

1 HOUSE BILL 228

2 **50TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2012**

3 INTRODUCED BY

4 Patricia A. Lundstrom

5
6
7
8
9
10 AN ACT

11 RELATING TO PUBLIC SCHOOLS; PROVIDING A NEW PUBLIC SCHOOL
12 FUNDING FORMULA; PROVIDING FOR MAINTENANCE AND PERIODIC
13 RECALIBRATION OF THE FORMULA; REQUIRING PERFORMANCE-BASED
14 BUDGETS; REQUIRING ACCOUNTABILITY; USING A CENSUS-BASED SPECIAL
15 EDUCATION IDENTIFICATION RATE FOR SCHOOL DISTRICTS; SETTING THE
16 MAXIMUM AGE FOR STUDENTS; PROVIDING FOR LEGISLATIVE APPROVAL OF
17 NEW CHARTER SCHOOLS; PROVIDING FOR FIRST-YEAR FUNDING; CREATING
18 FUNDS; RECONCILING MULTIPLE AMENDMENTS TO THE SAME SECTIONS OF
19 LAW IN LAWS 1999; AMENDING, REPEALING, ENACTING AND RECOMPILING
20 SECTIONS OF THE NMSA 1978; MAKING AN APPROPRIATION.

21
22 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

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

25 "[NEW MATERIAL] 2012 FUNDING FORMULA--FINDINGS AND

.188718.2

underscored material = new
[bracketed material] = delete

underscored material = new
~~[bracketed material] = delete~~

1 PURPOSE.--

2 A. The legislature finds that the state, school
3 districts and charter schools would be better served by a new
4 funding formula that incorporates:

5 (1) a smaller and simplified set of student-
6 needs weighting factors to achieve a more equitable
7 distribution of the state's equalization guarantee;

8 (2) a simplified set of programmatic weights
9 that accounts for grade level composition for elementary,
10 middle and high school students; and

11 (3) a weighting schedule that accounts
12 separately for the scale of school district and charter school
13 operations.

14 B. The legislature finds further that the 2012
15 funding formula:

16 (1) avoids unnecessary complexity by focusing
17 directly on the factors associated with student needs and
18 scale;

19 (2) appropriately promotes and preserves both
20 vertical and horizontal equity across school districts;

21 (3) minimizes incentives to pursue funding not
22 directly linked to student needs; and

23 (4) captures components in the pre-2012
24 funding formula and is more precise in measuring student need
25 and scale.

.188718.2

underscored material = new
~~[bracketed material] = delete~~

1 C. The legislature finds further that the cost
2 factors used in the 2012 funding formula better measure need by
3 addressing special cost differentials associated with students
4 that have special educational needs as well as particular types
5 of local educational agency. The poverty, English language
6 learner and special education cost factors measure those
7 federally recognized attributes that unambiguously reflect the
8 special educational needs of students. The cost factor for
9 mobility recognizes the significant impact of disruption on
10 students' educational experience. The cost factors for grade
11 level enrollment address the knowledge gained from educational
12 research and experience that educating students becomes more
13 expensive as they progress through the educational system from
14 elementary through secondary school. Total school district or
15 charter school enrollment is included as a cost factor that
16 accounts for relative economies of scale in the delivery of
17 educational services.

18 D. The legislature finds further that the federal
19 No Child Left Behind Act of 2001 requires states to employ
20 highly qualified teachers to teach students in core academic
21 subjects. The federal Individuals with Disabilities Education
22 Act requires highly qualified personnel to provide holistic
23 services for students in need of special education, as well as
24 staff who are qualified to intervene before students are
25 classified as needing special education. To carry out these

.188718.2

underscored material = new
[bracketed material] = delete

1 mandates, and to continue encouraging school districts to hire
2 and retain highly qualified teachers and instructional support
3 providers, the 2012 funding formula replaces the training and
4 experience index with an index of staff qualifications to
5 provide the means to cover the costs associated with increased
6 academic qualifications and experience for these personnel."

7 SECTION 2. Section 22-8-2 NMSA 1978 (being Laws 1978,
8 Chapter 128, Section 3, as amended) is repealed and a new
9 Section 22-8-2 NMSA 1978 is enacted to read:

10 "22-8-2. [NEW MATERIAL] DEFINITIONS.--As used in the
11 Public School Finance Act:

12 A. "adjusted per-student cost" means the base per-
13 student cost multiplied by the applicable formula adjustments;

14 B. "base per-student cost" means the reference
15 value cost of providing an educational program to a qualified
16 student attending the average size district with the average
17 composition of enrollment across grade ranges kindergarten
18 through five, six through eight and nine through twelve and
19 with no formula adjustments applied;

20 C. "cost factor" means a measure of student need,
21 grade level composition, scale of operations or staff
22 qualifications;

23 D. "cost factor demographic data" means a school
24 district's or charter school's student-need data pertaining to
25 poverty, English language learners, special education and

.188718.2

1 mobility;

2 E. "educational plan" means the educational plan
3 for student success of a school district or charter school;

4 F. "enrollment" means the number of qualified
5 students on the current roll of a class or public school on a
6 specified day;

7 G. "formula adjustment" means a component of the
8 funding formula that accounts for a differential cost
9 associated with a cost factor;

10 H. "governing body" means the governing body of a
11 charter school;

12 I. "growth" means that a school district's or
13 charter school's current-year October total enrollment is
14 greater than its prior-year October total enrollment;

15 J. "head administrator" means the person
16 responsible for the day-to-day operations of a charter school;

17 K. "mobility rate" means the district-level
18 student-weighted average percentage of total enrollment that
19 entered or left the school over the school year;

20 L. "operating budget" means the annual financial
21 plan required to be submitted to the department by a local
22 school board or governing body;

23 M. "public money" or "public funds" means all money
24 from public or private sources received by a school district or
25 charter school or officer or employee of a school district or

.188718.2

underscored material = new
~~[bracketed material] = delete~~

1 charter school for public use;

2 N. "qualified student" means a student who:

3 (1) has not graduated from high school;

4 (2) is regularly enrolled full time in the
5 minimum course requirements approved by the department for
6 public school students; and

7 (3) in terms of age:

8 (a) is at least five years of age prior
9 to 12:01 a.m. on September 1 of the school year or will be five
10 years of age prior to 12:01 a.m. on September 1 of the school
11 year if the student is enrolled in a public school extended-
12 year kindergarten program that begins prior to the start of the
13 regular school year;

14 (b) is at least three years of age at
15 any time during the school year and is receiving special
16 education pursuant to rules of the department; or

17 (c) has not reached the student's
18 twenty-second birthday on the first day of the school year;

19 O. "total enrollment" means the number of qualified
20 students on a school's or charter school's roll on a specified
21 day in all grade levels and in programs for three- and four-
22 year-old developmentally disabled qualified students; and

23 P. "total program cost" means the adjusted per-
24 student cost multiplied by the number of students in a school
25 district or charter school."

.188718.2

underscored material = new
[bracketed material] = delete

1 SECTION 3. A new section of the Public School Finance Act
2 is enacted to read:

3 "[NEW MATERIAL] ESTABLISHMENT OF ENROLLMENT.--The current
4 roll of a class, public school and school district or charter
5 school is established by the addition of original entries and
6 re-entries minus withdrawals. Withdrawals of qualified
7 students, in addition to qualified students formally withdrawn
8 from the public school, include qualified students absent from
9 the public school for as many as ten consecutive school days;
10 provided that withdrawals do not include students in need of
11 early intervention and habitual truants with whom the school
12 district or charter school is required to intervene and keep in
13 an educational setting as provided in Section 22-12-9 NMSA
14 1978."

15 SECTION 4. Section 22-8-6 NMSA 1978 (being Laws 1967,
16 Chapter 16, Section 60, as amended by Laws 1999, Chapter 281,
17 Section 21 and by Laws 1999, Chapter 291, Section 2) is amended
18 to read:

19 "22-8-6. BUDGETS--SUBMISSION--FAILURE TO SUBMIT--
20 DISAPPROVAL.--

21 A. Prior to April 15 of each year, each local
22 school board shall submit to the department [~~an~~] a proposed
23 operating budget for the school district [~~and any charter~~
24 ~~schools in the district~~] for the ensuing fiscal year. Upon
25 written approval of the [~~state superintendent~~] secretary, the

.188718.2

underscored material = new
[bracketed material] = delete

1 date for the submission of the proposed operating budget as
2 required by this section may be extended to a later date fixed
3 by the [~~state superintendent~~] secretary.

4 B. The operating budget required by this section
5 may include:

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

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

12 [~~G. The operating budget required by this section~~
13 ~~shall include a budget for each charter school of the~~
14 ~~membership projected for each charter school, the total program~~
15 ~~units generated at that charter school and approximate~~
16 ~~anticipated disbursements and expenditures at each charter~~
17 ~~school.~~

18 ~~D.]~~ C. If a local school board fails to submit a
19 budget pursuant to this section, the department shall prepare
20 the operating budget for the school district for the ensuing
21 fiscal year. [~~A local school board shall be considered as~~
22 ~~failing to submit a~~]

23 D. The department shall not approve an operating
24 budget pursuant to this section if the budget submitted:

25 (1) exceeds the total projected resources of

.188718.2

underscored material = new
[bracketed material] = delete

1 the school district [~~or if the budget submitted~~];

2 (2) does not comply with the law or with rules
3 and procedures of the department; or

4 (3) is not aligned with the school district's
5 approved educational plan and, beginning with the 2013-2014
6 school year, performance measures pursuant to the
7 Accountability in Government Act."

8 SECTION 5. Section 22-8-6.1 NMSA 1978 (being Laws 1993,
9 Chapter 227, Section 8, as amended) is repealed and a new
10 Section 22-8-6.1 NMSA 1978 is enacted to read:

11 "22-8-6.1. [NEW MATERIAL] CHARTER SCHOOL BUDGETS.--

12 A. Prior to April 15 of each year, the governing
13 body of each state-chartered charter school shall submit its
14 proposed operating budget to the charter schools division of
15 the department for its approval or amendment pursuant to the
16 Public School Finance Act and the Charter Schools Act. In
17 order to receive final budget approval, the operating budget
18 must be aligned to the school's approved educational plan.

19 B. Prior to April 15 of each year, the governing
20 body of each locally chartered charter school shall submit its
21 proposed operating budget at the same time to the department
22 and the school district that chartered it. In order to be
23 approved, the operating budget must be aligned to the school's
24 approved educational plan. Beginning with the 2013-2014 school
25 year, all charter schools shall submit performance-based

.188718.2

underscored material = new
~~[bracketed material] = delete~~

1 budgets that comply with the requirements of the Accountability
2 in Government Act on forms prescribed by the department. The
3 local school board may comment on the operating budget and
4 whether the operating budget is within the allotted resources
5 of the charter school, but the local school board shall have no
6 veto authority over the operating budget.

7 C. Upon written approval of the secretary, the date
8 for submission of a proposed operating budget may be extended
9 to a later date fixed by the secretary. If the governing body
10 fails to submit its proposed operating budget pursuant to this
11 section, the department shall prepare the operating budget for
12 the charter school for the ensuing fiscal year. A governing
13 body shall be considered as failing to submit an operating
14 budget pursuant to this section if the operating budget
15 submitted:

16 (1) exceeds the total projected resources of
17 the charter school;

18 (2) does not comply with the law or with rules
19 and procedures of the department; or

20 (3) is not aligned with the charter school's
21 approved educational plan and performance measures.

22 D. For the second and subsequent years of
23 operation, the proposed operating budget of a charter school
24 shall be based on the charter school's cost factor demographic
25 data and index of staff qualifications."

.188718.2

underscored material = new
[bracketed material] = delete

1 SECTION 6. Section 22-8-11 NMSA 1978 (being Laws 1967,
2 Chapter 16, Section 66, as amended) is amended to read:

3 "22-8-11. BUDGETS--APPROVAL OF OPERATING BUDGET.--

4 A. On or before July 1 of each year, the department
5 shall:

6 (1) [~~on or before July 1 of each year~~] approve
7 and certify to each [~~local~~] school [~~board~~] district and
8 [~~governing body of a state-chartered~~] charter school an
9 operating budget for use by the school district or [~~state-~~
10 ~~chartered~~] charter school;

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

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

22 B. No school district or [~~state-chartered~~] charter
23 school or officer or employee of a school district or
24 [~~state-chartered~~] charter school shall make any expenditure or
25 incur any obligation for the expenditure of public [~~funds~~]

.188718.2

underscored material = new
[bracketed material] = delete

1 money unless that expenditure or obligation is made in
2 accordance with an operating budget approved by the department.
3 This prohibition does not prohibit the transfer of [~~funds~~]
4 money pursuant to the department's rules and procedures.

5 C. The department shall not approve and certify an
6 operating budget of any school district or [~~state-chartered~~]
7 charter school that [~~fails to~~] does not align with the
8 educational plan and, beginning with the operating budget for
9 the 2013-2014 school year, the performance measures pursuant to
10 the Accountability in Government Act and does not demonstrate
11 that parental involvement in the budget process was solicited."

12 SECTION 7. Section 22-8-12.1 NMSA 1978 (being Laws 1978,
13 Chapter 128, Section 5, as amended) is amended to read:

14 "22-8-12.1. [~~MEMBERSHIP~~] ADJUSTED PER-STUDENT COST
15 PROJECTIONS AND BUDGET REQUESTS.--

16 A. Beginning with projections for the 2013-2014
17 school year, each [~~local school board or governing body of a~~
18 ~~state-chartered~~] school district and charter school shall
19 submit annually, on or before October 15, to the department:

20 (1) an estimate for the succeeding fiscal year
21 of:

22 (a) the [~~membership of qualified~~
23 ~~students to be enrolled in the basic program~~] enrollment by
24 grade level;

25 (b) the full-time-equivalent [~~membership~~

underscored material = new
[bracketed material] = delete

1 ~~of students to be enrolled]~~ enrollment in approved early
2 childhood education programs; ~~[and]~~

3 (c) the ~~[membership of students to be~~
4 ~~enrolled]~~ enrollment in approved special education programs;
5 and

6 (d) the cost factor demographic data by
7 grade level;

8 (2) all other information necessary to
9 calculate total program ~~[costs]~~ cost; and

10 (3) any other information related to the
11 financial needs of the school district or ~~[state-chartered]~~
12 charter school as may be requested by the department.

13 B. All information requested pursuant to Subsection
14 A of this section shall be submitted on forms prescribed and
15 furnished by the department and shall comply with the
16 department's rules and procedures.

17 C. The department shall:

18 (1) review the financial needs of each school
19 district ~~[or state-chartered]~~ and charter school for the
20 succeeding fiscal year; and

21 (2) submit annually, on or before November 30,
22 to the secretary of finance and administration the
23 recommendations of the department for:

24 (a) amendments to the public school
25 ~~[finance]~~ funding formula;

.188718.2

underscored material = new
[bracketed material] = delete

1 (b) appropriations for the succeeding
2 fiscal year to the public school fund for inclusion in the
3 executive budget document; and

4 (c) appropriations for the succeeding
5 fiscal year for ~~[pupil]~~ student transportation and
6 instructional materials."

7 SECTION 8. Section 22-8-17 NMSA 1978 (being Laws 1974,
8 Chapter 8, Section 7, as amended) is amended to read:

9 "22-8-17. TOTAL PROGRAM COST DETERMINATION--REQUIRED
10 INFORMATION.--

11 A. The department shall calculate the total program
12 cost for each school district and charter school ~~[shall be~~
13 ~~determined by the department]~~ in accordance with the provisions
14 of the Public School Finance Act.

15 B. The department ~~[is authorized to]~~ may require
16 from each school district and charter school the information
17 necessary to make an accurate determination of the district's
18 or charter school's total program cost."

19 SECTION 9. Section 22-8-18 NMSA 1978 (being Laws 1974,
20 Chapter 8, Section 8, as amended by Laws 2007, Chapter 347,
21 Section 1 and by Laws 2007, Chapter 348, Section 2 and also by
22 Laws 2007, Chapter 365, Section 1) is repealed and a new
23 Section 22-8-18 NMSA 1978 is enacted to read:

24 "22-8-18. [NEW MATERIAL] PROJECTED ADJUSTED PER-STUDENT
25 COST CALCULATION FOR SCHOOL DISTRICTS AND CHARTER SCHOOLS--

.188718.2

underscored material = new
[bracketed material] = delete

1 LOCAL RESPONSIBILITY.--

2 A. As used in this section:

3 (1) "ENR" means total enrollment;

4 (2) "exp" means the exponential function with
5 its base being the mathematical constant e; and

6 (3) "ln" means natural logarithm.

7 B. The cost factors used to determine the adjusted
8 per-student cost for a school district or charter school are:

9 (1) poverty, which is measured by the
10 percentage of qualified students in a school who qualified for
11 free or reduced-price lunch as of September 30 of the prior
12 school year;

13 (2) English language learners, which is
14 measured by the percentage of qualified students designated as
15 English language learners based on a department-approved
16 English language proficiency assessment;

17 (3) special education, which is measured by
18 sixteen percent of the number of qualified students for school
19 districts and by the percentage of qualified students who are
20 required by the federal Individuals with Disabilities Education
21 Act to have an individualized education program for the
22 delivery of special education and includes developmentally
23 disabled three- and four-year-old qualified students for
24 charter schools;

25 (4) mobility, which is the mobility rate

.188718.2

underscored material = new
[bracketed material] = delete

1 determined by the following formula: $1 - (1 \div (1 + \text{statewide mobility ratio}))$, where the mobility ratio is determined
2 annually by the department;

3
4 (5) the percent of total district enrollment
5 in grades six through eight;

6 (6) the percent of total district enrollment
7 in grades nine through twelve;

8 (7) the total district enrollment; and

9 (8) the weighted index of staff
10 qualifications.

11 C. The adjusted per-student cost for school
12 districts is determined by multiplying the base per-student
13 cost by a series of formula adjustments as follows:

14 "base per-student cost x
15 $[(1 + \text{percent free/reduced-fee lunch})^{0.375}] \times$
16 $[(1 + \text{percent English language learners})^{0.094}] \times$
17 $[(1 + \text{percent special education})^{1.723}] \times$
18 $[(1 + \text{mobility rate})^{0.190}] \times$
19 $[(1 + \text{enrollment percent in grades six-eight})^{0.291} \div$
20 $1.063] \times$
21 $[(1 + \text{enrollment percent in grades nine-twelve})^{0.608} \div$
22 $1.187] \times$
23 $[(\text{ENR})^{-0.5750} \times \exp((\ln(\text{ENR}))^2)^{0.0287} \div 0.0619] \times$
24 weighted index of staff qualifications formula
25 adjustment determined pursuant to Section 22-8-24

.188718.2

underscored material = new
[bracketed material] = delete

1 NMSA 1978".

2 D. The funding formula equation used to determine
3 the adjusted per-student cost for charter schools is determined
4 by multiplying the base per-student cost by a series of formula
5 adjustments as follows:

6 "base per-student cost x
7 $[(1 + \text{percent free/reduced-fee lunch})^{0.375}] \times$
8 $[(1 + \text{percent English language learners})^{0.094}] \times$
9 $[(1 + \text{percent special education})^{1.723}] \times$
10 $[(1 + \text{mobility rate})^{0.190}] \times$
11 $[(1 + \text{enrollment percent in grades six-eight})^{0.291} \div$
12 $1.074] \times$
13 $[(1 + \text{enrollment percent in grades nine-twelve})^{0.608} \div$
14 $1.241] \times$
15 $[(\text{ENR})^{-0.3071} \times \exp((\ln(\text{ENR}))^2)^{0.0122} \div 0.2881] \times$
16 weighted index of staff qualifications adjustment as
17 determined pursuant to Section 22-8-24 NMSA 1978".

18 E. The total adjusted per-student cost for a
19 charter school shall not exceed that of the school district in
20 which it is located.

21 F. The exponents and denominators used in the
22 formula adjustments shall remain constant until they are
23 redetermined after the required periodic funding formula study.

24 G. Except as otherwise provided in this section,
25 cost factor demographic data and total enrollment are based on

.188718.2

underscoring material = new
~~[bracketed material] = delete~~

1 the average of the prior year's total enrollment reported in
2 December and February and the prior-year cost factor
3 demographic data.

4 H. A school district or charter school that is
5 experiencing growth may elect to use the greater of the prior-
6 year average December and February total enrollment or the
7 current-year October total enrollment, as determined by the
8 difference in the prior-year October total enrollment and the
9 current-year October total enrollment.

10 I. The legislature shall provide categorical
11 funding for the first year of operation for a school district
12 or charter school that has received final authorization.

13 J. The special education formula adjustment for a
14 school district is calculated using sixteen percent of the
15 number of qualified students in the school district.

16 K. The special education formula adjustment for a
17 charter school is calculated using the actual number of
18 appropriately identified special education qualified students
19 who are receiving special education on the October enrollment
20 report. The legislature finds that charter schools are
21 designed for unique populations and the range of variation in
22 special education in charter schools is wider and often well
23 below school district averages; therefore, it is rational and
24 reasonable to differentiate between school districts and
25 charter schools in the special education cost factor.

.188718.2

underscored material = new
[bracketed material] = delete

1 L. To maintain the funding formula each year, the
2 department shall:

3 (1) update the cost factors of each school
4 district and charter school to determine their respective
5 formula adjustments for that year; and

6 (2) adjust the base per-student cost according
7 to legislative appropriation.

8 M. The department shall undertake a thorough
9 funding formula study every ten years, or more frequently if
10 the legislature determines a need, to update the current
11 funding formula to determine the formula's equation exponents
12 and denominators."

13 SECTION 10. Section 22-8-24 NMSA 1978 (being Laws 1974,
14 Chapter 8, Section 15, as amended by Laws 1993, Chapter 91,
15 Section 1 and also by Laws 1993, Chapter 237, Section 3) is
16 repealed and a new Section 22-8-24 NMSA 1978 is enacted to
17 read:

18 "22-8-24. [NEW MATERIAL] INDEX OF STAFF QUALIFICATIONS.--

19 A. For the purpose of calculating the index of
20 staff qualifications, the following definitions and limitations
21 apply:

22 (1) "instructional staff" means classroom
23 teachers;

24 (2) the number of instructional staff to be
25 counted in calculating the index of staff qualifications is the
.188718.2

1 actual number of full-time-equivalent instructional staff on
2 the October payroll of the prior year;

3 (3) the number of years of experience to be
4 used in calculating the index of staff qualifications is the
5 number of years of experience as determined by the department;
6 and

7 (4) the academic degree and additional credit
8 hours to be used in calculating the index of staff
9 qualifications are the degree and additional semester credit
10 hours allowed for salary increment purposes on the salary
11 schedule of the school district or charter school.

12 B. The factors for each classification of academic
13 training by years of experience are as follows:

14 Matrix of Staff Qualifications

Academic Classification	Years of Experience									
	Level I			Level II				Level III		
	0-1	2-3	4-5	4-6	7-8	9-15	Over 15	7-8	9-15	Over 15
Bachelor's degree	0.64	0.67	0.71	0.76	0.82	0.93	1.04	0.90	1.02	1.17
Master's degree or national board certification	0.68	0.72	0.76	0.81	0.88	1.00	1.11	0.96	1.09	1.25
Master's degree plus 45 credit hours or post-master's degree	0.71	0.75	0.79	0.85	0.92	1.05	1.16	1.01	1.14	1.31

15
16
17
18
19
20
21
22
23 C. The index of staff qualifications for each school
24 district and charter school shall be calculated in accordance
25 with instructions issued by the department. The following

.188718.2

underscored material = new
[bracketed material] = delete

underscored material = new
~~[bracketed material] = delete~~

1 calculation shall be made to compute the value of the index of
2 staff qualifications:

3 (1) multiply the number of full-time-equivalent
4 teachers in each academic classification and level in the matrix
5 by the numerical factor in the appropriate "years of experience"
6 column provided in Subsection B of this section;

7 (2) add the adjusted full-time-equivalent
8 teachers calculated in Paragraph (1) of this subsection; and

9 (3) divide the total obtained in Paragraph (2)
10 of this subsection by the total number of full-time-equivalent
11 instructional staff.

12 D. If the result of the calculation of the index of
13 staff qualifications for a school district or charter school is
14 less than 1.0, its factor shall be 1.0.

15 E. If a new school district is created, the index of
16 staff qualifications for that school district for the first year
17 of operation shall be 1.0.

18 F. If a school district's or charter school's index
19 of staff qualifications is greater than 1.0, the index of staff
20 qualifications formula adjustment used to determine the adjusted
21 per-student cost is equal to the amount determined in Subsection
22 C of this section multiplied by the percentage of the prior
23 year's budget for instructional staff salaries and benefits plus
24 a factor equal to one hundred percent minus the percentage of
25 the prior year's budget for instructional staff salaries and

.188718.2

underscored material = new
[bracketed material] = delete

1 benefits."

2 SECTION 11. Section 22-8-25 NMSA 1978 (being Laws 1981,
3 Chapter 176, Section 5, as amended) is amended to read:

4 "22-8-25. STATE EQUALIZATION GUARANTEE DISTRIBUTION--
5 DEFINITIONS--DETERMINATION OF AMOUNT.--

6 A. The state equalization guarantee distribution is
7 that amount of money distributed to each school district to
8 ensure that its operating revenue, including its local and
9 federal revenues as defined in this section, is at least equal
10 to the school district's total program cost. For [~~state-~~
11 ~~chartered~~] charter schools, the state equalization guarantee
12 distribution is the difference between the [~~state-chartered~~]
13 charter school's total program cost and the two percent withheld
14 by the school district or the department for administrative
15 services.

16 B. "Local revenue", as used in this section, means
17 seventy-five percent of receipts to the school district derived
18 from that amount produced by a school district property tax
19 applied at the rate of fifty cents (\$.50) to each one thousand
20 dollars (\$1,000) of net taxable value of property allocated to
21 the school district and to the assessed value of products
22 severed and sold in the school district as determined under the
23 Oil and Gas Ad Valorem Production Tax Act and upon the assessed
24 value of equipment in the school district as determined under
25 the Oil and Gas Production Equipment Ad Valorem Tax Act.

.188718.2

underscored material = new
[bracketed material] = delete

1 C. "Federal revenue", as used in this section, means
2 receipts to the school district, excluding amounts that, if
3 taken into account in the computation of the state equalization
4 guarantee distribution, result, under federal law or
5 regulations, in a reduction in or elimination of federal school
6 funding otherwise receivable by the school district, derived
7 from the following:

8 (1) seventy-five percent of the school
9 district's share of forest reserve funds distributed in
10 accordance with Section 22-8-33 NMSA 1978; and

11 (2) seventy-five percent of grants from the
12 federal government as assistance to those areas affected by
13 federal activity authorized in accordance with Title 20 of the
14 United States Code, commonly known as "PL 874 funds" or "impact
15 aid".

16 D. To determine the amount of the state equalization
17 guarantee distribution, the department shall

18 ~~[(1) calculate the number of program units to~~
19 ~~which each school district or charter school is entitled using~~
20 ~~an average of the MEM on the second and third reporting dates of~~
21 ~~the prior year; or~~

22 ~~(2) calculate the number of program units to~~
23 ~~which a school district or charter school operating under an~~
24 ~~approved year-round school calendar is entitled using an average~~
25 ~~of the MEM on appropriate dates established by the department;~~

.188718.2

underscored material = new
[bracketed material] = delete

1 or

2 ~~(3) calculate the number of program units to~~
3 ~~which a school district or charter school with a MEM of two~~
4 ~~hundred or less is entitled by using an average of the MEM on~~
5 ~~the second and third reporting dates of the prior year or the~~
6 ~~fortieth day of the current year, whichever is greater; and~~

7 ~~(4) using the results of the calculations in~~
8 ~~Paragraph (1), (2) or (3) of this subsection and the~~
9 ~~instructional staff training and experience index from the~~
10 ~~October report of the prior school year, establish a total~~
11 ~~program cost of the school district or charter school;~~

12 ~~(5) for school districts, calculate the local~~
13 ~~and federal revenues as defined in this section;~~

14 ~~(6) deduct the sum of the calculations made in~~
15 ~~Paragraph (5) of this subsection from the program cost~~
16 ~~established in Paragraph (4) of this subsection;~~

17 ~~(7)]~~ determine the total program cost for each
18 school district and charter school and subtract the local and
19 federal revenue. The department shall deduct the total amount
20 of guaranteed energy savings contract payments that the
21 department determines will be made to the school district from
22 the public school utility conservation fund during the fiscal
23 year for which the state equalization guarantee distribution is
24 being computed and ~~[(8)]~~ deduct ninety percent of the amount
25 certified for the school district by the department pursuant to

.188718.2

underscored material = new
[bracketed material] = delete

1 the Energy Efficiency and Renewable Energy Bonding Act.

2 E. Reduction of a school district's state
3 equalization guarantee distribution pursuant to the Energy
4 Efficiency and Renewable Energy Bonding Act shall cease when the
5 school district's cumulative reductions equal its proportional
6 share of the cumulative debt service payments necessary to
7 service the bonds issued pursuant to [~~the Energy Efficiency and~~
8 ~~Renewable Energy Bonding~~] that act.

9 [~~F. The amount of the state equalization guarantee~~
10 ~~distribution to which a school district is entitled is the~~
11 ~~balance remaining after the deductions made in Paragraphs (6)~~
12 ~~through (8) of Subsection D of this section.~~

13 G.] F. The state equalization guarantee distribution
14 shall be distributed prior to June 30 of each fiscal year. The
15 calculation shall be based on the local and federal revenues
16 specified in this section received from June 1 of the previous
17 fiscal year through May 31 of the fiscal year for which the
18 state equalization guarantee distribution is being computed. In
19 the event that a school district or charter school has received
20 more state equalization guarantee funds than its entitlement, a
21 refund shall be made by the school district or charter school to
22 the state general fund."

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

25 "[NEW MATERIAL] SPECIAL EDUCATION CATASTROPHIC AID FUND--

.188718.2

underscoring material = new
~~[bracketed material] = delete~~

1 CREATED--DISTRIBUTION--LOCAL EFFORT.--

2 A. As used in this section, "high-cost special
3 education" means the provision of special education and related
4 services to a qualified student, the cost of which exceeds the
5 established threshold amount above the base per-student cost.

6 B. The "special education catastrophic aid fund" is
7 created in the state treasury. The fund consists of
8 appropriations, gifts, grants, donations and any other money
9 credited to the fund. Money in the fund shall revert to the
10 general fund at the end of a fiscal year. The fund shall be
11 administered by the department, and money in the fund is
12 appropriated to the department to provide grants to school
13 districts to assist them in paying costs associated with high-
14 cost special education students.

15 C. A school district may apply to the department for
16 a grant from the fund to help defray the cost of providing high-
17 cost special education. The application shall be in a form
18 approved by the department and shall include the documentation
19 required by the department. A single grant shall not exceed
20 seventy-five percent of the projected cost of providing the
21 high-cost special education for a given school year.

22 D. Based on the legislative appropriation each year,
23 the department shall determine the threshold amount for high-
24 cost special education."

25 SECTION 13. A new section of the Public School Finance Act

.188718.2

underscored material = new
[bracketed material] = delete

1 is enacted to read:

2 "[NEW MATERIAL] NEW PUBLIC SCHOOL FUNDING FORMULA FUND--
3 GENERAL FUND RESERVES.--The "new public school funding formula
4 fund" is created in the state treasury as part of the general
5 fund reserves. The fund is a nonreverting fund and shall
6 consist of money from the separate account of the appropriation
7 contingency fund that represented a distribution from the
8 permanent fund pursuant to Paragraph (1) of Subsection G of
9 Section 7 of Article 12 of the constitution of New Mexico that
10 was made in Laws 2004, Chapter 114, Section 12 and any other
11 appropriations made to the fund. The new public school funding
12 formula fund is subject to appropriation by the legislature to
13 hold school districts and charter schools harmless in the
14 implementation of the new public school funding formula in the
15 2013-2014 school year."

16 SECTION 14. A new section of the Charter Schools Act is
17 enacted to read:

18 "[NEW MATERIAL] NEW CHARTER SCHOOLS--FISCAL IMPACT
19 STUDY--LEGISLATIVE APPROVAL FOR FUNDING PRIOR TO FINAL
20 AUTHORIZATION.--

21 A. The chartering authority shall conduct a fiscal
22 impact study before approving a new charter school, including
23 the fiscal impact of a new charter school on the school district
24 in which it is located and the fiscal impact on the public
25 school funding formula and the state equalization guarantee

.188718.2

underscored material = new
[bracketed material] = delete

1 distribution for all public schools. The fiscal impact study
2 shall be reviewed and approved by the department prior to
3 issuance. The costs of a charter school's planning year and its
4 first year of operation are subject to the availability of funds
5 appropriated by the legislature.

6 B. A charter school shall not receive final
7 authorization for establishment until the legislature has
8 approved funding for the charter school. After final
9 authorization for establishment by the chartering authority and
10 after the charter school's planning year, the legislature shall
11 fund the charter school through categorical funding and the
12 charter school shall not receive a state equalization guarantee
13 distribution for its first year of operation."

14 SECTION 15. Section 22-30-6 NMSA 1978 (being Laws 2007,
15 Chapter 292, Section 6 and Laws 2007, Chapter 293, Section 6) is
16 amended to read:

17 "22-30-6. DISTANCE LEARNING STUDENTS.--

18 A. A student must be enrolled in a public school or
19 a state-supported school and must have the permission of the
20 student's local distance education learning site to enroll in a
21 distance learning course. A distance learning student shall
22 only be counted in the student's primary enrolling district for
23 the purpose of determining the [membership] enrollment used to
24 calculate a school district's state equalization guarantee. A
25 student shall have only one primary enrolling district.

.188718.2

underscored material = new
[bracketed material] = delete

1 B. A home school [~~student~~] school-age person may
2 participate in the statewide cyber academy by enrolling for one-
3 half or more of the minimum course requirements approved by the
4 department for public school students in the school district in
5 which the student resides; or, if the student is enrolled for
6 less than one-half of the minimum course requirements, the
7 student may participate in the statewide cyber academy by paying
8 not more than thirty-five percent of the current [~~unit value per~~
9 ~~curricular unit~~] base per-student cost.

10 C. A student enrolled in a nonpublic school may
11 participate in the statewide cyber academy if the school in
12 which the student is enrolled enters into a contract with the
13 school district in which the nonpublic school is located to pay
14 required tuition.

15 D. A student who is detained in or committed to a
16 juvenile detention facility or a facility for the long-term care
17 and rehabilitation of delinquent children may participate in the
18 statewide cyber academy if the facility in which the student is
19 enrolled enters into a contract with the school district in
20 which the facility is located."

21 **SECTION 16. TEMPORARY PROVISION--ENROLLMENT REPORTS--**
22 **MEM--STATUTORY REFERENCES.--**

23 A. References in the Public School Code to the
24 fortieth day membership shall be deemed to be references to the
25 total enrollment on the second Wednesday in October.

.188718.2

underscoring material = new
[bracketed material] = delete

1 B. References in the Public School Code to the
2 eightieth day membership shall be deemed to be references to the
3 total enrollment on the second Wednesday in December.

4 C. References in the Public School Code to the one
5 hundred twentieth day membership shall be deemed to be
6 references to the total enrollment on the second Wednesday in
7 February.

8 D. References in the Public School Code to MEM or
9 membership shall be deemed to be references to enrollment.

10 SECTION 17. APPROPRIATIONS.--

11 A. Forty million dollars (\$40,000,000) is
12 appropriated from the separate account of the appropriation
13 contingency fund that represented a distribution from the
14 permanent fund pursuant to Paragraph (1) of Subsection G of
15 Section 7 of Article 12 of the constitution of New Mexico and
16 that was created in Laws 2004, Chapter 114, Section 12 to the
17 new public school funding formula fund in fiscal year 2013 to
18 carry out the purposes of the fund.

19 B. Two hundred thousand dollars (\$200,000) is
20 appropriated from the general fund to the public education
21 department for expenditure in fiscal years 2013 and 2014 to plan
22 and implement the new public school funding formula, including
23 data collection and reporting. Any unexpended or unencumbered
24 balance remaining at the end of fiscal year 2014 shall revert to
25 the general fund.

.188718.2

