

1 SENATE BILL 193

2 **53RD LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2017**

3 INTRODUCED BY

4 William P. Soules

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10 AN ACT

11 RELATING TO PUBLIC SCHOOLS; AMENDING THE PUBLIC SCHOOL CODE TO
12 PROVIDE FUNDING FOR ADMINISTRATIVE SUPPORT AND OVERSIGHT OF
13 CHARTER SCHOOLS TO CHARTER SCHOOL AUTHORITIES AND THE PUBLIC
14 EDUCATION DEPARTMENT.

15
16 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

17 SECTION 1. Section 22-8-25 NMSA 1978 (being Laws 1981,
18 Chapter 176, Section 5, as amended) is amended to read:

19 "22-8-25. STATE EQUALIZATION GUARANTEE DISTRIBUTION--
20 DEFINITIONS--DETERMINATION OF AMOUNT.--

21 A. The state equalization guarantee distribution is
22 that amount of money distributed to each school district to
23 ensure that its operating revenue, including its local and
24 federal revenues as defined in this section, is at least equal
25 to the school district's program cost. For state-chartered

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1 charter schools, the state equalization guarantee distribution
2 is the difference between the state-chartered charter school's
3 program cost and the two percent withheld by the department for
4 use by the department and the commission for administrative
5 ~~[services]~~ support.

6 B. "Local revenue", as used in this section, means
7 seventy-five percent of receipts to the school district derived
8 from that amount produced by a school district property tax
9 applied at the rate of fifty cents (\$.50) to each one thousand
10 dollars (\$1,000) of net taxable value of property allocated to
11 the school district and to the assessed value of products
12 severed and sold in the school district as determined under the
13 Oil and Gas Ad Valorem Production Tax Act and upon the assessed
14 value of equipment in the school district as determined under
15 the Oil and Gas Production Equipment Ad Valorem Tax Act.

16 C. "Federal revenue", as used in this section,
17 means receipts to the school district, excluding amounts that,
18 if taken into account in the computation of the state
19 equalization guarantee distribution, result, under federal law
20 or regulations, in a reduction in or elimination of federal
21 school funding otherwise receivable by the school district,
22 derived from the following:

23 (1) seventy-five percent of the school
24 district's share of forest reserve funds distributed in
25 accordance with Section 22-8-33 NMSA 1978; and

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1 (2) seventy-five percent of grants from the
2 federal government as assistance to those areas affected by
3 federal activity authorized in accordance with Title 20 of the
4 United States Code, commonly known as "PL 874 funds" or "impact
5 aid".

6 D. To determine the amount of the state
7 equalization guarantee distribution, the department shall:

8 (1) calculate the number of program units to
9 which each school district or charter school is entitled using
10 an average of the MEM on the second and third reporting dates
11 of the prior year; or

12 (2) calculate the number of program units to
13 which a school district or charter school operating under an
14 approved year-round school calendar is entitled using an
15 average of the MEM on appropriate dates established by the
16 department; or

17 (3) calculate the number of program units to
18 which a school district or charter school with a MEM of two
19 hundred or less is entitled by using an average of the MEM on
20 the second and third reporting dates of the prior year or the
21 [~~fortieth day~~] first reporting date of the current year,
22 whichever is greater; and

23 (4) using the results of the calculations in
24 Paragraph (1), (2) or (3) of this subsection and the
25 instructional staff training and experience index from the

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1 October report of the prior school year, establish a total
2 program cost of the school district or charter school;

3 (5) for school districts, calculate the local
4 and federal revenues as defined in this section;

5 (6) deduct the sum of the calculations made in
6 Paragraph (5) of this subsection from the program cost
7 established in Paragraph (4) of this subsection;

8 (7) deduct the total amount of guaranteed
9 energy savings contract payments that the department determines
10 will be made to the school district from the public school
11 utility conservation fund during the fiscal year for which the
12 state equalization guarantee distribution is being computed;
13 and

14 (8) deduct ninety percent of the amount
15 certified for the school district by the department pursuant to
16 the Energy Efficiency and Renewable Energy Bonding Act.

17 E. Reduction of a school district's state
18 equalization guarantee distribution shall cease when the school
19 district's cumulative reductions equal its proportional share
20 of the cumulative debt service payments necessary to service
21 the bonds issued pursuant to the Energy Efficiency and
22 Renewable Energy Bonding Act.

23 F. The amount of the state equalization guarantee
24 distribution to which a school district is entitled is the
25 balance remaining after the deductions made in Paragraphs (6)

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1 through (8) of Subsection D of this section.

2 G. The state equalization guarantee distribution
3 shall be distributed prior to June 30 of each fiscal year. The
4 calculation shall be based on the local and federal revenues
5 specified in this section received from June 1 of the previous
6 fiscal year through May 31 of the fiscal year for which the
7 state equalization guarantee distribution is being computed.
8 In the event that a school district or charter school has
9 received more state equalization guarantee funds than its
10 entitlement, a refund shall be made by the school district or
11 charter school to the state general fund."

12 SECTION 2. Section 22-8B-9 NMSA 1978 (being Laws 1999,
13 Chapter 281, Section 9, as amended) is amended to read:

14 "22-8B-9. CHARTER SCHOOL CONTRACT--CONTENTS--RULES.--

15 A. The chartering authority shall enter into a
16 contract with the governing body of the applicant charter
17 school within thirty days of approval of the charter
18 application. The charter contract shall be the final
19 authorization for the charter school and shall be part of the
20 charter. If the chartering authority and the applicant charter
21 school fail to agree upon the terms of or enter into a contract
22 within thirty days of the approval of the charter application,
23 either party may appeal to the secretary to finalize the terms
24 of the contract; provided that such appeal [~~must~~] shall be
25 provided in writing to the secretary within forty-five days of

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1 the approval of the charter application. Failure to enter into
2 a charter contract or appeal to the secretary pursuant to this
3 section precludes the chartering authority from chartering the
4 school.

5 B. The charter contract shall include:

6 (1) all agreements regarding the release of
7 the charter school from department and local school board rules
8 and policies, including discretionary waivers provided for in
9 Section 22-8B-5 NMSA 1978;

10 (2) any material term of the charter
11 application as determined by the parties to the contract;

12 (3) the mission statement of the charter
13 school and how the charter school will report on implementation
14 of its mission;

15 (4) the chartering authority's duties to the
16 charter school and liabilities of the chartering authority as
17 provided in Section 22-8B-5.3 NMSA 1978;

18 (5) a statement of admission policies and
19 procedures;

20 (6) signed assurances from the charter
21 school's governing body members regarding compliance with all
22 federal and state laws governing organizational, programmatic
23 and financial requirements applicable to charter schools;

24 (7) the criteria, processes and procedures
25 that the chartering authority will use for ongoing oversight of

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1 operational, financial and academic performance of the charter
2 school;

3 (8) a detailed description of how the
4 chartering authority will use the withheld [~~two percent~~]
5 percentage of the school-generated program cost as provided in
6 Section 22-8B-13 NMSA 1978;

7 (9) the types and amounts of insurance
8 liability coverage to be obtained by the charter school;

9 (10) the term of the contract;

10 (11) the process and criteria that the
11 chartering authority intends to use to annually monitor and
12 evaluate the fiscal, overall governance and student performance
13 of the charter school, including the method that the chartering
14 authority intends to use to conduct the evaluation as required
15 by Section 22-8B-12 NMSA 1978;

16 (12) the dispute resolution processes agreed
17 upon by the chartering authority and the charter school;
18 provided that the processes shall, at a minimum, include:

19 (a) written notice of the intent to
20 invoke the dispute resolution process, which notice shall
21 include a description of the matter in dispute;

22 (b) a time limit for response to the
23 notice and cure of the matter in dispute;

24 (c) a procedure for selection of a
25 neutral third party to assist in resolving the dispute;

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1 (d) a process for apportionment of all
2 costs related to the dispute resolution process; and

3 (e) a process for final resolution of
4 the issue reviewed under the dispute resolution process;

5 (13) the criteria, procedures and time lines,
6 agreed upon by the charter school and the chartering authority,
7 addressing charter revocation and deficiencies found in the
8 annual status report pursuant to the provisions of Section
9 22-8B-12 NMSA 1978;

10 (14) if the charter school contracts with a
11 third-party provider, the criteria and procedures for the
12 chartering authority to review the provider's contract and the
13 charter school's financial independence from the provider;

14 (15) all requests for release of the charter
15 school from department rules or the Public School Code. Within
16 ten days after the contract is approved by the local school
17 board, any request for release from department rules or the
18 Public School Code shall be delivered by the local school board
19 to the department. If the department grants the request, it
20 shall notify the local school board and the charter school of
21 its decision. If the department denies the request, it shall
22 notify the local school board and the charter school that the
23 request is denied and specify the reasons for denial;

24 (16) an agreement that the charter school will
25 participate in the public school insurance authority;

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1 (17) if the charter school is a state-
2 chartered charter school, a process for qualification of and
3 review of the school as a qualified board of finance and
4 provisions for assurance that the school has satisfied any
5 conditions imposed by the commission;

6 (18) a listing of the charter school's
7 nondiscretionary waivers; and

8 (19) any other information reasonably required
9 by either party to the contract.

10 C. The process for revision or amendment to the
11 terms of the charter contract shall be made only with the
12 approval of the chartering authority and the governing body of
13 the charter school. If they cannot agree, either party may
14 appeal to the secretary as provided in Subsection A of this
15 section."

16 SECTION 3. Section 22-8B-13 NMSA 1978 (being Laws 1999,
17 Chapter 281, Section 13, as amended) is amended to read:

18 "22-8B-13. CHARTER SCHOOL FINANCING.--

19 A. The amount of funding allocated to a charter
20 school shall be not less than ninety-eight percent of the
21 school-generated program cost. The school district or division
22 may withhold and use two percent of the school-generated
23 program cost for its administrative support of a charter
24 school; provided that the department shall transfer one-fourth
25 of the two percent of the school-generated program cost it

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1 withholds from state-chartered charter schools to the
2 commission for its administrative support of a state-chartered
3 charter school.

4 B. That portion of money from state or federal
5 programs generated by students enrolled in a locally chartered
6 charter school shall be allocated to that charter school
7 serving students eligible for that aid. Any other public
8 school program not offered by the locally chartered charter
9 school shall not be entitled to the share of money generated by
10 a charter school program.

11 C. When a state-chartered charter school is
12 designated as a board of finance pursuant to Section 22-8-38
13 NMSA 1978, it shall receive state and federal funds for which
14 it is eligible.

15 D. Charter schools may apply for all federal funds
16 for which they are eligible.

17 E. All services centrally or otherwise provided by
18 a local school district, including custodial, maintenance and
19 media services, libraries and warehousing, shall be subject to
20 negotiation between the charter school and the school district.
21 Any services for which a charter school contracts with a school
22 district shall be provided by the district at a reasonable
23 cost."

24 **SECTION 4.** Section 22-8B-17 NMSA 1978 (being Laws 2006,
25 Chapter 94, Section 30) is amended to read:

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1 "22-8B-17. CHARTER SCHOOLS DIVISION--DUTIES.--The
2 "charter schools division" is created in the department. The
3 division shall:

4 A. provide [~~staff support to~~] the commission with
5 all information related to the administration of charter
6 schools necessary for the commission to carry out its duties
7 regarding the oversight and approval, denial, suspension and
8 revocation of charters of state-chartered charter schools;

9 B. provide technical support to all charter
10 schools; and

11 C. review and approve state-chartered charter
12 school budget matters [~~and~~

13 ~~D. make recommendations to the commission regarding~~
14 ~~the approval, denial, suspension or revocation of the charter~~
15 ~~of a state-chartered charter school]."~~

16 SECTION 5. EFFECTIVE DATE.--The effective date of the
17 provisions of this act is July 1, 2017.