

AN ACT
RELATING TO EDUCATION; CHANGING THE DEFINITION OF
MEMBERSHIP; REQUIRING THE USE OF PRIOR YEAR AVERAGE
ENROLLMENT COUNTS ON CERTAIN DAYS FOR THE CALCULATION OF
PROGRAM UNITS FOR DISTRIBUTION OF THE STATE EQUALIZATION
FUNDS.

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:

"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students formally withdrawn from the public school, include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 without permission
for as many as ten consecutive school days. If a school
district is engaged in planned intervention efforts to re-
enroll a student who has been absent without permission for
as many as ten consecutive school days, the student may be
retained on the current roll. The state board shall review
and approve a school district's planned intervention
efforts;

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 state department of public education;

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

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 local school board or officer or employee of a local school board 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 state board for public school students; and

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

(4) is at least three years of age at any time during the school year and is receiving special education services pursuant to regulation of the state board; or

(5) has not reached his twenty-second birthday on the first day of the school year and is receiving special education services pursuant to regulation of the state board; and

N. "state superintendent" means the superintendent of public instruction or his designee."

Section 2. Section 22-8-23.1 NMSA 1978 (being Laws 1990 (1st S.S.), Chapter 3, Section 7, as amended) is amended to read:

"22-8-23.1. ENROLLMENT GROWTH PROGRAM UNITS.--A school district with an increase in MEM equal to or greater than one

percent, when compared with the immediately preceding year, is eligible for additional program units. The increase in MEM shall be calculated in the following manner:

$$\frac{(\text{Current Year MEM} - \text{Previous Year MEM})}{\text{Previous Year MEM}} \times 100 = \text{Percent Increase.}$$

The number of additional program units to which an eligible district is entitled under this section is the number of units computed in the following manner:

$(\text{MEM for current year} - \text{MEM for prior year}) \times 1.0 =$
Units where MEM is equal to the total district membership, including early childhood education full-time equivalent membership and special education membership."

Section 3. Section 22-8-25 NMSA 1978 (being Laws 1981, 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 the school district's operating revenue, including its local and federal revenues as defined in this section, is at least equal to the school district's program cost.

B. "Local revenue", as used in this section, means ninety-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 ninety-five percent of receipts to the school district, excluding amounts which, if taken into account 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) the school district's share of forest reserve funds distributed in accordance with Section 22-8-33 NMSA 1978; and

(2) grants from the federal government as assistance to those areas affected by federal activity authorized in accordance with Sections 236 through 240 of Title 20 of the United States Code (commonly known as "PL 874 funds") or an amount equal to the revenue the district was entitled to receive if no application was made for such funds but deducting from those grants the additional amounts to which school districts would be entitled because of the provisions of Subparagraph (D) of Paragraph (2) of Subsection (d) of Section 238 of Title 20 of the United States Code.

D. To determine the amount of the state equalization guarantee distribution, the state superintendent shall:

(1) effective July 1, 1999 calculate the number of program units to which each school district is entitled using the basic program membership of the fortieth day of the prior year for all programs; provided that special

education program units shall be calculated using the membership in special education programs on December 1 of the prior year; effective July 1, 2000, calculate the number of program units to which each school district is entitled using an average of the membership on the fortieth, eightieth and one hundred twentieth days of the prior year; or

(2) calculate the number of program units to which a school district operating under an approved year-round school calendar is entitled using the basic program membership on an appropriate date established by the state board; or

(3) calculate the number of program units to which a school district with a basic program MEM of two hundred or less is entitled by using the basic program membership on the fortieth day of either the prior or the current year, whichever is greater; provided that special education program units shall be calculated using the membership in special education programs on December 1 of either the prior or the current year; 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 from the October report of the prior school year, establish a total program cost of the school district;

(5) 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; and

(7) deduct the total amount of guaranteed

energy savings contract payments that the state superintendent 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.

E. 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) and (7) of Subsection D of this section.

F. 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 district has received more state equalization guarantee funds than its entitlement, a refund shall be made by the district to the state general fund.

G. Notwithstanding the methods of calculating the state equalization guarantee distribution in this section and Laws 1974, Chapter 8, Section 22, if a school district received funds under Section 2391 of Title 42 USCA and if the federal government takes into consideration grants authorized by Sections 236 through 240 of Title 20 of the United States Code and all other revenues available to the school district in determining the level of federal support for the school district for the sixty-fourth and succeeding fiscal years, the state equalization guarantee distribution for school districts receiving funds under this subsection shall be

computed as follows:

fiscal year program cost	prior fiscal year
excluding special education	state equalization
for the year for which the	x guarantee distribution
state equalization guarantee	excluding special
distribution is being computed	education

prior fiscal year program cost
excluding special education

plus special education funding in accordance with Paragraphs (1), (2) or (3) and (4) of Subsection D of this section and Section 22-8-21 NMSA 1978 plus an amount that would be produced by applying a rate of eight dollars forty-two and one-half cents (\$8.425) to each one thousand dollars (\$1,000) of net taxable value of property as defined in the Property Tax Code for property taxation purposes in the school district and to each one thousand dollars (\$1,000) of 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 and then reduced by the total amount of guaranteed energy savings contract payments, if any, that the state superintendent 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, equals the fiscal year state equalization guarantee distribution for the year for which the state equalization guarantee distribution is being computed.

If at any time grants from the federal government as assistance to those areas affected by federal activity authorized in accordance with Sections 236 through 240 of Title 20 of the United States Code (commonly known as "PL 874 funds") are reduced or are no longer available, the state equalization guarantee distribution shall be computed by the formula contained in this subsection plus an increase by fifty percent of the amount the prior year's PL 874 funds exceed PL 874 funds for the year for which the state equalization guarantee distribution is being computed."

Section 4. Section 22-15A-9 NMSA 1978 (being Laws 1994, Chapter 96, Section 9) is amended to read:

"22-15A-9. EDUCATIONAL TECHNOLOGY FUND--DISTRIBUTION.-

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A. Upon annual review and approval of a school district's educational technology plan, the bureau shall determine a separate distribution from the educational technology fund for each school district.

B. On or before July 31 of each year, the bureau shall distribute money in the educational technology fund directly to each school district in an amount equal to ninety percent of the district's estimated entitlement as determined by the projected membership for the school year. A school district's entitlement is that portion of the total amount of the annual appropriation that the projected membership bears to the projected membership of the state. Kindergarten membership shall be calculated on a one-half full-time equivalent basis.

C. On or before January 30 of each year, the bureau shall recompute each entitlement using the final

funded membership for that year and shall allocate the balance of the annual appropriation adjusting for any over- or under-projection of membership.

D. Any school district receiving funding pursuant to the Technology for Education Act is responsible for the purchase, distribution, use and maintenance of educational technology.

E. As used in this section, "membership" means the total enrollment of qualified students, as defined in the Public School Finance Act, on the current roll of class or school on a specified day. The current roll is established by the addition of original entries and re-entries minus withdrawals. Withdrawal of students, in addition to students formally withdrawn from the public school, includes students absent from the public school without permission for as many as ten consecutive school days. If a school district is engaged in planned intervention efforts to re-enroll a student who has been absent without permission for as many as ten consecutive school days, that student may be retained on the current roll. The state board shall review and approve a school district's planned intervention efforts."