

SENATE BILL 157

**53RD LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2018**

INTRODUCED BY

Howie C. Morales and Dennis J. Roch

Pursuant to House Rule 24-1, this document incorporates amendments that have been adopted prior to consideration of this measure by the House. It is a tool to show the amendments in context and is not to be used for the purpose of amendments.

FOR THE LEGISLATIVE EDUCATION STUDY COMMITTEE

AN ACT

RELATING TO PUBLIC SCHOOL FINANCE; AMENDING THE PUBLIC SCHOOL FINANCE ACT TO ESTABLISH A PHASED-IN TEACHER COST INDEX; REQUIRING A STUDY TO EVALUATE THE INDEX'S SUFFICIENCY; MAKING A PHASED-IN ADJUSTMENT TO THE AT-RISK INDEX; REPEALING THE SECTION OF LAW CREATING THE FUNDING FORMULA STUDY TASK FORCE SFC→; ~~MAKING AN APPROPRIATION~~←SFC.

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

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

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"22-8-2. DEFINITIONS.--As used in the Public School

Finance Act:

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

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 Withdrawals of students, in addition to students formally withdrawn from the public school, include students absent from the public school for as many as ten consecutive school days; provided that withdrawals do not include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

C. "basic program ADM" or "basic program MEM" means the MEM of qualified students but excludes the full-time-equivalent MEM in early childhood education and three- and four-year-old students receiving special education services;

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

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

F. "early childhood education ADM" or "early

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childhood education MEM" means the full-time-equivalent MEM of students attending approved early childhood education programs;

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

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

I. "program cost" is the product of the total number of program units to which a school district is entitled multiplied by the dollar value per program unit established by the legislature;

J. "program element" is that component of a public school system to which a cost differential factor is applied to determine the number of program units to which a school district is entitled, including [~~but not limited to~~] MEM, full-time-equivalent MEM, teacher, classroom or public school;

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

L. "public money" or "public funds" means all money from public or private sources received by a school district or state-chartered charter school or officer or employee of a

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school district or state-chartered charter school for public use;

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

(1) has not graduated from high school;  
(2) is regularly enrolled in one-half or more of the minimum course requirements approved by the department for public school students; and

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

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

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

N. "staffing cost multiplier" means:

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

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

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(3) for fiscal year 2021, 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 2022, the weighted average of the instructional staff training and experience index at twenty-five percent and the teacher cost index at seventy-five percent; and

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

[N.] 0. "state superintendent" means the secretary of public education or the secretary's designee."

SECTION 2. 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 of the school district in which it is geographically located. For 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~~

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~~second and third reporting dates of the prior year and its own instructional staff training and experience 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, 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 of the school district in which it is geographically located. For 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 instructional staff training and experience 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

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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.

C. For ~~[the]~~ its first year of operation, ~~[after a locally chartered charter school converts to a state-chartered charter 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]~~ a charter school's budget shall be based on the projected number of program units generated by the school and its students using the at-risk index and the staffing cost

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multiplier of the school district in which the school is located, and the school's budget shall be adjusted using the qualified MEM on the first reporting date of the current school year. For its second and subsequent fiscal years of operation, a charter school's budget shall be based on the number of program units generated by the school and its students using the average of the MEM on the second and third reporting dates of the prior year, the at-risk index of the school district in which the school is located and the school's staffing cost multiplier."

SECTION 3. 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. For fiscal year 2019, 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) in this subsection by the [~~instructional staff training and experience index~~] staffing cost multiplier and adding the program units itemized as Paragraphs (7) through (14) in this subsection. For fiscal year 2020 and subsequent fiscal years, 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) and (2) in this subsection by the staffing

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cost multiplier and adding the program units itemized as Paragraphs (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 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

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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."

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

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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:

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

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 2019,

Three-Year Average Total Rate x ~~[0.106]~~ 0.130 = At-Risk Index;

(2) for fiscal year 2020,

Three-Year Average Total Rate x 0.140 = At-Risk Index; and

(3) for fiscal year 2021 and 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 .209436.1

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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 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--LICENSURE-EXPERIENCE FACTOR--REPORT.--

A. The teacher cost index for each school district or charter school shall be calculated in accordance with instructions issued by the department. The teacher cost index for a school district in its first year of operations is 1.0. The teacher cost index for a school district or charter school in its second or subsequent year of operations is the greater of 1.0 or the average of the licensure-experience factors of all full-time-equivalent teachers on the school district's or charter school's payroll in October of that year who are assigned classroom teaching responsibilities. The licensure-experience factor of a teacher corresponds to the teacher's licensure level and years of experience and is as follows:

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## Licensure

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

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

- (1) data on the relationship of licensure-experience factors to actual teacher costs;
- (2) an analysis of the relationships among a teacher's licensure level, educational attainment, years of experience and salary; and
- (3) recommended changes, if any, to this section of the Public School Finance Act.

C. As used in this section:

- (1) "licensure level" is the teaching licensure level as defined in the School Personnel Act; and
- (2) "years of experience" is as defined by department rule."

SECTION 6. Section 22-8-25 NMSA 1978 (being Laws 1981,  
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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 (\$.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 or state-chartered charter school, excluding amounts that, if taken into account

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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 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

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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]~~ staffing cost multiplier 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 and state-chartered charter schools, 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 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 the Energy Efficiency and Renewable Energy Bonding Act.

E. Reduction of a school district's state equalization guarantee distribution shall cease when the school

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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 for fiscal years 2020 through 2022, the public education department shall supplement a school district's or charter school's calculated program cost in each of those fiscal years:

- (1) if, for the fiscal year, the school

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district's or charter school's calculated program cost is less than its final program cost in the previous fiscal year, not considering any supplement the school district or charter school receives under this subsection; and

(2) as follows:

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

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

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

(3) if, in a fiscal year, the appropriation for the purpose of implementing this subsection is insufficient to supplement school districts and charter schools in accordance with Paragraphs (1) and (2) of this subsection, then in an amount equal to the school district's or charter school's

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prorated share of the total appropriation.

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

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

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

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

SFC→~~SECTION 8. APPROPRIATION.--Twenty-two million five hundred forty-one thousand four hundred dollars (\$22,541,400) is appropriated from the general fund to the state equalization guarantee distribution for expenditure in fiscal year 2019 to offset the rise in costs from the increase in the at-risk index effected by this act. Any unexpended or unencumbered balance remaining at the end of fiscal year 2019 shall revert to the general fund.~~←SFC

SECTION SFC→~~9.~~ ~~8.~~←SFC REPEAL.--Section 22-8-46 NMSA 1978 (being Laws 2005, Chapter 49, Section 1, as amended) is repealed.

SECTION SFC→~~10.~~ ~~9.~~←SFC EFFECTIVE DATE.--The effective .209436.1

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date of the provisions of this act is July 1, 2018.