

## ***Martinez-Yazzie*: Funding Sufficiency**

### **Summary**

In 2018, the 1<sup>st</sup> Judicial District Court ruled in the *Martinez-Yazzie* education sufficiency lawsuit, finding the state had not provided sufficient funding to deliver educational programs for at-risk students as guaranteed in the state constitution and confirmed by poor student outcomes in the state. The court further acknowledged the different responsibilities of the Legislature (funding and policy), school districts and charter schools (implementation) and the Public Education Department (oversight). This report aims to measure and summarize the state's progress toward sufficiently resourcing the state's public schools and providing additional resources for at-risk students and evidence-based programs. The report also reviews existing data related to implementation and oversight.

*Martinez-Yazzie* plaintiffs cited a 2008 American Institutes of Research (AIR) study of New Mexico's school finance system as a potential benchmark of sufficiency, a benchmark described by the 1<sup>st</sup> Judicial District Court as a "wish list." However, the court further stated, "the Legislature within its discretion may use the AIR study to fund the educational system." Using this benchmark, New Mexico has now surpassed recurring funding formula targets (adjusting for inflation) by 6 percent or \$220 million. Since the court ruling, New Mexico has invested more than one billion additional dollars, targeting resources for at-risk students, evidence-based programs, and teacher salaries among other areas. Today, public schools receive about 45 percent of the state's \$8.4 billion general fund. In FY22, school districts and charter schools also carried forward \$525.5 million in cash balances, which is more than double the amount schools carried forward in FY18. While New Mexico is typically on par with neighboring states for classroom spending, the state continues to rank lower in measures of student achievement.

Implementation and oversight challenges remain hurdles to improving poor student outcomes. School districts and charter schools have faced significant challenges implementing new programs supported by additional resources, such as extended learning time programming, and leveraging additional resources for student support. Similarly, recent LFC reports have identified ongoing challenges in the PED's oversight of school budgets and activities, including ensuring compliance with the Indian Education Act and the Bilingual and Multicultural Education Act. A number of next steps are discussed to further measure progress toward sufficiently funding the state's education system and improving oversight and implementation.

**Education Notes** are briefs intended to improve the understanding of education finance, policy, and performance in New Mexico.



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## Background

***In 2018, the 1<sup>st</sup> Judicial District Court ruled the state failed to provide a sufficient public education to students.*** In July 2018, the 1<sup>st</sup> Judicial District Court ruled in favor of the *Martinez-Yazzie* plaintiffs, finding the state of New Mexico had failed to provide a uniform and sufficient public education for at-risk students. Specifically, the court found the state had failed to provide at-risk students with programs and services necessary to ensure all students are college and career ready, and the court concluded the state had failed to provide an education that was constitutionally sufficient and uniform for bilingual and English learners, Native American, and other at-risk students. Noting outcomes for at-risk students, the court ruled the state failed to provide sufficient funding for all districts and charter schools to deliver the programs and services that would afford a uniform and sufficient education for at-risk students as required by the state constitution. The court further directed the Legislature, Public Education Department (PED), and school districts to work together to remedy the court’s findings. In addition, the PED holds a primary coordinating role, as implementation will also require collaboration across state agencies.

Specifically, the court cited a variety of inadequate educational inputs, including:

- Limited access to quality prekindergarten and the state’s K-3 Plus extended school year program, both of which produced documented evidence of improving outcomes for at-risk students;
- Limited access to afterschool, summer school, and extended learning time programs;
- Limited access to research-based reading programs and adequate, culturally-relevant instructional materials;
- Insufficient resources for counselors, social workers, and other non-instructional staff;
- Inadequate funding for at-risk students and English Language learners; and
- Insufficient access to highly effective teachers, particularly in schools serving the most at-risk students.

Overall, the court found, “Funding has not been sufficient for all districts to provide the programs and services required by the [state] Constitution,” and “the Public Education Department has failed to meet its supervisory and audit functions...including not having appropriately exercised its statutory authority to ensure that districts are properly prioritizing and funding programs and services for at-risk students through district allocation.”

The court ordered the state to comply with its duty to provide an adequate education and reform the state’s current system of financing public education and managing schools. The court also ordered the state ensure schools have the resources necessary to provide an opportunity for a sufficient education for all at-risk students, including instructional materials, properly trained staff, and curricular offerings. In addition, the court ordered the state develop a system of accountability to measure whether the programs and services deliver on these obligations.

The court outlined a variety of actions for the Legislature, PED, and schools districts and charter schools. PED shared a synthesized list of actions with school district and charter school leaders, described in the figure below.

**Figure 1. Martinez-Yazzie Ruling Actions**



Source: PED Presentation, June 2022

### AIR Study Methodology

AIR convened a group of education leaders and stakeholders, including principals, superintendents, and policymakers, to develop ideal models for educating students in different demographic and geographic contexts.

These models recommended extending the instructional year for all students by 15 days, and adding personnel to support language and cultural heritage programs, additional specialists to work with at-risk students, and professional development for teachers.

Researchers then estimated the total costs to deliver these educational models in New Mexico, \$2.5 billion in 2008.

**The Martinez-Yazzie plaintiffs and the 1<sup>st</sup> Judicial District Court cited a 2008 American Institutes of Research study as a potential sufficiency benchmark.** Several methods for accessing school funding adequacy exist (see Appendix D). The American Institutes of Research (AIR) utilized a professional judgment approach in the study, involving education stakeholders, including New Mexico school principals, school district superintendents, and a variety of professional education associations across the state. The stakeholders developed a model for staffing and services they deemed sufficient for educating New Mexico’s students. The 2008 study concluded the cost of educating New Mexico’s students should increase by \$335.8 million (14.5 percent) to extend the school year, add additional afterschool hours, provide summer programs, reduce class sizes, and hire additional school personnel to support at-risk students.

In the *Martinez-Yazzie* decision, the 1<sup>st</sup> Judicial District Court noted the AIR methodology amounted to a collective “wish list” of education reforms. The court ordered the Legislature to “take immediate steps to ensure New Mexico schools have the resources necessary to give at-risk students the opportunity to obtain a uniform and sufficient education that prepares them for college and career.”

Although the court did not define what levels of student achievement or funding would be sufficient, instead deferring to the policymaking roles of the legislative and executive branches to define both input and outcome sufficiency, the court did state, “The Legislature, within its discretion, may use the AIR study to fund the educational system.” Neither the legislative nor executive branches have developed a commonly shared definition of public school funding adequacy. For the purposes of analysis in this brief, the sufficiency benchmark in the AIR report cited by plaintiffs and the court remains a helpful measure against which to evaluate progress toward one benchmark for public school funding sufficiency.

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**Given the learning loss associated with the pandemic, New Mexico faces a heightened need to ensure resources are directed toward evidence-based programs to help students catch up.** In the 1<sup>st</sup> Judicial District Court’s findings of fact, the judge noted, “Student achievement and attainment in New Mexico are dismal.” In spring 2022, PED reported only 34 percent of students in grades three to eight were proficient in reading, and just 26 percent were proficient in math, as measured by the state’s new Measures of Student Success and Achievement exam. This assessment data provides a new baseline for student outcomes in New Mexico.

Though New Mexico did not report statewide student assessment data for several years due to the Covid-19 pandemic, a 2020 LFC evaluation of the impact of school closures found students were likely to lose three months to a year of learning during the pandemic. The Northwest Evaluation Association (NWEA) data, which includes New Mexico students, suggests year-over-year gains that were 3 to 6 percentage points lower than expected in reading and 8 to 12 percentage points lower in math, compared with growth typical before the pandemic. In a 2022 *Wall Street Journal* article, economist Eric Hanushek estimated students experienced the equivalent of a year or more of lost learning during the pandemic, resulting in 6 to 9 percent lower lifetime earnings for the average student, and much more for at-risk students.

In 2022, the National Center for Education Statistics (NCES) conducted a special national administration of the National Assessment of Educational Progress (NAEP) reading and math assessments and found fourth grade reading scores declined by five points and math scores declined by seven points compared with 2020. This is the largest average decline in reading since 1990 and the first ever decline in math. While student outcomes, particularly for at-risk students, were poor at the time of the *Martinez-Yazzie* decision, learning loss experienced during the pandemic elevates the importance of delivering effective and evidence-based educational programs to students in New Mexico.

# Legislative Appropriations Have Surpassed the AIR Benchmarks for Public School Funding

Figure 2. Acting to Meet the *Martinez-Yazzie* Ruling

### Legislature

- Fund PreK, ELTP, K-5 Plus, reading interventions
- Provide instructional materials, technology, curricula, and transportation
- Improve teacher pay, preparation, certification, and working conditions
- Close formula loopholes and increase at-risk student funding

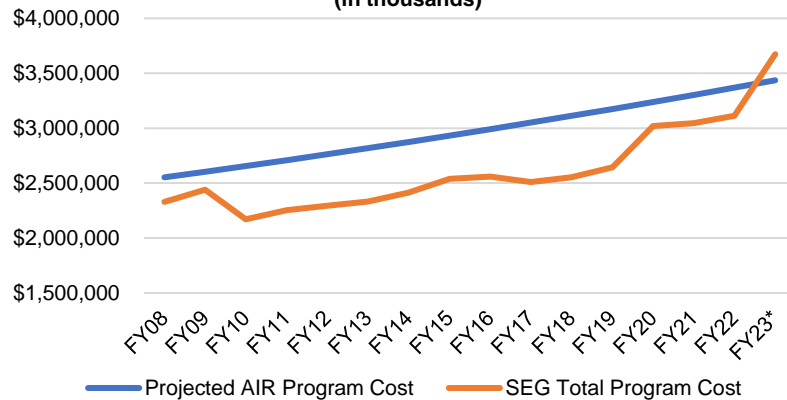


Revenue generated from the state’s funding formula alone now meets the AIR inflation-adjusted sufficiency benchmark.

The 2008 AIR methodology calculated the projected total cost to achieve sufficiency at \$2.50 billion, estimating the state needed to invest an additional \$335.8 million to support the costs associated with the revenue generated through the state equalization guarantee (SEG), the pool of state money distributed to school districts and charter schools through a needs-based formula. It did not include additional funding from categorical programs or federal revenue, which often exceeds 10 percent of a school district’s revenue, because these funds are restricted to specific purposes. Assuming cumulative inflation of 38 percent between 2008 and 2022, the AIR sufficiency estimate would be \$3.45 billion in FY23. Without including categorical appropriations or federal revenues, New Mexico is currently providing a total of \$3.67 billion through the SEG appropriation, exceeding the AIR estimate.

Source: PED Presentation, June 2022

Chart 1. AIR Projected Program Cost to Actual Program Cost (in thousands)



Note: FY23 reflects SEG appropriation as Final Funded Run is not yet available.  
Source: LFC analysis of PED Final Funded Runs and AIR Cost Estimates

According to the Bureau of Labor Statistics, the cumulative inflation rate between 2008 and 2022 was 38 percent.

The AIR sufficiency estimate of \$2.5 billion in 2008 is \$3.45 billion in 2022 dollars.

**New Mexico has also met the inflation-adjusted per pupil sufficiency costs recommended through the AIR model.** The AIR report concluded a sufficient average statewide per pupil cost for the 2007-2008 school year would have been \$8,144. Suburban and rural district costs would be greater, and urban costs would be less as a result of economies of scale. Applying the AIR methodology and adjusting estimated per pupil costs at a rate of 38 percent cumulative inflation between 2008 and 2022, these costs projected forward suggest the average per pupil AIR sufficiency cost in 2023 is \$11,238. In FY23, PED’s preliminary SEG program cost is \$3.45 billion.

In FY23, the mean preliminary per student membership (MEM) cost generated by the SEG alone is \$11,202 and the median is \$11,504. Revenues from federal sources also provide additional per-pupil revenues.

**Since the Martinez-Yazzie ruling, the Legislature has increased recurring appropriations to the state’s public schools by more than \$1 billion.**

Overall, total recurring general fund appropriations for public schools have increased by 44 percent, from \$2.7 billion in 2018 to \$3.9 billion in FY23. The Legislature has significantly increased at-risk funding, educator pay, instructional materials, extended learning opportunities, and early childhood programs in response to the court’s findings. In FY23, recurring general fund appropriations for public schools, including the SEG and categorical programs, were \$3.9 billion, a 12.3 percent increase (\$425 million) over FY22.

In addition, the Legislature increased appropriations for prekindergarten from \$53.5 million in FY18 to \$110.2 million in FY23, a 104 percent increase. The National Institute for Early Education Research (NIEER), ranks New Mexico as 10<sup>th</sup> highest in spending on prekindergarten and 11<sup>th</sup> highest for access of three-year-olds and 13<sup>th</sup> highest on access for four-year-olds. The state also anticipates receiving \$1.5 billion in federal pandemic recovery funds through FY23.

**The Legislature appropriated funding to address all of the court’s major findings.** To address the court’s findings, the Legislature made appropriations through the SEG and categorical appropriations. The Legislature used its appropriating power to provide additional funding and relied upon PED and school districts to implement programs and improve student outcomes. (A summary of the actions taken by the Legislature, PED, and school districts and their alignment with court findings and AIR study recommendations may be found in Appendices A through C.

**Schools also have significant additional revenue sources available, including recurring and one-time federal funds, to support educational programs.** While revenue from the state funding formula is the primary revenue source for school districts and charter schools, schools also receive revenue from federal programs and other grants, such as federal Title I, II, and III. These revenues represent about 10 to 15 percent of school district budgets. In addition, New Mexico schools received \$1.5 billion in one-time federal stimulus revenue in FY23, and school districts carried forward \$525.5 million in operational cash balances in FY23. Additionally, the proposed constitutional amendment to boost the permanent fund distribution may add additional funds.

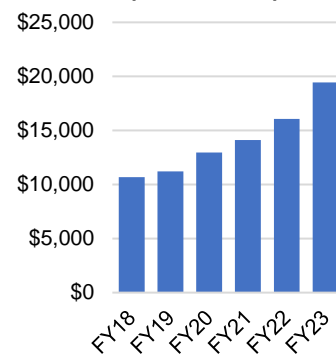
The Legislature has also made a variety of statutory changes to the funding formula that result in different funding increases at school districts and charter schools. When including all other revenues sources, such as state categorical appropriations and federal funds, school districts and charter schools in New Mexico budgeted over \$5.9 billion in FY23, excluding capital outlay and debt service. These revenues translate to school district and charter schools budgeting an average of \$19,430 per MEM in FY23, excluding capital outlay and debt service.

However, as noted in previous LFC evaluations, public school operating budget expenditures are overestimated because of PED’s practice that directs school districts and charter schools to budget cash balances in their operating budgets. As a result, though districts have up to \$5.9 billion in operating budgets in FY23, school districts and charter school budgets include budgeted expenses they do not plan to spend.

The August 2022 consensus revenue estimate released by LFC forecasts the early childhood trust fund, and endowment, will reach \$4.85 billion in 2023 and \$8.98 billion by 2027.

Disbursements will reach \$30 million in 2023 and \$338.9 million by 2027.

**Chart 2. Total Budget per MEM (FY18-FY23)**



Notes: Includes all revenue sources. Excludes debt service and capital outlay. Source: LFC Analysis of OBMS

# School Districts Have Not Implemented All Court Remedies

**Figure 3: Acting to Meet the *Martinez-Yazzie* Ruling Schools and Districts**

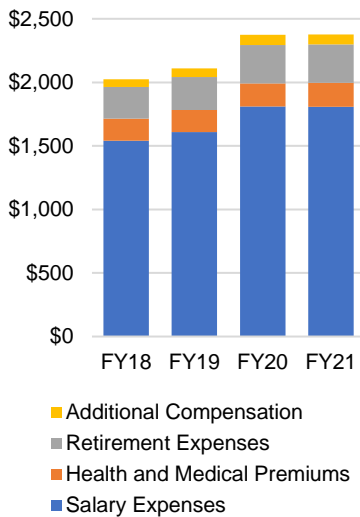
- Expend funds for **evidence-based academic and social supports** for at-risk students
- Monitor student outcomes and provide interventions to **close achievement gaps**
- Implement **tribal consultation**, as appropriate
- Provide **professional development** and training for school employees

Source: PED Presentation, June 2022

School districts and charter schools generally have broad discretion over funding generated by the state’s funding formula, within the bounds of state law and PED regulation, to allow local school communities, located in diverse geographies, to make decisions about educational programs that suit their contexts. School districts and charter schools hold the responsibility to spend funds on evidence-based programs, monitor outcomes, provide interventions to address achievement gaps, and provide professional development for educators. Thus, school districts and charter schools are largely responsible for implementing remedies to the *Martinez-Yazzie* ruling.

Just as the state has a main general fund for its operations, school districts and charter schools have operating funds (mostly funded by the state) to support their primary activities. All other funds at school districts, which receive revenue from state, federal, and local sources, are used for other specific sources.

**Chart 3. School Operating Fund Personnel Expenditures FY18-FY21**  
(in millions)



Source: LFC Analysis of PED OBMS Data

School operating fund expenditures grew from \$2.7 billion in FY18 to \$3.1 billion in FY21, the most recent year for which complete expenditure data is available. When considering spending across all funds, such as federal revenue sources, expenditures grew from \$3.2 billion in FY18 to \$3.8 billion in FY21, excluding debt service and capital outlay.

As school district and charter school cash balances have grown by 121 percent since FY18, the analysis of school district and charter school actual expenditures may provide a more accurate picture of where schools invested as public school appropriations increased. How districts actually spent additional resources is described below.

## Investments have yielded progress in several key areas, including teacher pay and recruitment, instructional materials, and prekindergarten

In each of these areas the state has seen improvements, and in some areas, including prekindergarten funding and accessibility, New Mexico performance ranks relatively highly compared with the rest of the nation.

**Educator compensation increases make working in New Mexico more competitive compared with neighboring states, helping to address teacher shortages.** In 2022, the Legislature increased the minimum salaries for level 1, 2, and 3 licensed teachers to \$50 thousand, \$60 thousand, and \$70 thousand respectively, effectively raising the minimum salary for each level by \$10 thousand. The Legislature also appropriated \$177 million for a 7 percent average salary increase for all public school employees and provided additional funds such that any teacher in a K-5 Plus or ELT school receives an additional 3 percent salary increase and is compensated at their daily rate for the days associated with the program. These efforts came in response to state and national trends associated with a shrinking teacher candidate pool over the last decade and reports that educator compensation in New Mexico had not kept pace with surrounding states. The higher pay made teacher pay more competitive with pay for other professional positions and school positions in other states.



However, previous LFC reports have noted the limitations of compensation increases as a singular strategy to address the challenges of ensuring all students, and particularly at-risk students, have access to effective teachers in every classroom. Additionally, these compensation increases were not accompanied by significant efforts related to teacher quality. The state replaced the teacher evaluation system criticized by the court and eliminated teacher licensure assessment requirements, and the state did not administer end-of-year standards based assessments during the pandemic. As a result, it is difficult to assess the relationship between compensation increases, teacher quality, and student outcomes at this time.

Schools increased spending on personnel related expenses, which increased by 17 percent between FY18 and FY21, prior to the significant appropriations for compensation increases in FY23. In the *Martinez-Yazzie* findings of fact, the 1<sup>st</sup> Judicial District Court concluded the state has a role in providing the personnel and resources needed for districts to establish and deliver educational programs. The findings also pointed to a lack of adequately-trained educators teaching the most at-risk students and insufficient resources for school support personnel. As the Legislature increased resources available, schools invested in personnel.

The largest spending increases from school district and charter school operating budgets occurred in personnel-related expenses, which grew from \$2 billion in FY18 to \$2.4 billion in FY21. Schools also invested in additional compensation for employees, which grew from \$60.9 million to \$78.4 million (29 percent) during this period.

***New Mexico's teacher vacancy rate has also improved with a one-year 39 percent decrease in teacher vacancies.*** Preliminary surveys suggest New Mexico now has 635 teacher vacancies, down from the 1,048 vacancies in October 2021 reported by New Mexico State University, a 40 percent decrease. Additionally, of the \$15.5 million appropriated for teacher residency programs in FY23, PED has allocated \$14.6 million for 374 residents. Out of the \$6 million appropriated for student teaching, PED has allocated \$5.7 million for stipends to 500 student-teachers and 500 mentors. The Legislature provided \$96 million in non-recurring appropriations to support teacher preparation in FY23.

***More teachers, combined with declining student enrollment, have likely led to reductions in class size.*** As previously mentioned, the AIR study identified class size reductions as a strategy to improve student outcomes. Previous LFC reports have identified trends of declining enrollment statewide across numerous districts. For example, Albuquerque Public Schools, the largest school district in the state, has seen student enrollment decrease by 17 percent (15.3 thousand students) between FY12 and FY22. This declining enrollment is in part responsible for smaller class sizes at APS. A 2022 LFC evaluation found most APS elementary classes are under-enrolled with some being far below capacity. The report found while smaller class sizes can improve student outcomes, other interventions, such as coaching for teachers, professional development on data-guided instruction, and tutoring, offer a greater return on investment. Furthermore, when the supply of teachers is limited and reducing class sizes results in the hiring of less qualified and experienced educators, potential gains from class size reductions are potentially counteracted by lower quality instruction. The 2022 APS report noted the average elementary school pupil-to-teacher ratio in APS is already

**Table 1. New Mexico Minimum Teacher Salaries, FY23**

	Min. Base Salary	Effective Min. K-5 Plus	Effective Min. ELT
Level 1- Provisional	\$50,000	\$56,944	\$52,777
Level 2	\$60,000	\$68,333	\$63,333
Level 3	\$70,000	\$79,722	\$73,888

Source: NMSA 22-10A, GAA 2022

**Table 2. 2021 Teacher Compensation in Neighboring States Before FY23 Increases**

	Starting Teacher Salary	Average Teacher Salary
Arizona	\$40,554	\$52,157
California	\$49,933	\$85,856
Colorado	\$35,724	\$58,183
Oklahoma	\$38,074	\$54,762
Texas	\$44,527	\$57,641
Utah	\$44,349	\$57,226
<b>New Mexico</b>	\$41,737	\$54,923
<b>U.S. Average</b>	<b>\$41,770</b>	<b>\$65,293</b>

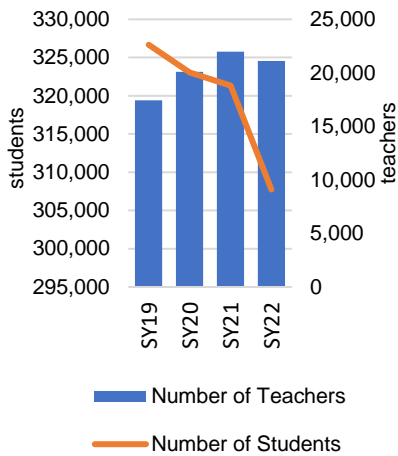
Source: NEA 2021 Salary Benchmark Report

**Table 3. FY23 Non-Recurring Appropriations to Support Teacher Preparation (in thousands)**

Teacher Residency Pilot	\$15,000.0
Paid Student Teaching	\$6,000.0
Endowed Faculty Teaching Positions	\$50,000.0
Teacher Preparation Affordability Scholarship Fund	\$20,000.0
Teacher Loan Repayment Fund	\$5,000.0

Source: LFC Files

**Chart 4. Number of Teachers and Students in New Mexico FY19-FY22**



Note: Student count reflects PED final funded run MEM. Teacher count reflects PED 40th day snapshot.

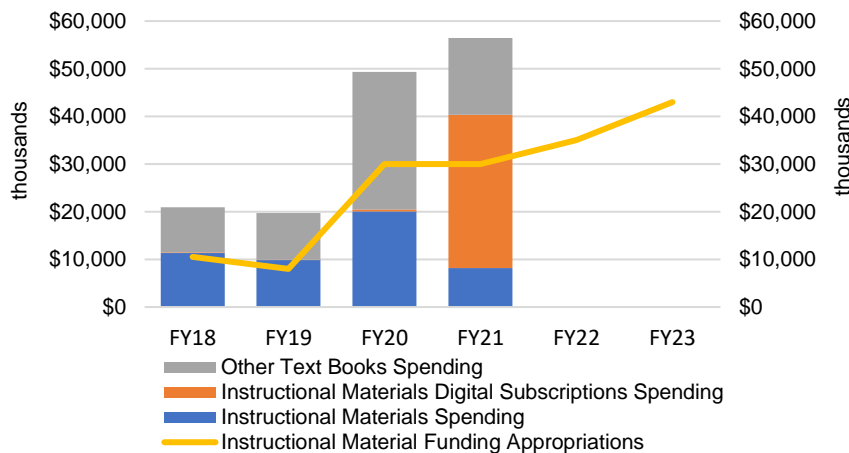
Source: LFC Analysis of PED Data

lower than the national average (18.6:1 in the 2021-2022 school year for APS versus 20.9:1 for the nation in the 2017-2018 school year), and within the recommended range of 15 to 19 students per teacher. Additionally, a September 2022 brief shared by the Legislative Education Study Committee reported the need for class size waivers had been eliminated as SEG funding available to schools increased, and student enrollment in New Mexico has declined since SY19, while the number of teachers working in schools has increased.

**Since FY18, New Mexico has increased appropriations for instructional materials by 310 percent, and spending on instructional materials from state revenue sources grew 170 percent.** In 2018, the 1<sup>st</sup> Judicial District Court found, “The instructional materials stipend [was] insufficient and districts had to supplement PED funds with their own operational funds.” The court’s findings cited a 2014 LFC evaluation of instructional materials, which reported the system for funding instructional materials did not meet current needs, resulting in reports of inadequate resources while allocated appropriations went unspent.

In FY20, the Legislature changed its approach to funding instructional materials, rolling instructional material funds into the SEG to provide school districts and charter schools with greater flexibility and increasing total appropriations dedicated to instructional materials. Between FY18 and FY23, state appropriations for instructional materials increased from \$10.5 million to \$43 million (310 percent).

**Chart 5. Instructional Materials Appropriations and Expenditures from School Operating Funds**



Note: FY22 and FY23 actual expenditures not yet available.

Source: LFC Analysis of PED

Between FY18 and FY21, the most recent year for which complete expenditure data is available, schools increased operating fund spending on instructional materials from the \$20.9 million to \$56.5 million (170 percent). Schools also increased instructional materials spending using other federal sources, including recovery funds and Title programs.

The significant increase in digital subscriptions may have been caused by the shift to virtual school during the Covid-19 pandemic. Because actual expenditures are not yet available for FY22, LFC cannot verify if the significant increases to appropriations earmarked for instructional materials, \$43 million in FY23, now align to expenditures on instructional materials.

Additionally, this analysis cannot determine the extent to which new instructional materials respond to the court’s findings about the cultural responsiveness of instructional materials.

**New Mexico is ranked 10<sup>th</sup> highest in prekindergarten spending in the nation, 11<sup>th</sup> highest in prekindergarten access for three year-olds and 13<sup>th</sup> in access for four-year-olds.** The 1<sup>st</sup> Judicial Court found early childhood education programs (prekindergarten) are an important component of providing a sufficient and equitable education in New Mexico, and high-quality programs help to close the achievement gap. Nationally, evidence consistently suggests quality prekindergarten programs can improve educational outcomes for at-risk students. Several LFC evaluations have found evidence of the efficacy of New Mexico’s prekindergarten program, called PreK. A 2020 LFC evaluation of PreK quality and educational outcomes found PreK participation is associated with higher graduation rates, lower chronic absenteeism, and reduced special education participation. While a 2022 Vanderbilt study of Tennessee prekindergarten found the effects of prekindergarten did not last, researcher Steven Barnett of the National Institutes for Early Education Research concluded caution against generalizing Tennessee’s results to other states stating, “Something has gone seriously wrong in Tennessee after the exit from prekindergarten...no other study has found this unique pattern of outcomes.”

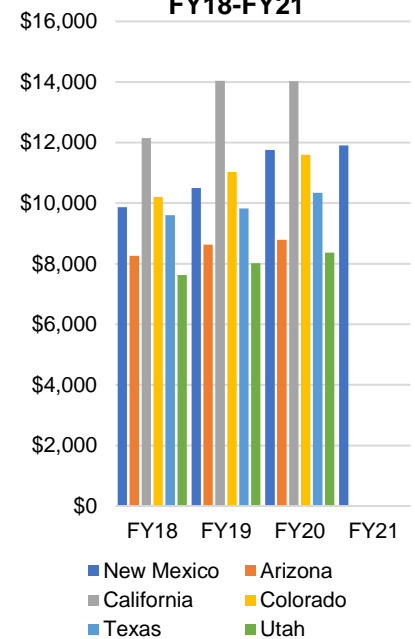
New Mexico’s prekindergarten program is administered by the Early Childhood Education and Care Department (ECECD) and is projected to serve over 11 thousand children in FY23. The National Institute for Early Education Research (NIEER), ranks New Mexico as 10<sup>th</sup> highest in spending on prekindergarten and 11<sup>th</sup> highest for access of three-year-olds and 13<sup>th</sup> highest on access for four-year-olds. NIEER also recognizes New Mexico as one of 10 states that are within “striking distance” to serving 70 percent of the four-year-old population. Despite the relatively favorable rankings for spending and access, previous LFC evaluations and a 2022 LFC LegisStat report noted implementation challenges in the state, including the challenge of ensuring program quality, coordination with other early childhood services, and expansion of services for three-year-olds. However, it seems progress is being made in this area as well. ECECD reported at a recent LFC hearing it will be implementing a valid and reliable classroom quality instrument across all PreK classrooms, a tool that has not been implemented statewide in years and has been recommended by LFC.

**School district and charter school cash balances and administrative spending have grown more quickly than spending on instruction or student support services.**

Between FY18 and FY21, the most recent year for which actual expenditure data is available, spending within the operating fund of school districts and charter schools increased from \$2.7 billion to \$3.1 billion (15 percent).

The majority of school district operating budgets are devoted to instruction, and school districts planned to spend 60 percent of school operating budgets on instruction in FY23. Between FY18 and FY21, total expenditures on instruction increased by \$292.7 million. However, central services experienced a larger percentage increase in spending between FY18 and FY21, outpacing instruction and student support service growth. The AIR study and court noted resources were insufficient in both categories.

**Chart 6. Comparison New Mexico and Neighboring State Per-Pupil Expenditures FY18-FY21**

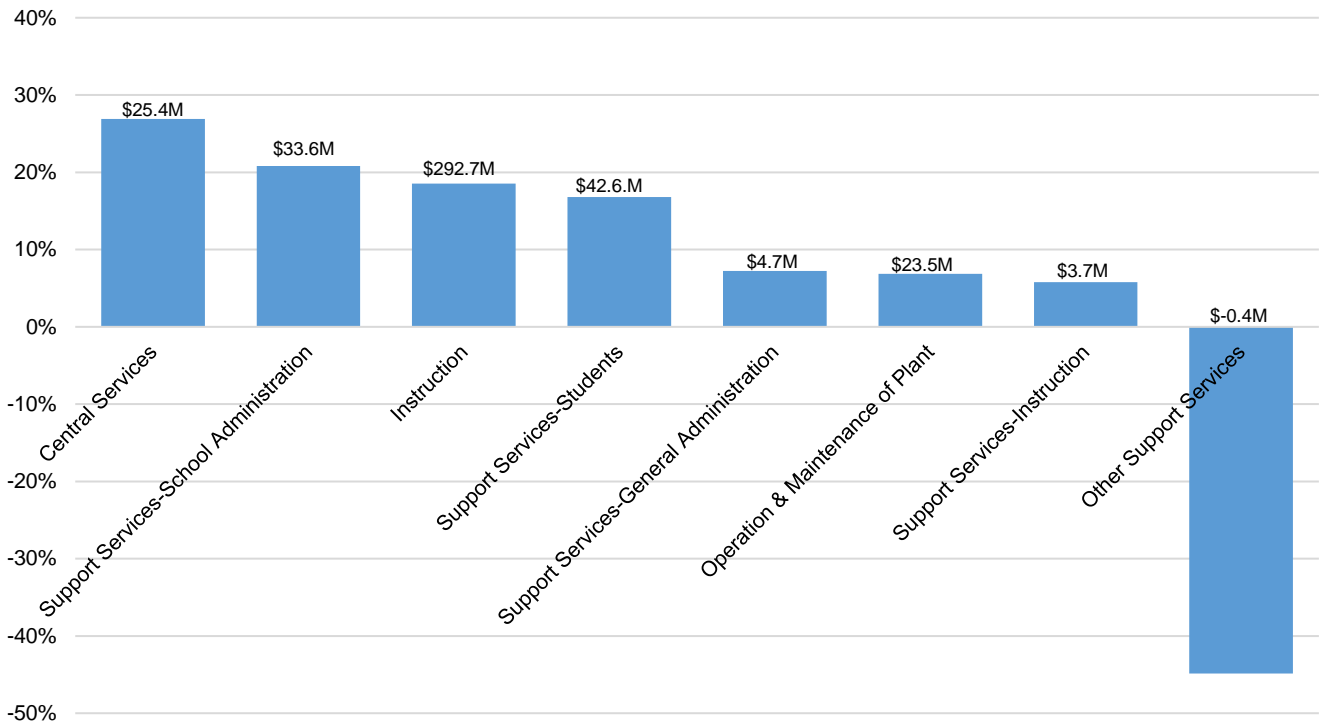


Note: Excludes capital outlay and debt service. FY21 data in other states not yet available.  
Source: LFC Analysis of OBMS and U.S. Census

A 2022 LFC evaluation of Albuquerque Public Schools similarly noted spending on administration at the school and district level had grown faster than any other spending category since FY12. Additionally, as detailed later in this report, school district and charter school cash balances grew to more than 15 percent.

When including all revenue sources, actual spending per pupil, excluding debt service and capital outlay, have increased from \$9,861 in 2018 to \$11,901 in FY21. According to the U.S. Census, school districts spent an average of \$13,494 per pupil, excluding debt service and capital outlay, in FY20.

**Chart 7. Percentage Change in School Operating Fund Expenditures FY18-FY21**



Note: Excludes capital outlay and debt service.

Source: LFC Analysis of PED OBMS Data

**Central Services**

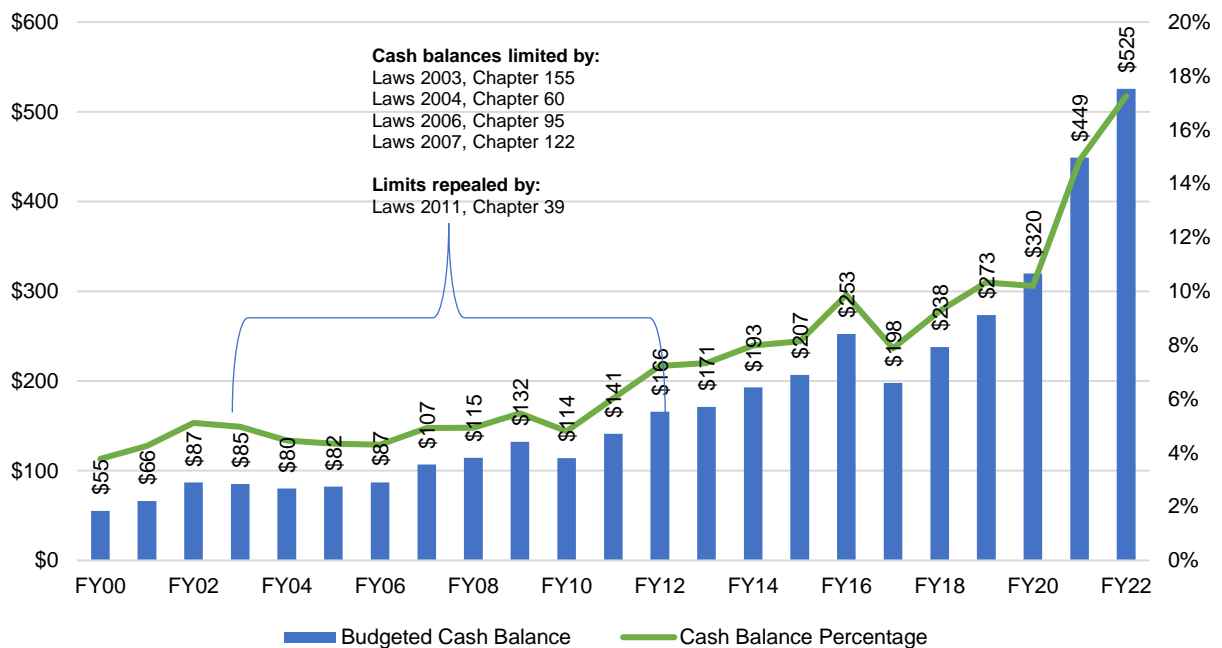
includes activities that support administrative functions, including school district financial services, human resources, district planning, research, and development, and technology services.

**School district cash balances have grown to over half a billion dollars.**

As resources increased, school district cash balances also increased by 359 percent from FY08 to FY22. New Mexico school districts and charter schools maintain cash balances for large purchases, emergencies, bond ratings, and reportedly to make monthly payroll when there are delays in disbursements from PED or federal sources. The Government Finance Officers Association (GFOA) recommends school districts maintain at least 5 percent of operating revenues or expenses, or no less than two months of operating expenses, as a cash balance. New Mexico statute does not currently require either minimum or maximum school district cash balance limits, though statute previously limited school district cash balances to between 5 and 18 percent, depending on the size of the school district or charter school’s program cost.

At the end of FY22, school districts and charter schools collectively carried forward \$525.5 million in budgeted cash balances, 17 percent of program costs, a significant increase from FY20 when school districts and charter schools carried forward \$320 million (10 percent of the state’s total program cost). At the end of FY22, 24 school districts and charter schools had cash balances greater than 25 percent of their program cost (see Appendix E). While maintaining a healthy cash balance is a best practice, it is possible that a significant growth in cash balances may suggest school districts and charter schools are facing challenges translating increased financial resources into educational programs to improve outcomes for students.

**Chart 8. Statewide Public School Program Cost and Cash Balance History**  
(in millions)



Source: LESC, PED, and LFC Files

**School districts have cited slow reimbursement as a need for higher cash balances.** For example, a 2021 LFC program evaluation of the Albuquerque Public School (APS) district found unrestricted cash balances at APS grew faster than operational spending, and the district holds over \$11 million in cash above its 5 percent minimum. APS reported PED is slow to reimburse districts for federal-flow-through funding, which causes districts to keep more cash on hand to cover expenses and higher accounts receivables. PED has improved reimbursement time. However, after seeing improvements in average days to process federal reimbursements in the first quarters of FY22, PED’s FY22 fourth quarter report card shows this progress was erased with number of days to process reimbursements standing at over a month, well short of the 22 day target.

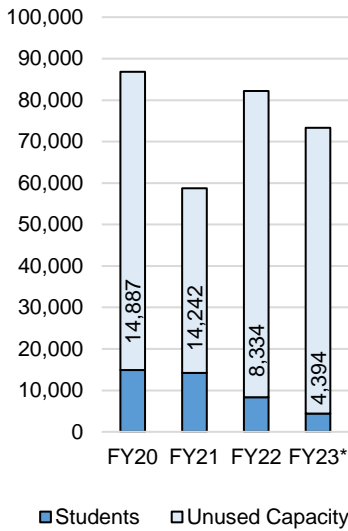
Not all school districts that receive large federal flow-through grants have large cash balances.

Farmington Municipal Schools ended FY22 with 5 percent of the district’s operating budget in unrestricted cash.

Santa Fe Public Schools ended FY22 with 3 percent of the district’s operating budget in unrestricted cash.

Figure 4. FY22 PED Fourth Quarter Report Card

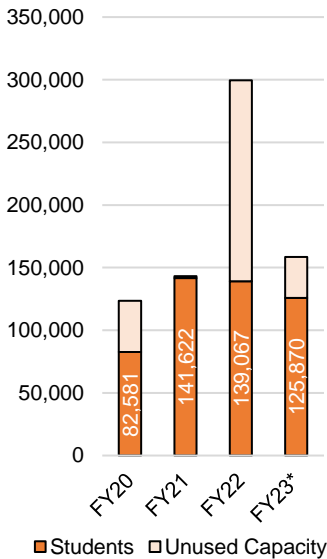
Chart 9. K-5 Plus Enrollment



\*Projected as of 6/27/22.

Source: PED

Chart 10. ELT Enrollment



\*Projected as of 6/27/22.

Source: PED

	FY21 Actual	FY22 Target	FY22 Actual	Rating
Students in Extended Learning Time Programs	141,622	N/A*	139,067	Y
Students in K-5 Plus Schools	14,242	N/A*	8,334	R
Average days to process reimbursements	40	22	40	R
Percent of students with a high-speed internet connection	New	100%	91%	Y
<b>Program Rating</b>	<b>R</b>			<b>Y</b>

Source: LFC Files

**School district action is needed to implement evidence-based approaches, address court findings, and improve student outcomes.**

**School district participation in extended learning time programs has been low and recently decreased.** The 1<sup>st</sup> District Judicial Court noted K-3 Plus had a positive impact on student outcomes. Multiple LFC evaluations have found students who participate in K-3 Plus (now K-5 Plus) programs are more likely to perform on grade level, and the benefits of the program are even more pronounced for low-income and Native American students. These findings were similar to the 2015 Utah State University independent evaluation of the K-3 Plus program. The court noted, “If fully implemented, K-3 Plus would have short and long-term benefits and would improve academic outcomes for New Mexico’s economically disadvantaged and [English Learner] students.”

In FY20, the state expanded K-3 Plus, which allowed elementary schools to add 25 days, and created a new Extended Learning Time (ELT) program, which allowed any school to add 10 days, afterschool programming, and 80 hours of professional development. Despite these investments, participation in K-5 Plus and ELT has fallen short of appropriation levels, and appropriated resources have gone unused. School officials and community stakeholders have cited educator burnout, impacts to summer plans, and concerns about “more of the same” as barriers to implementation.

Since FY21, participation in K-5 Plus and ELT programs has decreased, and schools have foregone nearly \$400 million in available state funding for these interventions. In FY23, the Legislature provided \$279 million for K-5 Plus and ELT, including salary incentives and transportation funds for participating schools.

Unused funds revert to the public education reform fund, and LFC projects \$130 million in reversions in FY23, based on anticipated enrollment in the programs, which will bring unused funds to \$530 million since FY21.

**While both court findings and the AIR report recommended providing additional learning time for students, New Mexico has not, at scale, substantially increased learning time.** The 1<sup>st</sup> Judicial Court found extended learning time, like summer school, is valuable for students, and the AIR report recommended providing 15 additional instructional days. Yet, as cited in a 2018 LFC evaluation, the number of instructional days in New Mexico has declined over time. Currently, New Mexico requires a minimum of 990 school-directed program hours for elementary students and 1,080 hours for secondary schools. In FY23, district and charter school plans provide an average of 1,098 hours for elementary instruction and 1,172 hours for secondary instruction (including K-5 Plus and ELT time). Both averages exceed statutory minimums, however the vast majority of New Mexico schools provide less than a traditional 180-day school calendar. For FY23, only 21 out of 89 districts and 48 out of 100 charters are providing at least 180 days without participating in K-5 Plus or ELT.

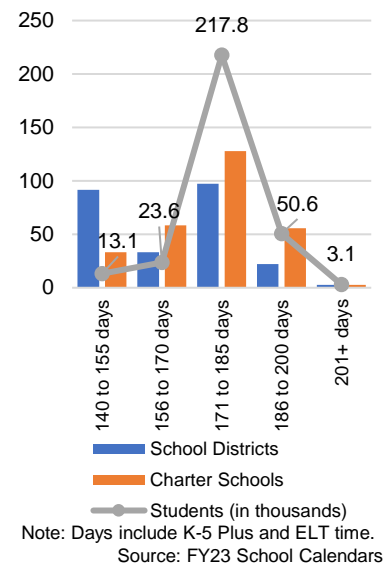
**Previous LFC evaluations and external reports have confirmed the importance of ensuring the most-effective teachers are placed in at-risk classrooms, and action related to teacher quality is needed.** The 1<sup>st</sup> Judicial Court found highly effective teachers are key to improving proficiency, and these teachers need to be allocated to schools serving the most at-risk students. In reaching this conclusion, the court cited LFC reports that found New Mexico’s high-poverty schools have a disproportionately high number of low-paid, entry level teachers.

In FY20, New Mexico replaced its previous teacher evaluation system with a new system, known as Elevate NM, which is intended to prioritize educator professionalism and growth. Because the educator evaluation system is relatively new, and New Mexico did not administer end-of-year assessments during the pandemic, it is difficult to determine whether the state has made progress toward improving teacher quality and assess the current relationship between teacher quality and student outcomes in recent years.

The 1<sup>st</sup> Judicial District Court also noted schools must engage in teacher development for culturally-responsive classroom practices, and such professional development should be “sustained and involve workshops and classroom coaching.” A 2019 LFC Results-First reported about the cost and benefits of a variety of education intervention noted teacher professional development and teacher coaching are evidence-based practices that can have a meaningful effect on student achievement (see Appendix I). For example, using New Mexico assumptions, Results First modeling found for every \$1 invested in professional development about using data to inform instruction, \$132 may be generated in return.

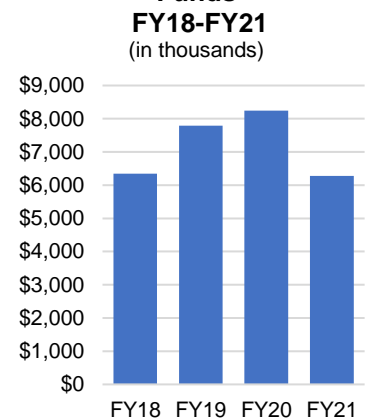
Between FY18 and FY20, professional development operating fund spending increased before declining to \$6.3 million in FY21, slightly below professional development spending levels in FY18. While the content and quality of the professional development provided has not been assessed, given the significant growth in school district fund balances, school districts could invest more in sustained, evidence-based, professional development to address the court’s findings.

**Chart 11. District and Charter Instructional Day Ranges**



A 2022 LFC evaluation of Albuquerque Public Schools (APS), the largest school district in the state, found APS teachers and administrators cited lack of analysis of student data as the most common reason for not being able to improve student outcomes; 63 percent of school improvement plans submitted to PED by APS described not being prepared or having adequate time to analyze student data as the most frequently cited root cause of key challenges.

**Chart 12. Professional Development Spending from School Operating Funds**



Source: LFC Analysis of PED OBMS Data

**While personnel spending has increased since FY18, these investments have not translated into significantly more student support positions.** The 1<sup>st</sup> Judicial District Court found, “The [state] failed to provide sufficient resources for counselors, social workers, and other non-instructional staff that all students, especially at-risk students, need to succeed.” Increases to the SEG and to the at-risk index in particular provided funding that can support such positions. While formula funds for at-risk students increased from \$70.5 million in FY12 to \$319.2 million in FY23, the state does not appear to have seen a substantial corresponding increase in number of positions the court identified as critical to supporting at-risk students in recent years.

Between FY19 and FY21, the total number of school district positions in New Mexico grew by 4 percent. In FY19, schools districts budgeted for 46 thousand positions across all funds, including federal programs and special revenue sources, and 38 thousand of these positions were funded by school district operating funds. In FY21, school districts budgeted for 47 thousand positions, and 40 thousand of these positions were funded by school district operating funds.

The state experienced an increase in the total number of teachers and other school personnel between FY19 and FY21, yet the number of social workers, counselors, and other student support positions did not substantially increase across the state. The number of social workers and counselors across the entire state only increased by 79 FTE.

**Table 4. Teacher and Student Support Roles  
FY19-FY21**

	FY19	FY21	# Change
Teachers	19,781	20,969	1,189
Guidance Counselors/ Social Workers	1,066	1,136	70
School Psychologists/ Counselors	88	96	9
Other School/ Student Support Roles	135	142	7
Instructional Assistants	4,763	4,650	(113)

Note: Includes only positions in school district operating funds.

Source: LFC Analysis of PED OBMS Data

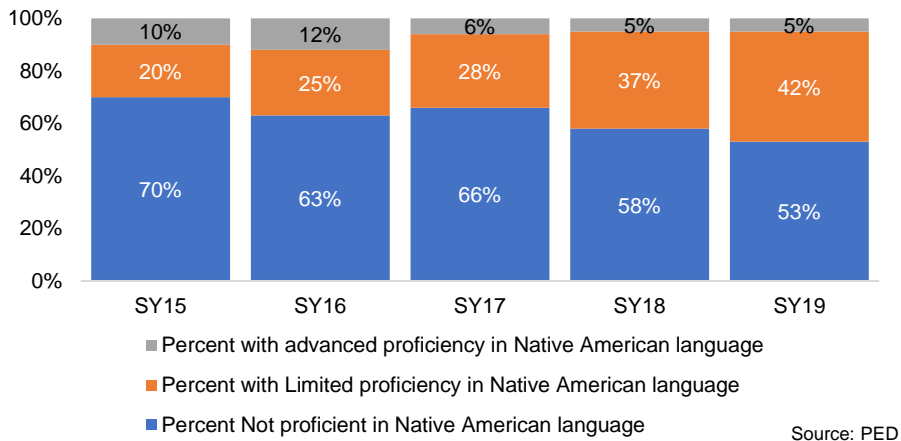
**Previous LFC evaluations have noted district implementation challenges related to the state’s Bilingual and Multicultural Education Program.** A 2022 LFC evaluation of the state’s Bilingual and Multicultural Education Program (BMEP) found enrollment in the program had declined, despite a growing English Learner population in the state, and low English and second language proficiency rates. The report found between the 2012-2013 and 2020-2021 school year (SY22), participation in the state’s bilingual programs declined by 21 percent, even as the number of English Learners in New Mexico grew.

The state waived language proficiency testing throughout the pandemic, though testing resumed during SY22 and results should be available later this year. However, Native American advanced proficiency rates remained 5 five

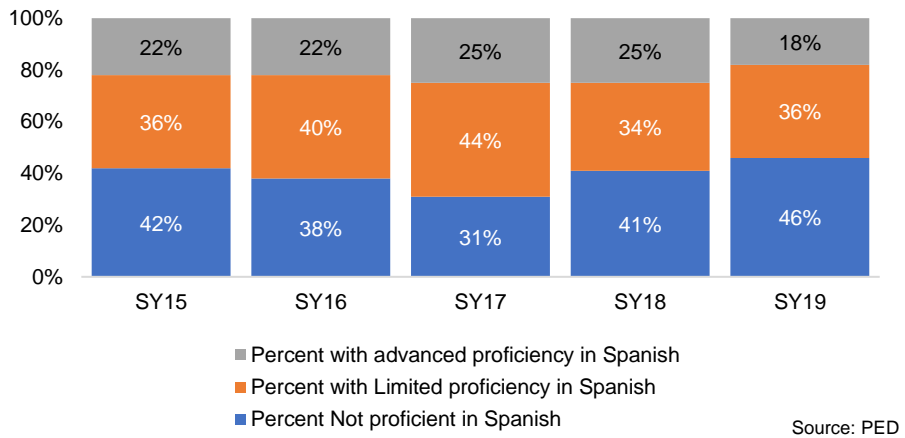


percent and 10 percent between SY15 and SY19, and the rates of Spanish language proficiency are only slightly higher among students enrolled in Spanish bilingual programs.

**Chart 13. Native American Students in BMEPs  
Language Proficiency Results SY15-19**



**Chart 14. Spanish Language Students' in BMEPs  
Spanish Language Proficiency Results SY15-19**



## Oversight Challenges at PED Remain

### Figure 5. Acting to Meet the Martinez-Yazzie Ruling

#### Schools and Districts

- Expend funds for **evidence-based academic and social supports** for at risk students
- Monitor student outcomes and provide interventions to **close achievement gaps**
- Implement **tribal consultation**, as appropriate
- Provide **professional development and training** for school employees

Source: PED presentation, June 2022

“The work that lies ahead for NMPED and schools will require systemic change to address the needs of the students and families impacted by decades of neglect and underfunding...For New Mexico students and families to realize their full potential, it is incumbent upon both NMPED and its partners, especially school districts, to do their part in ensuring educational equity, excellence, and relevance for students.”

-PED *Martinez-Yazzie* Action Plan, May 2022

PED holds numerous oversight responsibilities, including developing and monitoring curriculum standards, monitoring student performance, and ensuring schools use resources for evidence-based programs to support at-risk students. The 1<sup>st</sup> Judicial Court found, “The Public Education Department had failed to meet its supervisory and audit functions...including not having appropriately exercised its statutory authority to ensure that districts are properly prioritizing and funding programs and services for at-risk students through district allocation.”

### Recent LFC reports highlighted ongoing oversight challenges at PED driven by staffing shortages and an inability to track school resources.

***Since the Martinez-Yazzie ruling in 2018, PED has experienced significant leadership turnover, and the state has not had a comprehensive implementation plan.*** Since the *Martinez-Yazzie* ruling, the PED has been overseen by four different secretaries, and the department has experienced turnover among other senior leadership roles. During this period, PED initiated some activity in response to the *Martinez-Yazzie* ruling but has lacked a comprehensive and consistent implementation plan.

***PED has taken some actions to improve oversight, but more is needed from PED and school districts to fully address the court’s findings.*** In May 2022, PED released a draft implementation plan for public comment. This plan outlines high-level outcome targets and a range of strategies the department plans to employ, and the plan identifies actions the department has already taken. The plan also noted the department intends to create a *Martinez-Yazzie* response team to oversee and monitor the implementation of the department’s plan to address the court’s findings. Trends in public comments received in response to the plan include calls for greater accountability and specificity about the outcomes and strategies named in the plan, equitable distribution of funds for programs targeting at-risk students, and more specific efforts to improve outcomes for Native American students. PED intends to release a revised implementation plan that incorporates public comments and feedback from other and then finalize the implementation plan.

***LFC evaluations have identified oversight challenges regarding the Bilingual and Multicultural Education Act and Indian Education Act.*** The 1<sup>st</sup> Judicial District Court ruled the state had failed to provide an education that was constitutionally sufficient and uniform for Bilingual and English Language learners, Native American students, and other at-risk students. Previous LFC evaluations and reports have noted implementation challenges and unused funds in programs that support these populations.

The *Martinez-Yazzie* findings of fact noted PED had not been making site visits or observations of programs, instead only performing desktop monitoring of the state’s Bilingual and Multicultural Education Programs (BMEP). A 2022 LFC report identified continued lack of site visits by PED, finding PED had conducted one BMEP related site visit during the last three years. The report also found BMEP funding per student is at its highest level in recent history, despite declining enrollment, even as the number of students categorized as English learners has increased. Additionally, less than 20

percent of the state’s bilingual-endorsed teachers currently teach in a BMEP program.

Similarly, a 2021 LFC progress report on the implementation of the Indian Education Act found, while the Legislature grew investments significantly over the last decade, almost 30 percent of Indian education fund awards went unspent, in part due to slow processing at PED. Furthermore, a lack of reporting codes for Indian Education Act funding meant reporting does not tie deliverables to measurable milestones or outcomes. The 2021 LFC progress report noted a history of understaffing and vacant leadership in PED’s Indian Education Division, difficulties using funds intended for Native American students, and challenges with collaboration and coordination, a challenge also cited in the *Martinez-Yazzie* findings.

New Mexico’s Indian Education Act, passed in 2003 and updated in 2018, lays out goals and requirements for providing Native American students an equitable, culturally relevant education through collaboration with tribes, schools, and the state (see Appendix F). However, the court found in the *Martinez-Yazzie* consolidated lawsuit that Native American students, who make up roughly 10 percent of enrollment in New Mexico, are not receiving a sufficient and equitable education.

The 2021 LFC progress report about the implementation of the Indian Education Act noted the state had invested \$90 million of \$147 million in combined state and federal funds available in FY21 for districts, charter schools, and institutions of higher education to devote to purposes aligned with the Indian Education Act and informed by the Tribal Remedy Framework. However, the evaluation found outcomes remain poor and the state lacked coordination. Since the 2021 evaluation, PED has published a technical assistance guide for entities applying for Indian Education Act funding.

Previous LFC reports have also noted the need for better tracking and financial reporting by the PED to ensure Indian education fund grants are not left unspent and are more closely linked to student outcomes. Previous LFC evaluations noted staffing shortages contributed to insufficient oversight of the BMEP and Indian Education Act. In FY23, the department’s appropriation increased to \$19.5 million, a 34 percent increase over the FY22 operating budget, to provide PED with additional resources to address staffing challenges and perform statutorily required oversight functions.

The General Appropriation Act of 2022 requires PED to allocate \$15 million from the Indian education fund to tribal education departments, tribal libraries, Native American language programs, and school districts to meet requirements of the Indian Education Act. This reflects an increase of roughly \$10 million (185 percent increase) over the FY22 operating budget. The Legislature also appropriated \$1.25 million for Native language and culture teachers, and \$5.1 million for indigenous, multicultural, and special education in FY23. The Legislature also appropriated \$12 million for tribal libraries, though PED reports the department is awaiting federal approval to make awards.

The secretary of education, in collaboration with the assistance secretary for Indian education, must develop a methodology to allocate the \$15 million appropriation from the Indian education fund to tribal education departments, tribal libraries, Native American language programs, and school districts and

**Table 5. Indian Education Act Awards, FY23**

Base awards to tribes, pueblos and nations (\$100K and \$15 per student)	\$ 1,970,917
Base awards to school districts/ charters (\$85K and \$5 per student)	\$ 2,803,845
Indigenous Education Initiative grants	\$ 1,200,000
Teacher and administrator recruitment and retention initiatives	\$ 974,022
Indigenous language revitalization initiatives	\$ 4,273,770
Native American language programs	\$ 199,875
Indigenous Language Fellows	\$ 2,371,521
High-quality curriculum, instruction, and assessment	\$ 150,000
Native language teacher pipeline grants	\$ 692,961
<b>Total</b>	<b>\$14,636,911</b>

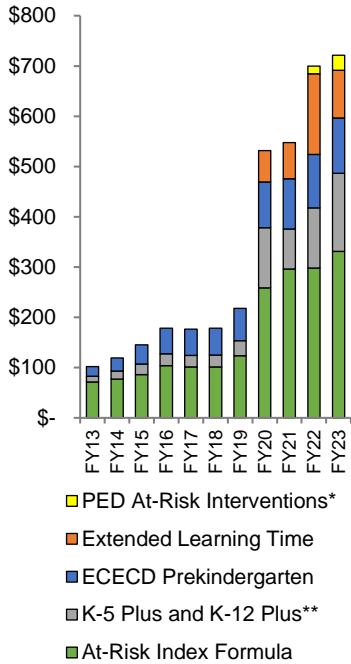
Source: PED Presentation to LESC, 9/8/22

charter schools. As of September 2022, the department reported awarding \$14.6 million in FY23 from this appropriation.

**LFC evaluations have identified needs for improvement in oversight of school budgets and at-risk funding.** For example, funding allocated for at-risk students in New Mexico has increased by over 350 percent since FY12, however PED currently lacks mechanisms to ensure school districts and charter schools use at-risk funds in a targeted way. The state has long recognized at-risk students tend to lag behind their peers and require additional resources to catch them academically. The SEG formula includes a component called the at-risk index that allocates additional funding to school districts for interventions for at-risk students (identified as low-income, English learner, or transient students). In addition, the Legislature funds additional programs for at-risk students, including Extended Learning Time, PreK, K-5 Plus and K-12 Plus, and at-risk interventions administered by the PED, including the Family Income Index. Combined with the at-risk index, these programs will receive over \$700 million in FY23.

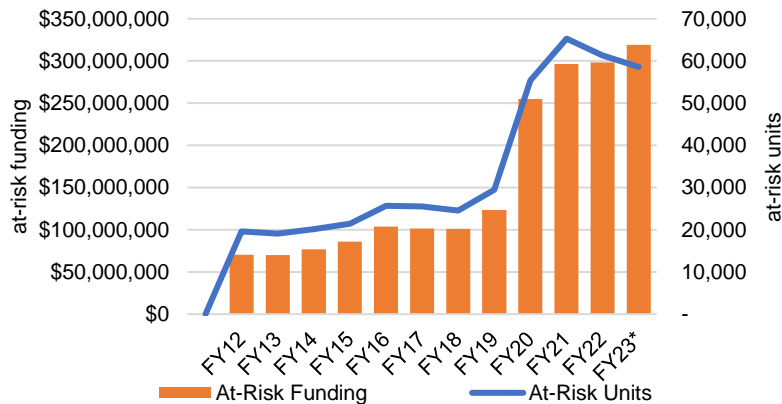
Over the last decade, the Legislature has increased the weight of the at-risk index in the SEG funding formula four times to increase resources for these students. Prior to the *Martinez-Yazzie* ruling, New Mexico’s at-risk differential (0.106) was relatively low when compared with other states. Since 2018, the Legislature has made multiple adjustments to the at-risk index. As of FY22, the at-risk index factor is 0.3. Between FY12 and FY23, funding generated by the at-risk index has increased by \$248.7 million (or 353 percent) from \$70.5 million in FY12 to \$319.2 million in FY23.

**Chart 15. At-Risk Student Program Funding**  
(in millions)



\*Includes family income index.  
\*\*Includes tribal and rural extended learning.  
Source: LFC Files

**Chart 16. At Risk Units and Funding Generated Through the SEG**



Note: FY23 reflects PED preliminary funded run.

Source: LFC Analysis of PED Final Funded Runs

**Table 5. NMSA 22-8-23.3 At-Risk Formula Weight**

Laws 2014	0.0915
Laws 2015	0.16
Laws 2019	0.25
Laws 2020	0.30

Source: Section 22-8-23.3 NMSA 1978

New Mexico now has an at-risk differential that falls toward the middle of the range of at-risk weights in other states, when considering several states have introduced additional differentials for schools districts with concentrated populations of low-income students (see Appendix G).

**New Mexico could better target and track at-risk funds.** In public testimony to LFC in August 2021, Stephen M. Barro, Ph.D., an expert witness for plaintiffs in the *Martinez-Yazzie* lawsuit, recommended the state revise the SEG funding formula to better target dollars for at-risk students and ensure at-

risk dollars are being spent on the intended beneficiaries, better targeting supplemental services for at-risk students (see Appendix H). Though statute articulates intended purposes for at-risk funding, the state is limited in its ability to uniformly track the spending of these funds to ensure they are used for evidence-based supplemental support for the state’s most at-risk students. Previous LFC evaluations have highlighted this limitation, and PED is working to introduce new accounting codes to enable better tracking of funds. In addition, the department now requires school districts to provide additional information about the targeting of at-risk funds when submitting annual budgets and education plans.

In FY23, PED reports reducing the volume of information school districts and charter schools needed to provide in their annual education plans, focusing reporting on statutory requirements and information aligned to *Martinez-Yazzie* implementation. The department reviewed school district and charter school plans alongside submitted budgets to assess alignment and returned 28 (31 percent) of school district education plans and 26 (46 percent) of state-authorized charter school education plans for revision in FY23. Many of the education plan revisions were related to submitted plans to serve at-risk students and the Family Income Index.

***In 2021, the Legislature created a pilot for a method to better target at-risk funds to low-income students through the family income index.*** The Legislature amended the Public School Code to create the family income index, which outlines a process through which PED may calculate for each public school the number and percent of children living in one of five categories of poverty. Schools are ranked according to their relative levels of poverty and then allocated additional funding according to this system. School districts must spend the funds they receive in three categories: structured literacy and reading interventions, math interventions, and other student supports, such as counselors, social workers, and wraparound services, targeting the use of funds to interventions specifically intended for at-risk students.

PED received \$30 million to spend in FY22 and FY23 and made awards to 108 schools in FY22 and 111 schools in FY23. Recipients must provide PED with their plans for spending the awards and report resulting student outcomes. PED plans to use the first two years of the pilot monitoring spending and tracking student progress to determine the efficacy of the index.

### **Figure 6. Potential Uses for SEG Formula Funding for At-Risk Students**

1. Case management, tutoring, reading interventions, and after school programs delivered by social workers, counselors, teachers, or other professional staff;
2. Culturally relevant professional and curriculum development, including that necessary to support language acquisition, bilingual, and multicultural education;
3. Additional compensation strategies for high-need schools;
4. Whole school interventions, including school-based health centers and community schools;
5. Educational programming intended to improve career and college readiness of at-risk students, including dual or concurrent enrollment, career and technical education, guidance counseling services, and coordination with post-secondary institutions; and
6. Services to engage and support families in the education of students

Source: Section 22-8-23.3(D) NMSA

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## Next Steps

The Legislature should consider:

- Addressing extended learning time implementation challenges by considering approaches to increase instructional hours and local flexibility, increasing incentives for K-5 Plus and additional school days, and right-sizing extended learning time appropriations; and
- Coupling increases or changes to the at-risk index with approaches to better direct and track the expenditure of resources targeted for at-risk students.

The Public Education Department should:

- Fully implement additional accounting codes for districts to track at-risk funds in state budgeting systems;
- Evaluate the family income index pilot to determine if the approach results in more directed and effective supplemental resources for at-risk students;
- Require school districts to set target cash balance thresholds; and
- Enforce monitoring and oversight provisions of state law identified as shortcomings by the court ruling and previous LFC reports including the Bilingual, Multicultural, Indian education and Hispanic education acts.

New Mexico school districts and charter schools should:

- Set cash balance minimums, maximums, and targets for approval by school boards or local governing bodies in line with cited best practices;
- Leverage increased available state and federal funding to implement research-based and evidence-based programming;
- Promote and implement K-5 plus and other Extended Learning Time programs;
- Increase investments for professional development and ensure professional development spending is sustained, collaborative, and uses data to guide instruction for teachers and school leaders;
- Ensure professional development is targeted, using student assessment data;
- As the state implements a new teacher evaluation system, implement ways to improve teacher quality and support teacher growth; and
- In accordance with the court findings regarding student support positions, school districts should use increased SEG, at-risk, and fund balance revenue sources to increase the number of personnel providing student support, including social workers and counselors

## Appendix A. Crosswalk: Court Findings, AIR Recommendations, and State Actions

### Crosswalk: Court Findings, AIR Recommendations, and State Actions

Court Finding	AIR Study Recommendation	Legislative Action Taken	PED/ School Action Taken
Current funding through the at-risk formula and Title I does not provide sufficient resources to educate at-risk students	Recommended schools with large populations of Title I, ELL, or mobile students needed additional personnel for student support, supplemental programs and materials for students and families, and additional instructional coaches	\$	...
Extended learning time, longer school days, longer school years, tutoring, and K-3 Plus can have a positive effect but not all at-risk students can access	Recommended at-risk students needed access to tutoring and individualized support and an extended school day and year	\$	✗
Quality PreK programs have a positive effect on student outcomes, particularly for at-risk students, but access is insufficient	Recommended half-day PreK for low-income three-year-olds and full-day PreK for low-income four-year-olds	\$	...
Smaller class sizes are associated with positive student outcomes	Recommended class sizes should remain small and produced a model that ensured class sizes did not exceed statutory maximums	\$	...
Evidence-based literacy programs are essential to ensure low-income students can read at grade level	Recommended students needed access to early reading and math interventions	\$	...
The state failed to provide sufficient resources for counselors, social workers, and other non-instructional staff that at-risk students especially need to succeed	Recommended that all schools need a nurse and librarian at every school and recommended social workers, counselors, and additional support personnel in schools with high concentrations of Title I, ELL, or highly-mobile students	\$	✗
New Mexico is not meeting its state and federal requirements to assist students who are English Language Learners	In schools with high ELL populations, the model recommended a bilingually certified teacher in each core content area, stipends to attract bilingual teachers, and additional support staff to lead community outreach efforts	\$	✗
ELL students must have access to qualified teachers		\$	✗
ELL and Native American students lacked access to culturally relevant curriculum and instruction; provisions of the Indian Education Act and Bilingual and Multicultural Education Act were not met		\$	...
Students lacked access to sufficient instructional materials	Recommended an increase in instructional materials and supplies was needed for both a base model and school models serving large populations of Title I, ELL, or highly-mobile students	\$	...
New Mexico lacks sufficient quality teachers, particularly in schools serving at-risk students	Recommended additional professional development for teachers and several dedicated additional days of professional development during the year	\$	...

#### KEY



Source: LFC analysis

## Appendix B. Court Findings and Legislative Actions

### Court Findings and Legislative Actions

	Funding/ Resources	Oversight and Accountability	Quality Teachers	Culturally-Responsive Instruction and Materials	Evidence-Based Programs and Interventions
Court Findings	The court found overall the state was providing insufficient resources and specifically providing insufficient resources for at-risk and ELL students.	The court found the state failed to provide adequate technical assistance, guidance, and oversight.	The court found the state failed to provide quality teachers and distribute to the most at-risk students. The court also noted teacher pay was insufficient.	The court found the state failed to provide oversight and technical assistance related to the state's BMEP and Indian Education Act, and the PED failed to develop culturally-relevant curriculum.	The court found evidence-based prekindergarten and extended learning.
Legislative Actions	The Legislature increased the at-risk index from 0.16 to 0.3 FY23 At-Risk Formula: \$319 M	The Legislature provided funding for new student assessments \$7.2M in FY23	The Legislature provided \$381.6M in FY22 to increase staff base salaries, raise minimum teacher and principal salaries, provide additional compensation for extended learning time, and increase the employer retirement contribution rate	The Legislature increased instructional materials funding by 310% to \$43M in FY23	The Legislature increased appropriations for PreK by 106% since FY18 to \$110.2 in FY23
	The Legislature appropriated \$30M for in FY22 and FY23 for the Family Income Index Pilot and \$5M for at-risk interventions in FY23	The Legislature increased appropriations for the PED by 76% since FY18 to \$19.5M in FY23	The Legislature increased funding for: \$15.5M for teacher residencies in FY23 and \$25.5M for teach loan repayment and scholarships	The Legislature provided \$42.2M in the BMEP SEG appropriation in FY23, \$15M for the Indian Education Fund, \$5.1M for Indigenous Multilingual, Multicultural, and Special Education, Funded \$12M for tribal libraries	The Legislature created and funded extended learning programs and K-5 Plus, totaling \$279M in FY23
	SEG total Program cost increased from \$2.5B in FY18 to \$3.67B appropriation in FY23. Increase in overall education funding eliminated the need for class-size waivers		The Legislature increased categorical appropriations for professional development programs for teachers, including \$5.5M in FY23		The Legislature appropriated \$8M for Early Reading Programs in FY23 and \$500K for culturally-relevant curriculum and instruction
	Phased changes to the funding formula to address inefficiencies, including changes to the T&E index, size adjustments, rural population units, and local and federal credits				

Source: LFC analysis and files



## Appendix C. Court Findings and Legislative Actions

### Court Findings, PED and School District Actions

	Funding/ Resources	Oversight and Accountability	Quality Teachers	Culturally-Responsive Instruction and Materials	Evidence-Based Programs and Interventions
Court Findings	The court found overall the state was providing insufficient resources and specifically providing insufficient resources for at-risk and ELL students.	The court found the state failed to provide adequate technical assistance, guidance, and oversight.	The court found the state failed to provide quality teachers and distribute to the most at-risk students. The court also noted teacher pay was insufficient.	The court found the state failed to provide oversight and technical assistance related to the state's BMEP and Indian Education Act, and the PED failed to develop culturally-relevant curriculum.	The court found evidence-based prekindergarten and extended learning.
Actions	<p>Provided a resource guide to provide options for interventions and suggested vendor lists for districts who received Family Income Index awards; study the effectiveness of the Family Income Index <span>⋯</span></p> <p>While funding increases translated into teacher compensation increases, the number of social workers, counselors, and other staff to support at-risk students has not substantially increased <span>⊗</span></p>	<p>New at-risk reporting requirements and performance measure about at-risk expenditures; changes to school district chart of accounts and new budget approval processes; PED reviewed all annual plans for budget alignment <span>⋯</span></p> <p>Implement new standards-based, end-of-year assessments to measure and track student performance. New baseline established in 2022 <span>⋯</span></p> <p>May 2022 Discussion Draft proposes outcome targets. Public comment regarding milestones and specific outcomes. Final draft expected by November 2022 <span>⋯</span></p>	<p>Awarded \$2M in teacher residency grants in FY21 and FY22 and grants for creative recruitment efforts</p> <p>Implemented a new teacher evaluation system</p> <p>Reduced 300 teacher vacancies between FY22 and FY23</p>	<p>New instructional material reporting requirements. Continued adoption cycles</p> <p>LFC evaluations have found the PED has not performed statutory oversight functions for the BMEP program. English learners now required to receive at least 45 minutes of special English-language instruction per day <span>⊗</span></p> <p>Address history of understaffing in PED's Indian Education Division, difficulties utilizing funds intended for Native students, and challenges with collaboration and coordination. PED published technical assistance guide <span>⋯</span></p> <p>Supported the development of culturally relevant curricula in 22 or 29 school districts and charters schools located within tribal lands; developed a Tribal consultation guide <span>⋯</span></p>	<p>FY23: K-5 Plus projected to decline to 4 thousand Extended Learning Program projected to decline to 126 thousand <span>⊗</span></p> <p>BMEP enrollment declined to 44 thousand, despite an increasing ELL population. Only 20 percent of bilingual endorsed teachers currently teach in BMEP. <span>⊗</span></p> <p>Public-school based PreK enrollment projected to exceed 11 thousand in FY23</p>

**KEY**

- ⋯ In-progress/ future plan
- ⊗ Requires action/ on-pause
- PED action
- School district action

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## Appendix D. Types of School Finance Adequacy Studies

### School Funding Adequacy Studies

<b>Evidence-Based</b>	This method identifies educational programs that have research-based proof that they produce desired educational results. Once these programs are identified, the study costs them out on a per-pupil and aggregate basis to identify the cost to provide these programs at the school, district, and state levels.
<b>Professional Judgment</b>	This model brings together panels of individuals from the field, often including teachers, principals, and superintendents, to create a school model that meets a shared definition of adequacy or goal, and adjusted for different student needs and geographic locations. The cost of this model is then estimated at the per-pupil and state levels.
<b>Successful School District (SDD)</b>	This approach identifies districts or schools within a state that have successfully taught their students to an "adequate" level. The average per-pupil costs for these schools are identified to develop a base cost that is then adjusted for student demographics and additional support needs.

Source: Education Commission of the States

## Appendix E. School Districts and Charter Schools with Cash Balances Greater than 25 Percent

**FY22 Cash Balances as Percent of Operating Budget**

District or Charter	Cash Balance %
Loving	26%
Quemado	27%
Pojoaque Valley	27%
Ruidoso 2022-2023	27%
Albuquerque Sign Language Academy	28%
Middle College High School	28%
Zuni	29%
North Valley Academy	29%
Tierra Encantada Charter School	30%
Albuquerque Bilingual Academy	31%
Cesar Chavez Community School	32%
La Academia Dolores Huerta	32%
Jemez Valley	33%
Dulce	35%
AIMS @ UNM	36%
La Academia de Esperanza	38%
Central Consolidated	39%
ACE Leadership	39%
Jal	45%
Health Leadership High School	46%
MASTERS Program	48%
Technology Leadership	51%
Southwest Secondary Learning Center	55%
Walatowa Charter High School	74%

Source: LFC Files and OBMS

## Appendix F. Indian Education Act

### State and Local Responsibilities Under the New Mexico Indian Education Act

Entity	Goals/Responsibilities
State of New Mexico	<ul style="list-style-type: none"><li>• Ensure equitable and culturally relevant learning environments for Native American students in public schools</li></ul>
PED Indian Education Division	<ul style="list-style-type: none"><li>• Provide technical assistance to local districts about IEA implementation,</li><li>• Administer the state Indian Education Fund,</li><li>• Collaborate with relevant stakeholders,</li><li>• Report on educational trends, and</li><li>• Conduct research and evaluation.</li></ul>
Indian Education Advisory Council	<ul style="list-style-type: none"><li>• Advise PED and the Early Childhood Education and Care Department on Native American education policies</li></ul>
Local School Districts and Charters	<ul style="list-style-type: none"><li>• Provide instruction and other services,</li><li>• Meet with local tribal stakeholders,</li><li>• Conduct student needs assessments to prioritize budgets, and</li><li>• Develop a systemic framework for IEA implementation</li></ul>

Source: LFC staff review of the state Indian Education Act (22-23A NMSA 1978).

## Appendix G. Comparison of State Differentials for At-Risk Students 2021

State	Weight	Criteria	Additional Weights	Criteria
Iowa	0.0048	FRL eligible		
North Dakota	0.025	FRL eligibility		
Utah	0.05	FRL participation		
Hawaii	0.1	FRL eligible		
Michigan	0.115	FRL eligible or direct certification in other assistance programs		
Colorado	0.12	FRL eligible	0.036	For districts with % of at-risk students that exceed the average. Weight is applied to each % point above the average, up to 0.3
Kentucky	0.15	Students eligible for Free lunch under the National School Lunch Program		
California	0.2	ELL, FRL eligible, foster care	0.65	District percentage of at-risk students > 55%
South Carolina	0.2	FRL eligibility and direct certification in other assistance programs		
District of Columbia	0.2256	FRL, foster care, and homeless students		
Nebraska	0.0375 to 0.2250	FRL eligible. Weights vary according to % of FRL students in a district		
Missouri	0.25	FRL eligible		
Oklahoma	0.25	FRL eligible		
Oregon	0.25	U.S. Census poverty estimates, foster care		
Texas	0.225 to 0.275	Index of economically disadvantaged census block groups		
Connecticut	0.3	FRL eligible	0.45	Applied to qualifying students above 60% of the student population
New Mexico	0.3	At-risk index (Title I, English Learners, and mobility)		
Pennsylvania	0.3	% of students from low-income households		
Rhode Island	0.4	Federal poverty %		
Kansas	0.484	Students eligible for Free lunch under the National School Lunch Program		
Minnesota	0.6	FRL eligible		
Maryland	0.91	FRL eligible or direct certification in other assistance programs		
New York	1.0 to 2.0	FRL eligibility, U.S. Census poverty estimates, and English Learners		

Source: ECS (2021) 50-State Comparison: Funding for Students from Low-income Backgrounds

## Appendix H. Components of At-Risk Index and Dr. Stephen Barro Suggested Adjustments

Statutory Components of the At-Risk Index	Suggested Adjustments to Calculation by S. Barro
<p><b>Low income:</b> Percent of student body eligible for Title I funding based on poverty as determined by the US Census Bureau</p>	Use a school level metric like the Family Income Index.
	Add a poverty concentration factor
<p><b>English Language Learner:</b> A student whose first or heritage language is not English and who is unable to read, write, speak, or understand English at a level comparable to grade level English proficient peers and native English speakers.</p>	None.
<p><b>Student Mobility:</b> Students who were enrolled elsewhere or students who disenrolled.</p>	Eliminate the student mobility measure or replace with a method that identifies students who have attended more than the number of schools normal for their grade level.
	Potentially include a factor for Native American students.
	Differential weighting for individual factors.
	Identify specific children within a school to receive at-risk services.

Source: Section 22-8-23.23 NMSA 1978 and testimony by S. Barro to LFC 8/2021.

## Appendix I. Results First Cost-Benefit Analysis of Teacher Quality Interventions

**Table 4. Summary of Teacher Quality Interventions**

Intervention	Evidence of Positive Impact	Benefit-to-Cost-Ratio	Chance Benefits Will Exceed Cost	Effect Size on Test Scores
Teacher professional development	<b>Strong</b> (depends on model)			
<i>Use of data to guide instruction</i>		\$132	98%	0.117
<i>Targeted</i>		\$38	79%	0.071
<i>Online, targeted</i>		\$9	61%	0.020
<i>Induction/mentoring</i>		\$0	38%	0.046
<i>Not targeted</i>		\$6	60%	0.000
Teacher coaches/consultant teachers	<b>Strong</b> (depends on model)			
<i>Content-focused coaching</i>		\$190	94%	0.107
<i>Online coaching</i>		\$93	92%	0.082
<i>Literacy collaborative</i>		\$32	99%	0.428
<i>Coaching</i>		\$28	81%	0.060
Teacher experience	<b>Strong</b>	\$13	99%	0.058
Teacher performance pay	<b>Strong</b>	\$22	87%	0.019
Incentives for hard to staff subjects/schools	<b>Strong</b>		<i>Not in RF</i>	
Teacher evaluation systems	<b>Promising</b>		<i>Not in RF</i>	
Teacher residency programs	<b>Promising</b>		<i>Not in RF</i>	
National Board Certification	<b>Mixed or Inconclusive*</b>		<i>Not in RF</i>	
Grow Your Own programs	<b>Mixed or Inconclusive</b>		<i>Not in RF</i>	
Teacher graduate degrees	<b>No Effect</b>	\$0	7%	0.000

\* Indicates that program is included in a social policy clearinghouse  
 Source: Results First, using New Mexico assumptions