

HOUSE BILL 459

51ST LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2013

INTRODUCED BY

Mimi Stewart

AN ACT

RELATING TO PUBLIC SCHOOL FINANCE; CREATING THE SPECIAL
EDUCATION STATE EQUALIZATION GUARANTEE DISTRIBUTION;
DISTINGUISHING SPECIAL EDUCATION FROM OTHER EDUCATIONAL
SERVICES; AMENDING AND ENACTING SECTIONS OF THE NMSA 1978.

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

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

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

A. The "public school fund" is created.

B. The public school fund shall be distributed to
school districts and state-chartered charter schools in the
following parts:

(1) state equalization guarantee distribution;

(2) special education state equalization

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1 guarantee distribution;

2 [~~(2)~~] (3) transportation distribution; and

3 [~~(3)~~] (4) supplemental distributions:

4 (a) out-of-state tuition to school
5 districts;

6 (b) emergency; and

7 (c) program enrichment.

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

13 SECTION 2. 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) through
20 (6) in this subsection by the instructional staff training and
21 experience index and adding the program units itemized as
22 Paragraphs (7) through [~~(13)~~] (12) in this subsection. The
23 itemized program units are as follows:

24 (1) [~~early childhood education~~] kindergarten;

25 (2) basic education;

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

5 (3) gifted education;

6 (4) bilingual multicultural education;

7 (5) fine arts education;

8 (6) elementary physical education;

9 (7) size adjustment;

10 (8) at-risk program;

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

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

16 ~~(11)~~ (10) national board for professional
17 teaching standards certification;

18 [~~(12)~~ (11) home school student activities;
19 and

20 [~~(13)~~ (12) charter school student activities.

21 B. The total program cost calculated as prescribed
22 in Subsection A of this section includes the cost of [~~early~~
23 ~~childhood, special~~] kindergarten, gifted, bilingual
24 multicultural, fine arts and vocational education and other
25 remedial or enrichment programs. It is the responsibility of

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1 the local school board or governing body of a charter school to
2 determine its priorities in terms of the needs of the community
3 served by that board. Except as otherwise provided in this
4 section, funds generated under the Public School Finance Act
5 are discretionary to local school boards and governing bodies
6 of charter schools; provided that the special program needs as
7 enumerated in this section are met; and provided [~~however~~]
8 further that if a public school has been rated D or F for two
9 consecutive years, the department shall ensure that the local
10 school board or governing body of a charter school is
11 prioritizing resources for the public school toward proven
12 programs and methods linked to improved student achievement
13 until the public school earns a C or better for two consecutive
14 years."

15 SECTION 3. A new section of the Public School Finance Act
16 is enacted to read:

17 "[NEW MATERIAL] SPECIAL EDUCATION PROGRAM COST
18 CALCULATION--LOCAL RESPONSIBILITY.--

19 A. The total program units for computing the
20 program cost for special education shall be calculated by
21 multiplying the sum of special education program units and
22 early childhood special education program units by the
23 instructional staff training and experience index.

24 B. To calculate early childhood special education
25 program units, multiply early childhood special education MEM

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1 by the cost differential factor 1.44. Three- and four-year-
2 olds with disabilities shall be counted for 0.5 early childhood
3 special education MEM.

4 C. The total special education program cost
5 includes the cost of providing education to three- and four-
6 year-olds with disabilities and education and related services
7 to special education students in grades kindergarten through
8 twelve. It is the responsibility of the local school board or
9 governing body of a charter school to determine its priorities
10 in terms of the needs of the community served by that board.
11 Except as otherwise provided in this section, expenditures of
12 money for special education generated under the Public School
13 Finance Act is discretionary to local school boards and
14 governing bodies of charter schools as long as special
15 education program needs are met."

16 SECTION 4. Section 22-8-19 NMSA 1978 (being Laws 1974,
17 Chapter 8, Section 9, as amended) is amended to read:

18 "22-8-19. [~~EARLY CHILDHOOD EDUCATION~~] KINDERGARTEN
19 PROGRAM UNITS.--[A.] The number of [~~early childhood education~~]
20 kindergarten program units is determined by multiplying the
21 [~~early childhood education~~] kindergarten MEM by the cost
22 differential factor 1.44. [~~Early childhood education~~]
23 Kindergarten students enrolled in half-day kindergarten
24 programs shall be counted for 0.5 [~~early childhood~~]
25 kindergarten MEM. [~~Early childhood education~~] Kindergarten

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1 students enrolled in full-day kindergarten programs shall be
2 counted for 1.0 [~~early childhood education~~] kindergarten MEM.

3 [~~B. For the purpose of calculating early childhood~~
4 ~~education program units, developmentally disabled three- and~~
5 ~~four-year-old students shall be counted in early childhood~~
6 ~~education membership. No developmentally disabled three- or~~
7 ~~four-year-old student shall be counted for more than 0.5 early~~
8 ~~childhood education MEM.~~"]

9 SECTION 5. Section 22-8-21 NMSA 1978 (being Laws 1974,
10 Chapter 8, Section 11, as amended) is amended to read:

11 "22-8-21. SPECIAL EDUCATION PROGRAM UNITS.--

12 A. For the purpose of the Public School Finance
13 Act, special education programs for [~~exceptional children~~]
14 students with disabilities are those approved by the department
15 and classified as follows:

16 (1) class A programs, in which [~~department-~~
17 ~~certified individuals~~] special education teachers provide
18 services to [~~children~~] students whose individualized education
19 programs require a minimal [~~amount~~] level of special education
20 and in which the ratio of students to professionals is
21 regulated by the [~~state board~~] department;

22 (2) class B programs, in which [~~department-~~
23 ~~certified individuals~~] special education teachers provide
24 services to [~~children~~] students whose individualized education
25 programs require a moderate [~~amount~~] level of special education

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1 and in which the ratio of students to professionals is
2 regulated by the [~~state board~~] department;

3 (3) class C programs, in which [~~department-~~
4 ~~certified individuals~~] special education teachers provide
5 services to [~~children~~] students whose individualized education
6 programs require an extensive [~~amount~~] level of special
7 education and in which the ratio of students to professionals
8 is regulated by the [~~state board~~] department;

9 (4) class D programs, in which [~~department-~~
10 ~~certified individuals~~] special education teachers provide
11 services to [~~children~~] students whose individualized education
12 programs require a maximum [~~amount~~] level of special education
13 and in which the ratio of students to professionals is
14 regulated by the [~~state board. Students in class D programs~~
15 ~~may be enrolled in private, nonsectarian, nonprofit educational~~
16 ~~training centers in accordance with the provisions of Section~~
17 ~~22-13-8 NMSA 1978~~] department; and

18 (5) programs for [~~developmentally disabled~~]
19 three- and [~~four-year-old children~~] four-year-olds with
20 disabilities meeting standards approved by the [~~state board~~]
21 department.

22 B. All students assigned to [~~the~~] programs for
23 [~~exceptional children~~] special education classified in
24 Subsection A of this section shall have been so assigned as a
25 result of diagnosis and evaluation performed in accordance with

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1 the standards of the department before the students may be
2 counted in the determination of special education program units
3 as provided in Subsection C of this section.

4 C. The number of special education program units is
5 the sum of the following:

6 (1) the MEM in approved class A and B programs
7 [~~as defined in Subsection A of this section~~] multiplied by the
8 cost differential factor .7;

9 (2) the MEM in approved class C programs [~~as~~
10 ~~defined in Subsection A of this section~~] multiplied by the cost
11 differential factor 1.0;

12 (3) the MEM in approved class D programs [~~as~~
13 ~~defined in Subsection A of this section~~] multiplied by the cost
14 differential factor 2.0;

15 (4) the MEM for [~~developmentally disabled~~]
16 three- and [~~four-year-old children as defined in Subsection A~~
17 ~~of this section~~] four-year-olds with disabilities multiplied by
18 the cost differential factor 2.0; provided that no
19 developmentally disabled three- or four-year-old student shall
20 be counted for additional ancillary service units; and

21 (5) for related services ancillary to
22 providing special education, the number of full-time-equivalent
23 certified or licensed ancillary service and diagnostic service
24 personnel multiplied by the cost differential factor 25.0.

25 D. For the purpose of calculating membership in

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1 class C and class D programs, students shall be counted in
2 actual grade placement or according to chronological age if not
3 in actual grade placement."

4 SECTION 6. A new section of the Public School Finance Act
5 is enacted to read:

6 "[NEW MATERIAL] GIFTED EDUCATION PROGRAM UNITS.--

7 A. For the purpose of the Public School Finance
8 Act, gifted education programs are those approved by the
9 department and classified as follows:

10 (1) class 1 programs, in which teachers
11 provide services to students whose individualized education
12 programs require a minimal level of gifted services and in
13 which the ratio of students to professionals is regulated by
14 the department;

15 (2) class 2 programs, in which teachers
16 provide services to students whose individualized education
17 programs require a moderate level of gifted services and in
18 which the ratio of students to professionals is regulated by
19 the department;

20 (3) class 3 programs, in which teachers
21 provide services to students whose individualized education
22 programs require an extensive level of gifted services and in
23 which the ratio of students to professionals is regulated by
24 the department; and

25 (4) class 4 programs, in which teachers

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1 provide services to students whose individualized education
2 programs require a maximum level of gifted services and in
3 which the ratio of students to professionals is regulated by
4 the department.

5 B. All students assigned to gifted programs
6 classified in Subsection A of this section shall have been so
7 assigned as a result of diagnosis and evaluation performed in
8 accordance with the standards of the department before the
9 students may be counted in the determination of gifted program
10 units as provided in Subsection C of this section.

11 C. The number of gifted program units is the sum of
12 the following:

13 (1) the MEM in approved class 1 and 2 programs
14 multiplied by the cost differential factor .7;

15 (2) the MEM in approved class 3 programs
16 multiplied by the cost differential factor 1.0; and

17 (3) the MEM in approved class 4 programs
18 multiplied by the cost differential factor 2.0.

19 D. For the purpose of calculating membership in
20 class 3 and class 4 gifted programs, students shall be counted
21 in actual grade placement or according to chronological age if
22 not in actual grade placement."

23 SECTION 7. A new section of the Public School Finance Act
24 is enacted to read:

25 "[NEW MATERIAL] SPECIAL EDUCATION STATE EQUALIZATION

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1 GUARANTEE DISTRIBUTION--DETERMINATION OF AMOUNT.--

2 A. The special education state equalization
3 guarantee distribution is that amount of money distributed to
4 each school district to provide a base of support for the
5 education of students with disabilities. For charter schools,
6 the special education state equalization guarantee distribution
7 is the difference between the charter school's program cost and
8 the two percent withheld by the department or school district
9 for administrative services.

10 B. To determine the amount of the state
11 equalization guarantee distribution, the department shall:

12 (1) calculate the number of program units to
13 which each school district or charter school is entitled using
14 an average of the special education MEM on the second and third
15 reporting dates of the prior year; or

16 (2) calculate the number of program units to
17 which a school district or charter school operating under an
18 approved year-round school calendar is entitled using an
19 average of the special education MEM on appropriate dates
20 established by the department; and

21 (3) using the results of the calculations in
22 Paragraph (1) or (2) of this subsection and the instructional
23 staff training and experience index from the October report of
24 the prior school year, establish a total program cost of the
25 school district or charter school.

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C. The special education equalization guarantee distribution shall be distributed prior to June 30 of each fiscal year."