standards for an
21 instructional hour and the standards for a full-time teacher
22 and for the equivalent thereof."

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

25 "22-8-10. BUDGETS--FIXING THE OPERATING BUDGET.--

1 A. Prior to June 20 of each year, each local
2 school board and each governing board of a charter school
3 shall, at a public hearing of which notice has been published
4 by the local school board or governing board of a charter
5 school, fix the operating budget for the school district or
6 charter school for the ensuing fiscal year. At the discretion
7 of the secretary or the local school board or governing body
8 of a charter school, the department may participate in the
9 public hearing.

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

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

21 "22-8-11. BUDGETS--APPROVAL OF OPERATING BUDGET.--

22 A. The department shall:

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

1 school district or charter school;

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

8 (3) make corrections, revisions and
9 amendments to the operating budgets fixed by the local school
10 boards or governing bodies of charter schools and the
11 secretary to conform the operating budgets to the requirements
12 of law and to the department's rules and procedures; and

13 (4) ensure that a local school board or
14 governing body of a charter school is prioritizing resources
15 toward proven programs and methods that are linked to improved
16 student achievement.

17 B. No school district or charter school or officer
18 or employee of a school district or charter school shall make
19 any expenditure or incur any obligation for the expenditure of
20 public funds unless that expenditure or obligation is made in
21 accordance with an operating budget approved by the
22 department. This prohibition does not prohibit the transfer
23 of funds pursuant to the department's rules and procedures.

24 C. The department shall not approve and certify an
25 operating budget of any school district or charter school that

1 fails to demonstrate that parental involvement in the budget
2 process was solicited.

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

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

11 "22-8-18. PROGRAM COST CALCULATION--LOCAL
12 RESPONSIBILITY.--

13 A. The total program units for the purpose of
14 computing the program cost shall be calculated by multiplying
15 the sum of the program units itemized as Paragraphs (1) and
16 (2) in this subsection by the staffing cost multiplier and
17 adding the program units itemized as Paragraphs (3) through
18 (16) in this subsection. The itemized program units are as
19 follows:

- 20 (1) early childhood education;
21 (2) basic education;
22 (3) special education, adjusted by
23 subtracting the units derived from membership in class D
24 special education programs in private, nonsectarian, nonprofit
25 training centers;

- 1 (4) bilingual multicultural education;
- 2 (5) fine arts education;
- 3 (6) elementary physical education;
- 4 (7) size adjustment;
- 5 (8) at-risk;
- 6 (9) enrollment growth or new district
7 adjustment;
- 8 (10) special education units derived from
9 membership in class D special education programs in private,
10 nonsectarian, nonprofit training centers;
- 11 (11) national board for professional
12 teaching standards certification;
- 13 (12) home school student;
- 14 (13) home school student activities;
- 15 (14) charter school student activities;
- 16 (15) K-5 plus; and
- 17 (16) extended learning time.

18 B. The total program cost calculated as prescribed
19 in Subsection A of this section includes the cost of early
20 childhood, special, bilingual multicultural, fine arts and
21 vocational education and other remedial or enrichment
22 programs. It is the responsibility of the local school board
23 or governing body of a charter school to determine its
24 priorities in terms of the needs of the community served by
25 that board. Except as otherwise provided in this section,

1 funds generated under the Public School Finance Act are
2 discretionary to local school boards and governing bodies of
3 charter schools; provided that the special program needs as
4 enumerated in this section are met; and provided further that
5 the department shall ensure that the local school board or
6 governing body of a charter school is prioritizing resources
7 for the public school toward proven programs and methods
8 linked to improved student achievement."

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

11 "22-8-23. SIZE ADJUSTMENT PROGRAM UNITS.--

12 A. An approved public school, including a charter
13 school, with a MEM of fewer than four hundred, including early
14 childhood education full-time-equivalent MEM but excluding
15 membership in class C and class D programs and excluding full-
16 time-equivalent membership in three- and four-year-old
17 developmentally disabled programs, that is geographically
18 located in a school district with fewer than two thousand MEM,
19 is eligible for additional program units. Separate schools
20 established to provide special programs, including but not
21 limited to vocational and alternative education, shall not be
22 classified as public schools for purposes of generating size
23 adjustment program units. The number of additional program
24 units to which a school district or charter school is entitled
25 under this subsection is the sum of elementary-junior high

1 units and senior high units computed in the following manner:

2 Elementary-Junior High Units

3 200 - MEM

4 $\frac{\quad}{200} \times 1.0 \times \text{MEM} = \text{Units}$

5

6 where MEM is equal to the membership of an approved elementary

7 or junior high school, including early childhood education

8 full-time-equivalent membership but excluding membership in

9 class C and class D programs and excluding full-time-

10 equivalent membership in three- and four-year-old

11 developmentally disabled programs;

12 Senior High Units

13 200 - MEM

14 $\frac{\quad}{200} \times 2.0 \times \text{MEM} = \text{Units}$

15

16 or,

17 Senior High Units

18 400 - MEM

19 $\frac{\quad}{400} \times 1.6 \times \text{MEM} = \text{Units}$

20

21 whichever calculation for senior high units is higher, where

22 MEM is equal to the membership of an approved senior high

23 school excluding membership in class C and class D programs.

24 B. An approved public school with a MEM of fewer

25 than four hundred, including early childhood education full-

1 time-equivalent MEM but excluding MEM in class C and class D
2 programs and excluding full-time-equivalent MEM in three- and
3 four-year-old developmentally disabled programs,
4 geographically located in a school district with two thousand
5 MEM or more is eligible for additional program units computed
6 in the following manner:

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

10 (2) for fiscal year 2021, sixty percent of
11 the sum of elementary-junior high units and senior high units
12 as prescribed in Subsection A of this section;

13 (3) for fiscal year 2022, forty percent of
14 the sum of elementary-junior high units and senior high units
15 as prescribed in Subsection A of this section;

16 (4) for fiscal year 2023, twenty percent of
17 the sum of elementary-junior high units and senior high units
18 as prescribed in Subsection A of this section; and

19 (5) for fiscal year 2024 and subsequent
20 fiscal years, no elementary-junior high units and senior high
21 units as prescribed in Subsection A of this section.

22 C. A school district with total MEM of fewer than
23 four thousand, including early childhood education full-time-
24 equivalent MEM, is eligible for additional program units. The
25 number of additional program units to which a school district

1 is entitled under this subsection is the number of district
2 units computed in the following manner:

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

3
4
5
6
7 where MEM is equal to the total district membership,
8 including early childhood education full-time-equivalent
9 membership.

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

$$22 \quad 200 - \text{MEM} = \text{Units}$$

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

25 E. A school district with a rural population rate

1 greater than forty percent or a charter school initially
2 chartered before July 1, 2018 and geographically located in a
3 school district with a rural population rate greater than
4 forty percent is eligible for additional program units. The
5 number of additional program units to which a school district
6 or charter school is entitled pursuant to this subsection is
7 determined by multiplying the full-time-equivalent MEM by the
8 rural population rate and the cost differential factor of 0.03
9 for fiscal year 2020, 0.06 for fiscal year 2021, 0.09 for
10 fiscal year 2022, 0.12 for fiscal year 2023 and 0.15 for
11 fiscal year 2024 and subsequent fiscal years."

12 SECTION 15. Section 22-8-23.3 NMSA 1978 (being Laws
13 1997, Chapter 40, Section 7, as amended) is amended to read:

14 "22-8-23.3. AT-RISK PROGRAM UNITS.--

15 A. A school district is eligible for additional
16 program units if it establishes within its department-approved
17 educational plan identified services to assist students to
18 reach their full academic potential. A school district
19 receiving additional at-risk program units shall include a
20 report of specified services implemented to improve the
21 academic success of at-risk students. The report shall
22 identify the ways in which the school district and individual
23 public schools use funding generated through the at-risk index
24 and the intended outcomes. For purposes of this section, "at-
25 risk student" means a student who meets the criteria to be

1 included in the calculation of the three-year average total
2 rate in Subsection B of this section. The number of
3 additional units to which a school district is entitled under
4 this section is computed in the following manner:

$$5 \quad \text{At-Risk Index} \times \text{MEM} = \text{Units}$$

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

$$10 \quad \text{Three-Year Average Total Rate} \times 0.25 = \text{At-Risk Index.}$$

11 B. To calculate the three-year average total rate,
12 the department shall compute a three-year average of the
13 school district's percentage of membership used to determine
14 its Title I allocation, a three-year average of the percentage
15 of membership classified as English language learners using
16 criteria established by the office for civil rights of the
17 United States department of education and a three-year average
18 of the percentage of student mobility. The department shall
19 then add the three-year average rates. The number obtained
20 from this calculation is the three-year average total rate.

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

23 D. For purposes of this section, "services" means
24 research-based or evidence-based social, emotional or academic
25 interventions, such as:

1 (1) case management, tutoring, reading
2 interventions and after-school programs that are delivered by
3 social workers, counselors, teachers or other professional
4 staff;

5 (2) culturally relevant professional and
6 curriculum development, including those necessary to support
7 language acquisition, bilingual and multicultural education;

8 (3) additional compensation strategies for
9 high-need schools;

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

12 (5) educational programming intended to
13 improve career and college readiness of at-risk students,
14 including dual or concurrent enrollment, career and technical
15 education, guidance counseling services and coordination with
16 post-secondary institutions; and

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

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

21 "EXTENDED LEARNING TIME PROGRAM.--

22 A. A school district or charter school is eligible
23 for additional program units if it establishes within its
24 department-approved educational plan an extended learning time
25 program that meets the requirements of Subsection B, C or D of

1 this section.

2 B. An extended learning time program shall
3 include:

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

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

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

15 C. An extended learning time program in a school
16 district operating a four-day school week in fiscal year 2019
17 or in a school district with fewer than one thousand MEM
18 operating a four-day school week shall include:

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

24 (2) after-school program opportunities for
25 academic learning or extracurricular enrichment to students

1 that do not supplant federally funded programs; and

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

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

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

$$16 \text{ MEM} \times 0.11."$$

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

19 "K-5 PLUS PROGRAM UNITS.--The number of K-5 plus program
20 units is determined by multiplying the MEM in
21 department-approved K-5 plus programs by the cost differential
22 factor of 0.3. For each reporting date, MEM in K-5 plus
23 programs shall be equal to the number of qualified students on
24 a date specified by department rule."

25 **SECTION 18.** A new section of the Public School Finance

1 Act is enacted to read:

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

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

13 "PUBLIC EDUCATION REFORM FUND CREATED.--

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

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

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

3 "22-8B-6. CHARTER SCHOOL REQUIREMENTS--APPLICATION
4 PROCESS--AUTHORIZATION--STATE BOARD OF FINANCE DESIGNATION
5 REQUIRED--PUBLIC HEARINGS--SUBCOMMITTEES.--

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

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

16 C. A charter school applicant shall apply to
17 either a local school board or the commission for a charter.
18 If an application is submitted to a chartering authority, the
19 chartering authority shall process the application.
20 Applications for initial charters shall be submitted by June 1
21 to be eligible for consideration for the following fiscal
22 year; provided that the June 1 deadline may be waived upon
23 agreement of the applicant and the chartering authority.

24 D. An application shall include the total number
25 of grades the charter school proposes to provide, either

1 immediately or phased. A charter school may decrease the
2 number of grades it eventually offers, but it shall not
3 increase the number of grades or the total number of students
4 proposed to be served in each grade.

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

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

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

24 H. An initial application for a charter school
25 shall not be made after June 30, 2007 if the proposed charter

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

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

12 J. The chartering authority shall receive and
13 review all applications for charter schools submitted to it.
14 The chartering authority shall not charge application fees.

15 K. The chartering authority shall hold at least
16 one public hearing in the school district in which the charter
17 school is proposed to be located to obtain information and
18 community input to assist it in its decision whether to grant
19 a charter school application. The chartering authority may
20 designate a subcommittee of no fewer than three members to
21 hold the public hearing, and, if so, the hearing shall be
22 transcribed for later review by other members of the
23 chartering authority. Community input may include written or
24 oral comments in favor of or in opposition to the application
25 from the applicant, the local community and, for state-

1 chartered charter schools, the local school board and school
2 district in whose geographical boundaries the charter school
3 is proposed to be located.

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

17 M. A chartering authority may approve, approve
18 with conditions or deny an application. A chartering
19 authority may deny an application if:

20 (1) the application is incomplete or
21 inadequate;

22 (2) the application does not propose to
23 offer an educational program consistent with the requirements
24 and purposes of the Charter Schools Act;

25 (3) the proposed head administrator or other

1 administrative or fiscal staff was involved with another
2 charter school whose charter was denied or revoked for fiscal
3 mismanagement or the proposed head administrator or other
4 administrative or fiscal staff was discharged from a public
5 school for fiscal mismanagement;

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

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

14 N. If the chartering authority denies a charter
15 school application or approves the application with
16 conditions, it shall state its reasons for the denial or
17 conditions in writing within fourteen days of the meeting. If
18 the chartering authority grants a charter, the approved
19 charter shall be provided to the applicant together with any
20 imposed conditions.

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

25 **SECTION 21.** Section 22-10A-7 NMSA 1978 (being Laws

1 2003, Chapter 153, Section 38, as amended) is amended to read:

2 "22-10A-7. LEVEL ONE LICENSURE.--

3 A. A level one license is a provisional five-year
4 license for beginning teachers that requires as a condition of
5 licensure that the licensee undergo a formal mentorship
6 program for at least one full school year and an annual
7 intensive performance evaluation by a school administrator for
8 at least three full school years before applying for a level
9 two license.

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

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

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

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

3 (2) has successfully completed a department-
4 approved teacher preparation program from a nationally
5 accredited or state-approved educational institution;

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

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

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

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

21 G. The minimum salary for a level one teacher is
22 provided that teachers in an extended learning time program or
23 K-5 plus program shall receive additional salary at the same
24 rate as their base salary for that teaching time."

25 **SECTION 22.** Section 22-10A-10 NMSA 1978 (being Laws

1 2003, Chapter 153, Section 41, as amended) is amended to read:

2 "22-10A-10. LEVEL TWO LICENSURE.--

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

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

20 C. The department shall provide for qualifications
21 for specific grade levels, types and subject areas of level
22 two licensure, including early childhood, elementary, middle,
23 secondary, special and vocational education.

24 D. The minimum salary for a level two teacher is
25 provided that teachers in an extended learning time program or

1 K-5 plus program shall receive additional salary at the same
2 rate as their base salary for that teaching time."

3 SECTION 23. Section 22-10A-11 NMSA 1978 (being Laws
4 2003, Chapter 153, Section 42, as amended) is amended to read:

5 "22-10A-11. LEVEL THREE LICENSURE--TRACKS FOR
6 TEACHERS.--

7 A. A level three-A license is a nine-year license
8 granted to a teacher who meets the qualifications for that
9 level and who annually demonstrates instructional leader
10 competencies. If a level three-A teacher does not demonstrate
11 essential competency in a given school year, the school
12 district shall provide the teacher with additional
13 professional development and peer intervention during the
14 following school year. If by the end of that school year the
15 teacher fails to demonstrate essential competency, a school
16 district may choose not to contract with the teacher to teach
17 in the classroom.

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

1 license.

2 C. The minimum salary for a level three-A teacher
3 is provided that teachers in an extended learning time program
4 or K-5 plus program shall receive additional salary at the
5 same rate as their base salary for that teaching time.

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

11 **SECTION 24.** Section 22-10A-11.4 NMSA 1978 (being Laws
12 2015, Chapter 74, Section 2) is amended to read:

13 "22-10A-11.4. LEVEL THREE-B ADMINISTRATOR'S LICENSE--
14 TRACKS FOR SCHOOL ADMINISTRATOR LICENSURE.--

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

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

22 (1) has completed a department-approved
23 administrator preparation program;

24 (2) holds a current level two or level three
25 teacher's license; and

1 (3) holds a post-baccalaureate degree or
2 national board for professional teaching standards
3 certification.

4 C. The minimum annual salary for a licensed school
5 principal or assistant school principal is the minimum salary
6 for a level three-A teacher multiplied by the applicable
7 responsibility factor.

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

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

19 **SECTION 25. TEMPORARY PROVISION--FUND TRANSFER.--**Any
20 unexpended or unencumbered balances remaining in the K-3 plus
21 fund on June 30, 2019 shall be transferred to the
22 state-support reserve fund and up to three million dollars
23 (\$3,000,000) shall be transferred to the public education
24 department to implement Section 26 of this 2019 act in fiscal
25 year 2020.

1 **SECTION 26. TEMPORARY PROVISION--PROTECTION FROM**
2 PROGRAM COST REDUCTIONS.--Using funds provided in Section 25
3 of this 2019 act for fiscal year 2020, the public education
4 department shall supplement a school district's or charter
5 school's calculated program cost if for fiscal year 2020 the
6 school district's or charter school's program cost is less
7 than its final program cost in the previous fiscal year in an
8 amount equal to one hundred percent of the reduction
9 attributable to the implementation of Section 6 of this 2019
10 act amending the age of a qualified student.

11 **SECTION 27. REPEAL.--Sections 22-13-28 and 22-13-28.2**
12 NMSA 1978 (being Laws 2007, Chapter 12, Section 1 and Laws
13 2016, Chapter 62, Section 1, as amended) are repealed.

14 **SECTION 28. DELAYED REPEAL.--Section 22-13-28.1 NMSA**
15 1978 (being Laws 2012, Chapter 21, Section 2) is repealed
16 effective July 1, 2020.

17 **SECTION 29. APPLICABILITY.--The provisions of Sections**
18 2 through 19 of this act apply to the program cost calculation
19 in fiscal year 2020 and subsequent fiscal years. The
20 provisions of Sections 21 through 24 of this act apply to
21 school personnel contracted to provide services for summer
22 2019 K-5 plus programs in fiscal year 2019 and to all school
23 personnel in fiscal year 2020 and subsequent fiscal years._____