

1 HOUSE BILL 455

2 **54TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2019**

3 INTRODUCED BY

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10 AN ACT

11 RELATING TO PUBLIC EDUCATION; MAKING ADJUSTMENTS TO THE AT-RISK
12 INDEX AND THE BILINGUAL MULTICULTURAL EDUCATIONAL PROGRAM UNITS
13 AND PROVIDING PROGRAM UNITS FOR RURAL ISOLATION; PROVIDING FOR
14 SUPPLEMENTAL DISTRIBUTIONS TO NECESSARILY SMALL SCHOOL
15 DISTRICTS WITH MEMBERSHIP FEWER THAN TWO HUNDRED, WHICH IS IN
16 ADDITION TO EMERGENCY SUPPLEMENTAL DISTRIBUTIONS; MAKING
17 APPROPRIATIONS.

18
19 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

20 SECTION 1. Section 22-8-14 NMSA 1978 (being Laws 1967,
21 Chapter 16, Section 69, as amended) is amended to read:

22 "22-8-14. PUBLIC SCHOOL FUND.--

23 A. The "public school fund" is created.

24 B. The public school fund shall be distributed to
25 school districts and state-chartered charter schools in the

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1 following parts:

- 2 (1) state equalization guarantee distribution;
- 3 (2) transportation distribution; and
- 4 (3) supplemental distributions:
 - 5 (a) out-of-state tuition to school
 - 6 districts;
 - 7 (b) emergency; [~~and~~]
 - 8 (c) program enrichment; and
 - 9 (d) necessarily small school districts.

10 C. The distributions of the public school fund
11 shall be made by the department within limits established by
12 law. The balance remaining in the public school fund at the
13 end of each fiscal year shall revert to the general fund,
14 unless otherwise provided by law."

15 SECTION 2. Section 22-8-22 NMSA 1978 (being Laws 1974,
16 Chapter 8, Section 13, as amended) is amended to read:

17 "22-8-22. BILINGUAL MULTICULTURAL EDUCATION PROGRAM
18 UNITS.--The number of bilingual multicultural education program
19 units is determined by multiplying the full-time-equivalent MEM
20 in programs implemented in accordance with the provisions of
21 the Bilingual Multicultural Education Act by the cost
22 differential factor 0.35, effective July 1, 1990; 0.4,
23 effective July 1, 1991; [~~0.425~~] 0.425, effective July 1, 1992;
24 0.45, effective July 1, 1993; [~~and~~] 0.5, effective July 1,
25 1994; and 1.0, effective July 1, 2019."

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

3 "22-8-23. SIZE ADJUSTMENT PROGRAM UNITS.--

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

$$\begin{array}{r} \text{Elementary-Junior High Units} \\ 200 - \text{MEM} \\ \hline \phantom{200 - \text{MEM}} \times 1.0 \times \text{MEM} = \text{Units} \\ 200 \end{array}$$

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

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1 programs;

2 Senior High Units
3 200 - MEM
4 _____ x 2.0 x MEM = Units
5 200

6 or,

7 Senior High Units
8 400 - MEM
9 _____ x 1.6 x MEM = Units
10 400

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

14 B. A school district with total MEM of [~~less~~] fewer
15 than [~~4,000~~] four thousand, including early childhood education
16 full-time-equivalent MEM, is eligible for additional program
17 units. The number of additional program units to which a
18 school district is entitled under this subsection is the number
19 of district units computed in the following manner:

20 District Units
21 4,000 - MEM
22 _____ x 0.15 x MEM = Units
23 4,000

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

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1 membership.

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

$$\begin{array}{r} 4,000 - \text{MEM} \\ \hline \hline \quad \quad \quad \times 0.50 = \text{Units} \\ \text{Senior High Schools} \end{array}$$

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

17 C. A school district with at least one public
18 school that is twenty-five or more driving miles from the
19 school district's administrative offices is eligible for
20 additional size adjustment units through the state equalization
21 guarantee distribution for rural isolation beginning in fiscal
22 year 2020. The number of additional units to which an eligible
23 school district is entitled under this subsection is the number
24 of units computed in the following manner:

$$\text{MEM in Eligible Public Schools} \times 0.2 = \text{Units}$$

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1 where MEM is equal to school district membership, including
2 early childhood education full-time-equivalent membership, and
3 where eligible public schools are located twenty-five or more
4 driving miles away from the school district's administrative
5 offices.

6 D. A school district [~~as defined in Subsection R of~~
7 ~~Section 22-1-2 NMSA 1978~~] with a MEM of [~~less~~] fewer than [~~200~~]
8 two hundred, including early childhood education full-time-
9 equivalent MEM, is eligible for additional program units
10 [~~provided that~~] if the department certifies that the school
11 district has implemented practices to reduce scale
12 inefficiencies, including shared service agreements with
13 regional education cooperatives or other school districts for
14 noninstructional functions and distance education. The numbers
15 of additional program units to which a school district is
16 entitled under this subsection is the number of units computed
17 in the following manner:

$$200 - MEM = \text{Units}$$

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

20
21 **SECTION 4.** Section 22-8-23.3 NMSA 1978 (being Laws 1997,
22 Chapter 40, Section 7, as amended) is amended to read:

23 "22-8-23.3. AT-RISK PROGRAM UNITS.--

24 A. A school district is eligible for additional
25 program units if it establishes within its department-approved

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1 educational plan identified services to assist students to
2 reach their full academic potential. A school district
3 receiving additional at-risk program units shall include a
4 report of specified services implemented to improve the
5 academic success of at-risk students. The report shall
6 identify the ways in which the school district and individual
7 public schools use funding generated through the at-risk index
8 and the intended outcomes and shall be performed in furtherance
9 of and in conjunction with the department's duty to supervise
10 public schools. For purposes of this section, "at-risk
11 student" means a student who meets the criteria to be included
12 in the calculation of the three-year average total rate in
13 Subsection B of this section. The number of additional units
14 to which a school district is entitled under this section is
15 computed in the following manner:

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

17 where MEM is equal to the total district membership, including
18 early childhood education full-time-equivalent membership and
19 special education membership and where the at-risk index is
20 calculated in the following manner:

21 ~~[(1) for fiscal year 2019,~~

22 ~~Three-Year Average Total Rate x 0.130 = At-Risk Index;~~

23 ~~(2) for fiscal year 2020,~~

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

25 ~~(3)] for fiscal year [2021] 2020 and subsequent~~

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1 fiscal years,

2 Three-Year Average Total Rate x ~~[0.150]~~ 0.366 = At-Risk Index.

3 B. To calculate the three-year average total rate,
4 the department shall compute a three-year average of the school
5 district's percentage of membership ~~[used to determine its~~
6 ~~Title I allocation]~~ that qualifies for or otherwise meets the
7 family income requirements for free or reduced-fee lunch
8 pursuant to the United States department of agriculture's
9 national school lunch program, a three-year average of the
10 percentage of membership classified as English language
11 learners using criteria established by the ~~[federal]~~ office
12 ~~[of]~~ for civil rights of the United States department of
13 education and a three-year average of the percentage of student
14 mobility. The department shall then add the three-year average
15 rates. The number obtained from this calculation is the three-
16 year average total rate.

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

19 SECTION 5. Section 22-8-30 NMSA 1978 (being Laws 1974,
20 Chapter 8, Section 17, as amended) is amended to read:

21 "22-8-30. SUPPLEMENTAL DISTRIBUTIONS.--

22 A. The department shall make supplemental
23 distributions only for the following purposes:

24 (1) to pay the out-of-state tuition of
25 students subject to the Compulsory School Attendance Law who

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1 are attending school out-of-state because school facilities are
2 not reasonably available in the school district of their
3 residence;

4 (2) to make emergency distributions to school
5 districts or state-chartered charter schools in financial need,
6 but no money shall be distributed to any school district or
7 state-chartered charter school having cash and invested
8 reserves, or other resources or any combination thereof,
9 equaling five percent or more of the school district's or
10 state-chartered charter school's operational budget;

11 (3) to make program enrichment distributions
12 in the amount of actual program expense to school districts and
13 state-chartered charter schools for the purpose of providing
14 specific programs to meet particular educational requirements
15 that cannot otherwise be financed;

16 (4) a special vocational education
17 distribution to area vocational schools or state-supported
18 schools with department-approved vocational programs to
19 reimburse those schools for the cost of vocational education
20 programs for those students subject to the Compulsory School
21 Attendance Law who are enrolled in such programs; ~~and~~

22 (5) to make emergency capital outlay
23 distributions to school districts or state-chartered charter
24 schools that have experienced an unexpected capital outlay
25 emergency demanding immediate attention; and

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1 (6) to make distributions to necessarily small
2 school districts with MEM fewer than two hundred and whose
3 state equalization guarantee distribution is not sufficient
4 without supplementation.

5 B. The department shall account for all
6 supplemental distributions and shall make full reports to the
7 governor, legislative education study committee and legislative
8 finance committee of payments made as authorized in Subsection
9 A of this section.

10 C. The department may divert any unused or unneeded
11 balances in any of the distributions made under the
12 supplementary distribution authority to make any other
13 distribution made pursuant to the same authority."

14 **SECTION 6. TEMPORARY PROVISION--PROTECTION FROM PROGRAM**
15 **COST REDUCTIONS.--**

16 A. Using funds appropriated by the legislature for
17 fiscal years 2021 through 2023, the public education department
18 shall supplement a school district's or charter school's
19 calculated program cost in each of those fiscal years:

20 (1) if, for the fiscal year, the school
21 district's or charter school's calculated program cost is less
22 than its final program cost in the previous fiscal year, not
23 considering any supplement the school district or charter
24 school receives under this subsection; and

25 (2) as follows:

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1 (a) for fiscal year 2021, in an amount
2 equal to one hundred percent of the reduction attributable to
3 the 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;

6 (b) for fiscal year 2022, in an amount
7 equal to seventy-five percent of the reduction attributable to
8 the implementation of this act or the difference between the
9 calculated program cost and the final program cost in the
10 previous fiscal year, whichever is less; and

11 (c) for fiscal year 2023, in an amount
12 equal to fifty percent of the reduction attributable to the
13 implementation of this act or the difference between the
14 calculated program cost and the final program cost in the
15 previous fiscal year, whichever is less; but

16 (3) if, in a fiscal year, the appropriation
17 for the purpose of implementing this subsection is insufficient
18 to supplement school districts and charter schools in
19 accordance with Paragraphs (1) and (2) of this subsection, then
20 in an amount equal to the school district's or charter school's
21 prorated share of the total appropriation.

22 B. On or before February 1, 2021 through February
23 1, 2023, the public education department shall submit a report
24 to the legislative education study committee and the
25 legislative finance committee that states regarding the current

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1 fiscal year:

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

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

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

9 SECTION 7. APPROPRIATION.--

10 A. Four hundred fifty-two million five hundred two
11 thousand one hundred seventy dollars (\$452,502,170) is
12 appropriated from the general fund to the state equalization
13 guarantee distribution for expenditure in fiscal year 2020 to
14 offset the rise in costs from the increases in the at-risk
15 index and bilingual multicultural education and rural isolation
16 program units affected by this act. Any unexpended or
17 unencumbered balance remaining at the end of fiscal year 2020
18 shall revert to the general fund.

19 B. Ten million dollars (\$10,000,000) is
20 appropriated from the general fund to the supplemental
21 distributions of the public school fund for expenditure in
22 fiscal year 2020 to provide a supplemental distribution to
23 necessarily small school districts. Any unexpended or
24 unencumbered balance remaining at the end of fiscal year 2020
25 shall revert to the general fund.

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