

1 AN ACT

2 RELATING TO PUBLIC SCHOOL FINANCE; AMENDING THE PUBLIC SCHOOL
3 FINANCE ACT TO ESTABLISH A PHASED-IN TEACHER COST INDEX;
4 REQUIRING A STUDY TO EVALUATE THE INDEX'S SUFFICIENCY; MAKING
5 A PHASED-IN ADJUSTMENT TO THE AT-RISK INDEX; REPEALING THE
6 SECTION OF LAW CREATING THE FUNDING FORMULA STUDY TASK FORCE.

7
8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

9 SECTION 1. Section 22-8-2 NMSA 1978 (being Laws 1978,
10 Chapter 128, Section 3, as amended) is amended to read:

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

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

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19 withdrawn from the public school, include students absent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

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

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

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

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

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

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

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

24 I. "program cost" is the product of the total
25 number of program units to which a school district is

1 entitled multiplied by the dollar value per program unit
2 established by the legislature;

3 J. "program element" is that component of a public
4 school system to which a cost differential factor is applied
5 to determine the number of program units to which a school
6 district is entitled, including MEM, full-time-equivalent
7 MEM, teacher, classroom or public school;

8 K. "program unit" is the product of the program
9 element multiplied by the applicable cost differential
10 factor;

11 L. "public money" or "public funds" means all
12 money from public or private sources received by a school
13 district or state-chartered charter school or officer or
14 employee of a school district or state-chartered charter
15 school for public use;

16 M. "qualified student" means a public school
17 student who:

18 (1) has not graduated from high school;

19 (2) is regularly enrolled in one-half or
20 more of the minimum course requirements approved by the
21 department for public school students; and

22 (3) in terms of age:

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

25 (b) is at least three years of age at

1 any time during the school year and is receiving special
2 education services pursuant to rules of the department; or

3 (c) has not reached the student's
4 twenty-second birthday on the first day of the school year
5 and is receiving special education services pursuant to rules
6 of the department;

7 N. "staffing cost multiplier" means:

8 (1) for fiscal year 2019, the instructional
9 staff training and experience index;

10 (2) for fiscal year 2020, the weighted
11 average of the instructional staff training and experience
12 index at seventy-five percent and the teacher cost index at
13 twenty-five percent;

14 (3) for fiscal year 2021, the weighted
15 average of the instructional staff training and experience
16 index at fifty percent and the teacher cost index at fifty
17 percent;

18 (4) for fiscal year 2022, the weighted
19 average of the instructional staff training and experience
20 index at twenty-five percent and the teacher cost index at
21 seventy-five percent; and

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

24 O. "state superintendent" means the secretary of
25 public education or the secretary's designee."

1 SECTION 2. Section 22-8-6.1 NMSA 1978 (being Laws 1993,
2 Chapter 227, Section 8, as amended) is amended to read:

3 "22-8-6.1. CHARTER SCHOOL BUDGETS.--

4 A. Each state-chartered charter school shall
5 submit to the charter schools division of the department a
6 school-based budget. The budget shall be submitted to the
7 division for approval or amendment pursuant to the Public
8 School Finance Act and the Charter Schools Act. Thereafter,
9 the budget shall be submitted to the public education
10 commission for review.

11 B. Each locally chartered charter school shall
12 submit to the local school board a school-based budget for
13 approval or amendment. The approval or amendment authority
14 of the local school board relative to the charter school
15 budget is limited to ensuring that sound fiscal practices are
16 followed in the development of the budget and that the
17 charter school budget is within the allotted resources. The
18 local school board shall have no veto authority over
19 individual line items within the charter school's proposed
20 budget, but shall approve or disapprove the budget in its
21 entirety. Upon final approval of the local budget by the
22 local school board, the individual charter school budget
23 shall be included separately in the budget submission to the
24 department required pursuant to the Public School Finance Act
25 and the Charter Schools Act.

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

14 SECTION 3. Section 22-8-18 NMSA 1978 (being Laws 1974,
15 Chapter 8, Section 8, as amended) is amended to read:

16 "22-8-18. PROGRAM COST CALCULATION--LOCAL
17 RESPONSIBILITY.--

18 A. For fiscal year 2019, the total program units
19 for the purpose of computing the program cost shall be
20 calculated by multiplying the sum of the program units
21 itemized as Paragraphs (1) through (6) in this subsection by
22 the staffing cost multiplier and adding the program units
23 itemized as Paragraphs (7) through (14) in this subsection.
24 For fiscal year 2020 and subsequent fiscal years, the total
25 program units for the purpose of computing the program cost

1 shall be calculated by multiplying the sum of the program
2 units itemized as Paragraphs (1) and (2) in this subsection
3 by the staffing cost multiplier and adding the program units
4 itemized as Paragraphs (3) through (14) in this subsection.

5 The itemized program units are as follows:

- 6 (1) early childhood education;
- 7 (2) basic education;
- 8 (3) special education, adjusted by
9 subtracting the units derived from membership in class D
10 special education programs in private, nonsectarian,
11 nonprofit training centers;
- 12 (4) bilingual multicultural education;
- 13 (5) fine arts education;
- 14 (6) elementary physical education;
- 15 (7) size adjustment;
- 16 (8) at-risk program;
- 17 (9) enrollment growth or new district
18 adjustment;
- 19 (10) special education units derived from
20 membership in class D special education programs in private,
21 nonsectarian, nonprofit training centers;
- 22 (11) national board for professional
23 teaching standards certification;
- 24 (12) home school student program unit;
- 25 (13) home school student activities; and

1 (14) charter school student activities.

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

21 SECTION 4. Section 22-8-23.3 NMSA 1978 (being
22 Laws 1997, Chapter 40, Section 7, as amended) is amended to
23 read:

24 "22-8-23.3. AT-RISK PROGRAM UNITS.--

25 A. A school district is eligible for additional

1 program units if it establishes within its
2 department-approved educational plan identified services to
3 assist students to reach their full academic potential. A
4 school district receiving additional at-risk program units
5 shall include a report of specified services implemented to
6 improve the academic success of at-risk students. The report
7 shall identify the ways in which the school district and
8 individual 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:

$$16 \quad \text{At-Risk Index} \times \text{MEM} = \text{Units}$$

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
20 at-risk index is calculated in the following manner:

21 (1) for fiscal year 2019,

22 Three-Year Average Total Rate \times 0.130 = At-Risk Index;

23 (2) for fiscal year 2020,

24 Three-Year Average Total Rate \times 0.140 = At-Risk Index; and

25 (3) for fiscal year 2021 and subsequent

1 fiscal years,

2 Three-Year Average Total Rate x 0.150 = At-Risk Index.

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

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

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

17 "TEACHER COST INDEX--LICENSURE-EXPERIENCE FACTOR--
18 REPORT.--

19 A. The teacher cost index for each school district
20 or charter school shall be calculated in accordance with
21 instructions issued by the department. The teacher cost
22 index for a school district in its first year of operations
23 is 1.0. The teacher cost index for a school district or
24 charter school in its second or subsequent year of operations
25 is the greater of 1.0 or the average of the

1 licensure-experience factors of all full-time-equivalent
2 teachers on the school district's or charter school's payroll
3 in October of that year who are assigned classroom teaching
4 responsibilities. The licensure-experience factor of a
5 teacher corresponds to the teacher's licensure level and
6 years of experience and is as follows:

7 **Licensure**

8 <u>Level</u>	9 <u>Years of Experience</u>				
	0 to 2	3 to 5	6 to 8	9 to 15	Over 15
10 1	0.755	0.785	0.800		
11 2		0.994	1.023	1.050	1.123
12 3			1.184	1.208	1.277.

13 B. Beginning in 2021, the department, legislative
14 education study committee staff and legislative finance
15 committee staff shall jointly prepare and submit a report by
16 November 1 of each year to the governor, the legislative
17 education study committee and the legislative finance
18 committee that includes:

19 (1) data on the relationship of
20 licensure-experience factors to actual teacher costs;

21 (2) an analysis of the relationships among a
22 teacher's licensure level, educational attainment, years of
23 experience and salary; and

24 (3) recommended changes, if any, to this
25 section of the Public School Finance Act.

1 C. As used in this section:

2 (1) "licensure level" is the teaching
3 licensure level as defined in the School Personnel Act; and

4 (2) "years of experience" is as defined by
5 department rule."

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

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

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

20 B. "Local revenue", as used in this section, means
21 seventy-five percent of receipts to the school district
22 derived from that amount produced by a school district
23 property tax applied at the rate of fifty cents (\$.50) to
24 each one thousand dollars (\$1,000) of net taxable value of
25 property allocated to the school district and to the assessed

1 value of products severed and sold in the school district as
2 determined under the Oil and Gas Ad Valorem Production Tax
3 Act and upon the assessed value of equipment in the school
4 district as determined under the Oil and Gas Production
5 Equipment Ad Valorem Tax Act.

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

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

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

22 D. To determine the amount of the state
23 equalization guarantee distribution, the department shall:

24 (1) calculate the number of program units to
25 which each school district or charter school is entitled

1 using an average of the MEM on the second and third reporting
2 dates of the prior year; or

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

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

13 (4) using the results of the calculations in
14 Paragraph (1), (2) or (3) of this subsection and the staffing
15 cost multiplier from the October report of the prior school
16 year, establish a total program cost of the school district
17 or charter school;

18 (5) for school districts and state-chartered
19 charter schools, calculate the local and federal revenues as
20 defined in this section;

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

24 (7) deduct the total amount of guaranteed
25 energy savings contract payments that the department

1 determines will be made to the school district from the
2 public school utility conservation fund during the fiscal
3 year for which the state equalization guarantee distribution
4 is being computed; and

5 (8) deduct ninety percent of the amount
6 certified for the school district by the department pursuant
7 to the Energy Efficiency and Renewable Energy Bonding Act.

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

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

18 G. The state equalization guarantee distribution
19 shall be distributed prior to June 30 of each fiscal year.
20 The calculation shall be based on the local and federal
21 revenues specified in this section received from June 1 of
22 the previous fiscal year through May 31 of the fiscal year
23 for which the state equalization guarantee distribution is
24 being computed. In the event that a school district or
25 charter school has received more state equalization guarantee

1 funds than its entitlement, a refund shall be made by the
2 school district or charter school to the state general fund."

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

5 A. Using funds appropriated by the legislature for
6 fiscal years 2020 through 2022, the public education
7 department shall supplement a school district's or charter
8 school's calculated program cost in each of those fiscal
9 years:

10 (1) if, for the fiscal year, the school
11 district's or charter school's calculated program cost is
12 less than its final program cost in the previous fiscal year,
13 not considering any supplement the school district or charter
14 school receives under this subsection; and

15 (2) as follows:

16 (a) for fiscal year 2020, in an amount
17 equal to one hundred percent of the reduction attributable to
18 the implementation of this act or the difference between the
19 calculated program cost and the final program cost in the
20 previous fiscal year, whichever is less;

21 (b) for fiscal year 2021, in an amount
22 equal to seventy-five percent of the reduction attributable
23 to the implementation of this act or the difference between
24 the calculated program cost and the final program cost in the
25 previous fiscal year, whichever is less; and

1 (c) for fiscal year 2022, in an amount
2 equal to fifty percent of the reduction attributable to the
3 implementation of this act or the difference between the
4 calculated program cost and the final program cost in the
5 previous fiscal year, whichever is less; but

6 (3) if, in a fiscal year, the appropriation
7 for the purpose of implementing this subsection is
8 insufficient to supplement school districts and charter
9 schools in accordance with Paragraphs (1) and (2) of this
10 subsection, then in an amount equal to the school district's
11 or charter school's prorated share of the total
12 appropriation.

13 B. On or before February 1 of 2020 through 2022,
14 the public education department shall submit a report to the
15 legislative education study committee and the legislative
16 finance committee that states, regarding the current fiscal
17 year:

18 (1) the sum needed to supplement school
19 districts and charter schools in accordance with this
20 section;

21 (2) a list of the school districts and
22 charter schools eligible to receive a supplement in
23 accordance with this section; and

24 (3) the supplement amount of each of those
25 school districts and charter schools.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

SECTION 8. REPEAL.--Section 22-8-46 NMSA 1978 (being Laws 2005, Chapter 49, Section 1, as amended) is repealed.

SECTION 9. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2018. _____