

HOUSE BILL 63

57TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2025

INTRODUCED BY

G. Andrés Romero and Mimi Stewart

This document may incorporate amendments proposed by a committee, but not yet adopted, as well as amendments that have been adopted during the current legislative session. The document is a tool to show amendments in context and cannot be used for the purpose of adding amendments to legislation.

FOR THE LEGISLATIVE EDUCATION STUDY COMMITTEE

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; MAKING APPROPRIATIONS.

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 Withdrawals of students, in addition to students formally withdrawn from the public school, include students absent from the public school for as many as ten consecutive school days; provided that withdrawals do not include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

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

D. "cost differential factor" is the numerical

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expression of the ratio of the cost of a particular segment of the school program to the cost of the basic program in grades four through six;

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

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

G. "family income index rate" means the percentage of HEC→MEM←HEC HEC→students←HEC in a school district or charter school that is identified as either extremely low income or very low income by the family income index;

[G.] H. "full-time-equivalent ADM" or "full-time-equivalent MEM" is that membership calculated by applying to the MEM in an approved public school program the ratio of the number of hours per school day devoted to the program to six hours or the number of hours per school week devoted to the program to thirty hours;

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

[I.] J. "performance measure" means a quantitative indicator used to assess the output or outcome of an approved program;

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[J-] K. "performance target" means the expected level of performance of a program's performance measure;

[K-] L. "program cost" is the product of the total number of program units to which a school district is entitled multiplied by the dollar value per program unit established by the legislature;

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

[M-] N. "program unit" is the product of the program element multiplied by the applicable cost differential factor;

[N-] O. "public money" or "public funds" means all money from public or private sources received by a school district or state-chartered charter school or officer or employee of a school district or state-chartered charter school for public use;

[O-] P. "qualified student" means a public school student who:

- (1) has not graduated from high school;
- (2) is regularly enrolled in one-half or more of the minimum course requirements approved by the department for public school students; and

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(3) in terms of age and other criteria:

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

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

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

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

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

[Q-] R. "staffing cost multiplier" means

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

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

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percent;

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

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

~~(5) for fiscal year 2023 and subsequent fiscal years]~~ the teacher cost index; and

[R-] S. "state superintendent" means the secretary of public education or the secretary's designee."

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

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

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

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B. Each locally chartered charter school shall submit to the local school board a school-based operating budget for approval or amendment. The approval or amendment authority of the local school board relative to the charter school operating budget is limited to ensuring that sound fiscal practices are followed in the development of the operating budget and that the charter school operating budget is within the allotted resources. The local school board shall have no veto authority over individual line items within the charter school's proposed financial budget or over any item in the educational plan, but shall approve or disapprove the operating budget in its entirety. Upon final approval of the charter school operating budget by the local school board, the individual charter school operating budget shall be included separately in the budget submission to the department required pursuant to the Public School Finance Act and the Charter Schools Act.

C. For its first year of operation, a charter school's operating budget shall be based on the projected number of program units generated by the school and its students using the at-risk index HEC→, the English learner three-year average rate←HEC and the staffing cost multiplier of the school district in which the charter school is located, and the charter school's operating budget shall be adjusted using the qualified MEM on the first reporting date of the

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current school year. HEC→For its second and third fiscal year of operation, a charter school's operating budget shall be based on the number of program units generated by the school and its students using the average of MEM on the second and third reporting dates of the prior year, the at-risk index and English learner three-year average rate of the school district in which the charter school is located and the charter school's staffing cost multiplier.←HEC For its HEC→second←HEC HEC→fourth←HEC and subsequent fiscal years of operation, a charter school's operating budget shall be based on the number of program units generated by the charter school and its students using the average of the MEM on the second and third reporting dates of the prior year, the charter school's at-risk index HEC→, the charter school's English learner three-year average rate←HEC [~~of the school district in which the charter school is located~~] and the charter school's staffing cost multiplier."

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

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

A. The total program units for the purpose of computing the program cost shall be calculated by multiplying the sum of the program units itemized as Paragraphs (1) and (2) in this subsection by the staffing cost multiplier and adding

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the program units itemized as Paragraphs (3) through [~~(15)~~]
(16) in this subsection. The itemized program units are as
follows:

- (1) early childhood education;
- (2) basic education;
- (3) special education, adjusted by subtracting
the units derived from membership in class D special education
programs in private, nonsectarian, nonprofit training centers;
- (4) bilingual multicultural education;
- (5) fine arts education;
- (6) elementary physical education;
- (7) size adjustment;
- (8) at-risk;
- (9) enrollment growth or new district
adjustment;
- (10) special education units derived from
membership in class D special education programs in private,
nonsectarian, nonprofit training centers;
- (11) national board for professional teaching
standards certification;
- (12) home school student;
- (13) home school student activities;
- (14) charter school student activities; [~~and~~]
- (15) K-12 plus; and
- (16) English learners.

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B. The total program cost calculated as prescribed in Subsection A of this section includes the cost of early childhood, special, bilingual multicultural, fine arts and vocational education and other remedial or enrichment programs. It is the responsibility of the local school board or governing body of a charter school to determine its priorities in terms of the needs of the community served by that board. Except as otherwise provided in this section, funds generated ~~[under]~~ pursuant to the Public School Finance Act are discretionary to local school boards and governing bodies of charter schools; provided that the special program needs as enumerated in this section are met; and provided further that the department shall ensure that the local school board or governing body of a charter school is prioritizing resources for the public school toward proven programs and methods linked to improved student achievement."

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

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

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<u>Grades</u>	<u>Cost Differential Factor</u>
1	1.2
2 and 3	1.18
4 [through 6] <u>and 5</u>	1.045
[7] <u>6</u> through 12	[1.25] <u>1.30.</u> "

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

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

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

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

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

$$\text{Three-Year Average } [\text{Total}] \text{ Rate} \times [0.33] \text{ } 0.40 = \text{At-Risk Index.}$$

B. To calculate the three-year average [~~total~~] rate, the department shall compute HEC→~~a~~←HEC HEC→~~the~~ preceding←HEC three-year average of the school district's [~~percentage of membership used to determine its Title I allocation, a three-year average of the percentage of membership classified as English language learners using criteria established by the office for civil rights of the United States department of education and a three-year average of the percentage of student mobility. The department shall then add the three-year average rates. The number obtained from this calculation is the three-year average total rate~~] or charter school's family income index rate.

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

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

(1) case management, tutoring, reading interventions and after-school programs that are delivered by

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social workers, counselors, teachers or other professional staff;

HEC→~~(2) culturally relevant professional and curriculum development, including those necessary to support language acquisition, bilingual and multicultural education;~~

←HEC

HEC→(2) culturally relevant professional and curriculum development, including those necessary to support language acquisition, bilingual and multicultural education;←HEC

HEC→~~[(3)]~~ ~~(2)~~←HEC HEC→(3)←HEC additional compensation strategies for high-need schools;

HEC→~~[(4)]~~ ~~(3)~~←HEC HEC→(4)←HEC whole school interventions, including school-based health centers and community schools;

HEC→~~[(5)]~~ ~~(4)~~←HEC HEC→(5)←HEC 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

HEC→~~[(6)]~~ ~~(5)~~←HEC HEC→(6)←HEC services to engage and support parents and families in the education of students."

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

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"22-8-23.15. [NEW MATERIAL] ENGLISH LEARNER PROGRAM

UNITS.--

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

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

B. To calculate the three-year average rate, the department shall compute ~~HEC~~→~~a~~←~~HEC~~ ~~HEC~~→~~the preceding~~←~~HEC~~ three-year average of the school district's or charter school's percentage of MEM that is classified as an English learner, using criteria established by the office for civil rights of the United States department of education. The three-year average rate shall include students who have been reclassified as fluent English proficient in the preceding two ~~HEC~~→~~academic~~←~~HEC~~ ~~HEC~~→~~school~~←~~HEC~~ years, as determined by the department on the department-approved English language proficiency assessment.

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

D. For the purposes of this section, "services"

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means research- or evidence-based social, emotional or academic interventions designed to improve student achievement and sustain student progress, such as:

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

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

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

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

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

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

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

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

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

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

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

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

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

SECTION 8. APPROPRIATIONS.--

A. One hundred thirty-two million seven hundred twenty-five thousand dollars (\$132,725,000) is appropriated

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from the general fund to the state equalization guarantee distribution for expenditure in fiscal year 2026 to cover the cost of funding formula changes pursuant to Sections 1 through 6 of this act. Any unexpended or unencumbered balance remaining at the end of fiscal year 2026 shall revert to the general fund.

B. Five million dollars (\$5,000,000) is appropriated from the general fund to the state support reserve fund for expenditure in fiscal year 2026 to distribute supplemental funding pursuant to the hold harmless provisions of Section 7 of this act and in the manner provided for in Section 22-8-31 NMSA 1978. Any unexpended or unencumbered balance remaining at the end of fiscal year 2026 shall not revert to the general fund.

SECTION 9. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2025.