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AN ACT

RELATING TO PUBLIC SCHOOL FINANCE; AMENDING THE PUBLIC SCHOOL  
FINANCE ACT TO ESTABLISH A PHASED-IN TEACHER COST INDEX;  
REQUIRING A STUDY TO EVALUATE THE INDEX'S SUFFICIENCY; MAKING  
A PHASED-IN ADJUSTMENT TO THE AT-RISK INDEX; REPEALING THE  
SECTION OF LAW CREATING THE FUNDING FORMULA STUDY TASK FORCE.

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withdrawn from the public school, include students absent  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 for as many as ten consecutive school  
days; provided that withdrawals do not include students in  
need of early intervention and habitual truants the school  
district is required to intervene with and keep in an  
educational setting as provided in Section 22-12-9 NMSA 1978;

C. "basic program ADM" or "basic program MEM"

1 means the MEM of qualified students but excludes the full-  
2 time-equivalent MEM in early childhood education and three-  
3 and four-year-old students receiving special education  
4 services;

5 D. "cost differential factor" is the numerical  
6 expression of the ratio of the cost of a particular segment  
7 of the school program to the cost of the basic program in  
8 grades four through six;

9 E. "department" or "division" means the public  
10 education department;

11 F. "early childhood education ADM" or "early  
12 childhood education MEM" means the full-time-equivalent MEM  
13 of students attending approved early childhood education  
14 programs;

15 G. "full-time-equivalent ADM" or "full-time-  
16 equivalent MEM" is that membership calculated by applying to  
17 the MEM in an approved public school program the ratio of the  
18 number of hours per school day devoted to the program to six  
19 hours or the number of hours per school week devoted to the  
20 program to thirty hours;

21 H. "operating budget" means the annual financial  
22 plan required to be submitted by a local school board or  
23 governing body of a state-chartered charter school;

24 I. "program cost" is the product of the total  
25 number of program units to which a school district is

1 entitled multiplied by the dollar value per program unit  
2 established by the legislature;

3 J. "program element" is that component of a public  
4 school system to which a cost differential factor is applied  
5 to determine the number of program units to which a school  
6 district is entitled, including MEM, full-time-equivalent  
7 MEM, teacher, classroom or public school;

8 K. "program unit" is the product of the program  
9 element multiplied by the applicable cost differential  
10 factor;

11 L. "public money" or "public funds" means all  
12 money from public or private sources received by a school  
13 district or state-chartered charter school or officer or  
14 employee of a school district or state-chartered charter  
15 school for public use;

16 M. "qualified student" means a public school  
17 student who:

18 (1) has not graduated from high school;

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

22 (3) in terms of age:

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

25 (b) is at least three years of age at

1 any time during the school year and is receiving special  
2 education services pursuant to rules of the department; or

3 (c) has not reached the student's  
4 twenty-second birthday on the first day of the school year  
5 and is receiving special education services pursuant to rules  
6 of the department;

7 N. "staffing cost multiplier" means:

8 (1) for fiscal year 2019, the instructional  
9 staff training and experience index;

10 (2) for fiscal year 2020, the weighted  
11 average of the instructional staff training and experience  
12 index at seventy-five percent and the teacher cost index at  
13 twenty-five percent;

14 (3) for fiscal year 2021, the weighted  
15 average of the instructional staff training and experience  
16 index at fifty percent and the teacher cost index at fifty  
17 percent;

18 (4) for fiscal year 2022, the weighted  
19 average of the instructional staff training and experience  
20 index at twenty-five percent and the teacher cost index at  
21 seventy-five percent; and

22 (5) for fiscal year 2023 and subsequent  
23 fiscal years, the teacher cost index; and

24 O. "state superintendent" means the secretary of  
25 public education or the secretary's designee."

1           **SECTION 2.** Section 22-8-6.1 NMSA 1978 (being Laws 1993,  
2 Chapter 227, Section 8, as amended) is amended to read:

3           "22-8-6.1. CHARTER SCHOOL BUDGETS.--

4           A. Each state-chartered charter school shall  
5 submit to the charter schools division of the department a  
6 school-based budget. The budget shall be submitted to the  
7 division for approval or amendment pursuant to the Public  
8 School Finance Act and the Charter Schools Act. Thereafter,  
9 the budget shall be submitted to the public education  
10 commission for review.

11           B. Each locally chartered charter school shall  
12 submit to the local school board a school-based budget for  
13 approval or amendment. The approval or amendment authority  
14 of the local school board relative to the charter school  
15 budget is limited to ensuring that sound fiscal practices are  
16 followed in the development of the budget and that the  
17 charter school budget is within the allotted resources. The  
18 local school board shall have no veto authority over  
19 individual line items within the charter school's proposed  
20 budget, but shall approve or disapprove the budget in its  
21 entirety. Upon final approval of the local budget by the  
22 local school board, the individual charter school budget  
23 shall be included separately in the budget submission to the  
24 department required pursuant to the Public School Finance Act  
25 and the Charter Schools Act.

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

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

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

18           A. For fiscal year 2019, the total program units  
19 for the purpose of computing the program cost shall be  
20 calculated by multiplying the sum of the program units  
21 itemized as Paragraphs (1) through (6) in this subsection by  
22 the staffing cost multiplier and adding the program units  
23 itemized as Paragraphs (7) through (14) in this subsection.  
24 For fiscal year 2020 and subsequent fiscal years, the total  
25 program units for the purpose of computing the program cost

1 shall be calculated by multiplying the sum of the program  
2 units itemized as Paragraphs (1) and (2) in this subsection  
3 by the staffing cost multiplier and adding the program units  
4 itemized as Paragraphs (3) through (14) in this subsection.

5 The itemized program units are as follows:

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

1 (14) charter school student activities.

2 B. The total program cost calculated as prescribed  
3 in Subsection A of this section includes the cost of early  
4 childhood, special, bilingual multicultural, fine arts and  
5 vocational education and other remedial or enrichment  
6 programs. It is the responsibility of the local school board  
7 or, for a charter school, the governing body of the charter  
8 school to determine its priorities in terms of the needs of  
9 the community served by that board. Except as otherwise  
10 provided in this section, funds generated under the Public  
11 School Finance Act are discretionary to local school boards  
12 and governing bodies of charter schools; provided that the  
13 special program needs as enumerated in this section are met;  
14 and provided further that if a public school has been rated D  
15 or F for two consecutive years, the department shall ensure  
16 that the local school board or, for a charter school, the  
17 governing body of the charter school is prioritizing  
18 resources for the public school toward proven programs and  
19 methods linked to improved student achievement until the  
20 public school earns a C or better for two consecutive years."

21 **SECTION 4.** Section 22-8-23.3 NMSA 1978 (being Laws  
22 1997, 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-



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

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

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

18 (1) for fiscal year 2019,

19 Three-Year Average Total Rate  $\times$  0.130 = At-Risk Index;

20 (2) for fiscal year 2020,

21 Three-Year Average Total Rate  $\times$  0.140 = At-Risk Index; and

22 (3) for fiscal year 2021 and subsequent

23 fiscal years,

24 Three-Year Average Total Rate  $\times$  0.150 = At-Risk Index.

1           B. To calculate the three-year average total rate,  
2 the department shall compute a three-year average of the  
3 school district's percentage of membership used to determine  
4 its Title I allocation, a three-year average of the  
5 percentage of membership classified as English language  
6 learners using criteria established by the federal office of  
7 civil rights and a three-year average of the percentage of  
8 student mobility. The department shall then add the three-  
9 year average rates. The number obtained from this  
10 calculation is the three-year average total rate.

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

13           **SECTION 5.** A new section of the Public School Finance  
14 Act is enacted to read:

15           "TEACHER COST INDEX--LICENSURE-EXPERIENCE  
16 FACTOR--REPORT.--

17           A. The teacher cost index for each school district  
18 or charter school shall be calculated in accordance with  
19 instructions issued by the department. The teacher cost  
20 index for a school district in its first year of operations  
21 is 1.0. The teacher cost index for a school district or  
22 charter school in its second or subsequent year of operations  
23 is the greater of 1.0 or the average of the licensure-  
24 experience factors of all full-time-equivalent teachers on  
25 the school district's or charter school's payroll in October

1 of that year who are assigned classroom teaching  
2 responsibilities. The licensure-experience factor of a  
3 teacher corresponds to the teacher's licensure level and  
4 years of experience and is as follows:

5 **Licensure**

6 <u>Level</u>	7 <u>Years of Experience</u>				
	8 0 to 2	9 3 to 5	10 6 to 8	11 9 to 15	12 Over 15
13 1	0.755	0.785	0.800		
14 2		0.994	1.023	1.050	1.123
15 3			1.184	1.208	1.277.

16 B. Beginning in 2021, the department, legislative  
17 education study committee staff and legislative finance  
18 committee staff shall jointly prepare and submit a report by  
19 November 1 of each year to the governor, the legislative  
20 education study committee and the legislative finance  
21 committee that includes:

22 (1) data on the relationship of licensure-  
23 experience factors to actual teacher costs;

24 (2) an analysis of the relationships among a  
25 teacher's licensure level, educational attainment, years of  
experience and salary; and

(3) recommended changes, if any, to this  
section of the Public School Finance Act.

C. As used in this section:

(1) "licensure level" is the teaching

1 licensure level as defined in the School Personnel Act; and

2 (2) "years of experience" is as defined by  
3 department rule."

4 SECTION 6. Section 22-8-25 NMSA 1978 (being Laws 1981,  
5 Chapter 176, Section 5, as amended) is amended to read:

6 "22-8-25. STATE EQUALIZATION GUARANTEE DISTRIBUTION--  
7 DEFINITIONS--DETERMINATION OF AMOUNT.--

8 A. The state equalization guarantee distribution  
9 is that amount of money distributed to each school district  
10 to ensure that its operating revenue, including its local  
11 and federal revenues as defined in this section, is at least  
12 equal to the school district's program cost. For state-  
13 chartered charter schools, the state equalization guarantee  
14 distribution is the difference between the state-chartered  
15 charter school's program cost and the two percent withheld by  
16 the department for administrative services.

17 B. "Local revenue", as used in this section, means  
18 seventy-five percent of receipts to the school district  
19 derived from that amount produced by a school district  
20 property tax applied at the rate of fifty cents (\$.50) to  
21 each one thousand dollars (\$1,000) of net taxable value of  
22 property allocated to the school district and to the assessed  
23 value of products severed and sold in the school district as  
24 determined under the Oil and Gas Ad Valorem Production Tax  
25 Act and upon the assessed value of equipment in the school

1 district as determined under the Oil and Gas Production  
2 Equipment Ad Valorem Tax Act.

3 C. "Federal revenue", as used in this section,  
4 means receipts to the school district or state-chartered  
5 charter school, excluding amounts that, if taken into account  
6 in the computation of the state equalization guarantee  
7 distribution, result, under federal law or regulations, in a  
8 reduction in or elimination of federal school funding  
9 otherwise receivable by the school district, derived from the  
10 following:

11 (1) seventy-five percent of the school  
12 district's share of forest reserve funds distributed in  
13 accordance with Section 22-8-33 NMSA 1978; and

14 (2) seventy-five percent of grants from the  
15 federal government as assistance to those areas affected by  
16 federal activity authorized in accordance with Title 20 of  
17 the United States Code, commonly known as "PL 874 funds" or  
18 "impact aid".

19 D. To determine the amount of the state  
20 equalization guarantee distribution, the department shall:

21 (1) calculate the number of program units to  
22 which each school district or charter school is entitled  
23 using an average of the MEM on the second and third reporting  
24 dates of the prior year; or

25 (2) calculate the number of program units to

1 which a school district or charter school operating under an  
2 approved year-round school calendar is entitled using an  
3 average of the MEM on appropriate dates established by the  
4 department; or

5 (3) calculate the number of program units to  
6 which a school district or charter school with a MEM of two  
7 hundred or less is entitled by using an average of the MEM on  
8 the second and third reporting dates of the prior year or the  
9 fortieth day of the current year, whichever is greater; and

10 (4) using the results of the calculations in  
11 Paragraph (1), (2) or (3) of this subsection and the staffing  
12 cost multiplier from the October report of the prior school  
13 year, establish a total program cost of the school district  
14 or charter school;

15 (5) for school districts and state-chartered  
16 charter schools, calculate the local and federal revenues as  
17 defined in this section;

18 (6) deduct the sum of the calculations made in  
19 Paragraph (5) of this subsection from the program cost  
20 established in Paragraph (4) of this subsection;

21 (7) deduct the total amount of guaranteed  
22 energy savings contract payments that the department  
23 determines will be made to the school district from the  
24 public school utility conservation fund during the fiscal  
25 year for which the state equalization guarantee distribution

1 is being computed; and

2 (8) deduct ninety percent of the amount  
3 certified for the school district by the department pursuant  
4 to the Energy Efficiency and Renewable Energy Bonding Act.

5 E. Reduction of a school district's state  
6 equalization guarantee distribution shall cease when the  
7 school district's cumulative reductions equal its  
8 proportional share of the cumulative debt service payments  
9 necessary to service the bonds issued pursuant to the Energy  
10 Efficiency and Renewable Energy Bonding Act.

11 F. The amount of the state equalization guarantee  
12 distribution to which a school district is entitled is the  
13 balance remaining after the deductions made in Paragraphs (6)  
14 through (8) of Subsection D of this section.

15 G. The state equalization guarantee distribution  
16 shall be distributed prior to June 30 of each fiscal year.  
17 The calculation shall be based on the local and federal  
18 revenues specified in this section received from June 1 of  
19 the previous fiscal year through May 31 of the fiscal year  
20 for which the state equalization guarantee distribution is  
21 being computed. In the event that a school district or  
22 charter school has received more state equalization guarantee  
23 funds than its entitlement, a refund shall be made by the  
24 school district or charter school to the state general fund."

25 SECTION 7. TEMPORARY PROVISION--PROTECTION FROM PROGRAM

1 COST REDUCTIONS.--

2 A. Using funds appropriated by the legislature for  
3 fiscal years 2020 through 2022, the public education  
4 department shall supplement a school district's or charter  
5 school's calculated program cost in each of those fiscal  
6 years:

7 (1) if, for the fiscal year, the school  
8 district's or charter school's calculated program cost is  
9 less than its final program cost in the previous fiscal year,  
10 not considering any supplement the school district or charter  
11 school receives under this subsection; and

12 (2) as follows:

13 (a) for fiscal year 2020, in an  
14 amount equal to one hundred percent of the reduction  
15 attributable to the implementation of this act or the  
16 difference between the calculated program cost and the final  
17 program cost in the previous fiscal year, whichever is less;

18 (b) for fiscal year 2021, in an  
19 amount equal to seventy-five percent of the reduction  
20 attributable to the implementation of this act or the  
21 difference between the calculated program cost and the final  
22 program cost in the previous fiscal year, whichever is less;  
23 and

24 (c) for fiscal year 2022, in an  
25 amount equal to fifty percent of the reduction attributable



1 to the implementation of this act or the difference between  
2 the calculated program cost and the final program cost in the  
3 previous fiscal year, whichever is less; but

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

11 B. On or before February 1 of 2020 through 2022,  
12 the public education department shall submit a report to the  
13 legislative education study committee and the legislative  
14 finance committee that states, regarding the current fiscal  
15 year:

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

19 (2) a list of the school districts and charter  
20 schools eligible to receive a supplement in accordance with  
21 this section; and

22 (3) the supplement amount of each of those  
23 school districts and charter schools.

24 **SECTION 8. REPEAL.--**Section 22-8-46 NMSA 1978 (being  
25 Laws 2005, Chapter 49, Section 1, as amended) is repealed.

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SECTION 9. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2018.

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