

1 HOUSE BILL 194

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

3 INTRODUCED BY

4 Nathan P. Small

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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.