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HOUSE BILL 215

56TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2024

INTRODUCED BY

Yanira Gurrola and Tara Jaramillo

AN ACT

RELATING TO PUBLIC SCHOOLS; AMENDING CLASS AND TEACHING LOADS;
REQUIRING THE PUBLIC EDUCATION DEPARTMENT TO CREATE AND
MAINTAIN AN ONLINE PORTAL TO RECEIVE CONFIDENTIAL REPORTS OF
CLASS LOAD VIOLATIONS; PROVIDING CLASS LOAD WAIVERS; PROVIDING
RULEMAKING AUTHORITY TO THE PUBLIC EDUCATION DEPARTMENT;
REQUIRING SCHOOL DISTRICTS TO PROVIDE NOTICE OF CLASS LOAD
WAIVERS.

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) is amended to read:

"22-8-6. OPERATING BUDGETS--EDUCATIONAL PLANS--
SUBMISSION--CERTAIN REPORTS--FAILURE TO SUBMIT.--

A. Prior to April 15 of each year, each local
school board shall submit to the department an operating budget

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1 for the school district and any locally chartered charter
2 school in the school district for the ensuing fiscal year.

3 B. The date for the submission of the operating
4 budget for each school district and each charter school as
5 required by this section may be extended to a later date fixed
6 by the secretary.

7 C. The operating budget required by this section
8 may include:

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

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

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

21 E. ~~[For fiscal year 2021 and subsequent fiscal~~
22 ~~years]~~ Each school district's and each locally chartered or
23 state-chartered charter school's educational plan shall
24 include:

25 (1) information on the instructional time

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1 offered by the school district or charter school, including the
2 number of instructional days by school site and the number of
3 instructional hours in each instructional day and the frequency
4 of early-release days;

5 (2) for school districts, the class load and
6 teacher load in each elementary or secondary class at each
7 school site provided for in the operating budget to meet the
8 requirements of Section 22-10A-20 NMSA 1978 and the class load
9 and teacher load for each of those classes in the prior school
10 year and any class load or teacher load waivers granted by the
11 department in the prior school year or requested for the
12 upcoming school year;

13 [~~(2)~~] (3) a narrative explaining the
14 identified services to improve the academic success of at-risk
15 students;

16 [~~(3)~~] (4) a narrative explaining the services
17 provided to students enrolled in the following programs:

18 (a) extended learning time programs,
19 including a report of how the extended learning time is used to
20 improve the academic success of students and professional
21 learning of teachers; and

22 (b) K-5 plus programs;

23 [~~(4)~~] (5) a narrative explaining the school
24 district's or charter school's beginning teacher mentorship
25 programs as well as class size and teaching load information;

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1 [~~(5)~~] (6) a narrative explaining supplemental
2 programs or services offered by the school district or charter
3 school to ensure that the Bilingual Multicultural Education
4 Act, the Indian Education Act and the Hispanic Education Act
5 are being implemented by the school district or charter school;

6 [~~(6)~~] (7) a narrative describing the amount of
7 program cost generated for services to students with
8 disabilities and the spending of these revenues on services to
9 students with disabilities, which shall include the following:

10 (a) program cost generated for students
11 enrolled in approved special education programs;

12 (b) budgeted expenditures of program
13 cost, for students enrolled in approved special education
14 programs, on students with disabilities;

15 (c) the amount of program cost generated
16 for personnel providing ancillary and related services to
17 students with disabilities;

18 (d) budgeted expenditures of program
19 cost for personnel providing ancillary and related services to
20 students with disabilities, on special education ancillary and
21 related services personnel; and

22 (e) a description of the steps taken to
23 ensure that students with disabilities have access to a free
24 and appropriate public education; and

25 [~~(7)~~] (8) a common set of performance targets

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1 and performance measures, as determined by the department in
2 consultation with the department of finance and administration,
3 the legislative finance committee and the legislative education
4 study committee.

5 F. In addition to the requirements of Subsection E
6 of this section, a school district or charter school that
7 receives federal or local revenue shall include in its
8 educational plan a narrative explaining how the school district
9 or charter school will use the federal or local revenue to
10 improve outcomes for students or to improve the condition of a
11 school building. No later than October 1 of each year, a
12 school district or charter school that received federal or
13 local revenue in the prior fiscal year shall report to the
14 department on the actual uses of that revenue, including a
15 comprehensive evaluation of how the programs and services
16 provided with that revenue improved outcomes for students or
17 how capital projects undertaken improved the condition of a
18 school building. A school district or charter school that is
19 required under federal law to consult with tribal entities as a
20 condition of receiving impact aid funds shall include in its
21 educational plan a detailed narrative of its consultations with
22 tribal entities and the results of those consultations. The
23 school district or charter school shall transmit the October 1
24 spending and outcomes report to the appropriate tribal
25 authorities. No later than November 15 of each year, the

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1 department shall compile the federal and local revenue outcomes
2 reports into a statewide report to the legislative education
3 study committee and the legislative finance committee that
4 includes an analysis and identification of effective programs
5 and strategies that improve outcomes for students.

6 G. A school district or charter school operating
7 budget and educational plan shall prioritize federal and local
8 revenue for purposes relating to the Indian Education Act; for
9 capital expenditures authorized by the Public School Capital
10 Outlay Act, the Public School Capital Improvements Act or the
11 Public School Buildings Act; or for research-based or evidence-
12 based social, emotional or academic interventions for which at-
13 risk program units may be used.

14 H. If a local school board or governing board of a
15 charter school fails to submit an operating budget pursuant to
16 this section, the department shall prepare the operating budget
17 for the school district or charter school for the ensuing
18 fiscal year. A local school board or governing board of a
19 charter school shall be considered as failing to submit an
20 operating budget pursuant to this section if the budget
21 submitted exceeds the total projected resources of the school
22 district or charter school or if the budget submitted does not
23 comply with the law or with rules and procedures of the
24 department.

25 I. As used in this section:

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1 (1) "federal revenue" means seventy-five
2 percent of the revenue derived from:

3 (a) federal forest reserve funds
4 distributed in accordance with Section 22-8-33 NMSA 1978; or

5 (b) federal assistance to those areas
6 affected by federal activity authorized in accordance with
7 Title 20 of the United States Code, commonly known as "PL 874
8 funds" or "impact aid funds"; and

9 (2) "local revenue" means seventy-five percent
10 of the revenue from a school district one-half mill school
11 district property tax and revenue from the Oil and Gas Ad
12 Valorem Production Tax Act and the Oil and Gas Production
13 Equipment Ad Valorem Tax Act."

14 SECTION 2. Section 22-10A-20 NMSA 1978 (being Laws 1986,
15 Chapter 33, Section 3, as amended) is amended to read:

16 "22-10A-20. STAFFING PATTERNS--CLASS LOAD--TEACHING
17 LOAD.--

18 ~~[A. The individual class load for elementary school~~
19 ~~teachers shall not exceed twenty students for kindergarten;~~
20 ~~provided that any teacher in kindergarten with a class load of~~
21 ~~fifteen to twenty students shall be entitled to the assistance~~
22 ~~of an educational assistant.~~

23 B.] A. The [average] maximum class load for
24 elementary school teachers [at an individual school] shall not
25 exceed [twenty-two students when averaged among grades one, two

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1 and three; ~~provided that any teacher in grade one with a class~~
2 ~~load of twenty one or more shall be entitled to the full-time~~
3 ~~assistance of an educational assistant.~~

4 G. ~~The average class load for an elementary school~~
5 ~~teacher at an individual school shall not exceed twenty-four~~
6 ~~students when averaged among grades four, five and six] the~~
7 ~~following; provided that any elementary school teacher with a~~
8 ~~class load of fifteen or more students shall be entitled to the~~
9 ~~full-time assistance of an educational assistant:~~

10 (1) fifteen students in kindergarten through
11 grade three;

12 (2) eighteen students in grades four through
13 eight; and

14 (3) twenty-two students in grades nine through
15 twelve.

16 [D.] B. The [daily] nine-week teaching load per
17 teacher for grades [seven] six through eight shall not exceed
18 ninety students and for grades nine through twelve shall not
19 exceed one hundred [sixty] ten students, [except the daily
20 teaching load for teachers of required English courses in
21 grades seven and eight shall not exceed one hundred thirty-five
22 with a maximum of twenty-seven students per class and the daily
23 teaching load for teachers of required English courses in
24 grades nine through twelve shall not exceed one hundred fifty
25 students with a maximum of thirty students per class] with a

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1 maximum class load as delineated in Subsection A of this
2 section.

3 ~~[E.]~~ C. Students receiving special education
4 services integrated into a regular classroom for any part of
5 the day shall be counted in the calculation of class [~~load~~
6 ~~averages~~] loads. Students receiving special education services
7 not integrated into the regular classroom shall not be counted
8 in the calculation of class [~~load averages~~] loads. Students
9 enrolled in courses that do not require the teacher to plan,
10 grade or complete other tasks outside of the course meeting
11 time and that meet for less than the equivalent of one class
12 period per week, including advisory, homeroom and study hall,
13 shall not be counted in the calculation of class loads. Only
14 classroom teachers charged with responsibility for the regular
15 classroom instructional program shall be counted in determining
16 [~~average~~] class loads. [~~In elementary schools offering only~~
17 ~~one grade level, average class loads may be calculated by~~
18 ~~averaging appropriate grade levels between schools in the~~
19 ~~school district.~~

20 ~~F.]~~ D. Class load limits provided for in this
21 section do not apply to band or music classes or athletic
22 electives.

23 ~~[G. The state superintendent may waive the~~
24 ~~individual school class load requirements established in this~~
25 ~~section. Waivers shall be applied for annually and a waiver~~

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1 ~~shall not be granted for more than two consecutive years.~~
2 ~~Waivers may only be granted if a school district demonstrates~~
3 ~~that:~~

4 ~~(1) no portable classrooms are available;~~

5 ~~(2) no other available sources of funding~~
6 ~~exist to meet its need for additional classrooms;~~

7 ~~(3) the school district is planning~~
8 ~~alternatives to increase building capacity for implementation~~
9 ~~within one year; and~~

10 ~~(4) the parents of all children affected by~~
11 ~~the waiver have been notified in writing:~~

12 ~~(a) of the statutory class load~~
13 ~~requirements;~~

14 ~~(b) that the school district has made a~~
15 ~~decision to deviate from these class load requirements; and~~

16 ~~(c) of the school district plan to~~
17 ~~achieve compliance with the class load requirements.~~

18 ~~H. If a waiver is granted pursuant to Subsection G~~
19 ~~of this section to an individual school, the average class load~~
20 ~~for elementary school teachers at that school shall not exceed~~
21 ~~twenty students in grade one and shall not exceed twenty-five~~
22 ~~students when averaged among grades two, three, four, five and~~
23 ~~six.]~~

24 E. The department shall create and maintain an
25 online portal to allow teachers, other school employees and

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1 parents of students to submit confidential reports to the
2 department regarding violations of class load limits. There
3 shall not be reprisals of any kind taken against a school
4 employee by reason of the employee submitting or publicizing a
5 report on the online portal.

6 F. If exceptional circumstances arise, a school may
7 request a one-time waiver of the class load limits. A school
8 district shall apply to the department for approval and explain
9 with specificity the exceptional circumstances creating a need
10 for the waiver and the school district's plan for coming into
11 compliance with the class load limits. A school may not
12 receive a waiver for more than one class in any year. If such
13 a waiver is approved, the maximum class load shall not exceed
14 twenty-two students for kindergarten and first grade, twenty-
15 four students for second and third grades, twenty-six students
16 for fourth through six grades and for seventh through twelfth
17 grades, one hundred sixty students, except for teachers of
18 required English courses in seventh and eighth grades, whose
19 class loads shall not exceed one hundred thirty-five students,
20 with a maximum of twenty-seven students per class.

21 G. A teacher who is asked to increase the teacher's
22 class load over the maximum permitted shall be provided with
23 additional support or compensation. The department may
24 promulgate rules to implement the requirements of this
25 subsection.

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1 H. If a waiver is approved, the school district
2 shall notify the parents of all students affected by the waiver
3 in writing:

4 (1) of the statutory class load requirements;

5 (2) that the school district has made a
6 decision to deviate from these class load requirements; and

7 (3) of the school district's plan to achieve
8 compliance with the class load requirements.

9 I. Each school district shall report to the
10 department the size and composition of classes subsequent to
11 the fortieth day and the December 1 count. Failure to meet
12 class load requirements [~~within two years shall be~~
13 ~~justification for~~] shall result in the disapproval of the
14 school district's budget by the [~~state superintendent~~]
15 department.

16 J. The department shall report to the legislative
17 education study committee by November 30 of each year regarding
18 each school district's ability to meet class load requirements
19 imposed by law.

20 ~~[K. Notwithstanding the provisions of Subsection G~~
21 ~~of this section, the state board may waive the individual class~~
22 ~~load and teaching load requirements established in this section~~
23 ~~upon a demonstration of a viable alternative curricular plan~~
24 ~~and a finding by the state board that the plan is in the best~~
25 ~~interest of the school district and that, on an annual basis,~~

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1 ~~the plan has been presented to and is supported by the affected~~
2 ~~teaching staff. The department shall evaluate the impact of~~
3 ~~each alternative curricular plan annually. Annual reports~~
4 ~~shall be made to the legislative education study committee.~~

5 ~~L.]~~ K. Teachers shall not be required to perform
6 noninstructional duties except in emergency situations as
7 defined by the ~~[state board]~~ department. For purposes of this
8 subsection, "noninstructional duties" means noon hall duty,
9 noon ground duty and noon cafeteria duty."

10 **SECTION 3. TEMPORARY PROVISION--NOTIFICATION OF CLASS AND**
11 **TEACHER LOADS FOR 2024-2025 SCHOOL YEAR.--**By May 30, 2024, each
12 school district shall file an addendum to its educational plan
13 submitted as part of its proposed operating budget to include
14 the information required by this act. The public education
15 department shall approve or disapprove the addendum submitted
16 by each school district. If a school district is unable to
17 meet the requirements of Section 22-10A-20 NMSA 1978, it shall
18 explain with specificity the exceptional circumstances that
19 prevent it from meeting those requirements and provide a
20 detailed plan for compliance.