

underscored material = new  
~~[bracketed material] = delete~~

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

HOUSE BILL 174

**53RD LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2018**

INTRODUCED BY

Christine Trujillo

AN ACT

RELATING TO PUBLIC SCHOOLS; EXPANDING THE DEFINITION OF  
"SCHOOL-AGE PERSON" TO ALLOW CERTAIN GIFTED STUDENTS TO ATTEND  
KINDERGARTEN.

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

SECTION 1. Section 22-1-2 NMSA 1978 (being Laws 2003,  
Chapter 153, Section 3, as amended by Laws 2015, Chapter 58,  
Section 2 and by Laws 2015, Chapter 108, Section 1) is amended  
to read:

"22-1-2. DEFINITIONS.--As used in the Public School Code:

A. "academic proficiency" means mastery of the  
subject-matter knowledge and skills specified in state academic  
content and performance standards for a student's grade level;

B. "charter school" means a school authorized by a  
chartering authority to operate as a public school;

underscored material = new  
~~[bracketed material] = delete~~

- 1           C. "commission" means the public education  
2           commission;
- 3           D. "department" means the public education  
4           department;
- 5           E. "home school" means the operation by the parent  
6           of a school-age person of a home study program of instruction  
7           that provides a basic academic educational program, including  
8           reading, language arts, mathematics, social studies and  
9           science;
- 10          F. "instructional support provider" means a person  
11          who is employed to support the instructional program of a  
12          school district, including educational assistant, school  
13          counselor, social worker, school nurse, speech-language  
14          pathologist, psychologist, physical therapist, occupational  
15          therapist, recreational therapist, marriage and family  
16          therapist, interpreter for the deaf and diagnostician;
- 17          G. "licensed school employee" means teachers,  
18          school administrators and instructional support providers;
- 19          H. "local school board" means the policy-setting  
20          body of a school district;
- 21          I. "local superintendent" means the chief executive  
22          officer of a school district;
- 23          J. "parent" includes a guardian or other person  
24          having custody and control of a school-age person;
- 25          K. "private school" means a school, other than a

.209427.1

underscored material = new  
[bracketed material] = delete

1 home school, that offers on-site programs of instruction and  
2 that is not under the control, supervision or management of a  
3 local school board;

4 L. "public school" means that part of a school  
5 district that is a single attendance center in which  
6 instruction is offered by one or more teachers and is  
7 discernible as a building or group of buildings generally  
8 recognized as either an elementary, middle, junior high or high  
9 school or any combination of those and includes a charter  
10 school;

11 M. "school" means a supervised program of  
12 instruction designed to educate a student in a particular  
13 place, manner and subject area;

14 N. "school administrator" means a person licensed  
15 to administer in a school district and includes school  
16 principals, central district administrators and charter school  
17 head administrators;

18 O. "school-age person" means a person who is at  
19 least five years of age prior to 12:01 a.m. on September 1 of  
20 the school year and who has not received a high school diploma  
21 or its equivalent; provided that a student who has been  
22 identified as qualifying for gifted education services pursuant  
23 to Section 22-13-6.1 NMSA 1978 may begin kindergarten early as  
24 part of an academic acceleration program pursuant to Section  
25 22-13-6.1 NMSA 1978. A maximum age of twenty-one shall be used

.209427.1

underscoring material = new  
~~[bracketed material] = delete~~

1 for a person who is classified as special education membership  
2 as defined in Section 22-8-21 NMSA 1978 or as a resident of a  
3 state institution;

4 P. "school building" means a public school, an  
5 administration building and related school structures or  
6 facilities, including teacher housing, that is owned, acquired  
7 or constructed by the school district as necessary to carry out  
8 the functions of the school district;

9 Q. "school bus private owner" means a person, other  
10 than a school district, the department, the state or any other  
11 political subdivision of the state, that owns a school bus;

12 R. "school district" means an area of land  
13 established as a political subdivision of the state for the  
14 administration of public schools and segregated geographically  
15 for taxation and bonding purposes;

16 S. "school employee" includes licensed and  
17 nonlicensed employees of a school district;

18 T. "school principal" means the chief instructional  
19 leader and administrative head of a public school;

20 U. "school year" means the total number of contract  
21 days offered by public schools in a school district during a  
22 period of twelve consecutive months;

23 V. "secretary" means the secretary of public  
24 education;

25 W. "state agency" or "state institution" means the

underscored material = new  
~~[bracketed material] = delete~~

1 New Mexico military institute, New Mexico school for the blind  
2 and visually impaired, New Mexico school for the deaf, New  
3 Mexico boys' school, girls' welfare home, New Mexico youth  
4 diagnostic and development center, Sequoyah adolescent  
5 treatment center, Carrie Tingley crippled children's hospital,  
6 New Mexico behavioral health institute at Las Vegas and any  
7 other state agency responsible for educating resident children;

8 X. "state educational institution" means an  
9 institution enumerated in Article 12, Section 11 of the  
10 constitution of New Mexico;

11 Y. "substitute teacher" means a person who holds a  
12 certificate to substitute for a teacher in the classroom;

13 Z. "teacher" means a person who holds a level one,  
14 two or three-A license and whose primary duty is classroom  
15 instruction or the supervision, below the school principal  
16 level, of an instructional program or whose duties include  
17 curriculum development, peer intervention, peer coaching or  
18 mentoring or serving as a resource teacher for other teachers;

19 AA. "certified school instructor" means a teacher  
20 or instructional support provider; and

21 BB. "certified school employee" or "certified  
22 school personnel" means a licensed school employee."

23 SECTION 2. Section 22-8-2 NMSA 1978 (being Laws 1978,  
24 Chapter 128, Section 3, as amended) is amended to read:

25 "22-8-2. DEFINITIONS.--As used in the Public School

.209427.1

underscoring material = new  
~~[bracketed material] = delete~~

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

Finance Act:

A. "ADM" or "MEM" means membership;

B. "membership" means the total enrollment of qualified students on the current roll of a class or school on a specified day. The current roll is established by the addition of original entries and reentries minus withdrawals. Withdrawals of students, in addition to students formally withdrawn from the public school, include students absent from the public school for as many as ten consecutive school days; provided that withdrawals do not include students in need of early intervention and habitual truants the school district is required to intervene with and keep in an educational setting as provided in Section 22-12-9 NMSA 1978;

C. "basic program ADM" or "basic program MEM" means the MEM of qualified students but excludes the full-time-equivalent MEM in early childhood education and three- and four-year-old students receiving special education services;

D. "cost differential factor" is the numerical expression of the ratio of the cost of a particular segment of the school program to the cost of the basic program in grades four through six;

E. "department" or "division" means the public education department;

F. "early childhood education ADM" or "early childhood education MEM" means the full-time-equivalent MEM of

underscoring material = new  
~~[bracketed material] = delete~~

1 students attending approved early childhood education programs;

2 G. "full-time-equivalent ADM" or "full-time-  
3 equivalent MEM" is that membership calculated by applying to  
4 the MEM in an approved public school program the ratio of the  
5 number of hours per school day devoted to the program to six  
6 hours or the number of hours per school week devoted to the  
7 program to thirty hours;

8 H. "operating budget" means the annual financial  
9 plan required to be submitted by a local school board or  
10 governing body of a state-chartered charter school;

11 I. "program cost" is the product of the total  
12 number of program units to which a school district is entitled  
13 multiplied by the dollar value per program unit established by  
14 the legislature;

15 J. "program element" is that component of a public  
16 school system to which a cost differential factor is applied to  
17 determine the number of program units to which a school  
18 district is entitled, including but not limited to MEM,  
19 full-time-equivalent MEM, teacher, classroom or public school;

20 K. "program unit" is the product of the program  
21 element multiplied by the applicable cost differential factor;

22 L. "public money" or "public funds" means all money  
23 from public or private sources received by a school district or  
24 state-chartered charter school or officer or employee of a  
25 school district or state-chartered charter school for public

.209427.1

1 use;

2 M. "qualified student" means a public school  
3 student who:

4 (1) has not graduated from high school;

5 (2) is regularly enrolled in one-half or more  
6 of the minimum course requirements approved by the department  
7 for public school students; and

8 (3) in terms of age:

9 (a) is at least five years of age prior  
10 to 12:01 a.m. on September 1 of the school year;

11 (b) is at least three years of age at  
12 any time during the school year and is receiving special  
13 education services pursuant to rules of the department or is  
14 attending kindergarten as part of an academic acceleration  
15 program for gifted students as provided in Section 22-13-6.1  
16 NMSA 1978; or

17 (c) has not reached the student's  
18 twenty-second birthday on the first day of the school year and  
19 is receiving special education services pursuant to rules of  
20 the department; and

21 N. "state superintendent" means the secretary of  
22 public education or the secretary's designee."