

NEW MEXICO

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I. GENERAL BACKGROUND

State Support

Based on a model developed by the National Education Finance Project (NEFP) in the late 1960s and early 1970s, the New Mexico Public School Finance Act was enacted by the New Mexico Legislature in 1974. More than 25 years after its implementation, New Mexico's public school funding formula continues to be widely acclaimed as one of the most innovative of school finance plans in use across the country.

The funding formula contained in the Public School Finance Act is designed to distribute operational funds to school districts objectively and in a non-categorical manner, allowing for local school district autonomy. Formula dollars received by local districts are not earmarked for specific programs. Within statutory and regulatory guidelines, school districts have the latitude to spend their dollars according to local priorities.

The public school funding formula has been under almost constant analysis for the 25 years it has been in place. For the most part, the results of these analyses have supported statutory data-based refinements to the structure of the formula while maintaining the philosophical concept of educational equity for all students.

Local Support

New Mexico has 89 fiscally independent K-12 districts.

Estimated local revenues in 1998-99 account for 1.8% of net operational revenues and 13.2% of total revenues. School district 1998-99 budgets reflect estimated total local operational revenues of \$25.6 million (of \$1,397.2 million in net

operational revenues), which come from a 0.5 mill property tax levy, fees from patrons, tuition from out-of-state students, rents and leases, the sale of personal and real property and equipment, grants, non categorical gifts and donations, interest, and royalties.

Funding Summary 1998-99

Total State School Aid (All Programs)		\$ 1,514.8 million
Grants in Aid	1,415.0 Million	
Teacher Retirement Contributions	57.9 Million	
FICA	41.9 Million	
Total Local School Revenue		\$ 339.2 million
Property Tax	8.6 million	
Other local source tax revenue	186.1 million	
Local source non-tax revenue	144.5 million	
Total Combined State and Local School Revenue		\$ 1,854.0 million
State Financed Property Tax Credits Attributable to School Taxes		0

II. LOCAL SCHOOL REVENUE

Estimated local revenues in 1998-99 account for 1.8% of net operational revenues and 13.2% of total revenues. School district 1998-99 budgets reflect total local operational revenues of \$25.6 million (of \$1,397.2 million in operational revenues), which come from the following: 0.5 mill property tax levy: 0.64% of total operational revenue; fees from patrons and tuition from out-of-state students: 0.25% of total operational revenue; royalties, rents and leases: 0.14% of total operational revenue; the sale of personal and real property and equipment: 0.03% of total operational revenue; interest: 0.78% of total operational revenue; and miscellaneous sources: 0.07% of total operational revenue.

Property Taxes

When the current funding formula was implemented in 1974, local districts could assess a local property tax levy of 8.925 mills resulting in a local effort equal to approximately 13% of public school operational revenues. In response to

demands for property tax relief, the 1981 Legislature enacted a three-phase reduction in school property taxes from 8.925 mills to 0.5 mills. Since that time, the local property tax share has remained at less than 1% of the total operational revenues.

All 89 districts impose the 0.5 mill levy on residential and nonresidential property based on a statewide uniform assessment ratio of one-third of market value. The state takes credit for 95% of property tax revenues from the mill levy in determination of the State Equalization Guarantee. Passage of a 1999 amendment to the Public School Finance Act decreased the amount for which state takes credit from 95% to 75% and requires that the 20% retained by the district be used for capital outlay expenditures.

Income Tax

N/A.

Sales Tax

N/A.

Tax Credits and Exemptions

N/A.

III. TAX AND SPENDING LIMITS

Local districts are required to levy 0.5 mills on assessed valuation (one-third of market value) for general operations.

No school board or officer or employee of a school district can make any expenditure or incur any obligation for the expenditure of public funds unless the contractual obligation or expenditure is made in accordance with the operating budget approved by the State Department of Education. Transfers of funds between line items within a budget series are allowed. Transfers within a budget or the provision of items not previously included are possible upon written request and with approval of the State Superintendent of Public Instruction. Districts cannot operate under a deficit budget.

Each school district is limited in the amount of general obligation bonds that it can have outstanding at any one time. The constitutional limit is 6% of the total assessed valuation of the property in the district. Also, see sections on Public

School Buildings Levy and Capital Improvements Levy in the “Capital Outlay and Debt Service” section.

IV. STATE/PROVINCIAL EARMARKED TAX REVENUE

Enacted in 1995, the New Mexico Lottery Act provides that 60% of lottery net proceeds be earmarked for the Public School Capital Outlay fund for distribution under provisions of the Public School Capital Outlay Act. Earmarked lottery funds amounted to approximately \$13.0 million in 1998–99.

School district operational funds are derived from the following sources: General Fund, Current School Fund, and Federal Mineral Leasing Revenue. General Fund revenues are derived from a statewide gross receipts tax, income tax, interest earnings, rents and royalties, severance taxes, license fees, and miscellaneous receipts. State general fund revenues are not earmarked for the public schools. Until recently, the public school share of state general fund revenues had declined from a high of 51.6% in 1986–87 to a low of 45.5% in 1996–97. The 1998–99 estimated share is 47.8%.

The Current School Fund consists of earnings on the invested Permanent School Fund and land income. Federal Mineral Leasing revenue is designated for the statutorily required Free Textbook appropriation. Any remaining Federal Mineral Leasing revenues are deposited to the Public School Fund for distribution through the State Equalization Guarantee, as well as for transportation costs and supplemental distributions such as emergency funds and out-of-state tuition.

V. BASIC SUPPORT PROGRAM

Funding in 1998–99: \$1,344.1 million.

Percentage of Total State Aid: 88.7%.

Nature of the Program: Foundation program considered by the state to be a full state funding program under the 1974 Public School Finance Act.

Allocation Units: Pupils. Enrollment.

Local Fiscal Capacity: Equalized assessed property valuation (equalized at one-third of market value) plus other revenue.

How the Funding Formula Works: The purpose of New Mexico’s Public School Finance Act is to equalize financial opportunity at the legislatively determined revenue level and to guarantee each New Mexico public school student equal access to programs and services appropriate to his or her educational needs regardless of geographic location or local economic conditions. Through the absence of categorical funding and fund “tracking,” the act also attempts to encourage local school district initiatives to seek more efficient and effective means of achieving stated educational goals.

The public school funding formula uses cost differentials to reflect the costs associated with providing educational service to students.

The program cost for each school district is determined by multiplying the student full-time equivalency in a particular grade or a program full-time equivalency by the respective cost differential to generate units. Those student full-time equivalencies and program full-time equivalencies are determined by district membership on the 40th day of school and adjusted by the count of special education students on December 1. All of the program units are then added together and multiplied by the district’s training and experience index to produce the adjusted program units.

The 1999 Legislature passed legislation to amend the Public School Finance Act by requiring, effective July 1, 1999, the use of prior year 40th day and December 1 membership to calculate State Equalization Guarantee funding. Effective July 1, 2000, the new legislation requires the use of prior year average of membership on the 40th, 80th, and 120th days for calculating program units for distribution of the State Equalization Guarantee funds.

Each district’s instructional staff training and experience index is calculated based upon five academic classifications and five levels of teaching experience. The index is used as a multiplier of the total early childhood, grades 1–12, special education, and bilingual units.

Academic Classification	Years of Experience				
	0-2	3-5	6-8	9-15	Over 15
Bachelor’s Degree or Less	0.75	0.90	1.00	1.05	1.05
Bachelor’s Plus 15 Credit Hours	0.80	0.95	1.00	1.10	1.15
Master’s or Bachelor’s Plus 45 Credit Hours	0.85	1.00	1.05	1.15	1.20
Master’s Plus 15 Credit Hours	.90	1.05	1.15	1.30	1.35
Post-Master’s or Master’s Plus 45 Credit Hours	1.00	1.15	1.30	1.40	1.50

The training and experience index is determined by:

1. Multiplying the number of FTE instructional staff in each academic classification by the numerical factor in the appropriate “years of experience” column;
2. Adding the products calculated in (1) above; and
3. Dividing the total in (2) above by the total number of FTE instructional staff.

State statute requires that no district’s training and experience factor can be less than 1.0.

The following are then added to the adjusted program units (which are the number of student-generated units multiplied by the district’s Training & Experience index): units generated by students served in nonprofit special education institutions; unit generated by the various size adjustment factors in the formula for small and rural school and districts; units generated by growing districts; units generated by any newly created districts; units generated by a statutory at-risk factor in the formula; and save harmless units generated to protect very small districts from a precipitous decline in revenue.

The grand total of all the units is then multiplied by the unit value for that school year resulting in the district’s program cost, which is then adjusted to determine the district’s state equalization guarantee.

Program cost is the amount of money assumed under the formula to be necessary for a given district with a particular configuration of students and educational programs to provide educational services. A district’s state equalization guarantee is the amount of money the State of New Mexico “guarantees” to provide to the district to defray most of the program cost. The exact amount is determined by:

1. Adding together revenue coming into the district as the result of a required half-mill property tax levy; federal revenue generated under Impact Aid (formerly PL 874), except that revenue generated specifically for special education and Indians residing on federal land; and any revenue generated through Forest Reserve Funds;
2. Multiplying the result by 95% to determine the revenue for which the state takes credit; and
3. Subtracting the credit amount from program cost.

The 1999 Legislature passed legislation to reduce the 95% tax credit to 75% requiring that the additional 20% left to districts be used for capital outlay purposes. The legislation will become effective July 1, 1999. (See "Recent/Pending Litigation" below.)

Districts that participate in the Utility Conservation Program have an additional amount subtracted from the program cost; that amount is held in a separate fund to be used solely for that program.

STATE EQUALIZATION GUARANTEE COMPUTATION

MEMBERSHIP/PROGRAM TIMES DIFFERENTIAL=UNITS

Kindergarten & 3- & 4- Year-Old DD	FTE	×	1.440
Grade 1	MEM	×	1.200
Grades 2-3	MEM	×	1.180
Grades 4-6	MEM	×	1.045
Grades 7-12	MEM	×	1.250
SPECIAL EDUCATION			
Ancillary	FTE	×	25.000
A/B Level	MEM	×	0.700
C/D Level	MEM	×	1.000
D Level	MEM	×	2.000
3- & 4-Year-Old DD	MEM	×	2.000
BILINGUAL			
	FTE	×	0.500

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TOTAL PROGRAM UNITS

T&E INDEX MULTIPLIER → Times Value from 1.00-1.500

ADJUSTED PROGRAM UNITS

- Elem./Jr. High Size Units
- Senior High Size Units
- District Size Units
- Rural Isolation Units
- At-Risk Units
- Enrollment Growth Units

PLUS ↓
D-Level NPTC

PLUS →
TOTAL UNITS

EQUALS →

PLUS ↓
+ Save Harmless Units
GRAND TOTAL UNITS

Grand Total Units × Unit Value = Program Cost
Program Cost
 -75% (Non-categorical Revenue Credits)
-Utility Conservation Program Contract Payments

State Equalization Guarantee

Local Share and State Share in Funding: The state share of revenues for public school operational expenditures has remained relatively stable from the 1974 implementation of the funding formula to the present. The state percentage has remained at approximately 90% since 1983 with the 1998–99 percentage at 93.8%. The 1998–99 local percentage equaled 1.8% with only 0.64% from local property taxes. Federal revenues contributed another 4.4%.

Weighting Procedures: By program and teacher experience.

Adjustments for Special Factors: Weighted program, training and experience, school and district size, rural isolation, at-risk, enrollment growth, newly created districts, and save harmless units.

Aid Distribution Schedules: A proportional amount of the State Equalization Guarantee is distributed monthly to school districts by the State Department of Education.

Districts Off Formula: None.

VI. TRANSPORTATION

Funding in 1998–99: \$85.6 million.

Percentage of Total State Aid: 5.7%.

Description: Transportation funds are distributed based on a statutory funding formula and a categorical, annual legislative appropriation.

The statutory formula requires that schools be placed into groups based on the average square miles per student within each district's boundaries. An average expenditure per student for each district is calculated using the prior year's operational expenditures divided by the number of students transported. An average expenditure per student is then calculated for each group.

Districts in which the expenditure per student exceeds the group average are adjusted downward to the average. Districts in which expenditures per student are less than the average are adjusted upward to the average. Statute allows a supplement to be added to the average per student expenditure based on the percentage of unpaved and unimproved roads traveled in each district. The

statute also contains a hold harmless provision to stabilize the yearly impact of changes in service.

State statute provides for funding the replacement of buses for both district- and contractor-owned buses based on criteria established by the State Department of Education.

State and Local Share: N/A.

Extent of Participation: 12 districts provide student transportation on district-owned buses; 41 districts contract for student transportation; and 26 provide transportation with a combination of district- and contractor-owned buses.

VII. SPECIAL EDUCATION

Funding in 1998–99: \$151.1 million (included in the State Equalization Guarantee distribution).

Percentage of Total State Aid: 10.0%.

Description: The funding formula provides non-categorical state support based on special needs of students. While it is possible to describe the dollars distributed through the State Equalization Guarantee for special education, the distributions do not guarantee that the dollars will be spent only for special education. The description is also imprecise because it does not take into account distributions in the State Equalization Guarantee based on school and district size, teacher training and experience, and elements contributing to a district's at-risk factor. It can only be assumed that portions of these other distributions are also used to meet the needs of special education students.

Students enrolled in special education programs are classified as A, B, C, or D depending upon the type and extent of services needed. Each special education program must be approved by the State Department of Education before state support is provided. Special education includes programs for gifted students and ancillary programs designed to provide the services of therapists, psychologists, and other specialists needed to identify, classify, and assist students.

All special education students are first counted at their respective grade levels just as are all other students. Through a series of "add-on" indices, special education students and ancillary personnel generate additional funding units as listed below, which then generate funding in following amounts:

	Differential=Units	1998–99
Distributions		
Ancillary Staff FTE	25.0	\$ 3.9 million
A/B Level Student Membership	0.7	\$78.7 million
C Level Student Membership	1.0	\$29.1 million
D Level Student Membership	2.0	\$30.3 million
3-& 4-Year-Old Dev. Disabled	2.0	\$ 8.9 million

State and local Share: N/A.

Extent of Participation: All districts.

VIII. COMPENSATORY EDUCATION

Funding in 1998–99: \$54.5 million (included in the State Equalization Guarantee distribution).

Percentage of Total State Aid: 3.6%.

Description: In 1997, the Public School Finance Act funding formula was revised to include an “at-risk” factor. In order to be eligible, school districts must have a State Board of Education-approved plan for services to assist students at risk of failure and dropping out. Each district must also include a report of its at-risk services in its statutorily mandated annual accountability report. The number of additional “at-risk” units to which a district entitled is based on the district’s total membership (including early childhood education, full-time equivalent membership, and special education membership) multiplied by the district’s “at-risk” factor.

The State Department of Education calculates each district’s “at-risk” factor biennially in the following manner:

$$\text{Refined At-Risk Cluster} \times 0.015 = \text{At-Risk Index}$$

The State Department of Education calculates the refined at-risk cluster by rank ordering each school district in the state based on the following district data: percentage of membership used to determine its Title I allocation; percentage of membership classified as limited English proficient using federal Office of Civil Rights criteria; student mobility rates; and dropout rate.

Using these data, the State Department of Education first groups districts into nine clusters using a neural network computer analysis and assigning each school district with a whole number from one to nine reflecting its initial cluster assignment. Districts with higher need receive a higher number, and districts with lower need receive a lower number. The State Department of Education then modifies this number on the basis of the district's relative position in the cluster and further refines the number through the use of a second neural network computer analysis. Using the results of this analysis, the State Department of Education then refines the cluster assignment and the number assigned to each school district to determine the district's refined at-risk cluster assignment, which is then multiplied by 0.015. The product is the district's at-risk index.

Since 1987, local school boards have been mandated to develop remediation programs to provide special instructional assistance to students in grades 1–8 who fail to master essential competencies as established by the State Board of Education. These programs may include but are not limited to tutoring or summer programs. The cost of summer and after-school remediation programs offered in grades 9–12 may be borne by parents or guardians except for cases in which parents are determined to be indigent. A reading assessment instrument designated by the state determines the need for remedial programs.

State and Local Share: N/A.

Extent of participation: All districts.

IX. GIFTED AND TALENTED EDUCATION

Funding in 1998–99: \$18.5 million (included in the State Equalization Guarantee distribution).

Percentage of Total State Aid: 1.2%.

Description: For funding purposes, gifted students are identified through an evaluation by multidisciplinary teams in each district who are required to consider information regarding a child's cultural and linguistic background and socioeconomic background in the identification, referral, and evaluation process. Statute requires that the teams consider diagnostic or other evidence of the child's creativity or divergent-thinking ability, critical-thinking or problem-solving ability, intelligence, and achievement. Gifted programs are included within special education programs.

State and Local Share: N/A.

Extent of participation: 11,121 students in 82 districts.

X. BILINGUAL EDUCATION

Funding in 1998–99: \$36.9 million.

Percentage of Total State Aid: 2.4%.

Description: The state distributes funds to local districts offering bilingual programs in grades K–12 under the Bilingual Multicultural Education Act.

To be eligible for state financial support, each program must: Provide for the educational needs of linguistically and culturally different student, including native American children and other students who may wish to participate with priority given to K-3 programs; Use two languages as mediums of instruction; Use teachers who have specialized in elementary or secondary education with additional, special training in bilingual education conducted through the use of two language; and Emphasize the history and cultures associated with the students' mother tongue.

Bilingual education distribution units are equal to the FTE students in approved program multiplied times 0.50.

State and Local Share: N/A.

Extent of participation: 78,551 K–12 students in 63 school districts.

XI. EARLY CHILDHOOD EDUCATION

Funding in 1998–99: \$64.6 million.

Percentage of Total State Aid: 4.3%.

Description: New Mexico requires all students at least five years of age prior to 12:01 a.m. on September 1 of the school year to attend kindergarten for one-half day. The state also offers programs for three- and four-year-old developmentally disabled students identified through a “child find” program.

State and Local Share: N/A.

Extent of participation: 28,297 students in 89 districts (including 3,825 three- and four-year-old developmentally disabled students)

XII. OTHER CATEGORICAL PROGRAMS

Instructional Material

Funding in 1998–99: \$24.5 million (\$73.92 per student).

Percentage of Total State Aid: 1.6%.

Description: The state provides separate funding for instructional material, which includes textbooks as well as supplemental instructional material, of which 70% must be from a list adopted by the State Board of Education. Any qualified student or person eligible to become a qualified student attending a public school, state institution, or a private school approved by the State Board of Education in any grade from K–12 is entitled to the free use of instructional material. Any student in an Adult Basic Education Program approved by the State Board is also entitled to the free use of instructional material.

Funds are provided to pay for the cost of the purchase of instructional material and the transportation charges for these materials. Funds are allocated directly to each school district, private school, or adult education center.

State Share: Districts purchase a major share of instructional material under provisions of the Instructional Material Law (\$24.5 million 1998–99). However, districts budgeted an additional \$7.9 million in operational funds on other textbooks, library and audio-visual supplies and materials, software, and other instructional supplies and materials.

Extent of Participation: K–12 students in all districts, approved Adult Basic Education Programs, state institutions, and approved private schools (see “Aid to Private Schools” below).

Supplemental Distributions

Funding in 1998–99: \$2.1 million.

Percentage of Total State Aid: less than 1%.

Description: The state makes funds available to supplement emergency needs for both operational and capital outlay funding. The state also provides funds for

tuition for New Mexico students who attend school out of state because an out-of-state school is located closer to the student's residence than any New Mexico public schools. In 1998–99, the supplements were as follows: Emergency Supplemental \$800,000, Emergency Capital Outlay \$950,000, and Out-of-State Tuition \$380,000.

State and Local Share: N/A.

Extent of Participation: Not reported.

Miscellaneous Special Project Appropriations

Funding in 1998–99: \$1.2 million.

Percentage of Total State Aid: less than 1%.

Description: Various local school district and statewide special projects were funded by the legislature through special appropriations. In 1998–99, a total of 30 of 89 school districts received \$1,000,000 in funding for RE: Learning; a total of 18 of 89 districts received \$200,000 for GRADS, a teen parenting program.

State and Local Share: N/A.

Extent of Participation: Not reported.

XIII. TEACHER RETIREMENT AND BENEFITS

Funding in 1998–99: \$168.9 million.

Percentage of Total State Aid: 11.1%.

Description: All funding is included in State Equalization Guarantee and breaks down as follows:

Educational Retirement	\$57.9 million
ERA – Retiree Health Care	\$ 6.1 million
FICA	\$41.9 million
Medicare	\$ 9.8 million
Health/Medical Insurance	\$38.1 million
Other Insurance (Life, Dental, Vision, Disability)	\$ 9.9 million
Various Workers' Comp Fees	\$ 3.9 million
Other Benefits	\$ 1.2 million

Both districts and employees contribute to these funds (Educational Retirement Fund contribution equals 8.65% of annual salary for the employer and 7.6% for the employee). The state's contributions to the fund are distributed to the districts through the State Equalization Guarantee. Districts contribute 1% of salaries for health care after retirement; employees contribute 0.5%.

State and Local Share: The state provides additional funding for health insurance, workers' compensation, unemployment insurance, and forward funding of public school retiree, spouse, and dependent health insurance. Districts provide from 60 to 75% of the costs of health insurance depending upon individual salary levels and negotiated agreements.

Extent of Participation: Not reported.

XIV. TECHNOLOGY

Funding in 1998–99: \$7 million.

Percentage of Total State Aid: less than 1%.

The 1998 Legislature provided funding for 1998–99 of \$14.02 per student with a total appropriation of \$4.4 million. Districts budgeted a total of \$3.2 (0.5% of total capital outlay revenues) in Technology for Education Act revenues for 1998–99.

State and Local Share: N/A.

Extent of Participation: All districts.

Education Technology Equipment Act

Funding in 1998–1999: \$3.1 million.

Percentage of Total State Aid: less than 1%.

Description: Allows school districts to create debt without submitting the question to voters to enter into a lease-purchase agreement to acquire educational technology equipment. In 1998–99, districts budgeted a total of \$3.1 million (0.5% of total capital outlay revenues) in Education Technology Equipment Act

revenues, including \$175,000 from projected bond sales and \$2.9 million in Education Technology Equipment Act actual cash balance funds.

The appropriate Board of County Commissioners levies and collects, upon all taxable property within a school district within the county, such ad valorem tax necessary to pay the interest and principal on bonds. Education Technology Equipment Act bond debt service revenues for 1998–99 equaled \$0.7 million (0.1% of total capital outlay revenues).

Extent of participation: 4 of 89 districts.

Public School Capital Improvements Act

Allows districts to use Public School Capital Improvements Act funds for the purchase of software for classroom use. Funds used for these purposes are included in “Public School Capital Improvements Act” totals in the “Capital Outlay and Debt Service” section below.

Extent of participation: 82 of 89 districts participating in the Public School Capital Improvements Act are eligible.

XV. CAPITAL OUTLAY AND DEBT SERVICE

Total Funding in 1998–99: \$90.6 million.

Percentage of Total State Aid: 15.9%.

Public school capital outlay is both a local and state responsibility in New Mexico. Qualifying districts can generate state revenues through two statutory measures, one of which provides funding for critical needs and a second one that guarantees a level of funding based on a district’s ability to support its capital needs through local property taxes. Locally, districts can generate capital outlay revenues from the sale of bonds, direct levies, earnings from investments, rents, sales of real property and equipment, as well as other miscellaneous sources. Total state and local capital outlay budgeted revenues, including taxes, interest, abatements, insurance recoveries, refunds, applicable carryovers, and actual cash balances, equaled \$685.3 in 1998–99, with \$412 million from local dollars and \$181.9 from debt service in addition to the state funding.

Public School Capital Improvements Act

Allows districts, with voter approval, to impose a levy of up to two mills for a maximum for four years. Participating districts are guaranteed a certain level of funding, supplemented with state funds if the local tax effort does not generate the guaranteed amount. The “program guarantee” is based on school district 40th day total program units multiplied by the matching dollar amount (currently \$35) multiplied by the mill rate stated in the voter-approved resolution. The total revenue generated by the Public School Capital Improvements Act is subtracted to determine the amount of state guarantee funds the district will receive. For 1998–99, districts budgeted a total of \$7.9 million (1.2% of total capital outlay revenues) in state Public School Capital Improvements Act funds.

Public School Capital Outlay Act

Provides for state funding of critical school district capital outlay needs that cannot be met by school districts after they have exhausted other sources of funding. The Legislature usually appropriates varying amounts to the Public School Capital Outlay Fund, and the New Mexico Lottery contributes 60% of all net lottery proceeds to the Public School Capital Outlay Fund. The Public School Capital Outlay Council (PSCOC) awards funds to qualifying school districts for designated projects. Provided for in statute, the PSCOC’s membership consisted of equal representation from the executive and legislative branches and from the State Department of Education and local school board members. Legislative appropriations have ranged from \$31.5 million in 1996 to none in 1997. The 1998–99 legislative appropriation was \$21.4 million, which was awarded to 35 qualifying districts as project-specific grants. The PSCOC makes grant awards based on statutory criteria, district requests, evidence of critical need, and the amount of funds available in a given year. For 1998–99, districts budgeted a total of \$53.3 million (7.8% of total capital outlay revenues), including \$52.4 million in state 1998–99 PSCOC revenues and an actual cash balance of \$0.8 million² from interest and previous years’ grant awards.

New Mexico Lottery Act

Enacted in 1995, the New Mexico Lottery Act provides that 60% of lottery net proceeds be earmarked for the Public School Capital Outlay Fund for distribution by the PSCOC under provisions of the Public School Capital Outlay Act. Approximately \$13.0 million in Lottery Act funds were realized for PSCOC grants in 1998–99. Budgeted revenues from proceeds of the New Mexico Lottery are included in the budgeted PSCOC revenues above.

Direct Legislative Appropriations

Sponsored by individual legislators, direct legislative appropriations are capital outlay project funding targeted for specific projects within the school district. Revenue sources can include the general fund, severance tax bonds, or statewide general obligation bonds. For 1998–99, the Legislature appropriated \$21.0 million for capital outlay projects in 54 school districts. Districts budgeted a total of \$26.2 million (3.8% of total capital outlay revenues), including \$24.9 in direct legislative appropriations for 1998–99 and interest and an actual cash balance of \$1.7 million from previous years' direct legislative appropriations.

General Obligation Bonds

Local school districts seek voter approval to issue general obligation bonds for capital outlay purposes. Each district's issuance of bonds is subject to the state constitutional limit of 6% of the total assessed valuation of the district. Voter authorized bonds must be sold within three years of voter approval. For expenditure in 1998–99 districts budgeted \$61.1 million from the projected sale of general obligation bonds in 1998–99 plus an actual cash balance from previous bond sales of \$145.3 million for a total of \$206.4 million (30.1% of total capital outlay revenues) in budgeted general obligation bond revenues for 1998–99.

The appropriate Board of County Commissioners levies and collects, upon all taxable property within a school district within the county, such ad valorem tax necessary to pay the interest and principal on bonds. General obligation bond debt service revenues for 1998–99 equaled \$181.2 million (26.4% of total capital outlay revenues).

Public School Capital Improvements Act

Allows districts, with voter approval, to impose a levy of up to two mills for a maximum of four years. Funding is generally used for maintenance of school buildings. In 1998–99, districts budgeted a total of \$47.4 in local Public School Capital Improvements Act revenues for 1998–99 plus an actual cash balance of \$47.3 million for a total of \$94.7 million (13.8% in total capital outlay revenues) in budgeted Public School Capital Improvements Act funds.

Public School Buildings Act

Allows districts to seek voter approval to impose up to 10 mills for a maximum of five years on the net taxable value of property in the district. This funding mechanism is most useful for districts with high assessed valuation (or a broad tax base) and low bonded indebtedness. Districts budgeted a total of \$90.7 (13.2% in total capital outlay revenues) in Public School Buildings Act revenues for 1998–99 including \$41.9 in projected tax revenues and \$48.7 in actual cash balance Public School Buildings Act revenues.

Education Technology Equipment Act

Allows school districts to create debt without submitting the question to voters to enter into a lease-purchase agreement to acquire educational technology equipment. In 1998–99, districts budgeted a total of \$3.1 million (0.5% of total capital outlay revenues) in Education Technology Equipment Act revenues, including \$175,000 from projected bond sales and \$2.9 million in Education Technology Equipment Act actual cash balance funds.

The appropriate Board of County Commissioners levies and collects, upon all taxable property within a school district within the county, such ad valorem tax necessary to pay the interest and principal on bonds. Education Technology Equipment Act bond debt service revenues for 1998–99 equaled \$674,034 (0.1% of total capital outlay revenues).

Miscellaneous Local Sources

Districts can also derive local capital outlay funds from such sources as donations, rents, and sale of real property and equipment. In 1998–99, districts budgeted a total of \$17.9 million (2.6% of total capital outlay revenues) from miscellaneous local sources including \$10.7 in 1998–99 revenues and \$7.2 in actual cash balance from miscellaneous local sources of revenue.

XVI. STANDARDS/ACCOUNTABILITY MEASURES

Funding in 1998–99: \$1.4 million.

Percentage of Total State Aid: less than 1%.

Description: The New Mexico Accountability Program for Schools seeks to answer the following four questions:

What should students know and be able to do? – First adopted by the State Board of Education in 1991, New Mexico’s Standards for Excellence represents the state’s expectations for students in all public schools.

Knowledge and skills are assessed and evaluated through monitored student performance on content standards with benchmarks and other local performance measures.

The primary planning vehicle for implementing Standards for Excellence and the community’s identified priorities within each school district is each district’s Educational Plan for Student Success (EPSS). The total school district community is required to develop, implement, assess, and evaluate an EPSS that addresses the following questions: (1) Where is the district now? (2) Where does the district need to be? (3) How will the district get there? and (4) How will the district know it is making progress toward its goals?

How do schools and districts measure and report progress? – The New Mexico Statewide Student Assessment consists of four components:

New Mexico Achievement Assessment Program—Administered in grades 4, 6, and 8

New Mexico High School Competency Examination—Administered in grade 10.

New Mexico Direct Writing Assessment—Administered in grades 4 and 6 and optional in grade 8.

New Mexico Reading Assessment—Administered in grades 1 and 2. Education.

The 1999 Legislature passed legislation to require districts to administer norm-referenced tests or standards-based assessments to all students in grades 3 through 9 each year contingent upon funding in the General Appropriation Act. That funding was vetoed when the governor vetoed the entire General Appropriation Act after the regular session but was passed again during the May special session and signed into law.

The Department of Education publishes the State Accountability Report annually and includes results of the annual Quality of Education Survey completed by parents throughout the state on a voluntary basis, descriptions of special interest programs, student trends, student achievement, and financial data.

Each school district publishes an annual school district accountability report, called the School District Report Card, that provides school-by-school, district-wide data through indices established by the State Department of Education in the following areas: Student Academic achievement, Student attendance, Student dropout rate, School safety Parent and community involvement.

How does the state review progress? – The State Department of Education uses two mechanisms, the accreditation process and approval of a district’s budget, to review district progress toward meeting goals established in each district’s Educational Plan for Student Success (EPSS).

What are the resulting actions? See “Rewards/Sanctions” section below.

State and Local Share: Districts assume the costs of reading assessment.

Extent of Participation: Not reported.

XVII. REWARDS/SANCTIONS

Funding in 1998–99: \$0.2 million.

Percentage of Total State Aid: less than 1%.

Description: The Standards for Excellence document identifies expectations for each district’s Education Plan for Student Success (EPSS). Accountability legislation passed in 1997 provides for both incentives for schools that demonstrate continuous school improvement and interventions for low performing schools.

Incentives Program

Based on the premise that schools should be rewarded for educational improvement, the Incentives Program emphasizes results as demonstrated through the following: (1) student performance on standardized tests at grades 4, 6, and 8; and (2) student performance on the New Mexico High School Competency Examination at grade 10.

A total of 105 schools (representing 10% of public school enrollment) received Incentives for School Improvement Act awards in 1998–99 at \$6.87 per student,

with schools receiving a minimum of \$1,000. Funding was included in a separate legislative appropriation to the State Department of Education.

High Improving Schools

The process for identifying high improving schools involves comparing a three-year baseline student performance in designated subject areas (reading/language arts, science, social studies, and mathematics) at designated grade levels (4, 6, 8, 10) using approved measures with subsequent two-year performance measures. Those schools with improving scores are ordered from greatest improvement to least improvement. The enrollment for the improving schools is totaled and then converted to a percentage of the total number of students statewide. Those highest improving schools with 10% of the public school enrollment are identified to receive financial incentives.

Accountability Indicators

To meet the requirement in the Incentives for School Improvement Act of giving consideration to socioeconomic factors, student achievement scores are statistically adjusted for limited English Proficiency, mobility, and the number of students qualifying for free and reduced-fee lunches. An average two-year performance level score is subtracted from the three-year baseline average in order to obtain a “school change score.” School change scores are listed from greatest improvement to least improvement so that schools with the top 10% of students may be identified.

High Performing Schools

In 1998–99, 166 schools performing in the top quartile of all schools (when schools are grouped by performance) received a certificate of recognition of the State Board of Education acknowledging their performance.

Intervention Program: During 1998–99, 11 schools were identified as Schools in Need of Improvement. No additional funding was provided to the school or district on the basis of this designation. The State Department of Education works with the school, its district, and its community to develop a school improvement plan with measurable objectives and benchmarks to indicate progress and timelines.

Formal Intervention: If an under-performing school has not made progress according to its school improvement plan for two consecutive years, the state has

legal authority to take over the school or “reconstitute” the school staff. Currently, no district or school is subject to a formal intervention process.

State and Local Share: N/A.

Extent of Participation: Not reported.

XVIII. FUNDING FOR NON-TRADITIONAL PUBLIC SCHOOLS

Charter Schools

Funding in 1998–99: \$17.9 million.

Percentage of Total State Aid: 1.2%.

Description: Included in the State Equalization Guarantee distribution signed into law in 1993, the purpose of the Charter Schools Act is to: allow individual schools to restructure their educational curriculum to encourage innovative teaching methods; enable individual schools to be responsible for site-based budgeting and expenditures; and ensure that the State Board of Education meets its statutory and constitutional mandates in overseeing charter schools.

New Mexico currently has five charter schools, the maximum allowed by the Charter Schools Act.

The 1999 Legislature passed the 1999 Charter Schools Act, which repeals the existing Charter Schools Act as of July 1, 1999. The new legislation does the following: provides for an increase in the number of statewide charter schools to 15 start-up and five conversion schools for each of the next five years; vests chartering authority with local school boards, with appeals to the State Board of Education and requirements that the State Board of Education accredit charter schools that meet certain conditions; waives State Board of Education requirements relating to class and teaching load, length of school day, staffing, subject, and purchase of instructional material; and requires local school boards to ensure charter schools’ compliance with state laws and charter school regulations.

Extent of Participation: Not Reported.

Alternative Schools

All funding for students in alternative schools is included non-categorically in the State Equalization Guarantee distribution to each alternative school’s district.

Local boards of education determine budgets for alternative schools. Alternative schools are excluded from generating small school size adjustment units.

In New Mexico, alternative schools operate as part of their respective school districts. The State Department of Education has authorized a total of 22 alternative schools, 18 of which were in operation during the 1998–99 school year. Sixteen of the state’s 89 districts offer alternative schools. Alternative schools are offered at the middle and high school levels.

Open Enrollment

Funding for students participating in open enrollment is included as part of a district’s State Equalization Guarantee distribution and allocated to each school through the district’s internal budgeting process.

The 1998 Legislature passed legislation to allow open enrollment among all New Mexico schools and school districts. The law establishes the following priorities for enrollment in public schools:

Priority 1 – Students residing with the district and attendance area of a school;

Priority 2 – Students who previously attended the school; and

Priority 3 – All other applicants.

The law requires that, once first priority students are accommodated, a district or school must enroll other students on the basis of statutory priorities as long as the district or school has space available. Once space is no longer available, the district or school must establish a waiting list. As soon as space becomes available, students must be admitted based on priority and position on the waiting list.

State and Local Share: N/A.

Extent of Participation: Not reported.

XIX. AID TO PRIVATE SCHOOLS

Funding in 1998–99: \$1.9 million.

Percentage of Total State Aid: less than 1%.

Description: New Mexico transfers funds and/or services to nonpublic schools under several programs. Federal funds (i.e., Title I) are used to provide services

to eligible students in nonpublic schools. Textbook funds, some state accreditation and licensing services, and some testing services are provided to nonpublic students or schools.

The state also has a “quasi voucher” plan for handicapped students enrolled in not-for-profit centers for D Level special education students (a total of 8 in 1997–98 and none in 1998–99). Parents in a few communities can be given very limited choices to send their children to these not-for-profit centers. Choices are restricted by state regulations and appropriate placement in terms of special needs. When the school and the parents agree on placement, the local district transfers operational funds to the center. The district may also provide travel reimbursements.

State and Local Share: N/A.

Extent of Participation: 95 private and parochial schools statewide.

XX. RECENT/PENDING LITIGATION

Recent Litigation

In 1995, a group of medium-sized school districts in New Mexico filed suit against the state claiming that the public school funding formula, as it was statutorily constituted at the time, violated the New Mexico Constitution guarantee of the establishment and maintenance of “[a] uniform system of free public schools sufficient for the education of . . . all children of school age in the state. . . .” (N. M. CONSTIT. §1)

The 1995 Legislature, the Executive, and the State Board of Education appointed a task force to study the issue and make recommendations to the 1997 Legislature.

Upon recommendation of the funding formula task force, the 1997 Legislature amended the Public School Finance Act to eliminate the so-called “density factor,” which had been added to the funding formula in 1991, and institute an “at-risk” factor, now in statute. Also upon the recommendation of the task force, the Legislature amended statute to change the way in which special education students are accounted for in the funding formula (see the “Basic Support Program” section above). After passage of the legislation, the litigants dropped the suit.

In 1997 a school district filed suit against the state claiming that the Training and Experience Index in the current funding formula is inequitable (see the “Basic Support Program” section above). The court found in favor of the state.

Pending Litigation

In 1998, three school districts filed a lawsuit against the state claiming that the state’s funding for capital outlay is unconstitutional based on Article XII, Section 1, of the New Mexico Constitution guaranteeing the establishment and maintenance of “[a] uniform system of free public schools sufficient for the education of . . . all children of school age in the state. . . .”

All three districts involved in the lawsuit include within their respective boundaries a great deal of nontaxable federal land. One district’s boundaries, in fact, are co-terminus with the boundaries of the Zuni Indian Reservation. The districts contend that capital outlay funding in New Mexico is primarily based on local property wealth. They further contend that, since the state takes credit for 95% of some federal Impact Aid funds and all locally generated funds, they have limited resources to deal with capital outlay funding and that their students are not able to benefit from the constitutionally required “uniform system of public schools.”

The 1999 Legislature passed legislation to reduce the amount of local and federal Impact Aid funding that the state takes credit for from 95% to 75% and requiring that districts use the additional 20% for capital outlay expenditures (see the “BASIC SUPPORT Program” section above).

The 1999 Legislature also passed several other bills to attempt to address the issue of equalization of capital outlay funding, but the governor vetoed those bills.

The districts are continuing to press the lawsuit.

XXI. SPECIAL TOPICS

Vouchers

In 1999, the governor of New Mexico proposed legislation to phase in a voucher system that would have become effective for all students in the state within four years. The governor’s voucher legislation did not pass. The governor then vetoed the entire General Appropriation Act and the omnibus capital outlay bill indicating that he wanted to see legislation passed that would address tax reductions and “real education reform,” which he describes as “school choice.” The governor called the Legislature into special session in May to consider another General

Appropriation Act, including issues of tax reduction and vouchers. A General Appropriation Act was passed and signed into law. It did not include language relating to or funding for vouchers.

During the special session, the Legislature passed a bill establishing a task force to examine issues related to school reform, including vouchers and other forms of school choice. The governor vetoed that bill; however, using its statutory authority the Legislative Council established the Education Initiatives and Accountability Task Force, which includes 16 legislators and 14 public members. The task force will meet during the 1999 interim and make recommendations to the 2000 Legislature.