SENATE BILL 141

52ND LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2016

INTRODUCED BY

Howie C. Morales and Dennis J. Roch

FOR THE LEGISLATIVE EDUCATION STUDY COMMITTEE
AND THE LEGISLATIVE FINANCE COMMITTEE

AN ACT

RELATING TO PUBLIC EDUCATION; AMENDING THE PUBLIC SCHOOL
FUNDING FORMULA TO ESTABLISH A TEACHER COST INDEX FOR FISCAL
YEARS 2018 THROUGH 2023 AND TO REQUIRE A STUDY AND ANALYSIS OF
THE TEACHER COST INDEX'S SUFFICIENCY, TO PHASE IN A FIVE-YEAR
REDUCTION IN THE CALCULATION OF SMALL-SCHOOL SIZE ADJUSTMENT
PROGRAM UNITS FOR CERTAIN CHARTER SCHOOLS AND TO MAKE A FIVE-
YEAR, PHASED-IN ADJUSTMENT TO THE AT-RISK INDEX; MAKING AN
APPROPRIATION.

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

SECTION 1. Section 22-8-6.1 NMSA 1978 (being Laws 1993, Chapter 227, Section 8, as amended) is amended to read:

"22-8-6.1. CHARTER SCHOOL BUDGETS.--

A. Each state-chartered charter school shall submit to the charter schools division of the department a school-
based budget. For the first year of operation, the budget of every state-chartered charter school shall be based on the projected number of program units generated by that charter school and its students, using the at-risk index, [and] the instructional staff training and experience index and the teacher cost index of the school district in which it is geographically located. For the second and subsequent fiscal years of operation, the budgets of state-chartered charter schools shall be based on the number of program units generated using the average of the MEM on the second and third reporting dates of the prior year, [and its own] their instructional staff training and experience index, their teacher cost index and the at-risk index of the school district in which the state-chartered charter school is geographically located. The budget shall be submitted to the division for approval or amendment pursuant to the Public School Finance Act and the Charter Schools Act. [Thereafter] After the state-chartered charter school's first year of operation, the budget shall be submitted to the public education commission for review.

B. Each locally chartered charter school shall submit to the local school board a school-based budget. For the first year of operation, the budget of every locally chartered charter school shall be based on the projected number of program units generated by the charter school and its students, using the at-risk index, [and] the instructional
staff training and experience index and the teacher cost index
of the school district in which it is geographically located.
For the second and subsequent fiscal years of operation, the
budgets of locally chartered charter schools shall be based on
the number of program units generated using the average of the
MEM on the second and third reporting dates of the prior year,
and [its own] their respective instructional staff training and
experience index, their respective teacher cost index and the
at-risk index of the school district in which the locally
chartered charter school is geographically located. The budget
shall be submitted to the local school board for approval or
amendment. The approval or amendment authority of the local
school board relative to the charter school budget is limited
to ensuring that sound fiscal practices are followed in the
development of the budget and that the charter school budget is
within the allotted resources. The local school board shall
have no veto authority over individual line items within the
charter school's proposed budget, but shall approve or
disapprove the budget in its entirety. Upon final approval of
the local budget by the local school board, the individual
charter school budget shall be included separately in the
budget submission to the department required pursuant to the
Public School Finance Act and the Charter Schools Act.

[G. For the first year of operation after a locally
chartered charter school converts to a state-chartered charter
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school or a state-chartered charter school converts to a locally chartered charter school, the charter school's budget shall be based on the number of program units generated using the average of the MEM on the second and third reporting dates of the prior year and the instructional staff training and experience index and the at-risk index of the school district in which it is geographically located. For second and subsequent fiscal years of operation, the charter school shall follow the provisions of Subsection A or B of this section, as applicable."

SECTION 2. Section 22-8-18 NMSA 1978 (being Laws 1974, Chapter 8, Section 8, as amended) is amended to read:

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

A. The total program units for the purpose of computing the program cost shall be calculated by multiplying the sum of the program units itemized as Paragraphs (1) [through (6)] and (2) in this subsection by the [instructional staff training and experience index] staffing cost multiplier and adding the program units itemized as Paragraphs [(7)] (3) through (14) in this subsection. The itemized program units are as follows:

(1) early childhood education;

(2) basic education;

(3) special education, adjusted by subtracting .202357.5
the units derived from membership in class D special education programs in private, nonsectarian, nonprofit training centers;

(4) bilingual multicultural education;

(5) fine arts education;

(6) elementary physical education;

(7) size adjustment;

(8) at-risk program;

(9) enrollment growth or new district adjustment;

(10) special education units derived from membership in class D special education programs in private, nonsectarian, nonprofit training centers;

(11) national board for professional teaching standards certification;

(12) home school student program unit;

(13) home school student activities; and

(14) charter school student activities.

B. The total program cost calculated as prescribed in Subsection A of this section includes the cost of early childhood, special, bilingual multicultural, fine arts and vocational education and other remedial or enrichment programs. It is the responsibility of the local school board or, for a charter school, the governing body of the charter school to determine its priorities in terms of the needs of the community served by that board. Except as otherwise provided in this
section, funds generated under the Public School Finance Act are discretionary to local school boards and governing bodies of charter schools; provided that the special program needs as enumerated in this section are met; and provided further that if a public school has been rated D or F for two consecutive years, the department shall ensure that the local school board or, for a charter school, the governing body of the charter school is prioritizing resources for the public school toward proven programs and methods linked to improved student achievement until the public school earns a C or better for two consecutive years.

C. For purposes of this section, a staffing cost multiplier shall be equal to the following:

1. for fiscal year 2017, the instructional staff training and experience index;
2. for fiscal year 2018, the weighted average of the instructional staff training and experience index at seventy-five percent and the teacher cost index at twenty-five percent;
3. for fiscal year 2019, the weighted average of the instructional staff training and experience index at fifty percent and the teacher cost index at fifty percent;
4. for fiscal year 2020, the weighted average of the instructional staff training and experience index at twenty-five percent and the teacher cost index at seventy-five percent.
percent; and

(5) for fiscal year 2021 and for all subsequent fiscal years, the teacher cost index."

SECTION 3. Section 22-8-23 NMSA 1978 (being Laws 1975, Chapter 119, Section 1, as amended) is amended to read:

"22-8-23. SIZE ADJUSTMENT PROGRAM UNITS--SCHOOL DISTRICTS--CERTAIN CHARTER SCHOOLS.--

A. A school district with an approved public school with a MEM of less than 400, including early childhood education full-time-equivalent MEM but excluding membership in class C and class D programs and excluding full-time-equivalent membership in three- and four-year-old developmentally disabled programs, is eligible for additional program units. Separate schools established to provide special programs, including [but not limited to] vocational and alternative education, shall not be classified as public schools for purposes of generating size adjustment program units. The number of additional program units to which a school district is entitled under this subsection is the sum of elementary-junior high units and senior high units computed in the following manner:

Elementary-Junior High Units

\[
\frac{200 - \text{MEM}}{200} \times 1.0 \times \text{MEM} = \text{Units}
\]

where MEM is equal to the membership of an approved elementary.
or junior high school, including early childhood education
full-time-equivalent membership but excluding membership in
class C and class D programs and excluding full-time-equivalent
membership in three- and four-year-old developmentally disabled
programs;

\[
\text{Senior High Units} \\
200 - \text{MEM} \\
\underline{\text{MEM}} \times 2.0 \times \text{MEM} = \text{Units} \\
200
\]
or

\[
\text{Senior High Units} \\
400 - \text{MEM} \\
\underline{\text{MEM}} \times 1.6 \times \text{MEM} = \text{Units} \\
400
\]

whichever calculation for senior high units is higher, where
MEM is equal to the membership of an approved senior high
school excluding membership in class C and class D programs.

B. An approved charter school with a MEM of less
than 400, including early childhood education full-time-
equivalent MEM but excluding membership in class C and class D
programs and excluding full-time-equivalent membership in
three- and four-year-old developmentally disabled programs, is
eligible for additional program units. The number of
additional program units to which a charter school is entitled
under this subsection is the sum of elementary-junior high

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units and senior high units computed in the following manner:

(1) Elementary-Junior High Units

\[
\frac{200 - \text{MEM}}{200} \times 1.0 \times \text{MEM} = \text{Units}
\]

where MEM is equal to the membership of an approved elementary or junior high school, including early childhood education full-time-equivalent membership but excluding membership in class C and class D programs and excluding full-time-equivalent membership in three- and four-year-old developmentally disabled programs; and

(2) Senior High Units

\[
\frac{200 - \text{MEM}}{200} \times 2.0 \times \text{MEM} = \text{Units}
\]

or

\[
\frac{400 - \text{MEM}}{400} \times 1.6 \times \text{MEM} = \text{Units}
\]

whichever calculation for senior high units is higher, where MEM is equal to the membership of an approved senior high school excluding membership in class C and class D programs.

C. The following percentages shall be used in computing additional program units pursuant to Subsection B of .202357.5

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this section:

(1) for a charter school in its first year of operation, one hundred percent; and

(2) for a charter school in its second and subsequent years of operation:

   (a) for fiscal year 2017, ninety percent;

   (b) for fiscal year 2018, eighty percent;

   (c) for fiscal year 2019, seventy percent;

   (d) for fiscal year 2020, sixty percent;

   and

   (e) for fiscal year 2021 and subsequent fiscal years, fifty percent.

[D] A school district with total MEM of less than 4,000, including early childhood education full-time-equivalent MEM, is eligible for additional program units. The number of additional program units to which a school district is entitled under this subsection is the number of district units computed in the following manner:

\[
\text{District Units} = \frac{4,000 - \text{MEM}}{4,000} \times 0.15 \times \text{MEM} = \text{Units}
\]

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

[G.] E. A school district with over 10,000 MEM with a ratio of MEM to senior high schools less than 4,000:1 is eligible for additional program units based on the number of approved regular senior high schools that are not eligible for senior high units under Subsection A of this section. The number of additional program units to which an eligible school district is entitled under this subsection is the number of units computed in the following manner:

\[
\frac{4,000 - \text{MEM}}{\text{Senior High Schools}} \times 0.50 = \text{Units}
\]

where MEM is equal to the total district membership, including early childhood education full-time-equivalent membership, and where senior high schools are equal to the number of approved regular senior high schools in the school district.

[D.] F. A school district, as defined in Subsection R of Section 22-1-2 NMSA 1978, with a MEM of less than 200, including early childhood education full-time-equivalent MEM, is eligible for additional program units, provided that the department certifies that the school district has implemented practices to reduce scale inefficiencies, including shared service agreements with regional education cooperatives or
other school districts for noninstructional functions and distance education. The number of additional program units to which a school district is entitled under this subsection is the number of units computed in the following manner:

\[ 200 - \text{MEM} = \text{Units} \]

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

SECTION 4. 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 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 manner:

\[ .202357.5 \]
At-Risk Index x MEM = Units
where MEM is equal to the total district membership, including
early childhood education, full-time-equivalent membership and
special education membership and where the at-risk index is
calculated in the following manner:

(1) for fiscal year 2017,
Three-Year Average Total Rate x [0.106, 0.112 = At-Risk Index;
(2) for fiscal year 2018,
Three-Year Average Total Rate x 0.121 = At-Risk Index;
(3) for fiscal year 2019,
Three-Year Average Total Rate x 0.131 = At-Risk Index;
(4) for fiscal year 2020,
Three-Year Average Total Rate x 0.140 = At-Risk Index; and
(5) for fiscal year 2021 and for all
subsequent fiscal years,
Three-Year Average Total Rate x 0.150 = At-Risk Index.

B. To calculate the three-year average total rate,
the department shall compute a three-year average of the school
district's percentage of membership used to determine its Title
I allocation, a three-year average of the percentage of
membership classified as English language learners using
criteria established by the federal office of civil rights and
a three-year average of the percentage of student mobility.
The department shall then add the three-year average rates.
The number obtained from this calculation is the three-year

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average total rate.

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

SECTION 5. A new section of the Public School Finance Act is enacted to read:

"[NEW MATERIAL] TEACHER COST INDEX--DEFINITIONS--FACTORS--CALCULATIONS.--

A. Beginning in fiscal year 2018, for purposes of calculating the teacher cost index, the following definitions shall apply:

(1) "number of teaching staff" means the actual number of full-time-equivalent teaching staff on the October payroll beginning with October 2017 and in each October thereafter;

(2) "teaching licensure level" is that level described in the School Personnel Act;

(3) "teaching staff" means a licensed teacher who is assigned classroom teaching responsibilities; and

(4) "years of experience" means the number of years of experience as determined by department rule.

B. The factors for each classification of licensure level by years of experience are provided in the following table:

Classroom Teacher Licensure Levels

| Years of Experience | .202357.5 |
C. The teacher cost index for each school district or charter school shall be calculated in accordance with instructions issued by the department. The following calculations shall be computed:

(1) multiply the number of full-time-equivalent teaching staff in each licensure level by the numerical factor in the appropriate years of experience column in Subsection B of this section;

(2) add the products calculated in Paragraph (1) of this subsection; and

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

D. No school district's or charter school's factor shall be less than 1.0.

E. In the event that a new school district is created, the teacher cost index shall be 1.0 for the first year of operations.

F. The department, the legislative education study committee and the legislative finance committee shall jointly gather data, conduct an analysis and submit a report by .202357.5
November 1 of each year to the governor, the legislative education study committee and the legislative finance committee. The report shall provide the following:

(1) alignment of the weights in the matrix and their relationship to actual cost differences;

(2) an analysis of data on relationships among teacher licensure level, educational attainment, years of experience and salary; and

(3) any recommended changes to the teacher cost index and to this section of the Public School Finance Act."

SECTION 6. Section 22-8-25 NMSA 1978 (being Laws 1981, Chapter 176, Section 5, as amended) is amended to read:

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

A. The state equalization guarantee distribution is that amount of money distributed to each school district to ensure that its operating revenue, including its local and federal revenues as defined in this section, is at least equal to the school district's program cost. For state-chartered charter schools, the state equalization guarantee distribution is the difference between the state-chartered charter school's program cost and the two percent withheld by the department for administrative services.

B. "Local revenue", as used in this section, means
seventy-five percent of receipts to the school district derived from that amount produced by a school district property tax applied at the rate of fifty cents ($0.50) to each one thousand dollars ($1,000) of net taxable value of property allocated to the school district and to the assessed value of products severed and sold in the school district as determined under the Oil and Gas Ad Valorem Production Tax Act and upon the assessed value of equipment in the school district as determined under the Oil and Gas Production Equipment Ad Valorem Tax Act.

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

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

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

D. To determine the amount of the state

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equalization guarantee distribution, the department shall:

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

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

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

(4) using the results of the calculations in Paragraph (1), (2) or (3) of this subsection and the instructional staff training and experience index and, beginning in fiscal year 2018, the teacher cost index from the October report of the prior school year, establish a total program cost of the school district or charter school;

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

(6) deduct the sum of the calculations made in Paragraph (5) of this subsection from the program cost .202357.5
established in Paragraph (4) of this subsection;

(7) deduct the total amount of guaranteed
energy savings contract payments that the department determines
will be made to the school district from the public school
utility conservation fund during the fiscal year for which the
state equalization guarantee distribution is being computed;
and

(8) deduct ninety percent of the amount
certified for the school district by the department pursuant to

E. Reduction of a school district's state
equalization guarantee distribution shall cease when the school
district's cumulative reductions equal its proportional share
of the cumulative debt service payments necessary to service
the bonds issued pursuant to the Energy Efficiency and
Renewable Energy Bonding Act.

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

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

SECTION 7. TEMPORARY PROVISION--PROTECTION FROM PROGRAM COST REDUCTIONS.--

A. Using funds appropriated by the legislature, the public education department shall implement a program to maintain school districts' and charter schools' respective program cost calculations in cases of reductions that result solely from the implementation of provisions of this act, and:

(1) for fiscal year 2017, the department shall maintain school districts' and charter schools' respective program cost calculations at one hundred percent of the fiscal year 2016 program cost calculations that have resulted solely from the implementation of provisions of this act;

(2) for fiscal year 2018, the department shall maintain school districts' and charter schools' respective program cost calculations at a minimum of seventy-five percent of the fiscal year 2017 program cost calculations that have resulted solely from the implementation of provisions of this act; and

(3) for fiscal year 2019, the department shall maintain school districts' and charter schools' respective program cost calculations at a minimum of fifty percent of the fiscal year 2018 program cost calculations that have resulted solely from the implementation of provisions of this act;
program cost calculations at a minimum of fifty percent of the fiscal year 2019 program cost calculations that have resulted solely from the implementation of provisions of this act.

B. The public education department shall provide the legislative education study committee and the legislative finance committee with a report on school districts' and charter schools' respective program cost calculations that have resulted solely from the implementation of provisions of this act.

SECTION 8. APPROPRIATION.--One million dollars ($1,000,000) is appropriated from the general fund to the public education department for expenditure in fiscal year 2017 to carry out the purposes of Section 7 of this act. Any unexpended or unencumbered balance remaining at the end of fiscal year 2017 shall revert to the general fund.

SECTION 9. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2016.