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HOUSE BILL 32

**55TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2021**

INTRODUCED BY

Debra M. Sariñana

AN ACT

RELATING TO PUBLIC EDUCATION; REQUIRING THAT EACH PUBLIC SCHOOL AND EACH CHARTER SCHOOL EMPLOY A MINIMUM OF ONE FULL-TIME SCHOOL NURSE; PROVIDING EXCEPTIONS; PROVIDING RULEMAKING AUTHORITY; MAKING AN APPROPRIATION.

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

SECTION 1. A new section of the Public School Code is enacted to read:

"[NEW MATERIAL] MANDATORY SCHOOL NURSE--WAIVER--RULEMAKING AUTHORITY.--

A. Each public school shall employ a minimum of one full-time school nurse each school year, unless the department has granted the public school a waiver pursuant to Subsection B of this section.

B. The department may grant a waiver to a rural

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1 public school with fewer than two hundred fifty MEM that is:

2 (1) able to demonstrate that it can  
3 effectively meet student health needs by hiring a part-time  
4 school nurse; or

5 (2) not able to hire a qualified nurse or  
6 contract with a third party for a qualified nurse because of  
7 insufficient availability of qualified nurses in the public  
8 school's geographic vicinity; provided that the public school  
9 shall provide documentation of the public school's unsuccessful  
10 attempts to hire or contract with a school nurse to the  
11 department.

12 C. The department shall promulgate rules pursuant  
13 to this section.

14 D. As used in this section:

15 (1) "public school" includes a charter school;  
16 and

17 (2) "school nurse" means a person who:  
18 (a) is a nurse authorized pursuant to  
19 the Nursing Practice Act to practice as a professional  
20 registered nurse;

21 (b) is licensed by the department and  
22 the board of nursing as a school nurse; and

23 (c) provides services as a school nurse  
24 at a school."

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

4 "22-8-6.1. CHARTER SCHOOL OPERATING BUDGETS--MAXIMUM  
5 MEM.--

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

13 B. Each locally chartered charter school shall  
14 submit to the local school board a school-based operating  
15 budget for approval or amendment. The approval or amendment  
16 authority of the local school board relative to the charter  
17 school operating budget is limited to ensuring that sound  
18 fiscal practices are followed in the development of the  
19 operating budget and that the charter school operating budget  
20 is within the allotted resources. The local school board shall  
21 have no veto authority over individual line items within the  
22 charter school's proposed financial budget or over any item in  
23 the educational plan, but shall approve or disapprove the  
24 operating budget in its entirety. Upon final approval of the  
25 charter school operating budget by the local school board, the

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1 individual charter school operating budget shall be included  
2 separately in the budget submission to the department required  
3 pursuant to the Public School Finance Act and the Charter  
4 Schools Act.

5 C. For its first year of operation, a charter  
6 school's operating budget shall be based on the projected  
7 number of program units generated by the school and its  
8 students using the at-risk index and the staffing cost  
9 multiplier of the school district in which the charter school  
10 is located, and the charter school's operating budget shall be  
11 adjusted using the qualified MEM on the first reporting date of  
12 the current school year. For its second and subsequent fiscal  
13 years of operation, a charter school's operating budget shall  
14 be based on the number of program units generated by the  
15 charter school and its students using the average of the MEM on  
16 the second and third reporting dates of the prior year, the at-  
17 risk index of the school district in which the charter school  
18 is located and the charter school's staffing cost multiplier.

19 D. The department shall not approve the operating  
20 budget of a charter school that does not provide for a full-  
21 time school nurse as provided for in Section 1 of this 2021 act  
22 unless a waiver has been granted as provided in Section 1 of  
23 this 2021 act.

24 E. As used in this section, "school nurse" means a  
25 person who:

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1                   (1) is a nurse authorized pursuant to the  
2 Nursing Practice Act to practice as a professional registered  
3 nurse;

4                   (2) is licensed by the department and the  
5 board of nursing as a school nurse; and

6                   (3) provides services as a school nurse at a  
7 school."

8           SECTION 3. Section 22-8-9 NMSA 1978 (being Laws 1967,  
9 Chapter 16, Section 63, as amended by Laws 2019, Chapter 206,  
10 Section 10 and by Laws 2019, Chapter 207, Section 10) is  
11 amended to read:

12           "22-8-9. BUDGETS--MINIMUM REQUIREMENTS.--

13           A. An operating budget for a school district shall  
14 not be approved by the department if the educational plan does  
15 not provide for:

16                   (1) a school year and school day as provided  
17 in Section 22-2-8.1 NMSA 1978; [~~and~~]

18                   (2) a pupil-teacher ratio or class or teaching  
19 load as provided in Section 22-10A-20 NMSA 1978; and

20                   (3) employment of a full-time school nurse as  
21 provided for in Section 1 of this 2021 act at every public  
22 school in the school district unless a waiver has been granted  
23 as provided in Section 1 of this 2021 act.

24           B. The department shall, by rule, establish the  
25 requirements for an instructional day, the standards for an

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1 instructional hour and the standards for a full-time teacher  
2 and for the equivalent thereof.

3 C. As used in this section, "school nurse" means a  
4 person who:

5 (1) is a nurse authorized pursuant to the  
6 Nursing Practice Act to practice as a professional registered  
7 nurse;

8 (2) is licensed by the department and the  
9 board of nursing as a school nurse; and

10 (3) provides services as a school nurse at a  
11 school."

12 **SECTION 4. APPROPRIATION.--**Five million dollars  
13 (\$5,000,000) is appropriated from the general fund to the  
14 public education department for expenditure in fiscal year 2022  
15 to assist public schools and charter schools with hiring school  
16 nurses in each public school and charter school in the state.  
17 Any unexpended or unencumbered balance remaining at the end of  
18 fiscal year 2022 shall revert to the general fund.

19 **SECTION 5. EFFECTIVE DATE.--**The effective date of the  
20 provisions of this act is July 1, 2021.