

HOUSE EDUCATION COMMITTEE SUBSTITUTE FOR  
HOUSE BILL 158

51ST LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2013

AN ACT

RELATING TO PUBLIC SCHOOLS; AMENDING THE PUBLIC SCHOOL FINANCE  
ACT TO REQUIRE PERFORMANCE-BASED BUDGETS FOR SCHOOL DISTRICTS  
AND CHARTER SCHOOLS AND TO MODIFY AND UPDATE THE AT-RISK FACTOR  
IN THE FUNDING FORMULA; RECONCILING MULTIPLE AMENDMENTS TO THE  
SAME SECTION OF LAW IN LAWS 1999.

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

SECTION 1. Section 22-8-6 NMSA 1978 (being Laws 1967,  
Chapter 16, Section 60, as amended by Laws 1999, Chapter 281,  
Section 21 and by Laws 1999, Chapter 291, Section 2) is amended  
to read:

"22-8-6. BUDGETS--SUBMISSION--FAILURE TO SUBMIT.--

A. Prior to April 15 of each year, each local  
school board shall submit to the department an operating budget  
for the school district and any charter ~~[schools]~~ school in the

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1 school district for the ensuing fiscal year. Upon written  
2 approval of the [~~state superintendent~~] secretary, the date for  
3 the submission of the operating budget as required by this  
4 section may be extended to a later date fixed by the [~~state~~  
5 ~~superintendent~~] secretary.

6 B. The operating budget required by this section  
7 may include:

8 (1) estimates of the cost of insurance  
9 policies for periods up to five years if a lower rate may be  
10 obtained by purchasing insurance for the longer term; or

11 (2) estimates of the cost of contracts for the  
12 transportation of students for terms extending up to four  
13 years.

14 C. The operating budget required by this section  
15 shall include a budget for each charter school of the  
16 membership projected for each charter school, the total program  
17 units generated at that charter school and approximate  
18 anticipated disbursements and expenditures at each charter  
19 school.

20 D. If a local school board fails to submit a budget  
21 pursuant to this section, the department shall prepare the  
22 operating budget for the school district for the ensuing fiscal  
23 year. A local school board shall be considered as failing to  
24 submit a budget pursuant to this section if the budget  
25 submitted exceeds the total projected resources of the school

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1 district or if the budget submitted does not comply with the  
2 law or with rules and procedures of the department.

3 E. Beginning with the 2014-2015 school year, all  
4 school districts shall submit performance-based budgets that  
5 comply with the requirements of the Accountability in  
6 Government Act and shall be in a form specified by the  
7 department."

8 SECTION 2. Section 22-8-6.1 NMSA 1978 (being Laws 1993,  
9 Chapter 227, Section 8, as amended) is amended to read:

10 "22-8-6.1. CHARTER SCHOOL BUDGETS.--

11 A. Each state-chartered charter school shall submit  
12 to the charter schools division of the department a school-  
13 based budget. For the first year of operation, the budget of  
14 every state-chartered charter school shall be based on the  
15 projected number of program units generated by that charter  
16 school and its students, using the at-risk index and the  
17 instructional staff training and experience index of the school  
18 district in which it is geographically located. For second and  
19 subsequent fiscal years of operation, the budgets of state-  
20 chartered charter schools shall be based on the number of  
21 program units generated using the average of the MEM on the  
22 second and third reporting dates of the prior year and its own  
23 instructional staff training and experience index and the at-  
24 risk index of the school district in which the state-chartered  
25 charter school is geographically located. The budget shall be

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1 submitted to the division for approval or amendment pursuant to  
2 the Public School Finance Act and the Charter Schools Act.

3 B. Beginning with the 2014-2015 school year, all  
4 state-chartered charter schools shall submit performance-based  
5 budgets that comply with the requirements of the Accountability  
6 in Government Act and shall be in a form specified by the  
7 department.

8 ~~[B-]~~ C. Each locally chartered charter school shall  
9 submit to the local school board a school-based budget. For  
10 the first year of operation, the budget of every locally  
11 chartered charter school shall be based on the projected number  
12 of program units generated by the charter school and its  
13 students, using the at-risk index and the instructional staff  
14 training and experience index of the school district in which  
15 it is geographically located. For second and subsequent fiscal  
16 years of operation, the budgets of locally chartered charter  
17 schools shall be based on the number of program units generated  
18 using the average of the MEM on the second and third reporting  
19 dates of the prior year and its own instructional staff  
20 training and experience index and the at-risk index of the  
21 school district in which the locally chartered charter school  
22 is geographically located. The budget shall be submitted to  
23 the local school board for approval or amendment. The approval  
24 or amendment authority of the local school board relative to  
25 the charter school budget is limited to ensuring that sound

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1 fiscal practices are followed in the development of the budget  
2 and that the charter school budget is within the allotted  
3 resources. The local school board shall have no veto authority  
4 over individual line items within the charter school's proposed  
5 budget, but shall approve or disapprove the budget in its  
6 entirety. Upon final approval of the local budget by the local  
7 school board, the individual charter school budget shall be  
8 included separately in the budget submission to the department  
9 required pursuant to the Public School Finance Act and the  
10 Charter Schools Act.

11 D. Beginning with the 2014-2015 school year, all  
12 locally chartered charter schools shall submit performance-  
13 based budgets that comply with the requirements of the  
14 Accountability in Government Act and shall be in a form  
15 specified by the department.

16 [~~G.~~] E. For the first year of operation after a  
17 locally chartered charter school converts to a state-chartered  
18 charter school or a state-chartered charter school converts to  
19 a locally chartered charter school, the charter school's budget  
20 shall be based on the number of program units generated using  
21 the average of the MEM on the second and third reporting dates  
22 of the prior year and the instructional staff training and  
23 experience index and the at-risk index of the school district  
24 in which it is geographically located. For second and  
25 subsequent fiscal years of operation, the charter school shall

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1 follow the provisions of Subsection A or [B] C of this section,  
2 as applicable.

3 ~~[D. Notwithstanding the provisions of Subsections A~~  
4 ~~through C of this section, each charter school that was in~~  
5 ~~existence in fiscal year 2009 shall be held harmless in the~~  
6 ~~calculation of its instructional staff training and experience~~  
7 ~~index for two fiscal years. For fiscal years 2010 and 2011,~~  
8 ~~the department shall use the greater of the charter school's~~  
9 ~~2008-2009 funded instructional staff training and experience~~  
10 ~~index or the charter school's own instructional staff training~~  
11 ~~and experience index. Beginning in fiscal year 2012, each~~  
12 ~~charter school shall use its own instructional staff training~~  
13 ~~and experience index.]"~~

14 SECTION 3. Section 22-8-7 NMSA 1978 (being Laws 1967,  
15 Chapter 16, Section 61, as amended) is amended to read:

16 "22-8-7. BUDGETS--FORM.--Beginning with the 2014-2015  
17 school year, budgets submitted to the department by a school  
18 district or state-chartered charter school, or budgets  
19 submitted by a locally chartered charter school to its  
20 chartering school district, shall be performance-based budgets  
21 that comply with requirements of the Accountability in  
22 Government Act and shall be in a form specified by the  
23 department."

24 SECTION 4. Section 22-8-23.3 NMSA 1978 (being Laws 1997,  
25 Chapter 40, Section 7, as amended) is amended to read:

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1 "22-8-23.3. AT-RISK PROGRAM UNITS.--

2 A. A school district is eligible for additional  
 3 program units if it establishes within its [~~state board~~]  
 4 department-approved educational plan identified services to  
 5 assist students to reach their full academic potential. A  
 6 school district receiving additional at-risk program units  
 7 shall include a report of specified services [~~in its annual~~  
 8 ~~accountability report pursuant to Section 22-1-6 NMSA 1978~~],  
 9 including, but not limited to, reading coaches and  
 10 interventionists, reduced class size at high-poverty schools,  
 11 additional instructional time, tutoring and school- and  
 12 student-level interventions to improve academic proficiency,  
 13 and intended outcomes as a supplement to its performance-based  
 14 budget in a form specified by the department. The number of  
 15 additional units to which a school district is entitled under  
 16 this section is computed in the following manner:

17 
$$\text{At-Risk Index} \times \text{MEM} = \text{Units}$$

18 where MEM is equal to the total district membership, including  
 19 early childhood education, full-time-equivalent membership and  
 20 special education membership and where the at-risk index is  
 21 calculated in the following manner:

22 
$$\text{Three-Year Average Total Rate} \times [\del{0.0915}] \underline{0.1050} = \text{At-Risk}$$
  
 23 Index.

24 B. To calculate the three-year average total rate,  
 25 the department shall compute a three-year average of the school

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1 district's percentage of membership used to determine its Title  
2 I allocation, a three-year average of the percentage of  
3 membership classified as English language learners using  
4 criteria established by the federal office of civil rights and  
5 a three-year average of the percentage of student mobility.  
6 The department shall then add the three-year average rates.  
7 The number obtained from this calculation is the three-year  
8 average total rate.

9 ~~[G. The department shall recalculate the at-risk~~  
10 ~~index for each school district every year. For the 2002-2003,~~  
11 ~~2003-2004 and 2004-2005 school years, a school district shall~~  
12 ~~not receive less than ninety percent of the at-risk funding~~  
13 ~~generated in fiscal year 2001.]"~~

14 SECTION 5. EFFECTIVE DATE.--The effective date of the  
15 provisions of Section 4 of this act is July 1, 2014.