

1 HOUSE BILL 63
2 **57TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2025**

3 INTRODUCED BY
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7
8 FOR THE LEGISLATIVE EDUCATION STUDY COMMITTEE
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10 AN ACT

11 RELATING TO PUBLIC SCHOOL FINANCE; MAKING CHANGES TO THE PUBLIC
12 SCHOOL FUNDING FORMULA; INCREASING THE BASIC PROGRAM UNIT FOR
13 SIXTH THROUGH TWELFTH GRADES; DEFINING THE FAMILY INCOME INDEX
14 RATE; CHANGING THE AT-RISK PROGRAM UNIT; CALCULATING THE AT-
15 RISK INDEX FOR CHARTER SCHOOLS ON THEIR MEMBERSHIP AFTER THE
16 FIRST YEAR OF OPERATION; CREATING AN ENGLISH LEARNER PROGRAM
17 UNIT; PROVIDING A HOLD HARMLESS PROVISION FOR FORMULA CHANGES;
18 MAKING APPROPRIATIONS.
19

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

21 SECTION 1. Section 22-8-2 NMSA 1978 (being Laws 1978,
22 Chapter 128, Section 3, as amended by Laws 2019, Chapter 206,
23 Section 6 and by Laws 2019, Chapter 207, Section 6) is amended
24 to read:

25 "22-8-2. DEFINITIONS.--As used in the Public School
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1 Finance Act:

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

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8 withdrawn from the public school, include students absent from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

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

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

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

25 F. "early childhood education ADM" or "early

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

3 G. "family income index rate" means the percentage
4 of MEM in a school district or charter school that is
5 identified as either extremely low income or very low income by
6 the family income index;

7 [~~G.~~] H. "full-time-equivalent ADM" or "full-time-
8 equivalent MEM" is that membership calculated by applying to
9 the MEM in an approved public school program the ratio of the
10 number of hours per school day devoted to the program to six
11 hours or the number of hours per school week devoted to the
12 program to thirty hours;

13 [~~H.~~] I. "operating budget" means the annual
14 financial plan and educational plan required to be submitted by
15 a local school board or governing body of a state-chartered
16 charter school;

17 [~~I.~~] J. "performance measure" means a quantitative
18 indicator used to assess the output or outcome of an approved
19 program;

20 [~~J.~~] K. "performance target" means the expected
21 level of performance of a program's performance measure;

22 [~~K.~~] L. "program cost" is the product of the total
23 number of program units to which a school district is entitled
24 multiplied by the dollar value per program unit established by
25 the legislature;

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1 ~~[L.]~~ M. "program element" is that component of a
2 public school system to which a cost differential factor is
3 applied to determine the number of program units to which a
4 school district is entitled, including MEM, full-time-
5 equivalent MEM, teacher, classroom or public school;

6 ~~[M.]~~ N. "program unit" is the product of the
7 program element multiplied by the applicable cost differential
8 factor;

9 ~~[N.]~~ O. "public money" or "public funds" means all
10 money from public or private sources received by a school
11 district or state-chartered charter school or officer or
12 employee of a school district or state-chartered charter school
13 for public use;

14 ~~[O.]~~ P. "qualified student" means a public school
15 student who:

- 16 (1) has not graduated from high school;
- 17 (2) is regularly enrolled in one-half or more
18 of the minimum course requirements approved by the department
19 for public school students; and
- 20 (3) in terms of age and other criteria:
- 21 (a) is at least five years of age prior
22 to 12:01 a.m. on September 1 of the school year;
- 23 (b) is at least three years of age at
24 any time during the school year and is receiving special
25 education services pursuant to rules of the department;

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1 (c) except as provided in Subparagraph
2 (d) of this paragraph, has not reached the student's twenty-
3 second birthday on the first day of the school year; or

4 (d) has reached the student's twenty-
5 second birthday on the first day of the 2019-2020 school year,
6 is counted in a school district's or charter school's MEM on
7 the third reporting date of the 2018-2019 school year, has been
8 continuously enrolled in the same public school since that
9 reporting date and is still enrolled in that school;

10 [P-] Q. "rural population rate" means that
11 proportion of the total population within a school district's
12 geographic boundaries that lives in a rural area and not in an
13 urban area as defined by the United States census bureau;

14 [Q-] R. "staffing cost multiplier" means
15 ~~(1) for fiscal year 2019, the instructional~~
16 ~~staff training and experience index;~~
17 ~~(2) for fiscal year 2020, the weighted average~~
18 ~~of the instructional staff training and experience index at~~
19 ~~seventy-five percent and the teacher cost index at twenty-five~~
20 ~~percent;~~

21 ~~(3) for fiscal year 2021, the weighted average~~
22 ~~of the instructional staff training and experience index at~~
23 ~~fifty percent and the teacher cost index at fifty percent;~~

24 ~~(4) for fiscal year 2022, the weighted average~~
25 ~~of the instructional staff training and experience index at~~

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1 ~~twenty-five percent and the teacher cost index at seventy-five~~
2 ~~percent; and~~

3 ~~(5) for fiscal year 2023 and subsequent fiscal~~
4 ~~years] the teacher cost index; and~~

5 [R-] S. "state superintendent" means the secretary
6 of public education or the secretary's designee."

7 SECTION 2. Section 22-8-6.1 NMSA 1978 (being Laws 1993,
8 Chapter 227, Section 8, as amended by Laws 2019, Chapter 206,
9 Section 9 and by Laws 2019, Chapter 207, Section 9) is amended
10 to read:

11 "22-8-6.1. CHARTER SCHOOL OPERATING BUDGETS--MAXIMUM
12 MEM.--

13 A. Each state-chartered charter school shall submit
14 to the charter schools division of the department a school-
15 based operating budget. The operating budget shall be
16 submitted to the division for approval or amendment pursuant to
17 the Public School Finance Act and the Charter Schools Act.
18 Thereafter, the operating budget shall be submitted to the
19 commission for review.

20 B. Each locally chartered charter school shall
21 submit to the local school board a school-based operating
22 budget for approval or amendment. The approval or amendment
23 authority of the local school board relative to the charter
24 school operating budget is limited to ensuring that sound
25 fiscal practices are followed in the development of the

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1 operating budget and that the charter school operating budget
2 is within the allotted resources. The local school board shall
3 have no veto authority over individual line items within the
4 charter school's proposed financial budget or over any item in
5 the educational plan, but shall approve or disapprove the
6 operating budget in its entirety. Upon final approval of the
7 charter school operating budget by the local school board, the
8 individual charter school operating budget shall be included
9 separately in the budget submission to the department required
10 pursuant to the Public School Finance Act and the Charter
11 Schools Act.

12 C. For its first year of operation, a charter
13 school's operating budget shall be based on the projected
14 number of program units generated by the school and its
15 students using the at-risk index and the staffing cost
16 multiplier of the school district in which the charter school
17 is located, and the charter school's operating budget shall be
18 adjusted using the qualified MEM on the first reporting date of
19 the current school year. For its second and subsequent fiscal
20 years of operation, a charter school's operating budget shall
21 be based on the number of program units generated by the
22 charter school and its students using the average of the MEM on
23 the second and third reporting dates of the prior year, the
24 charter school's at-risk index [~~of the school district in which~~
25 ~~the charter school is located~~] and the charter school's

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1 staffing cost multiplier."

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

4 "22-8-18. PROGRAM COST CALCULATION--LOCAL
5 RESPONSIBILITY.--

6 A. The total program units for the purpose of
7 computing the program cost shall be calculated by multiplying
8 the sum of the program units itemized as Paragraphs (1) and (2)
9 in this subsection by the staffing cost multiplier and adding
10 the program units itemized as Paragraphs (3) through [~~(15)~~]
11 (16) in this subsection. The itemized program units are as
12 follows:

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

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1 membership in class D special education programs in private,
2 nonsectarian, nonprofit training centers;

3 (11) national board for professional teaching
4 standards certification;

5 (12) home school student;

6 (13) home school student activities;

7 (14) charter school student activities; [~~and~~]

8 (15) K-12 plus; and

9 (16) English learners.

10 B. The total program cost calculated as prescribed
11 in Subsection A of this section includes the cost of early
12 childhood, special, bilingual multicultural, fine arts and
13 vocational education and other remedial or enrichment programs.
14 It is the responsibility of the local school board or governing
15 body of a charter school to determine its priorities in terms
16 of the needs of the community served by that board. Except as
17 otherwise provided in this section, funds generated [~~under~~]
18 pursuant to the Public School Finance Act are discretionary to
19 local school boards and governing bodies of charter schools;
20 provided that the special program needs as enumerated in this
21 section are met; and provided further that the department shall
22 ensure that the local school board or governing body of a
23 charter school is prioritizing resources for the public school
24 toward proven programs and methods linked to improved student
25 achievement."

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1 SECTION 4. Section 22-8-20 NMSA 1978 (being Laws 1991,
2 Chapter 85, Section 3, as amended by Laws 1993, Chapter 2,
3 Section 1 and by Laws 1993, Chapter 226, Sections 21 and 22 and
4 also by Laws 1993, Chapter 228, Sections 2 and 3) is amended to
5 read:

6 "22-8-20. BASIC PROGRAM UNITS.--The number of basic
7 program units is determined by multiplying the basic program
8 MEM in each grade by the corresponding cost differential factor
9 as follows:

<u>Grades</u>	<u>Cost Differential Factor</u>
1	1.2
2 and 3	1.18
4 [through 6] <u>and 5</u>	1.045
[7] <u>6</u> through 12	[1.25] <u>1.30</u> ."

15 SECTION 5. Section 22-8-23.3 NMSA 1978 (being Laws 1997,
16 Chapter 40, Section 7, as amended) is amended to read:

17 "22-8-23.3. AT-RISK PROGRAM UNITS.--

18 A. A school district or charter school is eligible
19 for additional program units if it establishes within its
20 department-approved educational plan identified services to
21 assist students to reach their full academic potential. A
22 school district or charter school receiving additional at-risk
23 program units shall include a report of specified services
24 implemented to improve the academic success of at-risk
25 students. The report shall identify the ways in which the

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1 school district, charter school and individual public schools
2 use funding generated through the at-risk index and the
3 intended outcomes. For purposes of this section, "at-risk
4 student" means a student who meets the criteria to be included
5 in the calculation of the three-year average [~~total~~] rate in
6 Subsection B of this section. The number of additional units
7 to which a school district or charter school is entitled under
8 this section is computed in the following manner:

$$9 \quad \text{At-Risk Index} \times \text{MEM} = \text{Units}$$

10 where MEM is equal to the total district or charter school
11 membership, including early childhood education, full-time-
12 equivalent membership and special education membership and
13 where the at-risk index is calculated in the following manner:

$$14 \quad \text{Three-Year Average} [\text{Total}] \text{ Rate} \times [\text{0.33}] \text{ 0.40} = \text{At-Risk}$$

15 Index.

16 B. To calculate the three-year average [~~total~~]
17 rate, the department shall compute a three-year average of the
18 school district's [~~percentage of membership used to determine~~
19 ~~its Title I allocation, a three-year average of the percentage~~
20 ~~of membership classified as English language learners using~~
21 ~~criteria established by the office for civil rights of the~~
22 ~~United States department of education and a three-year average~~
23 ~~of the percentage of student mobility. The department shall~~
24 ~~then add the three-year average rates. The number obtained~~
25 ~~from this calculation is the three-year average total rate] or~~

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1 charter school's family income index rate.

2 C. The department shall recalculate the at-risk
3 index for each school district and charter school every year.

4 D. For purposes of this section, "services" means
5 research-based or evidence-based social, emotional or academic
6 interventions, such as:

7 (1) case management, tutoring, reading
8 interventions and after-school programs that are delivered by
9 social workers, counselors, teachers or other professional
10 staff;

11 [~~(2)~~] ~~culturally relevant professional and~~
12 ~~curriculum development, including those necessary to support~~
13 ~~language acquisition, bilingual and multicultural education;~~

14 ~~(3)]~~ (2) additional compensation strategies
15 for high-need schools;

16 [~~(4)]~~ (3) whole school interventions,
17 including school-based health centers and community schools;

18 [~~(5)]~~ (4) educational programming intended to
19 improve career and college readiness of at-risk students,
20 including dual or concurrent enrollment, career and technical
21 education, guidance counseling services and coordination with
22 post-secondary institutions; and

23 [~~(6)]~~ (5) services to engage and support
24 parents and families in the education of students."

25 SECTION 6. A new section of the Public School Finance

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1 Act, Section 22-8-23.15 NMSA 1978, is enacted to read:

2 "22-8-23.15. [NEW MATERIAL] ENGLISH LEARNER PROGRAM
3 UNITS.--

4 A. A school district or charter school is eligible
5 for additional program units if it establishes identified
6 services to assist English learners to attain English language
7 proficiency in a reasonable period of time. The number of
8 additional units to which a school district or charter school
9 is entitled pursuant to this section is computed in the
10 following manner:

11
$$\text{Three-Year Average Rate} \times \text{MEM} \times 0.33 = \text{Units.}$$

12 B. To calculate the three-year average rate, the
13 department shall compute a three-year average of the school
14 district's or charter school's percentage of MEM that is
15 classified as an English learner, using criteria established by
16 the office for civil rights of the United States department of
17 education. The three-year average rate shall include students
18 who have been reclassified as fluent English proficient in the
19 preceding two academic years, as determined by the department
20 on the department-approved English language proficiency
21 assessment.

22 C. The department shall recalculate the three-year
23 average rate for each school district and charter school every
24 year.

25 D. For the purposes of this section, "services"

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1 means research- or evidence-based social, emotional or academic
2 interventions designed to improve student achievement and
3 sustain student progress, such as:

4 (1) culturally sustaining case management,
5 tutoring, language development interventions, out-of-school
6 time programs and student service-leadership development
7 opportunities;

8 (2) culturally sustaining professional
9 learning, coursework and curriculum development opportunities;

10 (3) culturally and grade-level-appropriate
11 instructional materials;

12 (4) additional compensation strategies that
13 support high-quality, culturally and linguistically sustaining
14 instruction;

15 (5) innovative staffing, scheduling and
16 programming strategies that promote collaborative instruction;
17 and

18 (6) services to support and partner with
19 parents and families in the long-term success of students."

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

22 A. Using money appropriated by the legislature for
23 fiscal year 2026, the public education department shall
24 supplement a school district's or charter school's calculated
25 program cost in that fiscal year:

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1 (1) if, for fiscal year 2026, the school
2 district's or charter school's calculated program units are
3 less than its final program units in fiscal year 2025, if the
4 reduction is attributable to the implementation of Sections 2
5 through 6 of this act, an amount equal to one hundred percent
6 of the reduction attributable to those sections; and

7 (2) if, in fiscal year 2026, the appropriation
8 for the purpose of implementing this subsection is insufficient
9 to supplement school districts and charter schools in
10 accordance with Paragraph (1) of this subsection, then in an
11 amount equal to the school district's or charter school's
12 prorated share of the total appropriation.

13 B. On or before January 31, 2026, the public
14 education department shall submit a report to the legislative
15 education study committee and the legislative finance committee
16 that states the need for a supplemental appropriation for
17 fiscal year 2026 that shows:

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

21 (2) the supplemental amount for each of those
22 school districts and charter schools.

23 SECTION 8. APPROPRIATIONS.--

24 A. One hundred thirty-two million seven hundred
25 twenty-five thousand dollars (\$132,725,000) is appropriated
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1 from the general fund to the state equalization guarantee
2 distribution for expenditure in fiscal year 2026 to cover the
3 cost of funding formula changes pursuant to Sections 1 through
4 6 of this act. Any unexpended or unencumbered balance
5 remaining at the end of fiscal year 2026 shall revert to the
6 general fund.

7 B. Five million dollars (\$5,000,000) is
8 appropriated from the general fund to the state support reserve
9 fund for expenditure in fiscal year 2026 to distribute
10 supplemental funding pursuant to the hold harmless provisions
11 of Section 7 of this act and in the manner provided for in
12 Section 22-8-31 NMSA 1978. Any unexpended or unencumbered
13 balance remaining at the end of fiscal year 2026 shall not
14 revert to the general fund.

15 SECTION 9. EFFECTIVE DATE.--The effective date of the
16 provisions of this act is July 1, 2025.