

1 AN ACT  
2 RELATING TO PUBLIC SCHOOL FINANCE; MAKING CHANGES TO THE  
3 PUBLIC SCHOOL FUNDING FORMULA; INCREASING THE BASIC PROGRAM  
4 UNIT FOR SIXTH THROUGH TWELFTH GRADES; DEFINING THE FAMILY  
5 INCOME INDEX RATE; CHANGING THE AT-RISK PROGRAM UNIT;  
6 CALCULATING THE AT-RISK INDEX FOR CHARTER SCHOOLS ON THEIR  
7 MEMBERSHIP AFTER THE FIRST YEAR OF OPERATION; CREATING AN  
8 ENGLISH LEARNER PROGRAM UNIT; PROVIDING A HOLD HARMLESS  
9 PROVISION FOR FORMULA CHANGES.

10  
11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

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

16 "22-8-2. DEFINITIONS.--As used in the Public School  
17 Finance Act:

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

19 B. "membership" means the total enrollment of  
20 qualified students on the current roll of a class or school  
21 on a specified day. The current roll is established by the  
22 addition of original entries and reentries minus withdrawals.  
23 Withdrawals of students, in addition to students formally  
24 withdrawn from the public school, include students absent  
25 from the public school for as many as ten consecutive school

1 days; provided that withdrawals do not include students who  
2 are in need of intervention or who are chronically or  
3 excessively absent;

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

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

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

15 F. "early childhood education ADM" or "early  
16 childhood education MEM" means the full-time-equivalent MEM  
17 of students attending approved early childhood education  
18 programs;

19 G. "family income index rate" means the percentage  
20 of students in a school district or charter school that is  
21 identified as either extremely low income or very low income  
22 by the family income index;

23 H. "full-time-equivalent ADM" or "full-time-  
24 equivalent MEM" is that membership calculated by applying to  
25 the MEM in an approved public school program the ratio of the

1 number of hours per school day devoted to the program to six  
2 hours or the number of hours per school week devoted to the  
3 program to thirty hours;

4 I. "operating budget" means the annual financial  
5 plan and educational plan required to be submitted by a local  
6 school board or governing body of a state-chartered charter  
7 school;

8 J. "performance measure" means a quantitative  
9 indicator used to assess the output or outcome of an approved  
10 program;

11 K. "performance target" means the expected level  
12 of performance of a program's performance measure;

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

17 M. "program element" is that component of a public  
18 school system to which a cost differential factor is applied  
19 to determine the number of program units to which a school  
20 district is entitled, including MEM, full-time-equivalent  
21 MEM, teacher, classroom or public school;

22 N. "program unit" is the product of the program  
23 element multiplied by the applicable cost differential  
24 factor;

25 O. "public money" or "public funds" means all

1 money from public or private sources received by a school  
2 district or state-chartered charter school or officer or  
3 employee of a school district or state-chartered charter  
4 school for public use;

5 P. "qualified student" means a public school  
6 student who:

7 (1) has not graduated from high school;

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

11 (3) in terms of age and other criteria:

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

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

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

20 (d) has reached the student's twenty-  
21 second birthday on the first day of the 2019-2020 school  
22 year, is counted in a school district's or charter school's  
23 MEM on the third reporting date of the 2018-2019 school year,  
24 has been continuously enrolled in the same public school  
25 since that reporting date and is still enrolled in that

1 school;

2 Q. "rural population rate" means that proportion  
3 of the total population within a school district's geographic  
4 boundaries that lives in a rural area and not in an urban  
5 area as defined by the United States census bureau;

6 R. "staffing cost multiplier" means the teacher  
7 cost index; and

8 S. "state superintendent" means the secretary of  
9 public education or the secretary's designee."

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

14 "22-8-6.1. CHARTER SCHOOL OPERATING BUDGETS--MAXIMUM  
15 MEM.--

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

23 B. Each locally chartered charter school shall  
24 submit to the local school board a school-based operating  
25 budget for approval or amendment. The approval or amendment

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

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

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

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

15 "22-8-18. PROGRAM COST CALCULATION--LOCAL  
16 RESPONSIBILITY.--

17 A. The total program units for the purpose of  
18 computing the program cost shall be calculated by multiplying  
19 the sum of the program units itemized as Paragraphs (1) and  
20 (2) in this subsection by the staffing cost multiplier and  
21 adding the program units itemized as Paragraphs (3) through  
22 (16) in this subsection. The itemized program units are as  
23 follows:

- 24 (1) early childhood education;  
25 (2) basic education;

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

5 (4) bilingual multicultural education;

6 (5) fine arts education;

7 (6) elementary physical education;

8 (7) size adjustment;

9 (8) at-risk;

10 (9) enrollment growth or new district  
11 adjustment;

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

15 (11) national board for professional  
16 teaching standards certification;

17 (12) home school student;

18 (13) home school student activities;

19 (14) charter school student activities;

20 (15) K-12 plus; and

21 (16) English learners.

22 B. The total program cost calculated as prescribed  
23 in Subsection A of this section includes the cost of early  
24 childhood, special, bilingual multicultural, fine arts and  
25 vocational education and other remedial or enrichment



1 programs. It is the responsibility of the local school board  
2 or governing body of a charter school to determine its  
3 priorities in terms of the needs of the community served by  
4 that board. Except as otherwise provided in this section,  
5 funds generated pursuant to the Public School Finance Act are  
6 discretionary to local school boards and governing bodies of  
7 charter schools; provided that the special program needs as  
8 enumerated in this section are met; and provided further that  
9 the department shall ensure that the local school board or  
10 governing body of a charter school is prioritizing resources  
11 for the public school toward proven programs and methods  
12 linked to improved student achievement."

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

18 "22-8-20. BASIC PROGRAM UNITS.--The number of basic  
19 program units is determined by multiplying the basic program  
20 MEM in each grade by the corresponding cost differential  
21 factor as follows:

Grades	Cost Differential Factor
1	1.2
2 and 3	1.18
4 and 5	1.045

6 through 12

1.30."

**SECTION 5.** 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 or charter school 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 or charter school 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, charter school and individual public 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 rate in Subsection B of this section. The number of additional units to which a school district or charter school is entitled under this section is computed in the following manner:

At-Risk Index x MEM = Units

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

1 manner:

2           Three-Year Average Rate x 0.40 = At-Risk Index.

3           B. To calculate the three-year average rate, the  
4 department shall compute the preceding three-year average of  
5 the school district's or charter school's family income index  
6 rate.

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

9           D. For purposes of this section, "services" means  
10 research-based or evidence-based social, emotional or  
11 academic interventions, such as:

12                   (1) case management, tutoring, reading  
13 interventions and after-school programs that are delivered by  
14 social workers, counselors, teachers or other professional  
15 staff;

16                   (2) culturally relevant professional and  
17 curriculum development, including those necessary to support  
18 language acquisition, bilingual and multicultural education;

19                   (3) additional compensation strategies for  
20 high-need schools;

21                   (4) whole school interventions, including  
22 school-based health centers and community schools;

23                   (5) educational programming intended to  
24 improve career and college readiness of at-risk students,  
25 including dual or concurrent enrollment, career and technical

1 education, guidance counseling services and coordination with  
2 post-secondary institutions; and

3 (6) services to engage and support parents  
4 and families in the education of students."

5 **SECTION 6.** A new section of the Public School Finance  
6 Act, Section 22-8-23.15 NMSA 1978, is enacted to read:

7 "22-8-23.15. ENGLISH LEARNER PROGRAM UNITS.--

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

15 
$$\text{Three-Year Average Rate} \times \text{MEM} \times 0.33 = \text{Units.}$$

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

1           C. The department shall recalculate the three-year  
2 average rate for each school district and charter school  
3 every year.

4           D. For the purposes of this section, "services"  
5 means research- or evidence-based social, emotional or  
6 academic interventions designed to improve student  
7 achievement and sustain student progress, such as:

8                   (1) culturally sustaining case management,  
9 tutoring, language development interventions, out-of-school  
10 time programs and student service-leadership development  
11 opportunities;

12                   (2) culturally sustaining professional  
13 learning, coursework and curriculum development  
14 opportunities;

15                   (3) culturally and grade-level-appropriate  
16 instructional materials;

17                   (4) additional compensation strategies that  
18 support high-quality, culturally and linguistically  
19 sustaining instruction;

20                   (5) innovative staffing, scheduling and  
21 programming strategies that promote collaborative  
22 instruction; and

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

1 COST REDUCTIONS.--

2 A. Using money appropriated by the legislature for  
3 fiscal year 2026, the public education department shall  
4 supplement a school district's or charter school's calculated  
5 program cost in that fiscal year:

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

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

18 B. On or before January 31, 2026, the public  
19 education department shall submit a report to the legislative  
20 education study committee and the legislative finance  
21 committee that states the need for a supplemental  
22 appropriation for fiscal year 2026 that shows:

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

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

SECTION 8. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2025.\_\_\_\_\_

HB 63/a  
Page 15