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AN ACT

RELATING TO PUBLIC SCHOOL FINANCE; MAKING CHANGES TO THE PUBLIC SCHOOL FUNDING FORMULA; INCREASING THE BASIC PROGRAM UNIT FOR SIXTH THROUGH TWELFTH GRADES; DEFINING THE FAMILY INCOME INDEX RATE; CHANGING THE AT-RISK PROGRAM UNIT; CALCULATING THE AT-RISK INDEX FOR CHARTER SCHOOLS ON THEIR MEMBERSHIP AFTER THE FIRST YEAR OF OPERATION; CREATING AN ENGLISH LEARNER PROGRAM UNIT; PROVIDING A HOLD HARMLESS PROVISION FOR FORMULA CHANGES.

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 by Laws 2019, Chapter 206, Section 6 and by Laws 2019, Chapter 207, Section 6) is amended to read:

"22-8-2. DEFINITIONS.--As used in the Public School Finance Act:

A. "ADM" or "MEM" means membership;

B. "membership" means the total enrollment of qualified students on the current roll of a class or school on a specified day. The current roll is established by the addition of original entries and reentries minus withdrawals. Withdrawals of students, in addition to students formally withdrawn from the public school, include students absent from the public school for as many as ten consecutive school

1 days; provided that withdrawals do not include students who
2 are in need of intervention or who are chronically or
3 excessively absent;

4 C. "basic program ADM" or "basic program MEM"
5 means the MEM of qualified students but excludes the full-
6 time-equivalent MEM in early childhood education and three-
7 and four-year-old students receiving special education
8 services;

9 D. "cost differential factor" is the numerical
10 expression of the ratio of the cost of a particular segment
11 of the school program to the cost of the basic program in
12 grades four through six;

13 E. "department" or "division" means the public
14 education department;

15 F. "early childhood education ADM" or "early
16 childhood education MEM" means the full-time-equivalent MEM
17 of students attending approved early childhood education
18 programs;

19 G. "family income index rate" means the percentage
20 of students in a school district or charter school that is
21 identified as either extremely low income or very low income
22 by the family income index;

23 H. "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

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

8 J. "performance measure" means a quantitative
9 indicator used to assess the output or outcome of an approved
10 program;

11 K. "performance target" means the expected level
12 of performance of a program's performance measure;

13 L. "program cost" is the product of the total
14 number of program units to which a school district is
15 entitled multiplied by the dollar value per program unit
16 established by the legislature;

17 M. "program element" is that component of a public
18 school system to which a cost differential factor is applied
19 to determine the number of program units to which a school
20 district is entitled, including MEM, full-time-equivalent
21 MEM, teacher, classroom or public school;

22 N. "program unit" is the product of the program
23 element multiplied by the applicable cost differential
24 factor;

25 O. "public money" or "public funds" means all

1 money from public or private sources received by a school
2 district or state-chartered charter school or officer or
3 employee of a school district or state-chartered charter
4 school for public use;

5 P. "qualified student" means a public school
6 student who:

7 (1) has not graduated from high school;

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

11 (3) in terms of age and other criteria:

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

14 (b) is at least three years of age at
15 any time during the school year and is receiving special
16 education services pursuant to rules of the department;

17 (c) except as provided in Subparagraph
18 (d) of this paragraph, has not reached the student's twenty-
19 second birthday on the first day of the school year; or

20 (d) has reached the student's twenty-
21 second birthday on the first day of the 2019-2020 school
22 year, is counted in a school district's or charter school's
23 MEM on the third reporting date of the 2018-2019 school year,
24 has been continuously enrolled in the same public school
25 since that reporting date and is still enrolled in that

1 school;

2 Q. "rural population rate" means that proportion
3 of the total population within a school district's geographic
4 boundaries that lives in a rural area and not in an urban
5 area as defined by the United States census bureau;

6 R. "staffing cost multiplier" means the teacher
7 cost index; and

8 S. "state superintendent" means the secretary of
9 public education or the secretary's designee."

10 SECTION 2. Section 22-8-6.1 NMSA 1978 (being Laws 1993,
11 Chapter 227, Section 8, as amended by Laws 2019, Chapter 206,
12 Section 9 and by Laws 2019, Chapter 207, Section 9) is
13 amended to read:

14 "22-8-6.1. CHARTER SCHOOL OPERATING BUDGETS--MAXIMUM
15 MEM.--

16 A. Each state-chartered charter school shall
17 submit to the charter schools division of the department a
18 school-based operating budget. The operating budget shall be
19 submitted to the division for approval or amendment pursuant
20 to the Public School Finance Act and the Charter Schools Act.
21 Thereafter, the operating budget shall be submitted to the
22 commission for review.

23 B. Each locally chartered charter school shall
24 submit to the local school board a school-based operating
25 budget for approval or amendment. The approval or amendment

1 authority of the local school board relative to the charter
2 school operating budget is limited to ensuring that sound
3 fiscal practices are followed in the development of the
4 operating budget and that the charter school operating budget
5 is within the allotted resources. The local school board
6 shall have no veto authority over individual line items
7 within the charter school's proposed financial budget or over
8 any item in the educational plan but shall approve or
9 disapprove the operating budget in its entirety. Upon final
10 approval of the charter school operating budget by the local
11 school board, the individual charter school operating budget
12 shall be included separately in the budget submission to the
13 department required pursuant to the Public School Finance Act
14 and the Charter Schools Act.

15 C. For its first year of operation, a charter
16 school's operating budget shall be based on the projected
17 number of program units generated by the school and its
18 students using the at-risk index, the English learner three-
19 year average rate and the staffing cost multiplier of the
20 school district in which the charter school is located, and
21 the charter school's operating budget shall be adjusted using
22 the qualified MEM on the first reporting date of the current
23 school year. For its second and third fiscal year of
24 operation, a charter school's operating budget shall be based
25 on the number of program units generated by the school and

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

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

15 "22-8-18. PROGRAM COST CALCULATION--LOCAL
16 RESPONSIBILITY.--

17 A. The total program units for the purpose of
18 computing the program cost shall be calculated by multiplying
19 the sum of the program units itemized as Paragraphs (1) and
20 (2) in this subsection by the staffing cost multiplier and
21 adding the program units itemized as Paragraphs (3) through
22 (16) in this subsection. The itemized program units are as
23 follows:

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

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

5 (4) bilingual multicultural education;

6 (5) fine arts education;

7 (6) elementary physical education;

8 (7) size adjustment;

9 (8) at-risk;

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

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

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

17 (12) home school student;

18 (13) home school student activities;

19 (14) charter school student activities;

20 (15) K-12 plus; and

21 (16) English learners.

22 B. The total program cost calculated as prescribed
23 in Subsection A of this section includes the cost of early
24 childhood, special, bilingual multicultural, fine arts and
25 vocational education and other remedial or enrichment

1 programs. It is the responsibility of the local school board
2 or governing body of a charter school to determine its
3 priorities in terms of the needs of the community served by
4 that board. Except as otherwise provided in this section,
5 funds generated pursuant to the Public School Finance Act are
6 discretionary to local school boards and governing bodies of
7 charter schools; provided that the special program needs as
8 enumerated in this section are met; and provided further that
9 the department shall ensure that the local school board or
10 governing body of a charter school is prioritizing resources
11 for the public school toward proven programs and methods
12 linked to improved student achievement."

13 SECTION 4. Section 22-8-20 NMSA 1978 (being Laws 1991,
14 Chapter 85, Section 3, as amended by Laws 1993, Chapter 2,
15 Section 1 and by Laws 1993, Chapter 226, Sections 21 and 22
16 and also by Laws 1993, Chapter 228, Sections 2 and 3) is
17 amended to read:

18 "22-8-20. BASIC PROGRAM UNITS.--The number of basic
19 program units is determined by multiplying the basic program
20 MEM in each grade by the corresponding cost differential
21 factor as follows:

22 Grades	Cost Differential Factor
23 1	1.2
24 2 and 3	1.18
25 4 and 5	1.045

1 6 through 12

1.30."

2 SECTION 5. Section 22-8-23.3 NMSA 1978 (being Laws
3 1997, Chapter 40, Section 7, as amended) is amended to read:

4 "22-8-23.3. AT-RISK PROGRAM UNITS.--

5 A. A school district or charter school is eligible
6 for additional program units if it establishes within its
7 department-approved educational plan identified services to
8 assist students to reach their full academic potential. A
9 school district or charter school receiving additional at-
10 risk program units shall include a report of specified
11 services implemented to improve the academic success of at-
12 risk students. The report shall identify the ways in which
13 the school district, charter school and individual public
14 schools use funding generated through the at-risk index and
15 the intended outcomes. For purposes of this section, "at-
16 risk student" means a student who meets the criteria to be
17 included in the calculation of the three-year average rate in
18 Subsection B of this section. The number of additional units
19 to which a school district or charter school is entitled
20 under this section is computed in the following manner:

21
$$\text{At-Risk Index} \times \text{MEM} = \text{Units}$$

22 where MEM is equal to the total district or charter school
23 membership, including early childhood education, full-time-
24 equivalent membership and special education membership and
25 where the at-risk index is calculated in the following

1 manner:

2 Three-Year Average Rate x 0.40 = At-Risk Index.

3 B. To calculate the three-year average rate, the
4 department shall compute the preceding three-year average of
5 the school district's or charter school's family income index
6 rate.

7 C. The department shall recalculate the at-risk
8 index for each school district and charter school every year.

9 D. For purposes of this section, "services" means
10 research-based or evidence-based social, emotional or
11 academic interventions, such as:

12 (1) case management, tutoring, reading
13 interventions and after-school programs that are delivered by
14 social workers, counselors, teachers or other professional
15 staff;

16 (2) culturally relevant professional and
17 curriculum development, including those necessary to support
18 language acquisition, bilingual and multicultural education;

19 (3) additional compensation strategies for
20 high-need schools;

21 (4) whole school interventions, including
22 school-based health centers and community schools;

23 (5) educational programming intended to
24 improve career and college readiness of at-risk students,
25 including dual or concurrent enrollment, career and technical

1 education, guidance counseling services and coordination with
2 post-secondary institutions; and

3 (6) services to engage and support parents
4 and families in the education of students."

5 SECTION 6. A new section of the Public School Finance
6 Act, Section 22-8-23.15 NMSA 1978, is enacted to read:

7 "22-8-23.15. ENGLISH LEARNER PROGRAM UNITS.--

8 A. A school district or charter school is eligible
9 for additional program units if it establishes identified
10 services to assist English learners to attain English
11 language proficiency in a reasonable period of time. The
12 number of additional units to which a school district or
13 charter school is entitled pursuant to this section is
14 computed in the following manner:

15
$$\text{Three-Year Average Rate} \times \text{MEM} \times 0.33 = \text{Units.}$$

16 B. To calculate the three-year average rate, the
17 department shall compute the preceding three-year average of
18 the school district's or charter school's percentage of MEM
19 that is classified as an English learner, using criteria
20 established by the office for civil rights of the United
21 States department of education. The three-year average rate
22 shall include students who have been reclassified as fluent
23 English proficient in the preceding two school years, as
24 determined by the department on the department-approved
25 English language proficiency assessment.

1 C. The department shall recalculate the three-year
2 average rate for each school district and charter school
3 every year.

4 D. For the purposes of this section, "services"
5 means research- or evidence-based social, emotional or
6 academic interventions designed to improve student
7 achievement and sustain student progress, such as:

8 (1) culturally sustaining case management,
9 tutoring, language development interventions, out-of-school
10 time programs and student service-leadership development
11 opportunities;

12 (2) culturally sustaining professional
13 learning, coursework and curriculum development
14 opportunities;

15 (3) culturally and grade-level-appropriate
16 instructional materials;

17 (4) additional compensation strategies that
18 support high-quality, culturally and linguistically
19 sustaining instruction;

20 (5) innovative staffing, scheduling and
21 programming strategies that promote collaborative
22 instruction; and

23 (6) services to support and partner with
24 parents and families in the long-term success of students."

25 SECTION 7. TEMPORARY PROVISION--PROTECTION FROM PROGRAM

1 COST REDUCTIONS.--

2 A. Using money appropriated by the legislature for
3 fiscal year 2026, the public education department shall
4 supplement a school district's or charter school's calculated
5 program cost in that fiscal year:

6 (1) if, for fiscal year 2026, the school
7 district's or charter school's calculated program units are
8 less than its final program units in fiscal year 2025, if the
9 reduction is attributable to the implementation of Sections 2
10 through 6 of this act, an amount equal to one hundred percent
11 of the reduction attributable to those sections; and

12 (2) if, in fiscal year 2026, the
13 appropriation for the purpose of implementing this subsection
14 is insufficient to supplement school districts and charter
15 schools in accordance with Paragraph (1) of this subsection,
16 then in an amount equal to the school district's or charter
17 school's prorated share of the total appropriation.

18 B. On or before January 31, 2026, the public
19 education department shall submit a report to the legislative
20 education study committee and the legislative finance
21 committee that states the need for a supplemental
22 appropriation for fiscal year 2026 that shows:

23 (1) the total sum needed to supplement
24 school districts and charter schools in accordance with this
25 section; and

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(2) the supplemental amount for each of those school districts and charter schools.

SECTION 8. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2025. _____