LESC HEARING BRIEF: CHARTER SCHOOL EXPANSION: OPERATIONAL FUNDING AND FUNDING FORMULA ISSUES, INCLUDING FIRST YEAR FUNDING, ENROLLMENT GROWTH, PHASED GRADES AS NEW PROGRAMS, AND SCHOOL SIZE ADJUSTMENTS

AGENCY: Public Schools

DATE: July 14, 2016
PURPOSE OF HEARING: Highlight operational funding differences between charter schools and school districts.

WITNESS: Rachel S. Gudgel, Director, LESC; and Charles Sallee, Deputy Director, LFC

PREPARED BY:
Rachel S. Gudgel and Charles Sallee

EXPECTED OUTCOME:
Better understanding of different per-student funding levels and funding formula factors driving differences.


## BACKGROUND INFORMATION

Over the past decade, new charter schools and charter school enrollment growth has consumed much of the new funding appropriated to public school support with the promise of significantly improving opportunities for students. While many parents are choosing to send their children to charter schools, charter schools are generally not outperforming traditional schools.

Over the past eight fiscal years a large shift in enrollment and funding has occurred within the funding formula at the same time as challenge fiscal times for the state. Sixty-five schools districts have experienced declining enrollment with some medium size districts losing a third of their students. Except for Albuquerque Public Schools, urban school districts and many in southeast New Mexico have grown. Enrollment in charter schools, mostly located in urban areas, has exploded to over 12,500 , or 120 percent during that time. As a result, many school districts have faced flat or declining funding that requires decisions to downsize operations in light of fewer students, but also pay for higher basic operating costs, including from higher salaries.

On average, charter schools cost New Mexico taxpayers almost 15 percent more per student than school districts in operational funding in FY16. See Attachment A. As a discretionary program, the state has not established a clear goal for the role of charter schools in the public education system, including how many there should be, how much they should cost, and what the expected outcomes should be. As a result, the state has in essence created the equivalent of scores of very small school districts that raise questions about efficiency and effectiveness. Several factors in the funding formula that are being used, often inconsistent with their original intent, lead to this inequity in operational funding. This brief outlines issues the 2016 Legislature attempted to deal with to improve equity in operational funding between school districts and charter schools.

Charter School Growth. Since the Great Recession, the number of charter schools has increased from 64 in FY08 to 99 in FY16. In 2016, charter school enrollment represented 7 percent of total public school students, up from just 3 percent in FY08. Authorization for new charter schools, however, generally happens outside of the regular budgeting process that all other state agencies and entities are required to comply with. A simplified example illustrating this point is a state agency that wants to begin a new program that requires state funding. The state agency is required to request funding from the Legislature; the Legislature will then evaluate the merits of the request and, if the Legislature supports the request, will appropriate new money for the program. Charter schools, however, receive state funding independent of the Legislature evaluating the merits of opening new programs; even though the Legislature may not appropriate new funding to the state equalization guarantee distribution (SEG) for newly authorized charter schools, once authorized, charter schools open and will receive

general fund support. If the Legislature does not appropriate funding to cover the costs of the new charter school, funding is diluted for all other existing schools - both traditional school district programs and other existing charter schools.

Budgeting for New Charter Schools. Since FY08, the Legislature only included $\$ 8.2$ million in new general fund revenues in the SEG for newly authorized charter schools. However, during that same time period, newly authorized charter schools in their first year of operations received $\$ 48.2$ million in funding. This means funding for school districts and other already existing charter schools was modestly diluted between FY08 and FY16. For example, the Legislature appropriated $\$ 8.2$ million in new general fund revenues to the funding formula for FY13 in anticipation of 13 newly authorized charter schools opening in the 2013-2013 school year; only 11 of these schools ultimately opened, though they received $\$ 15.6$ million in funding (or 48 percent more revenue than the Legislature appropriated to cover these new programs). See Attachment B.

Since FY08, charter schools received almost 50 percent of new money appropriated to public schools through the state's funding formula. Charter schools received $\$ 107.8$ million more in FY16 than they received in FY08; charter schools served 6.9 percent of the student population in FY16. School districts received $\$ 125.5$ million more in FY16 than they received in FY08; school districts enrolled 93.1 percent of the student population in FY16. Enrollment growth at charter schools over this period of time - an increase of 12,518 students - is not equivalent to enrollment decreases at school districts over the same period of time - a decrease of 4,323 students.

|  | FY08 Funding | FY16 Funding | Number of <br> Students, <br> FY08 | Number of <br> Students, <br> FY16 | Change in <br> Funding |
| :--- | ---: | ---: | ---: | ---: | ---: |
| Charter <br> Schools | $\$ 92,723,831$ | $\$ 200,515,210$ | 10,454 | 22,964 | $\$ 107,791,379$ |
| School <br> Districts | $\$ 2,234,708,899$ | $\$ 2,360,212,023$ | 313,305 | 308,991 | $\$ 125,503,124$ |
| Statewide | $\$ 2,327,432,730$ | $\$ 2,560,727,233$ | 323,760 | 331,955 | $\$ 233,294,503$ |

Charter School Per-Student Funding. On average, charter schools are generating more operational funding per-student than school districts. The difference in average funding has declined since FY09 due to the introduction of new and larger charter schools not getting size adjustment funding, charter schools growing out of qualifying for these units and districts with increased per-student funding due in part to micro size adjustment and at-risk funding. In FY08, charter schools received an average of 24 percent more operational funding per student than school districts. This reached a high in FY09, when charter schools received 30 percent more operational funding per student than school districts. The amount of per-student funding at charter schools has since dropped and has been hovering around 14 percent more per-student for the past three years.

Much of the increased per-student funding charter schools receive is the result of the school size adjustment and enrollment growth factors in the funding formula (see Sections 22-8-23 and 22-8-23.1 NMSA 1978) and new formula-based program language included annually in the general appropriation act (GAA). New Mexico’s "friendly charter laws and generous per pupil funding" recently caught the attention of the Daniels Fund and Bellweather Education Partners, which funded a new organization called Excellent Schools New Mexico to support start-up and ramp-up costs of new charter schools.

| RANK BY MEM | DISTRICT/CHARTER | TOTAL MEM | PROGRAM COST $\$ 4,037.75$ | PROGRAM COST PER MEN |
| :---: | :---: | :---: | :---: | :---: |
| 1 | ALBUQUERQUE | 85,336 | \$636,877,098 | \$7,463 |
| 2 | LAS CRUCES | 24,044 | \$181,246,268 | \$7,538 |
| 3 | ALL CHARTERS | 22,964 | \$200,515,210 | \$8,732 |
| 4 | RIO RANCHO | 16,779 | \$119,222,987 | \$7,106 |
| 5 | GADSDEN | 13,478 | \$101,132,906 | \$7,503 |
| 6 | SANTA FE | 13,079 | \$97,886,301 | \$7,485 |
| 7 | GALLUP | 11,142 | \$85,721,751 | \$7,694 |
| 8 | FARMINGTON | 10,995 | \$75,912,232 | \$6,904 |
| 9 | ROSWELL | 10,168 | \$72,228,447 | \$7,104 |
| 10 | HOBBS | 9,749 | \$66,558,251 | \$6,827 |

School Size Factor. The school size adjustment factor generates up to 45 percent of some charter schools’ operational funding. The school size adjustment factor in the public education funding formula was originally intended to steer resources to small, rural school districts with small schools that do not benefit from economies of scale. The statutory language of Section 22-8-23 NMSA 1978 appears to bar charter schools from receiving school size adjustment units and the section has not been amended since enactment of the Charter Schools Act to explicitly include charter schools as eligible to receive school size adjustment units unlike other provisions such as Section 22-8-23.1 NMSA 1978 (enrollment growth factor). Many urban charter schools that offer special programs and limit enrollment have benefitted from school size funding.

A 2011 joint Legislative Education Study Committee and Legislative Finance Committee funding formula evaluation suggested charter schools appear to be barred from generating size adjustment program units because statutory language prohibits separate schools that provide special programs, including but not limited to vocational and alternative education, from being classified as public schools for purposes of generating size adjustment program units. Additional staff analysis since the 2011 joint evaluation has noted statutory language also appears to allow only school districts to generate school size units and other sections of the Public School Finance Act that either did not explicitly include charter schools or were ambiguous have been amended to explicitly include charter schools.

The sponsors of Senate Bill 141 requested an opinion from the Attorney General (AG) related to charter school access to school size funding; to date, the AG has not yet responded.

Despite concerns that charter schools are prohibited from generating school size units, the Public Education Department (PED) - under both the current and former administrations - continued to allow charter schools to generate school size units. In FY16, 15 percent of charter school funding was generated through the school size adjustment factor and charter schools generated approximately 14 percent, or $\$ 1,090$, more operational funding per student than school districts. See Attachment C.

A compromise bill introduced during the 2016 legislative session attempted to codify access to school size funding for charter schools, albeit at a lesser amount than they are currently generating. However, the bill failed, leaving the issue unresolved.

Enrollment Growth and New Formula-Based Programs. Since FY10, the first year data is available, 61 charter schools have generated funding for new formula-based programs. Generally, school districts and charter schools are funded based on enrollment counts from the previous school year; however, in 2003, the Legislature began including language in the GAA that allows "new formula-based programs" to generate funding based on enrollment data reported on the first reporting date ( $40^{\text {th }}$ day) of the current school year. This language historically was included in the GAA to allow school districts and charter schools to generate program units for new elementary physical education and fine arts programs and bilingual programs in their first year of operation (without the new formulabased program language, a school district or charter school would have to implement a first-year program without additional funding in the first year and wait to receive funding for the program in its second and subsequent years of operation). At the time of implementation, there were only 27 charter schools authorized.

This language has been interpreted to allow a first-year charter school to base its first-year program cost calculation on current year membership data rather than on estimated data (see Section 22-8-6.1 NMSA 1978). It has also been interpreted by PED to allow a charter school that is phasing in grade levels over a number of years to generate basic program units for first through $12^{\text {th }}$ grade and early childhood education pursuant to Sections 22-8-20 and 22-8-19 NMSA 1978 based on current year membership.

Double Funded Enrolllment. Of the 61 charter schools that have generated new formula-based program funding since FY10, 45 have received funding for students that have also been counted toward enrollment growth pursuant to Section 22-8-23.1 NMSA 1978, which is generally inconsistent with the original intent of the enrollment growth factor. See Attachment D.

The enrollment growth factor of the funding formula, enacted in 1990, originally allowed a school district to generate additional enrollment growth units if the school district's enrollment increased at least 1 percent; the factor was amended in 2006 to allow charter schools to generate enrollment growth units. The factor mitigates large annual

## Double Funded New Program and Enrollment Growth Costs


increases in enrollment that are not captured under a prior-year funding model. Until the "new formula-based program language" was interpreted to allow charter schools to generate basic program units for first through $12^{\text {th }}$ grade and early childhood education for phased in grade levels, the enrollment growth factor of the funding formula was the only statutory mechanism that recognized annual growth.

Charter schools are the only public schools that are counting student membership toward basic program units generated pursuant to Sections 22-8-20 and 22-8-19 NMSA 1978 as new formula-based programs based on current year membership. They are also the only schools also counting these same students toward calculation of enrollment growth units, which results in the double funding of these students if the 1 percent enrollment growth threshold is met. This interpretation by PED is inconsistent with the legislative intent of both the enrollment growth provision and the new formula-based program language included in the GAA; it is an unintended consequence of these two provisions that students who are counted based on current year membership are also are counted toward enrollment growth units.

Since FY10, the 45 charter schools that have received enrollment growth funding for students that are also counted in new formulabased programs have received $\$ 18.9$ million in double funding. For a number of charter schools, this funding represents up to 21 percent of their budgets over the six-year period. See Attachment D.

Because this interpretation is inconsistent with the original intent of both of these provisions, the Legislature attempted to fix the issue during the 2015 and 2016 legislative sessions; however, due to differences in interpretations of bill language and failed legislation, the issue remains unresolved.

|  | FY14 |  |  | FY15 |  |  |  |  | FY16 |  |  |
| :---: | :---: | :---: | :---: | :---: | :---: | :---: | :---: | :---: | :---: | :---: | :---: |
|  | TOTAL MEM | PROGRAM COST <br> 381755 | PER MEM PROG COST | TOTAL <br> MEM |  | PROGRAM COST <br> 400775 |  | ER MEM | TOTAL | PROGRAM COST <br> $\$ 4,037.75$ | PER MEM PROG COST |
| ALBUQUERQUE PUBLIC SCHOOLS | 86,662 | \$616,355,568.22 | \$7,112.18 | 85,981 | \$ | 638,746,301.80 | \$ | 7,429 | 85,336 | \$636,877,098 | \$7,463 |
| ALBUQUERQUE CHARTER SCHOOLS | 12,895 | \$105,703,729.63 | \$8,197.26 | 13,715 | \$ | 118,364,856.46 | \$ | 8,631 | 14,321 | \$125,439,358 | \$8,759 |
| AZTEC MUNICIPAL SCHOOLS | 3,182 | \$20,794,610.96 | \$6,534.56 | 3,172 | \$ | 21,781,019.12 | \$ | 6,866 | 3,071 | \$21,475,981 | \$6,994 |
| AZTEC CHARTER SCHOOLS | 179 | \$1,283,051.83 | \$7,167.89 | 180 | \$ | 1,365,236.03 | \$ | 7,606 | 180 | \$1,343,606 | \$7,485 |
| CARLSBAD MUNICIPAL SCHOOLS | 6,025 | \$48,027,084.80 | \$7,970.97 | 6,155 | \$ | 50,625,561.35 | \$ | 8,225 | 6,301 | \$51,867,854 | \$8,232 |
| CARLSBAD CHARTER SCHOOLS | 191 | \$1,796,000.76 | \$9,403.15 | 189 | \$ | 1,892,014.69 | \$ | 10,037 | 185 | \$1,884,002 | \$10,184 |
| CENTRAL CONSOLIDATED SCHOOLS | 5,956 | \$44,183,208.98 | \$7,418.27 | 5,947 | \$ | 46,418,337.62 | \$ | 7,806 | 6,042 | \$46,998,849 | \$7,779 |
| CENTRAL CHARTER SCHOOLS | - | \$0.00 | \$ | 15 | \$ | 161,632.56 | \$ | 10,776 | 27 | \$482,184 | \$17,859 |
| CIMARRON MUNICIPAL SCHOOLS | 343 | \$3,679,801.34 | \$10,720.47 | 359 | \$ | 3,938,952.96 | \$ | 10,972 | 379 | \$4,175,369 | \$11,031 |
| CIMARRON CHARTER SCHOOLS | 92 | \$912,963.26 | \$9,977.74 | 74 | \$ | 839,427.25 | \$ | 11,421 | 77 | \$874,468 | \$11,431 |
| DEMING PUBLIC SCHOOLS | 5,155 | \$35,070,919.46 | \$6,803.61 | 5,142 | \$ | 37,277,541.57 | \$ | 7,249 | 5,224 | \$38,099,934 | \$7,293 |
| DEMING CHARTER SCHOOLS | 149 | \$1,462,789.72 | \$9,850.44 | 152 | \$ | 1,617,191.25 | \$ | 10,675 | 132 | \$1,383,818 | \$10,483 |
| ESPAÑOLA PUBLIC SCHOOLS | 3,789 | \$28,907,416.26 | \$7,629.30 | 3,769 | \$ | 30,359,616.01 | \$ | 8,055 | 3,775 | \$30,062,571 | \$7,964 |
| ESPAÑOLA CHARTER SCHOOLS | 802 | \$5,798,461.43 | \$7,234.51 | 844 | \$ | 6,107,654.69 | \$ | 7,241 | 734 | \$5,472,346 | \$7,461 |
| FARMINGTON MUNICIPAL SCHOOLS | 10,619 | \$70,390,433.95 | \$6,628.57 | 10,844 | \$ | 75,053,166.31 | \$ | 6,921 | 10,995 | \$75,912,232 | \$6,904 |
| FARMINGTON CHARTER SCHOOLS | 472 | \$2,539,896.18 | \$5,381.14 | 468 | \$ | 2,882,582.20 | \$ | 6,159 | 498 | \$2,947,356 | \$5,918 |
| GADSDEN INDEPENDENT SCHOOLS | 13,773 | \$96,745,275.95 | \$7,024.27 | 13,625 | \$ | 99,941,225.68 | \$ | 7,335 | 13,478 | \$101,132,906 | \$7,503 |
| GADSDEN CHARTER SCHOOLS | 68 | \$806,125.31 | \$11,854.78 | 245 | \$ | 2,503,388.94 | \$ | 10,218 | 67 | \$848,582 | \$12,761 |
| GALLUP-MCKINLEY COUNTY SCHOOLS | 11,344 | \$80,016,531.34 | \$7,053.49 | 11,223 | \$ | 84,320,070.22 | \$ | 7,513 | 11,142 | \$85,721,751 | \$7,694 |
| GALLUP CHARTER SCHOOLS | 199 | \$2,184,780.05 | \$10,978.79 | 237 | \$ | 2,027,536.75 | \$ | 8,573 | 263 | \$2,452,852 | \$9,326 |
| JEMEZ MOUNTAIN PUBLIC SCHOOLS | 262 | \$2,848,724.53 | \$10,872.99 | 246 | \$ | 2,937,111.65 | \$ | 11,939 | 241 | \$2,895,026 | \$12,038 |
| JEMEZ MOUNTAIN CHARTER SCHOOLS | 25 | \$263,953.04 | \$10,773.59 | 91 | \$ | 1,161,522.09 | \$ | 12,834 | 25 | \$291,081 | \$11,643 |
| JEMEZ VALLEY PUBLIC SCHOOLS | 347 | \$3,375,011.97 | \$9,733.27 | 342 | \$ | 3,394,219.58 | \$ | 9,917 | 316 | \$3,400,036 | \$10,777 |
| JEMEZ VALLEY CHARTER SCHOOLS | 159 | \$1,678,152.99 | \$10,554.42 | 95 | \$ | 889,676.41 | \$ | 9,415 | 151 | \$1,611,236 | \$10,670 |
| LAS CRUCES PUBLIC SCHOOLS | 24,023 | \$170,817,084.07 | \$7,110.71 | 24,025 | \$ | 177,969,200.54 | \$ | 7,408 | 24,044 | \$181,246,268 | \$7,538 |
| LAS CRUCES CHARTER SCHOOLS | 971 | \$8,684,399.42 | \$8,943.77 | 1,033 | \$ | 8,898,872.23 | \$ | 8,619 | 973 | \$8,573,653 | \$8,812 |
| LOS LUNAS PUBLIC SCHOOLS | 8,258 | \$56,778,153.92 | \$6,875.33 | 8,287 | \$ | 59,363,903.15 | \$ | 7,164 | 8,225 | \$59,313,223 | \$7,211 |
| LOS LUNAS CHARTER SCHOOLS | 304 | \$2,837,802.52 | \$9,334.88 | 371 | \$ | 2,755,821.08 | \$ | 7,438 | 377 | \$2,911,993 | \$7,724 |
| MORIARTY-EDGEWOOD SCHOOL DISTRICT | 2,843 | \$19,484,427.80 | \$6,853.47 | 2,710 | \$ | 19,789,191.42 | \$ | 7,303 | 2,525 | \$18,284,563 | \$7,243 |
| MORIARTY CHARTER SCHOOLS | 292 | \$2,366,743.57 | \$8,105.29 | 349 | \$ | 2,640,678.42 | \$ | 7,577 | 397 | \$2,378,788 | \$5,999 |



Enrollment, Funding, and Per-Student Funding History of Charter Schools and School Districts

|  | Charter Schools |  |  |  |  | School Districts |  |  |  | J |
| :---: | :---: | :---: | :---: | :---: | :---: | :---: | :---: | :---: | :---: | :---: |
|  | A | B | C | D | E | F | G | H | I |  |
|  | MEM | Percent of Statewid e MEM | SEG Funding | First Year New Charter School Funding | Average PerStudent Funding | MEM | Percent of <br> Statewid e MEM | SEG Funding | Average PerStudent Funding | Percent Difference in Charter and District Per-Student Funding ((E-J)/J) |
| FY08 | 10,455 | 3.2\% | \$92,723,831 | \$0 | \$8,869 | 313,306 | 96.8\% | \$2,234,708,899 | \$7,133 | 24.3\% |
| FY09 | 11,224 | 3.5\% | \$108,403,441 | \$5,372,565 | \$9,658 | 311,456 | 96.5\% | \$2,312,988,394 | \$7,426 | 30.0\% |
| FY10 | 12,656 | 3.9\% | \$104,295,674 | \$5,068,295 | \$8,241 | 311,449 | 96.1\% | \$2,066,711,997 | \$6,636 | 24.2\% |
| FY11 | 14,486 | 4.4\% | \$125,365,199 | \$9,220,978 | \$8,655 | 313,075 | 95.6\% | \$2,129,735,952 | \$6,803 | 27.2\% |
| FY12 | 16,038 | 4.9\% | \$133,828,026 | \$3,307,419 | \$8,344 | 314,376 | 95.1\% | \$2,159,354,674 | \$6,869 | 21.5\% |
| FY13 | 19,395 | 5.9\% | \$157,178,415 | \$15,555,488 | \$8,104 | 311,968 | 94.1\% | \$2,333,913,735 | \$7,481 | 8.3\% |
| FY14 | 20,593 | 6.2\% | \$170,590,379 | \$3,975,975 | \$8,284 | 310,042 | 93.8\% | \$2,243,173,586 | \$7,235 | 14.5\% |
| FY15 | 22,082 | 6.7\% | \$190,656,487 | \$4,057,638 | \$8,634 | 309,105 | 93.3\% | \$2,348,700,664 | \$7,598 | 13.6\% |
| FY16 | 22,973 | 6.9\% | \$200,515,219 | \$1,624,334 | \$8,728 | 308,982 | 93.1\% | \$2,360,212,014 | \$7,639 | 14.3\% |

Notes: Since FY08, charter school enrollment increased by 12,518 students, or 120 percent, from 3.2 percent of total public school enrollments to 6.9 percent of total public school enrollments; state equalization guarantee distribution (SEG) payments to charter schools increased \$108 million, or 116 percent. Over the same time period, school district enrollment decreased 4,323 students, or 1.4 percent, from 96.8 percent of the total student population to 93.1 percent of the total student population. SEG payments to school districts increased $\$ 126$ million, or 5.6 percent.


Columns $A+B=C$ generally, except for highlighted columns.
${ }^{1}$ Program cost equals the SEG appropriation plus local and federal revenues the state takes 75 percent credit for, including the local 0.5 mill levy and federal Impact Aid and Forest Reserve funds. The program cost assumed by the 2015 legislature totaled $\$ 2,553,525.8$, and included $\$ 56$ million in 75 percent credits and an additional $\$ 5$ million in drivers license fees. Generally, the total program cost reported by PED for all school districts and charter schools does not exactly equal the program cost assumed by the Legislature, and may in fact be less than the program cost assumed by the Legislature based on assumptions made by PED in setting the final unit value..
${ }^{2}$ The average per student cost reported on line 5 includes the average amount generated per student from small school size units included in line 11. Lines 7 through 11 demonstrate the amount of funding generated through the small school size program unit of the funding formula. Average per-student funding generated through all other program units (excluding small school size units) generally results in similar average per-student funding at school districts and charter schools, i.e., eliminating size funding results in a per-student cost at the school district level of $\$ 7,453.80(\$ 7,638.67-\$ 184.86)$ and a $\$ 7,445.15(\$ 8,728.49-\$ 1,284.34)$ at the charter school level - a difference of approximately 0.12 percent).

FY10 Through FY16 Double Funded Enrollment Growth at Charter Schools


