

1 HOUSE BILL 166

2 **52ND LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2015**

3 INTRODUCED BY

4 Dennis J. Roch

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7
8 FOR THE LEGISLATIVE EDUCATION STUDY COMMITTEE

9
10 AN ACT

11 RELATING TO PUBLIC EDUCATION; ALLOWING SCHOOL DISTRICTS AND
12 CHARTER SCHOOLS TO ESTABLISH TRANSPORTATION AGREEMENTS TO
13 TRANSPORT CHARTER SCHOOL STUDENTS.

14
15 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

16 SECTION 1. Section 22-8-26 NMSA 1978 (being Laws 1967,
17 Chapter 16, Section 76, as amended) is amended to read:

18 "22-8-26. TRANSPORTATION DISTRIBUTION.--

19 A. Money in the transportation distribution of the
20 public school fund shall be used only for the purpose of making
21 payments to each school district [~~or state-chartered charter~~
22 ~~school~~] for the to-and-from school transportation costs of
23 students in grades kindergarten through twelve attending public
24 school within the school district [~~or state-chartered charter~~
25 ~~school~~] and of three- and four-year-old children who meet the

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1 department-approved criteria and definition of developmentally
2 disabled and for transportation of students to and from their
3 regular attendance centers and the place where vocational
4 education programs are being offered.

5 B. In the event a school district's [~~or state-~~
6 ~~chartered charter school's~~] transportation allocation exceeds
7 the amount required to meet obligations to provide
8 to-and-from transportation, three- and four-year-old
9 developmentally disabled transportation and vocational
10 education transportation, fifty percent of the remaining
11 balance shall be deposited in the transportation emergency
12 fund.

13 C. Of the excess amount retained by the school
14 district [~~or state-chartered charter school~~], at least
15 twenty-five percent shall be used for to-and-from
16 transportation-related services, excluding salaries and
17 benefits, and up to twenty-five percent may be used for other
18 transportation-related services, excluding salaries and
19 benefits as defined by rule of the department.

20 D. In the event the sum of the proposed
21 transportation allocations to each school district [~~or state-~~
22 ~~chartered charter school~~] exceeds the amounts in the
23 transportation distribution, the allocation to each school
24 district [~~or state-chartered charter school~~] shall be reduced
25 in the proportion that the school district [~~or state-chartered~~

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1 ~~charter school]~~ allocation bears to the total statewide
2 transportation distribution.

3 E. A local school board [~~or governing body of a~~
4 ~~state-chartered charter school]~~, with the approval of the state
5 transportation director, may provide additional transportation
6 services pursuant to Section 22-16-4 NMSA 1978 to meet
7 established program needs.

8 F. A charter school in which at least twenty
9 percent of the students qualify for transportation services in
10 compliance with an individualized education plan or with
11 Section 504 of the federal Rehabilitation Act of 1973 may
12 choose to provide state-funded transportation services for its
13 eligible students; provided that the eligible students are not
14 receiving transportation services provided for all students.

15 [~~F-~~] G. Nothing in this section prohibits the use
16 of school buses to transport the general public pursuant to the
17 Emergency Transportation Act."

18 SECTION 2. Section 22-8-27 NMSA 1978 (being Laws 1967,
19 Chapter 16, Section 77, as amended) is amended to read:

20 "22-8-27. TRANSPORTATION EQUIPMENT.--

21 A. The department shall establish a systematic
22 program for the purchase of necessary school bus transportation
23 equipment.

24 B. In establishing a system for the replacement of
25 school-district-owned buses, the department shall provide for

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1 the replacement of school buses on a twelve-year cycle. School
2 districts requiring additional buses to accommodate growth in
3 the school district or to meet other special needs may petition
4 the department for additional buses. Under exceptional
5 circumstances, school districts may also petition the
6 department for permission to replace buses prior to the
7 completion of a twelve-year cycle or to use buses in excess of
8 twelve years contingent upon satisfactory annual safety
9 inspections.

10 C. In establishing a system for the use of
11 contractor-owned buses by school districts [~~or state-chartered~~
12 ~~charter schools~~], the department shall establish a schedule for
13 the payment of rental fees for the use of contractor-owned
14 buses. The department shall establish procedures to ensure the
15 systematic replacement of buses on a twelve-year replacement
16 cycle. School districts requiring additional buses to
17 accommodate growth in the school district or to meet other
18 special needs may petition the department for additional buses.
19 Under exceptional circumstances, school districts may also
20 petition the department for permission to replace buses prior
21 to the completion of a twelve-year cycle or to use buses in
22 excess of twelve years contingent upon satisfactory annual
23 safety inspections.

24 D. The school district shall file a lien on every
25 contractor-owned school bus under the contract on which the

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1 contractor owes money, which lien shall have priority second
2 only to a lien securing the purchase-money obligation. The
3 school district shall perfect its lien on each contractor-owned
4 school bus by filing the lien with the motor vehicle division
5 of the taxation and revenue department. The lien shall be
6 recorded on the title of the school bus. A school bus
7 contractor shall not refinance or use a school bus on which a
8 school district has a lien as collateral for any other loan
9 without prior written permission of the department. A school
10 bus lien shall be collected and enforced as provided in Chapter
11 55, Article 9 NMSA 1978. The school district shall release its
12 lien on a school bus:

13 (1) when the department authorizes a
14 replacement of the school bus; or

15 (2) when the contractor has reimbursed the
16 school district the amount calculated pursuant to Subsection E
17 of this section if the school bus service contract is
18 terminated or not renewed and the contractor owes the school
19 district as provided in that subsection.

20 E. No school district shall pay rental fees for any
21 one bus for a period in excess of five years. In the event a
22 school bus service contract is terminated or not renewed by
23 either party, the department shall calculate the remaining
24 number of years that a bus could be used based on a twelve-year
25 replacement cycle and calculate a value reflecting that use.

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1 The school district shall deduct an amount equal to that value
2 from any remaining amount due on the contract, or if no balance
3 remains on the contract, the contractor shall reimburse the
4 school district an amount equal to the value calculated.

5 F. If the school district fails to take action to
6 collect money owed to it when a school bus contract is
7 terminated or not renewed, the department may deduct the amount
8 from the school district's transportation distribution."

9 SECTION 3. Section 22-8-29 NMSA 1978 (being Laws 1967,
10 Chapter 16, Section 78, as amended) is amended to read:

11 "22-8-29. TRANSPORTATION DISTRIBUTIONS--REPORTS--
12 PAYMENTS.--

13 A. Prior to November 15 of each year, each local
14 school board of a school district [~~and governing body of a~~
15 ~~state-chartered charter school~~] shall report to the state
16 transportation director, upon forms furnished by the state
17 transportation director, the following information concerning
18 the school district's [~~or state-chartered charter school's~~]
19 operation on the first reporting date of the current year:

20 (1) the number and designation of school bus
21 routes in operation in the school district;

22 (2) the number of miles traveled by each
23 school bus on each school bus route, showing the route mileage
24 in accordance with the type of road surface traveled;

25 (3) the number of students transported on the

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1 first reporting date of the current year and adjusted for
2 special education students on December 1;

3 (4) the projected number of students to be
4 transported in the next school year;

5 (5) the seating capacity, age and mileage of
6 each bus used in the school district for student
7 transportation; and

8 (6) the number of total miles traveled for
9 each school district's ~~[or state-chartered charter school's]~~
10 per capita feeder routes.

11 B. Each local school board of a school district
12 ~~[and governing body of a state-chartered charter school]~~
13 maintaining a school bus route shall make further reports to
14 the state transportation director at other times specified by
15 the state transportation director.

16 C. The state transportation director shall certify
17 to the secretary that the allocations from the transportation
18 distributions to each school district ~~[and state-chartered~~
19 ~~charter school]~~ are based upon the transportation distribution
20 formula established in the Public School Code. The allocations
21 for the first six months of a school year shall be based upon
22 the tentative transportation budget of the school district ~~[or~~
23 ~~state-chartered charter school]~~ for the current fiscal year.
24 Allocations to a school district ~~[or state-chartered charter~~
25 ~~school]~~ for the remainder of the school year shall adjust the

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1 amount received by the school district [~~or state-chartered~~
2 ~~charter school~~] so that it equals the amount the school
3 district [~~or state-chartered charter school~~] is entitled to
4 receive for the entire school year based upon the November 15
5 report and subject to audit and verification.

6 D. The department shall make periodic installment
7 payments to school districts [~~and state-chartered charter~~
8 ~~schools~~] during the school year from the transportation
9 distributions, based upon the allocations certified by the
10 state transportation director."

11 SECTION 4. Section 22-8-29.1 NMSA 1978 (being Laws 1995,
12 Chapter 208, Section 10, as amended) is amended to read:

13 "22-8-29.1. CALCULATION OF TRANSPORTATION ALLOCATION.--

14 A. As used in this section:

15 (1) "annual variables" means the coefficients
16 calculated by regressing the total operational expenditures
17 from two years prior to the current school year for each school
18 district [~~and state-chartered charter school~~] using the number
19 of students transported and the numerical value of site
20 characteristics;

21 (2) "base amount" means the fixed amount that
22 is the same for all school districts [~~and an amount established~~
23 ~~by rule for state-chartered charter schools~~];

24 (3) "total operational expenditures" means the
25 sum of all to-and-from school transportation expenditures,

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1 excluding expenditures incurred in accordance with the
2 provisions of Section 22-8-27 NMSA 1978; and

3 (4) "variable amount" means the sum of the
4 product of the annual variables multiplied by each school
5 district's [~~or state-chartered charter school's~~] numerical
6 value of the school district's [~~and state-chartered charter~~
7 ~~school's~~] site characteristics multiplied by the number of days
8 of operation for each school district [~~or state-chartered~~
9 ~~charter school~~].

10 B. The department shall calculate the
11 transportation allocation for each school district [~~and state-~~
12 ~~chartered charter school~~].

13 C. The base amount is designated as product A.
14 Product A is the constant calculated by regressing the total
15 operations expenditures from the two years prior to the current
16 school year for school district [~~or state-chartered charter~~
17 ~~school~~] operations using the numerical value of site
18 characteristics approved by the department. The legislative
19 education study committee and the legislative finance committee
20 may review the site characteristics developed by the state
21 transportation director prior to approval by the department.

22 D. The variable amount is designated as product B.
23 Product B is the predicted additional expenditures for each
24 school district [~~or state-chartered charter school~~] based on
25 the regression analysis using the site characteristics as

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1 predictor variables multiplied by the number of days.

2 E. The allocation to each school district [~~and~~
3 ~~state-chartered charter school~~] shall be equal to product A
4 plus product B.

5 F. For the 2001-2002, 2002-2003 and 2003-2004
6 school years, the transportation allocation for each school
7 district shall not be less than ninety-five percent or more
8 than one hundred five percent of the prior school year's
9 transportation expenditure.

10 G. The adjustment factor shall be applied to the
11 allocation amount determined pursuant to Subsections E and F of
12 this section."

13 SECTION 5. Section 22-8-29.4 NMSA 1978 (being Laws 1995,
14 Chapter 208, Section 13, as amended) is amended to read:

15 "22-8-29.4. TRANSPORTATION DISTRIBUTION ADJUSTMENT
16 FACTOR.--

17 A. The department shall establish a transportation
18 distribution adjustment factor. The adjustment factor shall be
19 calculated as follows:

20 (1) calculate the unadjusted transportation
21 allocation for each school district [~~and state-chartered~~
22 ~~charter school~~] designated in Section 22-8-29.1 NMSA 1978 as
23 product A plus product B;

24 (2) the sum total of product A plus product B
25 in all school districts [~~and state-chartered charter schools~~]

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1 added together equals product C; and

2 (3) subtract product C from the total
3 operational transportation distribution for the current year
4 and divide the result by product C and then add 1 in the
5 following manner:

6 "[total operational transportation distribution - C) ÷ C]
7 + 1". The result is the transportation distribution adjustment
8 factor.

9 B. As used in this section, "total operational
10 transportation distribution" means the total legislative
11 appropriation for the transportation distribution minus amounts
12 included for capital outlay expenses."

13 SECTION 6. Section 22-8B-4 NMSA 1978 (being Laws 1999,
14 Chapter 281, Section 4, as amended) is amended to read:

15 "22-8B-4. CHARTER SCHOOLS' RIGHTS AND RESPONSIBILITIES--
16 OPERATION.--

17 A. A charter school shall be subject to all federal
18 and state laws and constitutional provisions prohibiting
19 discrimination on the basis of disability, physical or mental
20 handicap, serious medical condition, race, creed, color, sex,
21 gender identity, sexual orientation, spousal affiliation,
22 national origin, religion, ancestry or need for special
23 education services.

24 B. A charter school shall be governed by a
25 governing body in the manner set forth in the charter contract;

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1 provided that a governing body shall have at least five
2 members; and provided further that no member of a governing
3 body for a charter school that is initially approved on or
4 after July 1, 2005 or whose charter is renewed on or after July
5 1, 2005 shall serve on the governing body of another charter
6 school. No member of a local school board shall be a member of
7 a governing body for a charter school or employed in any
8 capacity by a locally chartered charter school located within
9 the local school board's school district during the term of
10 office for which the member was elected or appointed.

11 C. A charter school shall be responsible for:

12 (1) its own operation, including preparation
13 of a budget, subject to audits pursuant to the Audit Act; and

14 (2) contracting for services and personnel
15 matters.

16 D. A charter school may contract with a school
17 district, a university or college, the state, another political
18 subdivision of the state, the federal government or one of its
19 agencies, a tribal government or any other third party for the
20 use of a facility, its operation and maintenance and the
21 provision of any service or activity that the charter school is
22 required to perform in order to carry out the educational
23 program described in its charter contract. Facilities used by
24 a charter school shall meet the standards required pursuant to
25 Section 22-8B-4.2 NMSA 1978.

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1 E. A conversion school chartered before July 1,
2 2007 may choose to continue using the school district
3 facilities and equipment it had been using prior to conversion,
4 subject to the provisions of Subsection F of this section.

5 F. The school district in which a charter school is
6 geographically located shall provide a charter school with
7 available facilities for the school's operations unless the
8 facilities are currently used for other educational purposes.
9 An agreement for the use of school district facilities by a
10 charter school may provide for reasonable lease payments;
11 provided that the payments do not exceed the sum of the lease
12 reimbursement rate provided in Subparagraph (b) of Paragraph
13 (1) of Subsection I of Section 22-24-4 NMSA 1978 plus any
14 reimbursement for actual direct costs incurred by the school
15 district in providing the facilities; and provided further that
16 any lease payments received by a school district may be
17 retained by the school district and shall not be considered to
18 be cash balances in any calculation pursuant to Section 22-8-41
19 NMSA 1978. The available facilities provided by a school
20 district to a charter school shall meet all occupancy standards
21 as specified by the public school capital outlay council. As
22 used in this subsection, "other educational purposes" includes
23 health clinics, daycare centers, teacher training centers,
24 school district administration functions and other ancillary
25 services related to a school district's functions and

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1 operations.

2 G. A locally chartered charter school may pay the
3 costs of operation and maintenance of its facilities or may
4 contract with the school district to provide facility operation
5 and maintenance services.

6 H. Locally chartered charter school facilities are
7 eligible for state and local capital outlay funds and shall be
8 included in the school district's five-year facilities plan.

9 I. A [~~locally chartered~~] charter school that
10 chooses to provide transportation services shall negotiate with
11 [~~a~~] the school district in which it is geographically located
12 to provide transportation to students eligible for
13 transportation under the provisions of the Public School Code.
14 The school district, in conjunction with the charter school,
15 may establish a limit for student transportation to and from
16 the charter school site not to extend beyond the school
17 district boundary. However, nothing in this subsection shall
18 be construed to require a charter school and school district to
19 enter into a transportation agreement.

20 J. A charter school shall be a nonsectarian,
21 nonreligious and non-home-based public school.

22 K. Except as otherwise provided in the Public
23 School Code, a charter school shall not charge tuition or have
24 admission requirements.

25 L. With the approval of the chartering authority, a

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1 single charter school may maintain separate facilities at two
2 or more locations within the same school district; but, for
3 purposes of calculating program units pursuant to the Public
4 School Finance Act, the separate facilities shall be treated
5 together as one school.

6 M. A charter school shall be subject to the
7 provisions of Section 22-2-8 NMSA 1978 and the Assessment and
8 Accountability Act.

9 N. Within constitutional and statutory limits, a
10 charter school may acquire and dispose of property; provided
11 that, upon termination of the charter, all assets of the
12 locally chartered charter school shall revert to the local
13 school board and all assets of the state-chartered charter
14 school shall revert to the state, except that, if all or any
15 portion of a state-chartered charter school facility is
16 financed with the proceeds of general obligation bonds issued
17 by a local school board, the facility shall revert to the local
18 school board.

19 O. The governing body of a charter school may
20 accept or reject any charitable gift, grant, devise or bequest;
21 provided that no such gift, grant, devise or bequest shall be
22 accepted if subject to any condition contrary to law or to the
23 terms of the charter. The particular gift, grant, devise or
24 bequest shall be considered an asset of the charter school to
25 which it is given.

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1 P. The governing body may contract and sue and be
2 sued. A local school board shall not be liable for any acts or
3 omissions of the charter school.

4 Q. A charter school shall comply with all state and
5 federal health and safety requirements applicable to public
6 schools, including those health and safety codes relating to
7 educational building occupancy.

8 R. A charter school is a public school that may
9 contract with a school district or other party for provision of
10 financial management, food services, transportation, facilities,
11 education-related services or other services. The governing
12 body shall not contract with a for-profit entity for the
13 management of the charter school.

14 S. To enable state-chartered charter schools to
15 submit required data to the department, an accountability data
16 system shall be maintained by the department.

17 T. A charter school shall comply with all
18 applicable state and federal laws and rules related to
19 providing special education services. Charter school students
20 with disabilities and their parents retain all rights under the
21 federal Individuals with Disabilities Education Act and its
22 implementing state and federal rules. Each charter school is
23 responsible for identifying, evaluating and offering a free
24 appropriate public education to all eligible children who are
25 accepted for enrollment in that charter school. The state-

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1 chartered charter school, as a local educational agency, shall
2 assume responsibility for determining students' needs for
3 special education and related services. The division may
4 promulgate rules to implement the requirements of this
5 subsection."

6 SECTION 7. EFFECTIVE DATE.--The effective date of
7 provisions of this act is July 1, 2015.

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