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AN ACT

RELATING TO PUBLIC EDUCATION; INCREASING THE AT-RISK INDEX;
INCREASING THE FINE ARTS FACTOR; INCREASING THE
RESPONSIBILITY FACTORS FOR ELEMENTARY, MIDDLE AND HIGH SCHOOL
PRINCIPALS AND ASSISTANT PRINCIPALS.

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

SECTION 1. Section 22-8-23.3 NMSA 1978 (being Laws
1997, Chapter 40, Section 7, as amended) is amended to read:

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

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

1 manner:

2
$$\text{At-Risk Index} \times \text{MEM} = \text{Units}$$

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

7
$$\text{Three-Year Average Total Rate} \times 0.33 = \text{At-Risk}$$

8
$$\text{Index.}$$

9 B. To calculate the three-year average total rate,
10 the department shall compute a three-year average of the
11 school district's percentage of membership used to determine
12 its Title 1 allocation, a three-year average of the
13 percentage of membership classified as English language
14 learners using criteria established by the office for civil
15 rights of the United States department of education and a
16 three-year average of the percentage of student mobility.
17 The department shall then add the three-year average rates.
18 The number obtained from this calculation is the three-year
19 average total rate.

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

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

- 25 (1) case management, tutoring, reading

1 interventions and after-school programs that are delivered by
2 social workers, counselors, teachers or other professional
3 staff;

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

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

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

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

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

18 SECTION 2. Section 22-8-23.5 NMSA 1978 (being Laws
19 2003, Chapter 144, Section 3 and Laws 2003, Chapter 152,
20 Section 8) is amended to read:

21 "22-8-23.5. FINE ARTS EDUCATION PROGRAM UNITS.--The
22 number of fine arts education program units is determined by
23 multiplying the full-time-equivalent MEM in programs
24 implemented in accordance with the provisions of the Fine
25 Arts Education Act by the cost differential factor of 0.055

1 for fiscal year 2024 and succeeding fiscal years."

2 SECTION 3. Section 22-10A-2 NMSA 1978 (being Laws 2019,
3 Chapter 238, Section 1, as amended by Laws 2021, Chapter 92,
4 Section 1 and by Laws 2021, Chapter 94, Section 4) is amended
5 to read:

6 "22-10A-2. DEFINITIONS.--As used in the School
7 Personnel Act:

8 A. "child abuse" means a child:

9 (1) who has suffered or who is at risk of
10 suffering serious harm because of the action or inaction of
11 the child's parent, guardian, custodian or other adult;

12 (2) who has suffered physical abuse,
13 emotional abuse or psychological abuse inflicted or caused by
14 the child's parent, guardian, custodian or other adult;

15 (3) who has suffered sexual abuse or sexual
16 exploitation inflicted by the child's parent, guardian,
17 custodian or other adult;

18 (4) whose parent, guardian, custodian or
19 other adult has knowingly, intentionally or negligently
20 placed the child in a situation that may endanger the child's
21 life or health; or

22 (5) whose parent, guardian, custodian or
23 other adult has knowingly or intentionally tortured, cruelly
24 confined or cruelly punished the child;

25 B. "constitutional special school" means the New

1 Mexico military institute, New Mexico school for the deaf and
2 New Mexico school for the blind and visually impaired;

3 C. "contractor" means an individual who is under
4 contract with a public school and is hired to provide
5 services to the public school, but does not include a general
6 contractor or a building or maintenance contractor who is
7 supervised and has no access to students at the public
8 school;

9 D. "discharge" means the act of severing the
10 employment relationship with a licensed school employee prior
11 to the expiration of the current employment contract;

12 E. "employed for three consecutive school years"
13 means a licensed school employee has been offered and
14 accepted in writing a notice of reemployment for the third
15 consecutive school year;

16 F. "ethical misconduct" means the following
17 behavior or conduct by school district personnel, school
18 employees, school volunteers, contractors or contractors'
19 employees:

20 (1) discriminatory practice based on race,
21 age, color, national origin, ethnicity, sex, pregnancy,
22 sexual orientation, gender identity, mental or physical
23 disability, marital status, religion, citizenship, domestic
24 abuse reporting status or serious medical condition;

25 (2) sexual misconduct or any sexual offense

1 prohibited by Chapter 30, Article 6A or 9 NMSA 1978 involving
2 an adult or child, regardless of a child's enrollment status;

3 (3) fondling a child or student, including
4 touching private body parts, such as breasts, buttocks,
5 genitals, inner thighs, groin or anus; or

6 (4) any other behavior, including
7 licentious, enticing or solicitous behavior, that is
8 reasonably apparent to result in inappropriate sexual contact
9 with a child or student or to induce a child or student into
10 engaging in illegal, immoral or other prohibited behavior;

11 G. "governing authority" means the policy-setting
12 body of a school district, charter school, constitutional
13 special school or regional education cooperative, or the
14 final decision maker of another state agency;

15 H. "instructional support provider" means a person
16 who is employed to support the instructional program of a
17 public school, including educational assistant, school
18 counselor, social worker, school nurse, speech-language
19 pathologist, psychologist, physical therapist, occupational
20 therapist, recreational therapist, marriage and family
21 therapist, interpreter for the deaf and diagnostician;

22 I. "just cause" means a reason that is rationally
23 related to a school employee's competence or turpitude or the
24 proper performance of the school employee's duties and that
25 is not in violation of the school employee's civil or

1 constitutional rights;

2 J. "military service member" means a person who
3 is:

4 (1) serving in the armed forces of the
5 United States as an active duty member or in an active
6 reserve component of the armed forces of the United States,
7 including the national guard;

8 (2) the spouse of a person who is serving in
9 the armed forces of the United States as an active duty
10 member or in an active reserve component of the armed forces
11 of the United States, including the national guard; or a
12 surviving spouse of a member who at the time of death was
13 serving on active duty; or

14 (3) the child of a person who is serving in
15 the armed forces of the United States as an active duty
16 member or in an active reserve component of the armed forces
17 of the United States, including the national guard; provided
18 that child is also a dependent of that person for federal
19 income tax purposes;

20 K. "moral turpitude" means an act or behavior that
21 gravely violates the accepted standards of moral conduct,
22 justice or honesty and may include ethical misconduct;

23 L. "public school" means a school district,
24 charter school, constitutional special school, regional
25 education cooperative or the educational program of another

1 state agency;

2 M. "responsibility factor" means a value of 1.25
3 for an elementary school principal, 1.45 for a middle school
4 or junior high school principal, 1.65 for a high school
5 principal, 1.15 for an assistant elementary school principal,
6 1.20 for an assistant middle school or assistant junior high
7 school principal and 1.30 for an assistant high school
8 principal;

9 N. "sabbatical leave" means leave of absence with
10 pay as approved by the governing authority during all or part
11 of a regular school term for purposes of study or travel
12 related to a licensed school employee's duties and of direct
13 benefit to the instructional program;

14 O. "school administrator" means a person licensed
15 to administer in a school district, charter school,
16 constitutional special school or regional education
17 cooperative or a person employed with another state agency
18 who administers an educational program and includes local
19 superintendents, school principals, central district
20 administrators, business managers, charter school head
21 administrators and state agency education supervisors;

22 P. "school employee" includes licensed and
23 unlicensed employees of a public school;

24 Q. "school premises" means:

25 (1) the buildings and grounds, including

1 playgrounds, playing fields and parking areas and a school
2 bus of a public school, in or on which school or school-
3 related activities are being operated under the supervision
4 of a local school board, charter school or state agency; or

5 (2) any other public buildings or grounds,
6 including playing fields and parking areas that are not
7 public school property, in or on which public school-related
8 and -sanctioned activities are being performed;

9 R. "school volunteer" means a person, including a
10 relative of a student, who commits to serve on a regular
11 basis at a school district, charter school or other
12 educational entity without compensation;

13 S. "state agency" means a regional education
14 cooperative or state institution;

15 T. "state institution" means the New Mexico boys'
16 school, girls' welfare home, New Mexico youth diagnostic and
17 development center, Sequoyah adolescent treatment center,
18 Carrie Tingley crippled children's hospital, New Mexico
19 behavioral health institute at Las Vegas and any other state
20 agency responsible for educating resident children;

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

23 V. "superintendent" means a local superintendent,
24 head administrator of a charter school or regional education
25 cooperative, superintendent or commandant of a special school

1 or head administrator of the educational program of a state
2 agency;

3 W. "teacher" means a person who holds a level one,
4 level two or level three-A license and whose primary job is
5 classroom instruction or the supervision, below the school
6 principal level, of an instructional program or whose duties
7 include curriculum development, peer intervention, peer
8 coaching or mentoring or serving as a resource teacher for
9 other teachers;

10 X. "terminate" means the act of severing the
11 employment relationship with a school employee;

12 Y. "unsupervised contact with children or
13 students" means access to or contact with, or the opportunity
14 to have access to or contact with, a child or student for any
15 length of time in the absence of:

16 (1) a licensed staff person from the same
17 school or institution;

18 (2) a school volunteer who has undergone a
19 background check pursuant to Section 22-10A-5 NMSA 1978; or

20 (3) any adult relative or guardian of the
21 child or student;

22 Z. "veteran" means a person who has received an
23 honorable discharge or separation from military service in
24 the armed forces of the United States or in an active reserve
25 component of the armed forces of the United States, including

1 the national guard; and

2 AA. "working day" means every school calendar day,
3 excluding Saturdays, Sundays and legal holidays."

4 SECTION 4. APPLICABILITY.--The provisions of this act
5 apply to the 2023-2024 school year and subsequent school
6 years.

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