

**State Fiscal Stabilization Fund (SFSF) – Education Stabilization Fund –
Updated to Reflect the Phase I Amendment and Phase II Application
American Recovery and Reinvestment Act (ARRA) Federal Stimulus Funds
New Mexico Public Education Department (PED) and New Mexico Higher Education Department (HED)
New Mexico Office of Recovery and Reinvestment (NMORR) Approval**

Overview of Federal Stimulus Program/ Grant and Relationship to Existing Programs

The State will receive \$260,436,399 in education stabilization funds. This funding does not relate to an existing program and is defined as counter-cyclical. Funds must be obligated by the local entity receiving the funds by September 30, 2011. An award of funds to a local education agency (LEA) or institute of higher education (IHE) does not constitute an obligation. The requirements for local obligation are outlined in United States Education of Department (USDoE) General Administrative Regulations at 34 CFR 76.707. The purpose of counter-cyclical funding is to minimize or avoid states' needs to make deep cuts in education and allow states to reprogram some of their own funding to other areas to offset planned budget cuts.

See *Attachment A*, "Education at a Glance", for a summary of education funding.

The Education Stabilization Fund was released in two phases: 67% was awarded on June 6, 2009; and 33% was awarded on March 4, 2010 based on New Mexico's Phase II application. This application demonstrates New Mexico's progress in four reform areas with an emphasis on the status and plans to meet the data requirements:

- Increase teacher effectiveness and address inequities in the distribution of highly qualified teachers,
- Establish and use PreK-college and career data systems to track progress and foster continuous improvement,
- Make progress toward rigorous college- and career-ready standards and high-quality assessments,
- Support targeted, intensive support and effective interventions to turn around schools identified for corrective action and restructuring.

The USDoE has identified data to establish baselines in each of the four reform areas. PED and Office of Education Accountability (OEA) have reviewed the data and agree the data is valid and can be used to establish the baseline.

Phase I funding available to New Mexico for education stabilization is \$174,492,387. Phase II funding available for education stabilization is \$85,944,012. The Governor has flexibility in determining when to release the funds to LEAs and IHEs. In conjunction with House Bill 17 that passed the October 2009 Special Session, which addresses budget solvency issues, the Governor has allocated \$210,062,500 to LEAs and \$15,538,400 to IHEs for FY10.

Education Stabilization Funds

Education stabilization funds must be used to restore state funding to public schools and higher education institutions for FY09, FY10 and FY11 to the higher of FY08 or FY09 as specified in ARRA. If all or any part of the funding is not needed to restore state funding, then the funding is allocated to public schools based on PED's Title I allocations. For public schools, the restoration will be allocated through the State's funding formula. (Amounts for distribution to LEAs is attached at the end of this brief as Attachment F) For IHEs, the restoration will be allocated as described in *Attachment B*.

The required calculations are as follows:

- PED is limited to the amount of required restorations as calculated in accordance with USDoE guidelines. First, PED calculates if there are FY09 cuts that need to be restored. If there are, that amount is subtracted from the \$260.4 million, and then distributed to public schools and higher education institutions as required, and the balance, if any, is carried over to FY10.

- Next, PED calculates if there are FY10 cuts that need to be restored. If there are, that amount is subtracted from the balance carried over from FY09, then distributed to public schools and higher education institutions as required, and the balance, if any, is carried over to FY11.
- Next, PED calculates if there are FY11 cuts that need to be restored. If there are, that amount is subtracted from the balance that was carried over from FY10, then distributed to public schools and higher education institutions as required, and the remaining balance, if any, is distributed to public schools based on the Title I distributions.
 - For New Mexico, based on USDoE guidelines, for FY09, there is nothing to restore. Based on the FY10 adjusted budget, PED calculates it must restore \$234.0 million to public schools and HED calculated it must restore \$26.5 million to institutions of higher education. In accordance with the discretion provided in the Education Stabilization award and based on House Bill 17 that passed the October 2009 Special Session, \$210.1 million will be allocated to LEAs and \$15.5 million will be allocated to IHEs for FY10.
 - For FY10, the Legislature appropriated \$164.7 million for public school support; compared with the \$210.1 million PED calculated that needs to be restored, so PED will need to distribute \$45.4 million more than the Legislature appropriated.
 - The calculations leave about \$34.8 million that will be carried over to FY11 to restore cuts to public school and higher education budgets, as required. New Mexico does not have a choice on the restoration levels to public schools and higher education institutions. The restoration is pro rated between public education and higher education, with \$23.9 million going to LEAs and \$10.9 million going to IHEs.

According to USDoE guidance, neither PED nor the Governor may limit how a public school chooses to use the education stabilization funding. The amount of Education Stabilization funding that a LEA receives is determined strictly on the basis of formulae and the ARRA gives LEAs considerable flexibility over the use of these funds. For example, an LEA may use Education Stabilization funds for activities authorized under Title VIII of the ESEA (Impact Aid), subject to the limited ARRA statutory prohibitions on the uses of funds and other applicable federal requirements. The guidance also states, however, that public schools may use education stabilization for “modernization, renovation or repair” and schools may also use the funds for construction. The state must comply with Section 1511 of the Recovery Act; all infrastructure investments must receive the full review and vetting required by law and the executive accepts responsibility that the infrastructure investment is an appropriate use of taxpayer dollars.

PED has instructed all schools to budget their FY10 education stabilization funds in their operating budgets; PED also has required schools to budget the funds in separate budget accounts to ensure a separate accounting and to promote transparency. By statute, PED approves schools’ operating budgets and budget adjustments; the FY10 operating budgets have been approved. To further address this issue, PED has:

- Included the vetting requirement in the application that all schools are required to submit to PED to access the education stabilization funding,
- Reviewed operating budgets to determine if there are schools planning to use the education stabilization funds for infrastructure, and
- Put a process in place to review quarterly reports to ensure there are no infrastructure expenses.

In addition, Section 22-8-41 NMSA 1978 restricts public schools’ use of operational funds; specifically, it states:

“A school district shall not expend money from its operational fund for the acquisition of a building site or for the construction of a new structure, unless the school district has bonded itself to practical capacity or the secretary determines and certifies to the legislative finance committee that the expending of money from the operational fund for this purpose is necessary for an adequate public educational program and will not unduly hamper the school district’s current operations.”

PED has defined practical capacity as 3% of assessed property valuation.

There are no similar provisions directing how a Governor must award Education Stabilization funds to public Institutions of Higher Education (IHEs). Consistent with the purposes of the Stabilization program, however, a Governor may restrict IHEs use of funds to expenditures that would mitigate the need for increases in tuition and fees paid by in-State students. IHEs may use education stabilization funds to modernize, renovate or repair facilities that are used primarily for instruction, research, or student housing, including modernization, renovation, and repairs that are consistent with a recognized green building rating system. IHEs may not use education stabilization funds for new construction.

During the application process, NMORR will not approve use of any of the funds for higher education for infrastructure projects unless there is a compelling reason and unless the institution can demonstrate that it has capacity for and will comply with all the associated ARRA requirements. IHEs will budget and account for all ARRA funds in separate cost centers or with a separate organization code to assure that there is separate budgeting and accounting for these funds to meet ARRA requirements.

Other Information

- *Maintenance of Effort*: State support of public and higher education during FY09, FY10 and FY11 must be at least at the same level as FY06 state support.
- No match is required.
- Each school district and each institution of higher education must (a) maintain records that separately track and account for its Education Stabilization funds and (b) report on the specific uses of those funds.
- Federal reporting requirements are substantial.
- See *Attachment C* documents for summary of Education and General Purpose funds allowable and unallowable uses.

Federal Certifications and Assurances

See *Attachment D*, “Education at a Glance” for list of assurances and *Attachment E*, for the Public Education Department’s documentation of its due diligence in ensuring New Mexico can comply with the required assurances.

In addition to the assurances of the four reform areas, the application requires New Mexico to make assurances on accountability, transparency and reporting and other subjects. By his signature, the Governor assures that New Mexico will:

1. Make annual reports as required by the secretary of education.
2. Cooperate with any Comptroller General evaluation of the uses of funds and the impact of funding on the progress made toward closing achievement gaps.
3. If funds are used for infrastructure, will make the required Section 1511 certification that the project(s) is fully vetted, including using 50% of the funds for quick start activities.
4. Make quarterly reports 10 days after the end of each quarter in accordance with Section 1512(c) .
5. Cooperate with any Inspector General examination of records under the program.
6. Comply with all applicable assurances in OMB Standard Forms 424B and D (non-construction/construction programs assurances).
7. Make required lobbying disclosures and restrictions.

8. Comply with the Recovery Act's operational and administrative provisions in Title XIV and XV (Buy America, wage rates, NEPA and preferences for quick start activities).
9. Ensure a set of school district assurances that meets Section 442 of General Education Provisions Act (GEPA) requirements is on file with PED.
10. Include in the school district application a description of how the school district will comply with Section 427 of GEPA.
11. Comply with applicable Education Department General Administrative Regulations (EDGAR).

NMORR, PED and HED staff will address these requirements as compliance models are implemented.

Explain Risks; Proposed Risk Mitigation; Other Issues PED is managing nearly \$450 million in Recovery funds, including the stabilization funds and a \$924,743 school lunch equipment grant from the USDA. This is a significant increase in responsibility without a commensurate increase in funds to administer these ARRA funds.

Agency Request

Approve the SFSF applications.

NMORR Phase I Approval June 4, 2009

NMORR approved the SFSF application, and requires that:

- NMORR complete its review of all planning documents and that these documents address issues identified from the review,
- NMORR will include in its compliance model, evaluation of the operational/administrative assurances contained in the State Fiscal Stabilization Fund application,
- PED will comply with the provision of Section 1511 requiring certification and vetting of infrastructure projects,
- NMORR will work with PED regarding the need for administrative support within available funds, and
- PED internal audit will undertake review of the implementation of and compliance with the Recovery Act and assurances as required by the State Fiscal Stabilization Application at the state level and at the district level to the extent its resources allow for such reviews.

NMORR Phase I Amendment Approval December 22, 2009

NMORR approved submittal of the Phase I amendment to the USDoe.

NMORR Phase II Approval January 11, 2010

NMORR approved submittal of the Phase II application to the USDoe. The application was approved by the USDoe on March 4, 2010.

Office of Education Accountability

The Office of Education Accountability (OEA) will provide NMORR with the following assistance:

1. Monitor the federal Recovery Act funds in terms of meeting the ARRA guiding principles
 - a. spending funds quickly to save and create jobs
 - b. improve student achievement through school improvement and reform
 - c. ensure transparency, reporting, and accountability
 - d. invest one-time ARRA funds in ways that do not result in unsustainable commitments
2. Continue to monitor the PED's ability to verify the baseline data on the four assurances, gather the data needed to meet the U.S. Education Department's list of preliminary metrics and continue to push for the establishment of the P-20 data system.
3. Other duties as assigned.

Attachment A

Education at a Glance

U.S. Education Department Grants

	ARRA Program	New Mexico Estimated ARRA Amount	New Mexico Administering Agency	Policy Category
	TOTAL	600,380,428		
1	State Fiscal Stabilization Fund - Education Grants	260,436,399	Department of Finance and Administration	Public Education
2	Teacher Incentive Fund	2,047,098	Local Entities	Public Education
3	Education for Homeless Students	548,313	Public Education Department	Public Education
4	Educational Technology	5,143,000	Public Education Department	Public Education
5	Special Education - Part B	91,147,493	Public Education Department	Public Education
6	Special Education - Part B, Pre-School	3,401,589	Public Education Department	Public Education
7	Title I - Grants to Local Education Agencies	80,641,790	Public Education Department	Public Education
8	Title I - School Improvement	24,321,874	Public Education Department	Public Education
9	Impact Aid Formula Grants	4,254,203	School Districts	Public Education
10	Pell Grants	54,752,071	Higher Education Institutions	Higher Education
11	Work Study	1,422,169	Higher Education Institutions	Higher Education
12	Independent Living Services	43,724	Commission for the Blind	Family Safety Net
13	Independent Living Services for Older Blind Individuals	213,300	Commission for the Blind	Family Safety Net
14	Vocational Rehabilitation Services	818,877	Commission for the Blind	Family Safety Net
15	Special Education - Part C - Early Intervention for Infants and Toddlers with Disabilities	3,245,346	Department of Health	Family Safety Net
16	Special Education - Part C - Early Intervention for Infants and Toddlers with Disabilities - Competitive	5,841,000	Department of Health	Family Safety Net
17	Independent Living Services	199,189	Division of Vocational Rehabilitation	Family Safety Net
18	Vocational Rehabilitation Services	3,607,486	Division of Vocational Rehabilitation	Family Safety Net
19	Independent Living Centers	350,000	Local Entities	Family Safety Net
20	State Fiscal Stabilization Fund - Government Services	57,945,507	Department of Finance and Administration	Other Government Services

Attachment B

NEW MEXICO HIGHER EDUCATION DEPARTMENT
ARRA State Fiscal Stabilization Grant - Education Stabilization Fund
FY10 "Budget-balancing" Instruction + General Adjustments and ARRA Allocation Methodology (\$000)

Higher Education Institution	Unfunded Portion \$q Ft	Tuition Credit 2.5% / 8%	Institutional Support reduced 5.5%	ER&R reduced by 50%	BR&R reduced to 67.5%	HB17/33 reduced I&G 4%	ERB reduced 3% (HED)	Total "extra" Adjustments	Percent Share	Allocation I Note 1-3	Allocation II Note 2-3	Total Allocation
NM Institute of Mining & Technology	(14.3)	(238.4)	(323.0)	(457.3)	(56.8)	(1,155.5)	(5.2)	(2,250.5)	4.20%	653.4	459.9	1,113.3
New Mexico State University	(438.4)	(1,606.3)	(1,242.3)	(1,081.5)	(195.2)	(4,977.3)	(27.3)	(9,568.3)	17.88%	2,777.8	1,955.3	4,733.1
University of New Mexico	(2,249.3)	(2,789.4)	(2,266.0)	(2,422.9)	(361.8)	(7,438.1)	(44.0)	(17,551.5)	32.79%	5,095.5	3,586.6	8,682.1
UNM Health Sciences Center	0.0	(121.1)	(670.9)	(614.6)	0.0	(2,456.0)	(15.7)	(3,878.3)	7.25%	1,125.9	792.5	1,918.4
Eastern New Mexico University	280.9	(229.1)	(271.6)	(206.3)	(64.7)	(1,064.3)	(5.0)	(1,560.1)	2.91%	452.9	318.8	771.7
New Mexico Highlands University	335.0	(188.8)	(295.1)	(108.5)	(43.0)	(1,147.1)	(4.7)	(1,452.2)	2.71%	421.6	296.8	718.4
Northern New Mexico College	66.2	(35.6)	(147.8)	(143.4)	(26.7)	(425.0)	(1.8)	(714.1)	1.33%	207.3	145.9	353.2
Western New Mexico University	12.2	(149.9)	(193.4)	(158.8)	(36.2)	(653.2)	(3.5)	(1,182.8)	2.21%	343.4	241.7	585.1
ENMU Roswell	167.3	(80.4)	(162.2)	(166.0)	(18.9)	(578.5)	(2.7)	(841.4)	1.57%	244.3	171.9	416.2
ENMU Ruidoso	(48.6)	(8.3)	(28.0)	(8.5)	(1.3)	(69.8)	(0.3)	(164.8)	0.31%	47.8	33.7	81.5
NMSU Alamogordo	(42.0)	(65.3)	(74.1)	(18.4)	(6.8)	(287.9)	(1.3)	(495.8)	0.93%	143.9	101.3	245.2
NMSU Carlsbad	0.0	(20.8)	(48.8)	(54.0)	(5.2)	(175.2)	(0.9)	(304.7)	0.57%	88.5	62.3	150.8
NMSU Dona Ana	(224.2)	(174.5)	(134.3)	(82.3)	(7.6)	(812.8)	(4.3)	(1,440.0)	2.69%	418.1	294.3	712.4
NMSU Grants	31.0	(17.7)	(36.9)	(8.4)	(9.2)	(132.6)	(0.5)	(174.3)	0.33%	50.6	35.6	86.2
UNM Gallup	12.7	(74.6)	(98.6)	(64.2)	(18.6)	(392.0)	(2.1)	(637.4)	1.19%	185.0	130.3	315.3
UNM Los Alamos	2.7	(11.5)	(40.7)	(18.0)	(1.3)	(91.8)	(0.6)	(161.2)	0.30%	46.8	32.9	79.7
UNM Taos	(33.2)	(24.3)	(69.7)	(13.2)	(1.4)	(96.5)	(0.7)	(239.0)	0.45%	69.4	48.8	118.2
UNM Valencia	(119.3)	(42.7)	(76.1)	(61.4)	(2.0)	(215.5)	(1.2)	(518.2)	0.97%	150.4	105.9	256.3
Central NM Community College	(999.5)	(479.7)	(907.5)	(638.9)	(37.8)	(1,929.0)	(14.9)	(5,007.3)	9.36%	1,453.7	1,023.3	2,477.0
Clovis Community College	(49.9)	(59.8)	(76.3)	(71.4)	(8.6)	(385.8)	(1.8)	(653.6)	1.22%	189.7	133.6	323.3
Luna Community College	8.8	(20.6)	(124.6)	(69.3)	(5.8)	(334.5)	(1.4)	(547.4)	1.02%	158.9	111.9	270.8
Mesalands Community College	(41.7)	(16.1)	(36.1)	(19.5)	(1.8)	(143.2)	(0.5)	(258.9)	0.48%	75.2	52.9	128.1
New Mexico Junior College	(189.7)	(68.8)	(140.6)	(210.1)	(22.1)	(287.1)	(2.5)	(920.9)	1.72%	267.3	188.2	455.5
San Juan College	(29.8)	(130.6)	(340.2)	(407.0)	(15.8)	(861.1)	(6.0)	(1,790.5)	3.35%	519.8	365.9	885.7
Santa Fe Community College	(264.3)	(62.9)	(281.0)	(254.4)	(3.1)	(339.9)	(4.0)	(1,209.6)	2.26%	351.2	247.2	598.4
TOTAL	(3,827.4)	(6,697.0)	(8,085.8)	(7,358.3)	(951.7)	(26,449.7)	(152.9)	(53,522.8)	100.00%	15,538.4	10,937.5	26,475.9

Note 1: Allocation I money available upon approval of institution's Application and Subgrant Agreement by NMHED and the New Mexico Office of Recovery & Reinvestment

Note 2: Allocation II money available starting 7/1/10 (tentative), contingent on approval of Allocation I process per Note 1

Note 3: Final due dates for Allocation I and Allocation II draw requests to be determined

Allowable and Unallowable Use

Attachment C

LEA Uses of Education Stabilization Funds

Cautionary Note: All of the uses identified in this Illustration are subject to ARRA and other applicable requirements, including prohibitions relating to the uses of funds.

Basic Rule	<ul style="list-style-type: none"> ➤ An LEA may use its Education Stabilization funds for any activities authorized under the ESEA, the IDEA, the AEFLA, or the Perkins Act, regardless of whether the Education Stabilization Funds were awarded through the State’s primary education funding formula(e) or based on the LEA’s relative share of funding under Title I, Part A.
Governor’s Control	<ul style="list-style-type: none"> ➤ A Governor does not have the discretion to direct how an LEA must use its Education Stabilization Funds.
Education activities consistent with State and local requirements	<ul style="list-style-type: none"> ➤ An LEA may use its Education Stabilization allocation for such purposes because these activities are authorized under Title VIII of the ESEA (Impact Aid). NOTE: The LEA must maintain records that track separately the specific uses of the funds (<i>see</i> Part VII: “Transparency, Accountability, Reporting, and Other Obligations”).
Modernization, renovation, and repair of public school facilities	<ul style="list-style-type: none"> ➤ Section 14003(a) of the ARRA expressly authorizes an LEA to use Education Stabilization funds for this purpose.
Construction	<ul style="list-style-type: none"> ➤ Construction is allowable as an authorized activity under Title VIII of the ESEA (Impact Aid).

Allowable and Unallowable Use

Prohibitions on an LEA's Use of Education Stabilization Funds

Cautionary Note: This list is not meant to be all-inclusive. LEAs must carefully review, for example, all requirements in Titles XIV, XV, and XVI of Division A of the ARRA relating to the Education Stabilization Fund.

- An LEA may not use Education Stabilization funds for –
 - Payment of maintenance costs;
 - Stadiums or other facilities primarily used for athletic contests or exhibitions or other events for which admission is charged to the general public;
 - Purchase or upgrade of vehicles;
 - Improvement of stand-alone facilities whose purpose is not the education of children, including central office administration or operations or logistical support facilities;
 - Financial assistance for students to attend private elementary or secondary schools, unless the funds are used to provide special education and related services to students with disabilities, as authorized by the IDEA;
 - School modernization, renovation, or repair that is inconsistent with State law; or
 - Restoring or supplementing a “rainy day” fund.

Allowable and Unallowable Use

IHE Uses of Education Stabilization Funds

Cautionary Note: All of the uses identified in this Illustration are subject to ARRA and other applicable requirements, including prohibitions relating to the uses of funds.

Basic Rule	<ul style="list-style-type: none"> ➤ An IHE may use its Education Stabilization funds for – <ul style="list-style-type: none"> ➤ Education and general expenditures, in such a way as to mitigate the need to raise tuition and fees for in-State residents; or ➤ Modernization, renovation, or repair of IHE facilities that are primarily used for instruction, research, or student housing
Governor's Control	<ul style="list-style-type: none"> ➤ A Governor may restrict an IHE's use of Education Stabilization funds to expenditures that would help mitigate the need for increases in tuition and fees paid by in-State students.
Modernization, renovation, and repair of IHE facilities	<ul style="list-style-type: none"> ➤ The ARRA expressly authorizes an IHE to use funds for this purpose if the facilities are used primarily for instruction, research, or student housing.

Allowable and Unallowable Use

Prohibitions on an IHE's Use of Education Stabilization Funds

Cautionary Note: This list is not meant to be all-inclusive. IHEs must carefully review, for example, all requirements in Titles XIV, XV and XVI of Division A of the ARRA relating to the Education Stabilization Fund.

An IHE may not use Education Stabilization funds for the following activities or purposes –

- To increase its endowment;
- The maintenance of systems, equipment, or facilities;
- Modernization, renovation, or repair of stadiums or other facilities primarily used for athletic contests or exhibitions or other events for which admission is charged to the general public;
- Modernization, renovation, or repair of facilities --
 - (a) used for sectarian instruction or religious worship; or
 - (b) in which a substantial portion of the functions of the facilities are subsumed in a religious mission;
- New construction; or
- Restoring or supplementing a “rainy day” fund.

Education at a Glance

- Goal:** Stimulate the economy in the short term and invest in education and other essential public services to ensure the long-term economic health of the nation.
- Principals:** Spend funds quickly to save and create jobs.
- Improve student achievement through school improvement and reform.
- Ensure transparency, reporting and accountability.
- Invest one-time ARRA funds in ways that do not result in unsustainable commitments.
- Assurances:** Increase teacher effectiveness and address inequities in the distribution of highly qualified teachers.
- Establish and use PreK-college and career data systems to track progress and foster continuous improvement.
- Make progress toward rigorous college- and career-ready standards and high –quality assessments.
- Support targeted, intensive support and effective interventions to turn around schools identified for corrective action and restructuring.
- MOE:** For Stabilization Funds - State Support in FY09, FY10 and FY11 at least at the FY06 level.
- For public schools, state support may include not only the amount of state funds a state provides through its primary funding formulae in a given year, but also the amount of other state support not provided through the primary formulae.
- For institutions of higher education (IHEs), states must exclude tuition and fees paid by students as well as support for capital projects and research and development.
- New Mexico’s actual FY09 and FY10 funding for public schools and IHEs is well above FY06.
- Availability:** March 2009 – September 30, 2011
- Access to Stabilization Funds:** Provide assurances that state is advancing the four reforms and meeting maintenance of effort (MOE) requirements
- Identify and provide baseline data on the current status on the four reform areas, and on MOE.
- Provide basic information on how the funds will be used.
- Accountability:** Per US ED, all parties (State Education Agencies/LEAs) must determine how to drive quality improvements and use the funds to do such. Title I and IDEA funds are LEA responsibility, but State must take the opportunity to provide useful technical assistance and support to help

Education at a Glance

LEAs use funding. Education plans to create a website/forum to share best practices across the country.

Distribution of Education Stabilization Funds: Must be used to restore funding for public education and higher education in FY09, FY10 and FY11 to the higher of state support provided in FY08 or FY09.

States may use current or prior enacted budgets.

Level of State Support for Public Schools: The state's primary funding formulae, the State Equalization Guarantee

Level of State Support for IHEs As determined by the Governor; all fiscal years must be treated the same.

Must exclude:

1. The amount of tuition and fees paid by students. State appropriations to public IHEs for financial assistance programs to defray the costs of tuition and fees paid by students may be considered state support.
2. Entities that do not fall under the federal definition of an IHE. The New Mexico School for the Blind and Visually Impaired and New Mexico School for the Deaf would be excluded. General Counsel has determined that New Mexico Military Institute also should be excluded.
3. Operational expenses of the Higher Education Department.

May include:

1. Expenses funded from other state sources of funding, such as Land Grant Permanent Fund revenue and Tobacco Revenue. It's unclear whether local mil levy revenue may be included.
2. Research and public service projects.
3. Capital projects.
4. Other nonrecurring expenses.
5. State appropriations for community colleges to support adult education and career education programs
6. State payments that are made on behalf of employees of public IHEs but that are appropriated to a different state agency (i.e., payments such as group health contributions or retirement contributions made by a state agency that are remitted to directly to another agency on behalf of IHEs)

Governors may choose not to allocate money to IHEs that do not minimize their in-state tuition levels.



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May 19, 2009

MEMORANDUM

TO: Ms. Dannette Burch, Deputy Cabinet Secretary
Department of Finance Administration

FROM: Veronica C. Garcia, Ed.D.
Cabinet Secretary of Education

RE: Documentation Memorandum for ARRA Education Reform Assurances; and Accountability, Transparency, and Reporting Assurances

The purpose of this memorandum is to provide documentation regarding the ARRA Education Reform Assurances for New Mexico. We discussed the referenced information in our 2:30 p.m. telephone conference on May 15, 2009. The paraphrased Assurances are specifically referenced in the New Mexico Application for Initial Funding under the State Fiscal Stabilization Fund Program.

Responses to OEA Questions about ARRA Assurances: NMPED staff have reviewed and vetted informational questions posed by the Office of Educational Accountability (OEA) regarding ARRA Assurances, which are incorporated into PED documentation. Because the data being reported on the federal website are derived from the federally required EDEN data file submissions, staff also met and determined that assurances would be met that were linked to the state's ability to submit timely and accurate EDEN reports. However, key support of the NMPED Information Technology Division as requested from the Stabilization Funds is essential to the Department's continuing ability to provide information, given that hiring freezes have been implemented and more data requirements are being imposed due to accountability for the ARRA funds.

Education Reform Assurances #1: Achieving Equity in Teacher Distribution

Response: The NMPED collects teacher and administrator data from every district and charter school. These data are reported through the Student Teacher Accountability Reporting System (STARS), maintained in the Data Warehouse, and reported at the 40, 80, 120 day of each school year. Reports are prepared from these data and include teacher distribution information by school, poverty level, highly qualified teacher status, years of teaching, and licensure level.

Education Reform Assurances #2: Improving Collection and Use of Data Assurance

Response: New Mexico is one of eight states (selected out of a field of 25) participating in the 18-month Career and College Readiness Institute, which has six national partners including NGA, Council of Chief

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PED intends to have the information submitted by June 1, 2009 for full approval by July 1, 2009.

Education Reform Assurances #3.2: Inclusion Assurance

New Mexico has been one of the leaders in assessing students with disabilities, as well as, English Language Learners. In addition, the state is working with four other assessment consortia that are applying for federal ARRA grants.

OEA Question: What is the status of the New Mexico Alternative Assessment Modified Academic Achievement Standards (AA-MAAS) and plan for submitting to the U.S. Department of Education for peer review and approval as called for on page two of letter on the status of NM NCLB cornerstone components of assessment and accountability received by Secretary Garcia on January 8, 2009.

Answer: The development and implementation of the Alternate Assessment based on Modified Achievement Standards (AA-MAAS) has been postponed until the PED acquires sufficient funding for this project. These assessments are not required by statute. The PED will withdraw the 2% proxy option in AYP, since development of the AA-MAAS was suspended. In addition, New Mexico is participating with four different consortia grant efforts to more adequately address the assessment of students who have needs beyond normal testing accommodations.

Education Reform Assurances #3.3: Improving Standards Assurance

New Mexico is consistently rated by national groups among the top in the nation for its Content and Performance Standards (e.g., Quality Counts, The Fordham Foundation, Achieve). New Mexico also recently completed its participation in Achieve's American Diploma Project.

Education Reform Assurances #4: Supporting Struggling Schools

New Mexico has recently utilized its Federal Technical Assistance Center (the Southwest States Comprehensive Center) to redefine and improve the School Improvement Framework. The Framework will be finalized after community and school stakeholder input is summarized; and subsequent Administrative Code is published.

OEA Question: The number of New Mexico's schools identified for improvement for 2007-2008 is listed as 381 on the State Status/Information Chart (updated 1/7/08: <https://www.ed.gov/admins/lead/account/cornerstones/index.html>), however the number of schools in improvement, corrective action and restructuring in SY 2008-09 (based on 2007-08 assessments) reported by the state in the SY 2007-08 Consolidated State Performance Report (CSPR) is 430. How does PED explain and/or reconcile this discrepancy?

Answer: These data represent two subsequent years. In year 1 (2006-2007) there were 380 schools in improvement, and another was added in December because of a failed appeal, yielding 381 (hence the update). In year 2 (2007-2008) there were 430 schools in improvement following appeals. These data are not discrepant and follow a logical path.

Accountability, Transparency, and Reporting Assurances

NMPED is prepared to provide the necessary reports to comply with all of the accountability, transparency, and reporting requirements that apply to the Stabilization program. In addition the Department will cooperate with any Comptroller General evaluation of the uses of funds and the impact of

Attachment E

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Attachment E

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funding on the progress made toward closing achievement gaps, including any Inspector General examination of records.

VCG:COM

cc: Toucy Anaya, Director NMORR
Brian Condit, Chief of Staff, Office of the Governor
Katherine B. Miller, Cabinet Secretary DFA
Peter White, Cabinet Secretary HRD - Designate
Vince Ward, Legal Counsel, Office of the Governor
Bruce Perlmutter, Ph.D., Office of the Governor
Allan Oliver, Office of the Governor
Donna Wilpolt Cook, Deputy Cabinet Secretary TRD
Catherine Cross Maple, Ph.D., Deputy Cabinet Secretary, Learning and Accountability
Don D. Moya, Deputy Cabinet Secretary, Fiscal Operations
William Flores, Deputy Cabinet Secretary, HRD
Peter Winograd, Ph.D., Director, Office of Educational Accountability

Attachment F

	FUND CODE 25250 - REVENUE 44301	
	<i>PROGRAM COST</i>	SUB-AWARD
<i>DISTRICT/CHARTER</i>	<i>\$334.59</i>	ACCOUNT NUMBER
ALAMOGORDO	\$3,685,473.05	25250-001
ALMA D' ARTE ST. CHARTER	\$144,684.75	25250-002
ALBUQUERQUE	\$54,203,625.17	25250-003
ACADEMIA DE LENGUA Y CULTURA	\$91,394.60	25250-004
ACADEMY OF TRADES & TECH ⁴	\$186,283.32	25250-005
AIMS@UNM	\$194,110.05	25250-006
ALB TALENT DEV SECONDARY	\$135,475.83	25250-007
AMY BIEHL	\$237,364.84	25250-008
BATAAN MILITARY ACADEMY	\$118,955.78	25250-009
CAREER ACADEMIC TECH ACADEMY	\$110,563.59	25250-010
CHRISTINE DUNCAN COMMUNITY	\$114,086.83	25250-011
CORRALES INTERNALTIONAL	\$99,155.41	25250-012
DIGITAL ARTS & TECH ACADEMY	\$215,215.65	25250-013
EAST MOUNTAIN	\$217,029.46	25250-014
EL CAMINO REAL ⁴	\$344,188.05	25250-015
GORDON BERNELL	\$194,781.23	25250-016
LA ACADEMIA DE ESPERANZA	\$278,101.50	25250-017
LA LUZ DEL MONTE	\$78,027.39	25250-018
LA PROMESA EARLY LEADERSHIP	\$117,152.34	25250-019
LA RESOLANA LEADERSHIP	\$55,695.52	25250-020
LOS PUENTES	\$135,404.56	25250-021
MONTESSORI ELEMENTARY	\$171,787.21	25250-022
MONTESSORI OF THE RIO GRANDE	\$109,476.18	25250-023
MOUNTAIN MAHOGANY	\$93,131.45	25250-024
NATIVE AMERICAN COMM ACAD.	\$222,684.03	25250-025
NORTH ALBUQUERQUE CO-OP COMM.	\$112,272.01	25250-026
NUESTROS VALORES	\$119,700.58	25250-027
PAPA	\$213,004.34	25250-028
RALPH J. BUNCHE ACADEMY	\$58,247.10	25250-029
ROBERT F. KENNEDY	\$290,847.71	25250-030
SIA TECH	\$207,440.11	25250-031
SOUTH VALLEY	\$217,913.45	25250-032
SOUTHWEST PRIMARY	\$74,563.72	25250-033
SOUTHWEST SECONDARY	\$198,865.24	25250-034
THE LRNG COMM CTR	\$158,448.77	25250-035
TWENTY FIRST CENT.	\$152,963.17	25250-036
ALBUQUERQUE W/CHARTERS	59,527,956.19	
ANIMAS	\$256,484.98	25250-037
ARTESIA	\$2,324,182.59	25250-038
AZTEC	\$1,916,093.54	25250-039
MOSAIC ADADEMY CHARTER	\$106,615.43	25250-040
AZTEC W/CHARTERS	2,022,708.97	
BELEN	\$2,858,334.78	25250-041

BERNALILLO	\$2,283,200.67	25250-042
VILLAGE ACADEMY	\$55,625.25	25250-043
BERNALILLO W/CHARTERS	2,338,825.92	
BLOOMFIELD	\$1,992,773.20	25250-044
CAPITAN	\$366,184.00	25250-045
CARLSBAD	\$4,127,634.74	25250-046
JEFFERSON MONT. ACAD.	\$135,901.42	25250-047
CARLSBAD W/CHARTERS	4,263,536.16	
CARRIZOZO	\$187,342.29	25250-048
CENTRAL CONS.	\$4,135,557.49	25250-050
CESAR CHAVEZ COMM. ST. CHARTER	\$146,671.21	25250-049
CHAMA VALLEY	\$397,918.85	25250-051
CIEN AGUAS INTERNATIONAL ST. CHARTER	\$84,559.26	25250-052
CIMARRON	\$363,697.99	25250-053
MORENO VALLEY HIGH	\$83,188.44	25250-054
CIMARRON W/CHARTERS	446,886.43	
CLAYTON	\$481,295.00	25250-055
CLOUDCROFT	\$359,806.04	25250-056
CLOVIS	\$4,896,391.40	25250-057
COBRE CONS.	\$1,201,598.35	25250-058
CORONA	\$83,055.94	25250-059
COTTONWOOD CLASSICAL ST. CHARTER	\$191,195.77	25250-060
CREATIVE ED. PREP INST #1 ST. CHARTER	\$151,971.45	25250-061
CUBA	\$582,483.72	25250-063
DEMING	\$3,132,556.38	25250-064
DEMING CESAR CHAVEZ	\$125,644.57	25250-065
DEMING W/CHARTERS	3,258,200.95	
DES MOINES	\$96,845.40	25250-066
DEXTER	\$719,158.71	25250-067
DORA	\$230,720.21	25250-068
DULCE	\$500,334.84	25250-069
ELIDA	\$121,133.29	25250-070
ESPAÑOLA	\$2,816,415.67	25250-071
CARINOS DE LOS NINOS	\$151,825.57	25250-072
ESPANOLA W/CHARTER	2,968,241.24	
ESTANCIA	\$702,050.12	25250-073
EUNICE	\$396,946.20	25250-074
FARMINGTON	\$5,934,249.76	25250-075
FLOYD	\$216,782.20	25250-076
FT. SUMNER	\$300,594.32	25250-077
GADSDEN	\$8,486,103.79	25250-078
ANTHONY CHARTER	\$87,424.69	25250-079
GADSDEN W/CHARTER	8,573,528.48	
GALLUP	\$7,295,511.44	25250-080
MIDDLE COLLEGE HIGH	\$61,741.22	25250-081
GALLUP W/CHARTER	7,357,252.66	
GILBERT SENA CHARTER	\$160,457.32	25250-062
GRADY	\$121,425.05	25250-082

GRANTS	\$2,341,811.80	25250-083
HAGERMAN	\$340,279.03	25250-084
HATCH	\$869,601.75	25250-085
HOBBS	\$4,564,791.29	25250-086
HONDO	\$157,489.51	25250-087
HORIZON ACADEMY WEST ST. CHARTER	\$223,975.22	25250-088
HOUSE	\$105,768.92	25250-089
INT'L SCHOOL MESA DEL SOL ST. CHARTER	\$48,688.20	25250-090
JAL	\$319,350.09	25250-091
JEMEZ MOUNTAIN	\$313,173.56	25250-092
LINDRITH AREA HERITAGE	\$23,835.52	25250-093
JEMEZ MOUNTAIN W/CHARTERS	337,009.08	
JEMEZ VALLEY	\$308,708.79	25250-094
SAN DIEGO RIVERSIDE CHARTER	\$87,980.11	25250-095
WALATOWA CHARTER HIGH	\$65,629.49	25250-096
JEMEZ VALLEY W/CHARTER	462,318.39	
LAKE ARTHUR	\$142,686.24	25250-097
LAS CRUCES	\$14,722,491.33	25250-098
LA ACADEMIA DOLORES HUERTA	\$86,990.39	25250-099
LAS MONTANAS	\$217,428.96	25250-100
LAS CRUCES W/CHARTER	15,026,910.68	
LAS VEGAS CITY	\$1,410,849.59	25250-101
LOGAN	\$213,668.17	25250-102
LORDSBURG	\$561,663.18	25250-103
LOS ALAMOS	\$2,275,844.71	25250-104
LOS LUNAS	\$5,205,350.47	25250-105
LOVING	\$490,924.50	25250-106
LOVINGTON	\$2,177,347.10	25250-107
MAGDALENA	\$419,537.72	25250-108
MAXWELL	\$102,276.80	25250-109
MEDIA ARTS COLLABORATIVE ST. CHARTER	\$171,001.92	25250-110
MELROSE	\$215,306.66	25250-111
MESA VISTA	\$379,107.53	25250-112
MORA	\$442,761.27	25250-113
MORIARTY	\$2,069,508.74	25250-114
MOSQUERO	\$49,468.13	25250-115
MOUNTAINAIR	\$311,263.05	25250-116
NEW AMERICAN SCHOOL ST. CHARTER	\$167,602.82	25250-152
NORTH VALLEY ACADEMY ST. CHARTER	\$267,331.05	25250-117
PECOS	\$555,356.16	25250-118
PEÑASCO	\$447,061.42	25250-119
POJOAQUE	\$1,293,218.79	25250-120
PORTALES	\$1,794,290.40	25250-121
QUEMADO	\$174,215.32	25250-122
QUESTA	\$406,484.36	25250-123

RED RIVER VALLEY	\$48,838.43	25250-124
ROOTS & WINGS	\$41,069.58	25250-125
QUESTA W/CHARTERS	496,392.37	
RATON	\$916,978.69	25250-126
RESERVE	\$189,099.23	25250-127
RIO RANCHO	\$9,421,216.92	25250-128
ROSWELL	\$6,002,256.85	25250-129
SIDNEY GUTIERREZ	\$48,262.93	25250-130
ROSWELL W/CHARTER	6,050,519.78	
ROY	\$63,456.33	25250-131
RUIDOSO	\$1,539,434.20	25250-132
SAN JON	\$149,575.45	25250-133
SANTA FE	\$7,432,849.60	25250-134
ACAD FOR TECH & CLASSICS	\$244,060.99	25250-135
MONTE DEL SOL	\$276,718.64	25250-136
TIERRA ENCANTADA CHARTER ⁴	\$141,773.48	25250-137
TURQUOISE TRAIL	\$275,591.75	25250-138
SANTA FE W/CHARTERS	8,370,994.46	
SANTA ROSA	\$535,833.84	25250-139
SCHOOL OF DREAMS ST. CHARTER	\$107,660.69	25250-140
SILVER CITY CONS.	\$2,079,222.90	25250-141
ALDO LEOPOLD	\$89,719.64	25250-142
SILVER CITY W/CHARTERS	2,168,942.54	
SOCORRO	\$1,116,957.11	25250-143
COTTONWOOD CHARTER	\$115,088.25	25250-144
SOCORRO W/CHARTERS	1,232,045.36	
SPRINGER	\$210,750.21	25250-145
TAOS	\$1,682,379.75	25250-146
ANANSI CHARTER	\$79,524.68	25250-147
TAOS CHARTER	\$121,162.73	25250-148
VISTA GRANDE	\$101,452.04	25250-149
TAOS W/CHARTER	1,984,519.20	
TAOS ACADEMY ST. CHARTER	\$81,879.86	25250-150
TATUM	\$273,414.23	25250-151
TEXICO	\$428,257.47	25250-153
TRUTH OR CONSEQ.	\$948,726.93	25250-154
TUCUMCARI	\$757,686.08	25250-155
TULAROSA	\$674,637.50	25250-156
VAUGHN	\$124,008.42	25250-157
WAGON MOUND	\$158,010.46	25250-158
WEST LAS VEGAS	\$1,189,789.99	25250-159
RIO GALLINAS CHARTER SCHOOL	\$82,087.64	25250-160
WEST LAS VEGAS W/CHARTER	1,271,877.63	
ZUNI	\$981,888.15	25250-161
STATEWIDE	\$210,059,240.24	
Rounding Difference	\$3,259.76	
ADJUSTED STATEWIDE	\$210,062,500	