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HOUSE BILL 55

43RD LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 1998

INTRODUCED BY

KIP W. NICELY

AN ACT

RELATING TO EDUCATION; PROVIDING FOR REPORTS OF AVERAGE DAILY ATTENDANCE.

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

Section 1. Section 22-1-2 NMSA 1978 (being Laws 1967, Chapter 16, Section 2, as amended) is amended to read:

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

- A. "state board" means the state board of education;
- B. "state superintendent" means the superintendent of public instruction;
- C. "department of education" means the state department of public education;
- D. "certified school instructor" means any person

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1 holding a valid certificate authorizing the person to teach,
2 supervise an instructional program, counsel or provide special
3 instructional services in the public schools of the state;

4 E. "certified school administrator" means any
5 person holding a valid certificate authorizing the person to
6 administer in the public schools of the state;

7 F. "certified school employee" or "certified
8 school personnel" means any employee who is either a certified
9 school instructor or a certified school administrator or both;

10 G. "non-certified school employee" means any
11 employee who is not a certified school employee;

12 H. "certificate" means a certificate issued by the
13 state board authorizing a person to teach, supervise an
14 instructional program, counsel, provide special instructional
15 services or administer in the public schools of the state;

16 I. "chief" or "director" means the state
17 superintendent or his designee unless the context clearly
18 indicates otherwise;

19 J. "private school" means a school offering on-
20 site programs of instruction not under the control,
21 supervision or management of a local school board, exclusive
22 of home instruction offered by the parent, guardian or one
23 having custody of the student;

24 K. "school district" means an area of land
25 established as a political subdivision of the state for the

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1 administration of public schools and segregated geographically
2 for taxation and bonding purposes;

3 L. "local school board" means the governing body
4 of a school district;

5 M "public school" means that part of a school
6 district that is a single attendance center where instruction
7 is offered by a certified school instructor or a group of
8 certified school instructors and is discernible as a building
9 or group of buildings generally recognized as either an
10 elementary, secondary, junior high or high school or any
11 combination thereof;

12 N. "school year" means the total number of
13 teaching days offered by public schools in a school district
14 during a period of twelve consecutive months;

15 O. "consolidation" means the combination of part
16 or all of the geographical area of an existing school district
17 with part or all of the geographical area of one or more
18 contiguous existing school districts;

19 P. "consolidated school district" means a school
20 district created by order of the state board by combining part
21 or all of the geographical area of an existing school district
22 with part or all of the geographical area of one or more
23 contiguous existing school districts;

24 Q. "state institution" means the New Mexico
25 military institute, the New Mexico school for the visually

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1 handicapped, the New Mexico school for the deaf, the New
2 Mexico boys' school, the New Mexico youth diagnostic and
3 development center, the Los Lunas medical center, the Fort
4 Stanton hospital, the Las Vegas medical center or the Carrie
5 Tingley crippled children's hospital;

6 R. "state educational institution" means an
7 institution enumerated in Article 12, Section 11 of the
8 constitution of New Mexico;

9 S. "~~[forty-day]~~ average daily attendance report"
10 means the report of qualified student membership present at
11 school of each school district and of those eligible to be
12 qualified students but enrolled in a private school or a home
13 school for the ~~[first forty days]~~ fortieth, one hundred
14 twentieth and one hundred sixtieth day of school;

15 T. "school" means any supervised program of
16 instruction designed to educate a person in a particular
17 place, manner and subject area;

18 U. "school-age person" means any 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. A maximum age of twenty-one shall be used
22 for persons who are classified as special education membership
23 as defined in Section 22-8-2 NMSA 1978 or as residents of
24 state institutions;

25 V. "home school" means the operation by a parent,

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1 guardian or other person having custody of a school-age person
2 who instructs a home study program that provides a basic
3 academic educational program, including [~~but not limited to~~]
4 reading, language arts, mathematics, social studies and
5 science;

6 W. "school building" means a public school, an
7 administration building and related school structure or
8 facilities, including teacher housing, as may be owned,
9 acquired or constructed by the local school board and as
10 necessary to carry out the powers and duties of the local
11 school board;

12 X. "commercial advertiser" means a person who
13 advertises a product or service for profit or not for profit
14 and has a permitted advertisement; and

15 Y. "school bus private owner" means a person who
16 owns a school bus, other than a [~~local~~] school district, the
17 department of education, the state or any other political
18 subdivision of the state. "

19 Section 2. Section 22-2-8.2 NMSA 1978 (being Laws 1986,
20 Chapter 33, Section 3, as amended) is amended to read:

21 "22-2-8.2. STAFFING PATTERNS--CLASS LOAD--TEACHING
22 LOAD. --

23 A. The individual class load for elementary school
24 teachers shall not exceed twenty students for kindergarten;
25 provided that any teacher in kindergarten with a class load of

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1 fifteen to twenty students shall be entitled to the assistance
2 of an instructional assistant.

3 B. The average class load for elementary school
4 teachers at an individual school shall not exceed twenty-two
5 students when averaged among grades one, two and three;
6 provided that any teacher in grade one with a class load of
7 twenty-one or more shall be entitled to the full-time
8 assistance of an instructional assistant.

9 C. [~~Effective with the 1994-95 school year~~] The
10 average class load for an elementary school teacher at an
11 individual school shall not exceed twenty-four students when
12 averaged among grades four, five and six.

13 D. The daily teaching load per teacher for grades
14 seven through twelve shall not exceed one hundred sixty
15 students, except the daily teaching load for teachers of
16 required English courses in grades seven and eight shall not
17 exceed one hundred thirty-five with a maximum of twenty-seven
18 students per class and the daily teaching load for teachers of
19 required English courses in grades nine through twelve shall
20 not exceed one hundred fifty students with a maximum of thirty
21 students per class.

22 E. Students receiving special education services
23 integrated into a regular classroom for any part of the day
24 shall be counted in the calculation of class load averages.
25 Students receiving special education services not integrated

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1 into the regular classroom shall not be counted in the
2 calculation of class load averages. Only classroom teachers
3 charged with responsibility for the regular classroom
4 instructional program shall be counted in determining average
5 class loads. In elementary schools offering only one grade
6 level, average class loads may be calculated by averaging
7 appropriate grade levels between schools in the school
8 district.

9 F. The state superintendent may waive the
10 individual school class load requirements established in this
11 section. Waivers shall be applied for annually and a waiver
12 shall not be granted for more than two consecutive years.

13 Waivers may only be granted if a school district demonstrates:

- 14 (1) no portable classrooms are available;
- 15 (2) no other available sources of funding
16 exist to meet its need for additional classrooms;

- 17 (3) the district is planning alternatives to
18 increase building capacity for implementation within one year;
19 and

- 20 (4) the parents of all children affected by
21 the waiver have been notified in writing:

- 22 (a) of the statutory class load
23 requirements;

- 24 (b) that the school district has made a
25 decision to deviate from these class load requirements; and

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

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

H. Each school district shall report to the department of education the size and composition of classes subsequent to the ~~[fortieth day and the December 1 count]~~ fortieth, one hundred twentieth and one hundred sixtieth day. Failure to meet class load requirements within two years shall be justification for the disapproval of the school district's budget by the state superintendent.

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

J. Notwithstanding the provisions of Subsection F of this section, the state board may waive the individual class load and teaching load requirements established in this section upon a demonstration of a viable alternative curricular plan and a finding by the state board that the plan is in the best interest of the school district and that, on an

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

6 K. [~~Effective with the 1987-88 school year~~]
7 Certified school instructors shall not be required to perform
8 noninstructional duties except in emergency situations as
9 defined by the state board. For purposes of this subsection,
10 "noninstructional duties" means noon hall duty, noon ground
11 duty and noon cafeteria duty. "

12 Section 3. Section 22-8-13 NMSA 1978 (being Laws 1974,
13 Chapter 8, Section 3, as amended) is amended to read:

14 "22-8-13. REPORTS. --

15 A. Each local school board shall require each
16 public school in its school district to keep accurate records
17 concerning membership in the public school. The
18 superintendent of each school district shall maintain the
19 following reports for each twenty-day reporting period:

20 (1) the basic program MEM by grade in each
21 public school;

22 (2) the early childhood education MEM;

23 (3) the special education MEM in each public
24 school in class C and class D programs as defined in Section
25 22-8-21 NMSA 1978;

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1 (4) the number of class A and class B
2 programs as defined in Section 22-8-21 NMSA 1978; and

3 (5) the full-time-equivalent MEM for
4 bilingual multicultural education programs.

5 B. The superintendent of each school district
6 shall furnish to the department reports of the information
7 required in Paragraphs (1) through (5) of Subsection A of this
8 section for the [~~first forty days~~] fortieth, one hundred
9 twentieth and one hundred sixtieth day of the school year.
10 [~~The forty day report~~] These reports and all other reports
11 required by law or by the state board shall be furnished
12 within five days of the close of the reporting period.

13 C. All information required pursuant to this
14 section shall be on forms prescribed and furnished by the
15 department. A copy of any report made pursuant to this
16 section shall be kept as a permanent record of the school
17 district and shall be subject to inspection and audit at any
18 reasonable time.

19 D. The department shall withhold allotments of
20 funds to any school district where the superintendent has
21 failed to comply until the superintendent complies with and
22 agrees to continue complying with requirements of this
23 section.

24 E. The provisions of this section may be modified
25 or suspended by the department for any school district or

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1 school operating under the Variable School Calendar Act. The
2 department shall require MEM reports consistent with the
3 calendar of operations of such school district or school and
4 shall calculate an equivalent MEM for use in projecting school
5 district revenue. "

6 Section 4. Section 22-8-25 NMSA 1978 (being Laws 1981,
7 Chapter 176, Section 5, as amended) is amended to read:

8 "22-8-25. STATE EQUALIZATION GUARANTEE DISTRIBUTION--
9 DEFINITIONS-- DETERMINATION OF AMOUNT. --

10 A. The state equalization guarantee distribution
11 is that amount of money distributed to each school district to
12 ensure that the school district's operating revenue, including
13 its local and federal revenues as defined in this section, is
14 at least equal to the school district's program cost.

15 B. "Local revenue", as used in this section, means
16 ninety-five percent of receipts to the school district derived
17 from that amount produced by a school district property tax
18 applied at the rate of fifty cents (\$.50) to each one thousand
19 dollars (\$1,000) of net taxable value of property allocated to
20 the school district and to the assessed value of products
21 severed and sold in the school district as determined under
22 the Oil and Gas Ad Valorem Production Tax Act and upon the
23 assessed value of equipment in the school district as
24 determined under the Oil and Gas Production Equipment Ad
25 Valorem Tax Act.

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1 C. "Federal revenue", as used in this section,
2 means ninety-five percent of receipts to the school district,
3 excluding amounts which, if taken into account in the
4 computation of the state equalization guarantee distribution,
5 result, under federal law or regulations, in a reduction in or
6 elimination of federal school funding otherwise receivable by
7 the school district, derived from the following:

8 (1) the school district's share of forest
9 reserve funds distributed in accordance with Section 22-8-33
10 NMSA 1978; and

11 (2) grants from the federal government as
12 assistance to those areas affected by federal activity
13 authorized in accordance with Sections 236 through 240 of
14 Title 20 of the United States Code (commonly known as "PL 874
15 funds") or an amount equal to the revenue the district was
16 entitled to receive if no application was made for such funds
17 but deducting from those grants the additional amounts to
18 which school districts would be entitled because of the
19 provisions of Subparagraph (D) of Paragraph (2) of Subsection
20 (d) of Section 238 of Title 20 of the United States Code.

21 D. To determine the amount of the state
22 equalization guarantee distribution, the state superintendent
23 shall:

24 (1) calculate the number of program units to
25 which each school district is entitled using [the basic

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1 ~~program membership of the fortieth day for all programs.~~
2 ~~provided that~~ either the average daily attendance report from
3 the prior year or the average daily attendance report from the
4 prior school year plus the average annual percentage MEM
5 increase for the previous five school years. Special
6 education program units shall be calculated using the
7 membership in special education programs on December 1; or
8 (2) calculate the number of program units to
9 which a school district operating under an approved year-round
10 school calendar is entitled using the basic program membership
11 on an appropriate date established by the state board; or
12 (3) calculate the number of program units to
13 which a school district with a basic program MEM of 200 or
14 less is entitled by using the ~~[basic program membership on the~~
15 ~~fortieth day of either the prior or the current year,~~
16 ~~whichever is greater]~~ average daily attendance report of the
17 prior year; provided that special education program units
18 shall be calculated using the membership in special education
19 programs on December 1 of either the prior or the current
20 year; and
21 (4) using the results of the calculations in
22 Paragraph (1), (2) or (3) of this subsection and the
23 instructional staff training and experience index from the
24 October report of the prior school year, establish a total
25 program cost of the school district;

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1 (5) calculate the local and federal revenues
2 as defined in this section;

3 (6) deduct the sum of the calculations made
4 in Paragraph (5) of this subsection from the program cost
5 established in Paragraph (4) of this subsection; and

6 (7) deduct the total amount of guaranteed
7 energy savings contract payments that the state superintendent
8 determines will be made to the school district from the
9 ~~[public school energy efficiency fund]~~ public school utility
10 conservation fund during the fiscal year for which the state
11 equalization guarantee distribution is being computed.

12 E. The amount of the state equalization guarantee
13 distribution to which a school district is entitled is the
14 balance remaining after the deductions made in Paragraphs (6)
15 and (7) of Subsection D of this section.

16 F. The state equalization guarantee distribution
17 shall be distributed prior to June 30 of each fiscal year.
18 The calculation shall be based on the local and federal
19 revenues specified in this section received from June 1 of the
20 previous fiscal year through May 31 of the fiscal year for
21 which the state equalization guarantee distribution is being
22 computed. In the event that a district has received more
23 state equalization guarantee funds than its entitlement, a
24 refund shall be made by the district to the state general
25 fund.

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1 Tax Code for property taxation purposes in the school district
2 and to each one thousand dollars (\$1,000) of the assessed
3 value of products severed and sold in the school district as
4 determined under the Oil and Gas Ad Valorem Production Tax Act
5 and upon the assessed value of equipment in the school
6 district as determined under the Oil and Gas Production
7 Equipment Ad Valorem Tax Act and then reduced by the total
8 amount of guaranteed energy savings contract payments, if any,
9 that the state superintendent determines will be made to the
10 school district from the [~~public school energy efficiency~~
11 ~~fund~~] public school utility conservation fund during the
12 fiscal year for which the state equalization guarantee
13 distribution is being computed, equals the fiscal year state
14 equalization guarantee distribution for the year for which the
15 state equalization guarantee distribution is being computed.

16 If at any time grants from the federal government as
17 assistance to those areas affected by federal activity
18 authorized in accordance with Sections 236 through 240 of
19 Title 20 of the United States Code (commonly known as "PL 874
20 funds") are reduced or are no longer available, the state
21 equalization guarantee distribution shall be computed by the
22 formula contained in this subsection plus an increase by fifty
23 percent of the amount the prior year's PL 874 funds exceed PL
24 874 funds for the year for which the state equalization
25 guarantee distribution is being computed. "

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1 FORTY-THIRD LEGISLATURE

2 SECOND SESSION, 1998

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4
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6 February 4, 1998

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9 Mr. Speaker:

10
11 Your RULES AND ORDER OF BUSINESS COMMITTEE, to
12
13 whom has been referred

14
15 HOUSE BILL 55

16
17 has had it under consideration and finds same to be GERMANE
18
19 in accordance with constitutional provisions.

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21 Respectfully submitted,
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R. David Pederson, Chairman

Adopted _____ Not Adopted _____
(Chief Clerk) (Chief Clerk)

Date _____

The roll call vote was 10 For 0 Against

Yes: 10

Excused: Gubbels, Hobbs, Lujan, Ryan, Sanchez

Absent: None

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