

HOUSE BILL 3
51ST LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2013

..... INTRODUCED BY Rick Miera

AN ACT

RELATING TO EDUCATION; MAKING APPROPRIATIONS; DECLARING AN EMERGENCY.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. SHORT TITLE.--This act may be cited as the "Education Appropriation Act".

SECTION 2. DEFINITIONS.--As used in the Education Appropriation Act:

A. "federal funds" means any payments by the United States government to state government or state agencies for specific purposes or in lieu of taxes, including grants, reimbursements and payments made in accordance with contracts or cooperative agreements, and shared revenue except those payments made in accordance with the federal Mineral Leasing Act (30 USCA 181, et seq.) and the State and Local Fiscal Assistance Act of 1972 (31 USCA 1221-1264), as amended;

B. "general fund" means that fund created by Section 6-4-2 NMSA 1978 and includes federal Mineral Leasing Act receipts; and

C. "other state funds" means:

(1) unencumbered nonreverting balances in state agency accounts, other than in

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1 internal service funds accounts, appropriated by the Education Appropriation Act;

2 (2) all revenue available to state agencies from sources other than the general
3 fund, internal service funds, interagency transfers and federal funds; and

4 (3) all revenue, the use of which is restricted by statute or agreement.

5 **SECTION 3. FORMAT.--**The general format of the appropriations set forth in the Education
6 Appropriation Act with respect to symbols used, column headings and amounts stated are those used
7 in the General Appropriation Act of 2013.

8 **SECTION 4. APPROPRIATIONS.--**

9 PUBLIC SCHOOL SUPPORT:

10 Except as otherwise provided, unexpended balances of appropriations made in this subsection
11 shall not revert at the end of fiscal year 2014.

12 (1) State equalization guarantee: 2,385,319.4 1,500.0 2,386,819.4

13 The purpose of public school support is to carry out the mandate to establish and maintain a
14 uniform system of free public schools sufficient for the education of, and open to, all of the
15 children of school age in the state.

16 The rate of distribution of the state equalization guarantee distribution shall be based on
17 a program unit value determined by the secretary of public education. The secretary of public
18 education shall establish a preliminary unit value to establish budgets for the 2013-2014 school
19 year and then, on verification of the number of units statewide for fiscal year 2014, but no
20 later than January 31, 2014, the secretary of public education may adjust the program unit value.

21 The general fund appropriation to the state equalization guarantee distribution includes
22 seventeen million seven hundred seventeen thousand three hundred dollars (\$17,717,300) to provide
23 an average one percent salary increase for all teachers, other instructional staff, and other
24 licensed and unlicensed staff effective the first full pay period after July 1, 2013. This amount
25 does not include and is in addition to salary increases due to licensure advancement pursuant to
26 the School Personnel Act. Prior to the approval of the school district or charter school's

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1 budget, the secretary of public education shall verify that each school district or charter
2 school is providing an average one percent salary increase for all teachers and other licensed
3 school employees and an average one percent salary increase for all unlicensed school employees.

4 The secretary of public education shall verify and audit student membership and program
5 units claimed by school districts and charter schools and shall work with and assist
6 superintendents and school boards and head administrators and governing bodies of charter schools
7 to ensure efficient spending practices, that membership and program units are calculated
8 correctly and that school district and charter school operating budgets are implemented in a
9 manner that will minimize adverse impacts to instructional programs and student achievement. The
10 secretary shall ensure that the number of instructional days budgeted by a school district or
11 charter school for the 2013-2014 school year are not reduced from the 2012-2013 school year.

12 The general fund appropriation to the state equalization guarantee distribution shall not be
13 used by any school district or charter school to pay for expenses associated with student
14 outreach, recruitment and school promotional activities, including advertising and marketing
15 efforts through mailers, telephone, television, newspaper or other print, radio or the internet.
16 A school district or charter school found by the public education department to have spent state
17 equalization guarantee distribution funds in this manner shall have its state equalization
18 guarantee distribution, decreased by the public education department accordingly.

19 The general fund appropriation to the state equalization guarantee distribution includes
20 eleven million one hundred sixty-six thousand four hundred dollars (\$11,166,400) contingent on
21 legislation of the first session of the fifty-first legislature becoming law that amends Section
22 22-11-21 NMSA 1978 to improve actuarial solvency of the educational retirement fund.

23 The general fund appropriation for the K-3 plus program is contingent on legislation of the
24 first session of the fifty-first legislature becoming law that makes K-3 plus a public school
25 funding formula-based program.

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1 After considering those elementary physical education programs eligible for state financial
2 support and the amount of state funding available for elementary physical education, the
3 secretary of public education shall annually determine the programs and the consequent numbers of
4 students in elementary physical education that will be used to calculate the number of elementary
5 physical education program units.

6 For the 2013-2014 school year, the state equalization guarantee distribution includes
7 sufficient funding for school districts to implement a new formula-based program. Those
8 districts shall use current year membership in the calculation of program units for the new
9 formula-based program.

10 The general fund appropriation to the state equalization guarantee distribution reflects the
11 deduction of federal revenue pursuant to Paragraph (2) of Subsection C of Section 22-8-25 NMSA
12 1978 that includes payments commonly known as "impact aid funds" pursuant to 20 USCA 7701 et
13 seq., and formerly known as "PL874 funds".

14 The general fund appropriation to the public school fund shall be reduced by the amounts
15 transferred to the public school fund from the current school fund and from the federal Mineral
16 Leasing Act receipts otherwise unappropriated.

17 Any unexpended balances in the authorized distributions remaining at the end of fiscal year
18 2014 from appropriations made from the general fund shall revert to the general fund.

19 (2) Transportation distributions:

20 Appropriations: 100,318.9 100,318.9

21 The general fund appropriation to the transportation distribution includes two hundred
22 ninety-three thousand eight hundred dollars (\$293,800) contingent on legislation of the first
23 session of the fifty-first legislature becoming law that amends Section 22-11-21 NMSA 1978 to
24 improve actuarial solvency of the educational retirement fund.

25 The general fund appropriation to the transportation distribution includes four hundred

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forty-two thousand eight hundred dollars (\$442,800) to provide an average one percent salary increase for transportation employees effective the first full pay period after July 1, 2013. Prior to the approval of the school district or charter school's budget, the secretary of public education shall verify that each school district or charter school is providing an average one percent salary increase for all transportation employees.					
(3) Supplemental distributions:					
(a) Out-of-state tuition	346.0				346.0
(b) Emergency supplemental	2,500.0				2,500.0
Subtotal	2,846.0				2,846.0
Prior to the distribution of emergency supplemental funds to any public school district or charter school, the secretary of public education shall verify with the state auditor that the school district or charter school is in compliance with all the provisions of Section 12-6-12 NMSA 1978. No emergency supplemental distributions shall be made to any school district or charter school not current with its audits.					
Prior to the distribution of any emergency supplemental funds, the secretary of public education shall provide the legislative finance committee and the legislative education study committee with a report outlining: (a) the criteria used to qualify for funds; (b) the financial status of recipients, including the status of recipients' financial audits; and (c) any cost savings measures recipients implemented before applying funds. In no event shall money be distributed to any school district or charter school having cash and invested reserves, or other resources or any combination thereof, equaling five percent or more of its operating budget.					
Any unexpended or unencumbered balance in the supplemental distributions to the public education department remaining at the end of fiscal year 2014 from appropriations made from the general fund shall revert to the general fund.					
INSTRUCTIONAL MATERIAL FUND:	26,975.8				26,975.8

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1 The appropriation to the instructional material fund is made from the federal Mineral					
2 Leasing Act (30 USCA 181, et seq.) receipts.					
3 DUAL CREDIT INSTRUCTIONAL MATERIALS:	857.0				857.0
4 INDIAN EDUCATION FUND:	1,824.6				1,824.6
5 The general fund appropriation to the public education department for dual credit					
6 instructional materials shall be used by the department to reimburse school districts, charter					
7 schools, state-supported schools and bureau of Indian education high schools in New Mexico for					
8 the cost of required textbooks and other course supplies for students enrolled in the dual credit					
9 program to the extent of the available funds.					
10 The general fund appropriation to the public education department for the Indian Education					
11 Act includes four hundred thousand dollars (\$400,000) for a nonprofit organization that provides					
12 teaching support in schools with a high proportion of Native American students.					
13 FEDERAL FLOW THROUGH:				414,202.3	414,202.3
14 TOTAL PUBLIC SCHOOL SUPPORT:	2,518,141.7	1,500.0		414,202.3	2,933,844.0
15 PUBLIC EDUCATION DEPARTMENT:					
16 (1) Administration:					
17 (a) Personal services					
18 and employee benefits	9,740.8	2,128.8	17.6	7,096.6	18,983.8
19 (b) Contractual services	958.0	555.0	0	17,023.2	18,536.2
20 (c) Other	1,013.1	577.6	0	2,941.9	4,532.6
21 Subtotal	11,711.9	3,261.4	17.6	27,061.7	42,052.6
22 Authorized FTE: 148.8 Permanent; 97.5 Term; 1.0 Temporary					
23 The general fund appropriation to the public education department includes seven hundred					
24 fifty thousand dollars (\$750,000) for operating and maintaining the operating budget management					
25 system and student teacher accountability reporting system, contingent on the department granting					

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1 access to these systems to the legislative finance committee and the legislative education study					
2 committee.					
3 PUBLIC EDUCATION DEPARTMENT SPECIAL APPROPRIATIONS:					
4 (a) Advanced placement	541.8				541.8
5 (b) Apprenticeship assistance	192.4				192.4
6 (c) Breakfast for					
7 elementary students	1,924.6				1,924.6
8 (d) Early reading initiative	8,500.0				8,500.0
9 (e) Teaching support in schools					
10 with a high proportion					
11 of low-income students	500.0				500.0
12 (f) Mock trial	87.1				87.1
13 (g) Graduation, reality and					
14 dual-role skills	200.0				200.0
15 (h) Regional education					
16 cooperative operations	938.2				938.2
17 (i) New Mexico cyber academy	890.0				890.0
18 (j) Pre-kindergarten	15,450.0				15,450.0
19 (k) College and career					
20 readiness assessments	309.4				309.4
21 (l) Intervention for D and F					
22 schools	2,500.0				2,500.0
23 (m) Statewide formative					
24 assessments	2,500.0				2,500.0

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1 Subtotal	34,533.5				34,533.5

2 Notwithstanding the provisions of Section 32A-23-9 NMSA 1978 or other substantive law to the
3 contrary, the general fund appropriation of fifteen million four hundred fifty thousand dollars
4 (\$15,450,000) to the public education department for the pre-kindergarten program includes no
5 less than thirteen million nine hundred five thousand dollars (\$13,905,000) to fund direct
6 student participation and no more than one million five hundred forty-five thousand dollars
7 (\$1,545,000) for administrative and program support.

8 The general fund appropriation to the public education department for the early reading
9 initiative includes three million six hundred thousand dollars (\$3,600,000) to be transferred to
10 the teacher professional development fund to support training on effective reading instruction
11 and data-driven decision-making and for regional and school district reading coaches and
12 intervention support in the school district to support teachers with the implementation of a
13 common formative assessment tool and reading interventions. Prior to the distribution of early
14 reading initiative funding to a school district or regional education cooperative, the public
15 education department shall develop a distribution plan that targets money for direct services to
16 students at public schools with high proportions of students not proficient in reading and high
17 proportions of at-risk students. The public education department shall not approve a school
18 district budget that does not demonstrate that its early reading initiative allocation will be
19 used to fund proven instructional strategies and professional development strategies such as
20 extended school day and extended school year programs, reading coaches and reading specialists
21 and pre-kindergarten programs.

22 The general fund appropriation to the public education department for teaching assistance
23 for low-income students includes five hundred thousand dollars (\$500,000) for a nonprofit
24 organization that provides teaching support in public schools with at least sixty percent of the
25 enrolled students eligible for free or reduced-fee lunch, with a priority for public schools with

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eighty-five percent or more of the students enrolled in the school eligible for free or reduced-fee lunch.

The general fund appropriation to the public education department for interventions in D and F schools is contingent on the department allocating the funds to schools rated D or F for both the 2011-2012 school year and the 2012-2013 school year pursuant to the A-B-C-D-F Schools Rating Act.

A regional education cooperative may submit an application to the public education department for an allocation from the nine hundred thirty-eight thousand two hundred dollar (\$938,200) appropriation. The public education department may allocate amounts to one or more regional education cooperatives if the regional education cooperative's application has adequately justified a need for the allocation and the department finds that the regional education cooperative submitted timely quarterly financial reports, is in compliance with state and federal reporting requirements, including the annual audit requirement pursuant to the Audit Act, and is otherwise financially stable. An allocation made to a regional education cooperative may only be used for current year operating expenses.

Any unexpended or unencumbered balance in the authorized distributions remaining at the end of fiscal year 2014 from appropriations made from the general fund shall revert to the general fund.

REGIONAL EDUCATION COOPERATIVES:

(1) Northwest 2 (Gallina)		674.6			674.6
(2) Northeast 4 (Las Vegas)				1,412.1	1,412.1
(3) Lea county 7 (Hobbs)		535.1		365.2	900.3
(4) Pecos valley 8 (Artesia)		1,507.3		599.4	2,106.7
(5) Southwest 10 (Truth or Consequences)		1,275.4			1,275.4

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(6) Central 5 (Albuquerque)		2,231.6	114.2	415.4	2,761.2
(7) High plains 3 (Raton)		2,662.3		355.8	3,018.1
(8) Clovis 6 (Portales)		1,168.2		28.4	1,196.6
(9) Ruidoso 9 (Ruidoso)		3,439.0		1,182.6	4,621.6
Subtotal		13,493.5	114.2	4,358.9	17,966.6

SECTION 5. SEVERABILITY.--If any part or application of this act is held invalid, the remainder or its application to other situations or persons shall not be affected.

SECTION 6. EMERGENCY.--It is necessary for the public peace, health and safety that this act take effect immediately.