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SENATE BILL 157

53RD LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2018

INTRODUCED BY

Howie C. Morales and Dennis J. Roch

FOR THE LEGISLATIVE EDUCATION STUDY COMMITTEE

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; MAKING AN APPROPRIATION.

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

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1 a specified day. The current roll is established by the
2 addition of original entries and reentries minus withdrawals.
3 Withdrawals of students, in addition to students formally
4 withdrawn from the public school, include students absent from
5 the public school for as many as ten consecutive school days;
6 provided that withdrawals do not include students in need of
7 early intervention and habitual truants the school district is
8 required to intervene with and keep in an educational setting
9 as provided in Section 22-12-9 NMSA 1978;

10 C. "basic program ADM" or "basic program MEM" means
11 the MEM of qualified students but excludes the full-time-
12 equivalent MEM in early childhood education and three- and
13 four-year-old students receiving special education services;

14 D. "cost differential factor" is the numerical
15 expression of the ratio of the cost of a particular segment of
16 the school program to the cost of the basic program in grades
17 four through six;

18 E. "department" or "division" means the public
19 education department;

20 F. "early childhood education ADM" or "early
21 childhood education MEM" means the full-time-equivalent MEM of
22 students attending approved early childhood education programs;

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

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

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

7 I. "program cost" is the product of the total
8 number of program units to which a school district is entitled
9 multiplied by the dollar value per program unit established by
10 the legislature;

11 J. "program element" is that component of a public
12 school system to which a cost differential factor is applied to
13 determine the number of program units to which a school
14 district is entitled, including [~~but not limited to~~] MEM, full-
15 time-equivalent MEM, teacher, classroom or public school;

16 K. "program unit" is the product of the program
17 element multiplied by the applicable cost differential factor;

18 L. "public money" or "public funds" means all money
19 from public or private sources received by a school district or
20 state-chartered charter school or officer or employee of a
21 school district or state-chartered charter school for public
22 use;

23 M. "qualified student" means a public school
24 student who:

25 (1) has not graduated from high school;

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

4 (3) in terms of age:

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

7 (b) is at least three years of age at
8 any time during the school year and is receiving special
9 education services pursuant to rules of the department; or

10 (c) has not reached the student's
11 twenty-second birthday on the first day of the school year and
12 is receiving special education services pursuant to rules of
13 the department; [~~and~~]

14 N. "staffing cost multiplier" means:

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

17 (2) for fiscal year 2020, the weighted average
18 of the instructional staff training and experience index at
19 seventy-five percent and the teacher cost index at twenty-five
20 percent;

21 (3) for fiscal year 2021, the weighted average
22 of the instructional staff training and experience index at
23 fifty percent and the teacher cost index at fifty percent;

24 (4) for fiscal year 2022, the weighted average
25 of the instructional staff training and experience index at

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1 twenty-five percent and the teacher cost index at seventy-five
2 percent; and

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

5 [N.] 0. "state superintendent" means the secretary
6 of public education or the secretary's designee."

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

9 "22-8-6.1. CHARTER SCHOOL BUDGETS.--

10 A. Each state-chartered charter school shall submit
11 to the charter schools division of the department a school-
12 based budget. ~~[For the first year of operation, the budget of~~
13 ~~every state-chartered charter school shall be based on the~~
14 ~~projected number of program units generated by that charter~~
15 ~~school and its students, using the at-risk index and the~~
16 ~~instructional staff training and experience index of the school~~
17 ~~district in which it is geographically located. For second and~~
18 ~~subsequent fiscal years of operation, the budgets of state-~~
19 ~~chartered charter schools shall be based on the number of~~
20 ~~program units generated using the average of the MEM on the~~
21 ~~second and third reporting dates of the prior year and its own~~
22 ~~instructional staff training and experience index and the at-~~
23 ~~risk index of the school district in which the state-chartered~~
24 ~~charter school is geographically located.]~~ The budget shall be
25 submitted to the division for approval or amendment pursuant to

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1 the Public School Finance Act and the Charter Schools Act.

2 Thereafter, the budget shall be submitted to the public
3 education commission for review.

4 B. Each locally chartered charter school shall
5 submit to the local school board a school-based budget [~~For the~~
6 ~~first year of operation, the budget of every locally chartered~~
7 ~~charter school shall be based on the projected number of~~
8 ~~program units generated by the charter school and its students,~~
9 ~~using the at-risk index and the instructional staff training~~
10 ~~and experience index of the school district in which it is~~
11 ~~geographically located. For second and subsequent fiscal years~~
12 ~~of operation, the budgets of locally chartered charter schools~~
13 ~~shall be based on the number of program units generated using~~
14 ~~the average of the MEM on the second and third reporting dates~~
15 ~~of the prior year and its own instructional staff training and~~
16 ~~experience index and the at-risk index of the school district~~
17 ~~in which the locally chartered charter school is geographically~~
18 ~~located. The budget shall be submitted to the local school~~
19 ~~board]~~ for approval or amendment. The approval or amendment
20 authority of the local school board relative to the charter
21 school budget is limited to ensuring that sound fiscal
22 practices are followed in the development of the budget and
23 that the charter school budget is within the allotted
24 resources. The local school board shall have no veto authority
25 over individual line items within the charter school's proposed

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1 budget, but shall approve or disapprove the budget in its
2 entirety. Upon final approval of the local budget by the local
3 school board, the individual charter school budget shall be
4 included separately in the budget submission to the department
5 required pursuant to the Public School Finance Act and the
6 Charter Schools Act.

7 C. For ~~[the]~~ its first year of operation, ~~[after a~~
8 ~~locally chartered charter school converts to a state-chartered~~
9 ~~charter school or a state-chartered charter school converts to~~
10 ~~a locally chartered charter school, the charter school's budget~~
11 ~~shall be based on the number of program units generated using~~
12 ~~the average of the MEM on the second and third reporting dates~~
13 ~~of the prior year and the instructional staff training and~~
14 ~~experience index and the at-risk index of the school district~~
15 ~~in which it is geographically located. For second and~~
16 ~~subsequent fiscal years of operation, the charter school shall~~
17 ~~follow the provisions of Subsection A or B of this section, as~~
18 ~~applicable]~~ a charter school's budget shall be based on the
19 projected number of program units generated by the school and
20 its students using the at-risk index and the staffing cost
21 multiplier of the school district in which the school is
22 located, and the school's budget shall be adjusted using the
23 qualified MEM on the first reporting date of the current school
24 year. For its second and subsequent fiscal years of operation,
25 a charter school's budget shall be based on the number of

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1 program units generated by the school and its students using
2 the average of the MEM on the second and third reporting dates
3 of the prior year, the at-risk index of the school district in
4 which the school is located and the school's staffing cost
5 multiplier."

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

8 "22-8-18. PROGRAM COST CALCULATION--LOCAL
9 RESPONSIBILITY.--

10 A. For fiscal year 2019, the total program units
11 for the purpose of computing the program cost shall be
12 calculated by multiplying the sum of the program units itemized
13 as Paragraphs (1) through (6) in this subsection by the
14 [~~instructional staff training and experience index~~] staffing
15 cost multiplier and adding the program units itemized as
16 Paragraphs (7) through (14) in this subsection. For fiscal
17 year 2020 and subsequent fiscal years, the total program units
18 for the purpose of computing the program cost shall be
19 calculated by multiplying the sum of the program units itemized
20 as Paragraphs (1) and (2) in this subsection by the staffing
21 cost multiplier and adding the program units itemized as
22 Paragraphs (3) through (14) in this subsection. The itemized
23 program units are as follows:

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

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

4 (4) bilingual multicultural education;

5 (5) fine arts education;

6 (6) elementary physical education;

7 (7) size adjustment;

8 (8) at-risk program;

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

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

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

16 (12) home school student program unit;

17 (13) home school student activities; and

18 (14) charter school student activities.

19 B. The total program cost calculated as prescribed
20 in Subsection A of this section includes the cost of early
21 childhood, special, bilingual multicultural, fine arts and
22 vocational education and other remedial or enrichment programs.
23 It is the responsibility of the local school board or, for a
24 charter school, the governing body of the charter school to
25 determine its priorities in terms of the needs of the community

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

13 SECTION 4. Section 22-8-23.3 NMSA 1978 (being Laws 1997,
14 Chapter 40, Section 7, as amended) is amended to read:

15 "22-8-23.3. AT-RISK PROGRAM UNITS.--

16 A. A school district is eligible for additional
17 program units if it establishes within its department-approved
18 educational plan identified services to assist students to
19 reach their full academic potential. A school district
20 receiving additional at-risk program units shall include a
21 report of specified services implemented to improve the
22 academic success of at-risk students. The report shall
23 identify the ways in which the school district and individual
24 schools use funding generated through the at-risk index and the
25 intended outcomes. For purposes of this section, "at-risk

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1 student" means a student who meets the criteria to be included
2 in the calculation of the three-year average total rate in
3 Subsection B of this section. The number of additional units
4 to which a school district is entitled under this section is
5 computed in the following manner:

6
$$\text{At-Risk Index} \times \text{MEM} = \text{Units}$$

7 where MEM is equal to the total district membership, including
8 early childhood education, full-time-equivalent membership and
9 special education membership and where the at-risk index is
10 calculated in the following manner:

11 (1) for fiscal year 2019,

12
$$\text{Three-Year Average Total Rate} \times [\text{0.106}] \text{ 0.130} = \text{At-Risk Index};$$

13 (2) for fiscal year 2020,

14 Three-Year Average Total Rate x 0.140 = At-Risk Index; and

15 (3) for fiscal year 2021 and subsequent fiscal
16 years,

17 Three-Year Average Total Rate x 0.150 = At-Risk Index.

18 B. To calculate the three-year average total rate,
19 the department shall compute a three-year average of the school
20 district's percentage of membership used to determine its Title
21 I allocation, a three-year average of the percentage of
22 membership classified as English language learners using
23 criteria established by the federal office of civil rights and
24 a three-year average of the percentage of student mobility.
25 The department shall then add the three-year average rates.

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1 The number obtained from this calculation is the three-year
2 average total rate.

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

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

7 "[NEW MATERIAL] TEACHER COST INDEX--LICENSURE-EXPERIENCE
8 FACTOR--REPORT.--

9 A. The teacher cost index for each school district
10 or charter school shall be calculated in accordance with
11 instructions issued by the department. The teacher cost index
12 for a school district in its first year of operations is 1.0.
13 The teacher cost index for a school district or charter school
14 in its second or subsequent year of operations is the greater
15 of 1.0 or the average of the licensure-experience factors of
16 all full-time-equivalent teachers on the school district's or
17 charter school's payroll in October of that year who are
18 assigned classroom teaching responsibilities. The licensure-
19 experience factor of a teacher corresponds to the teacher's
20 licensure level and years of experience and is as follows:

21 Licensure

22	<u>Level</u>	<u>Years of Experience</u>				
23		0 to 2	3 to 5	6 to 8	9 to 15	Over 15
24	1	0.755	0.785	0.800		
25	2		0.994	1.023	1.050	1.123

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1 3 1.184 1.208 1.277.

2 B. Beginning in 2021, the department, legislative
3 education study committee staff and legislative finance
4 committee staff shall jointly prepare and submit a report by
5 November 1 of each year to the governor, the legislative
6 education study committee and the legislative finance committee
7 that includes:

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

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

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

15 C. As used in this section:

16 (1) "licensure level" is the teaching licensure
17 level as defined in the School Personnel Act; and

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

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

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

24 A. The state equalization guarantee distribution is
25 that amount of money distributed to each school district to

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1 ensure that its operating revenue, including its local
2 and federal revenues as defined in this section, is at least
3 equal to the school district's program cost. For state-
4 chartered charter schools, the state equalization guarantee
5 distribution is the difference between the state-chartered
6 charter school's program cost and the two percent withheld by
7 the department for administrative services.

8 B. "Local revenue", as used in this section, means
9 seventy-five percent of receipts to the school district derived
10 from that amount produced by a school district property tax
11 applied at the rate of fifty cents (\$.50) to each one thousand
12 dollars (\$1,000) of net taxable value of property allocated to
13 the school district and to the assessed value of products
14 severed and sold in the school district as determined under the
15 Oil and Gas Ad Valorem Production Tax Act and upon the assessed
16 value of equipment in the school district as determined under
17 the Oil and Gas Production Equipment Ad Valorem Tax Act.

18 C. "Federal revenue", as used in this section,
19 means receipts to the school district or state-chartered
20 charter school, excluding amounts that, if taken into account
21 in the computation of the state equalization guarantee
22 distribution, result, under federal law or regulations, in a
23 reduction in or elimination of federal school funding otherwise
24 receivable by the school district, derived from the following:

25 (1) seventy-five percent of the school

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1 district's share of forest reserve funds distributed in
2 accordance with Section 22-8-33 NMSA 1978; and

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

8 D. To determine the amount of the state
9 equalization guarantee distribution, the department shall:

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

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

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

24 (4) using the results of the calculations in
25 Paragraph (1), (2) or (3) of this subsection and the

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1 ~~[instructional staff training and experience index]~~ staffing
2 cost multiplier from the October report of the prior school
3 year, establish a total program cost of the school district or
4 charter school;

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

8 (6) deduct the sum of the calculations made in
9 Paragraph (5) of this subsection from the program cost
10 established in Paragraph (4) of this subsection;

11 (7) deduct the total amount of guaranteed energy
12 savings contract payments that the department determines will
13 be made to the school district from the public school utility
14 conservation fund during the fiscal year for which the state
15 equalization guarantee distribution is being computed; and

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

19 E. Reduction of a school district's state
20 equalization guarantee distribution shall cease when the school
21 district's cumulative reductions equal its proportional share
22 of the cumulative debt service payments necessary to service
23 the bonds issued pursuant to the Energy Efficiency and
24 Renewable Energy Bonding Act.

25 F. The amount of the state equalization guarantee

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1 distribution to which a school district is entitled is the
2 balance remaining after the deductions made in Paragraphs (6)
3 through (8) of Subsection D of this section.

4 G. The state equalization guarantee distribution
5 shall be distributed prior to June 30 of each fiscal year. The
6 calculation shall be based on the local and federal revenues
7 specified in this section received from June 1 of the previous
8 fiscal year through May 31 of the fiscal year for which the
9 state equalization guarantee distribution is being computed.
10 In the event that a school district or charter school has
11 received more state equalization guarantee funds than its
12 entitlement, a refund shall be made by the school district or
13 charter school to the state general fund."

14 SECTION 7. TEMPORARY PROVISION--PROTECTION FROM PROGRAM
15 COST REDUCTIONS.--

16 A. Using funds appropriated by the legislature for
17 fiscal years 2020 through 2022, the public education department
18 shall supplement a school district's or charter school's
19 calculated program cost in each of those fiscal years:

20 (1) if, for the fiscal year, the school
21 district's or charter school's calculated program cost is less
22 than its final program cost in the previous fiscal year, not
23 considering any supplement the school district or charter
24 school receives under this subsection; and

25 (2) as follows:

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1 (a) for fiscal year 2020, in an amount
2 equal to one hundred percent of the reduction attributable to
3 the implementation of this act or the difference between the
4 calculated program cost and the final program cost in the
5 previous fiscal year, whichever is less;

6 (b) for fiscal year 2021, in an amount
7 equal to seventy-five percent of the reduction attributable to
8 the implementation of this act or the difference between the
9 calculated program cost and the final program cost in the
10 previous fiscal year, whichever is less; and

11 (c) for fiscal year 2022, in an amount
12 equal to fifty percent of the reduction attributable to the
13 implementation of this act or the difference between the
14 calculated program cost and the final program cost in the
15 previous fiscal year, whichever is less; but

16 (3) if, in a fiscal year, the appropriation for
17 the purpose of implementing this subsection is insufficient to
18 supplement school districts and charter schools in accordance
19 with Paragraphs (1) and (2) of this subsection, then in an
20 amount equal to the school district's or charter school's
21 prorated share of the total appropriation.

22 B. On or before February 1 of 2020 through 2022,
23 the public education department shall submit a report to the
24 legislative education study committee and the legislative
25 finance committee that states, regarding the current fiscal

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1 year:

2 (1) the sum needed to supplement school
3 districts and charter schools in accordance with this section;

4 (2) a list of the school districts and charter
5 schools eligible to receive a supplement in accordance with
6 this section; and

7 (3) the supplement amount of each of those
8 school districts and charter schools.

9 SECTION 8. APPROPRIATION.--Twenty-two million five
10 hundred forty-one thousand four hundred dollars (\$22,541,400)
11 is appropriated from the general fund to the state equalization
12 guarantee distribution for expenditure in fiscal year 2019 to
13 offset the rise in costs from the increase in the at-risk index
14 effected by this act. Any unexpended or unencumbered balance
15 remaining at the end of fiscal year 2019 shall revert to the
16 general fund.

17 SECTION 9. REPEAL.--Section 22-8-46 NMSA 1978 (being Laws
18 2005, Chapter 49, Section 1, as amended) is repealed.

19 SECTION 10. EFFECTIVE DATE.--The effective date of the
20 provisions of this act is July 1, 2018.

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