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HOUSE BILL 140

49TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2009

INTRODUCED BY

Rick Miera

AN ACT

RELATING TO PUBLIC SCHOOL FINANCE; ESTABLISHING STANDARDIZED
REPORTING DATES.

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

Section 1. Section 22-8-6.1 NMSA 1978 (being Laws 1993,
Chapter 227, Section 8, as amended) is amended to read:

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

A. Each state-chartered charter school shall submit
to the charter schools division of the department a school-
based budget. For fiscal year 2008, and for the first year of
operation in any fiscal year thereafter, the budget of every
state-chartered charter school shall be based on the projected
number of program units generated by that charter school and
its students, using the at-risk index and the instructional
staff training and experience index of the school district in

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1 which it is geographically located. For second and subsequent
2 fiscal years of operation, the budgets of state-chartered
3 charter schools shall be based on the number of program units
4 generated using the average of the [~~eightieth and one hundred~~
5 ~~twentieth day~~] second and third reporting date MEM of the prior
6 year and its instructional staff training and experience index
7 and the at-risk index of the school district in which the
8 state-chartered charter school is geographically located. The
9 budget shall be submitted to the division for approval or
10 amendment pursuant to the Public School Finance Act and the
11 Charter Schools Act.

12 B. Each locally chartered charter school shall
13 submit to the local school board a school-based budget. For
14 fiscal year 2008, and for the first year of operation in any
15 fiscal year thereafter, the budget of every locally chartered
16 charter school shall be based on the projected number of
17 program units generated using the average of the [~~eightieth and~~
18 ~~one hundred twentieth day~~] second and third reporting date MEM
19 of the prior year, using the at-risk index and the
20 instructional staff training and experience index of the school
21 district in which it is geographically located. For second and
22 subsequent fiscal years of operation, the budgets of locally
23 chartered charter schools shall be based on the prior year
24 program units generated by that locally chartered charter
25 school and its students and its instructional staff training

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1 and experience index and the at-risk index of the school
2 district in which the locally chartered charter school is
3 geographically located. The budget shall be submitted to the
4 local school board for approval or amendment. The approval or
5 amendment authority of the local school board relative to the
6 charter school budget is limited to ensuring that sound fiscal
7 practices are followed in the development of the budget and
8 that the charter school budget is within the allotted
9 resources. The local school board shall have no veto authority
10 over individual line items within the charter school's proposed
11 budget, but shall approve or disapprove the budget in its
12 entirety. Upon final approval of the local budget by the local
13 school board, the individual charter school budget shall be
14 included separately in the budget submission to the department
15 required pursuant to the Public School Finance Act and the
16 Charter Schools Act."

17 Section 2. Section 22-8-13 NMSA 1978 (being Laws 1974,
18 Chapter 8, Section 3, as amended) is amended to read:

19 "22-8-13. REPORTS.--

20 A. Each public school [~~in a school district and~~
21 ~~each state-chartered charter school~~] shall keep accurate
22 records concerning membership in the public school.

23 B. The dates for which MEM is reported are as
24 follows:

25 (1) the first reporting date, the second

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1 Wednesday in October;

2 (2) the second reporting date, the second
3 Wednesday in December; and

4 (3) the third reporting date, the second
5 Wednesday in February.

6 C. The department may require MEM or other reports
7 at other times specified by the department.

8 D. The superintendent of each school district or
9 head administrator of a state-chartered charter school shall
10 maintain the following reports for each [~~twenty-day~~] reporting
11 period:

12 (1) the basic program MEM by grade in each
13 public school;

14 (2) the early childhood education MEM;

15 (3) the special education MEM in each public
16 school in class C and class D programs as defined in Section
17 22-8-21 NMSA 1978;

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

20 (5) the full-time-equivalent MEM for bilingual
21 multicultural education programs.

22 [~~B.~~] E. The superintendent of each school district
23 and the head administrator of each state-chartered charter
24 school shall furnish all reports, including financial reports
25 required by the department, to the department [~~reports of the~~

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1 ~~information required in Paragraphs (1) through (5) of~~
2 ~~Subsection A of this section for the first forty days of the~~
3 ~~school year. The forty-day report and all other reports~~
4 ~~required by law or by the department shall be furnished]~~ within
5 five days of the close of ~~the~~ each reporting period.

6 [G.] F. All information required pursuant to this
7 section shall be on forms prescribed and furnished by the
8 department. A copy of any report made pursuant to this section
9 shall be kept as a permanent record of the school district or
10 charter school and shall be subject to inspection and audit at
11 any reasonable time.

12 [D.] G. The department ~~shall~~ may withhold up to
13 one hundred percent of allotments of funds to any school
14 district or [state-chartered] charter school where the
15 superintendent or head administrator has failed to comply with
16 the requirements of this section. Withholding may continue
17 until the superintendent or head administrator complies with
18 and agrees to continue complying with requirements of this
19 section.

20 [E.] H. The provisions of this section may be
21 modified or suspended by the department for any school district
22 or ~~[school or state-chartered]~~ charter school operating under
23 the Variable School Calendar Act. The department shall require
24 MEM reports consistent with the calendar of operations of such
25 school district or ~~[school or state-chartered]~~ charter school

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1 and shall calculate an equivalent MEM for use in projecting
2 school district or charter school revenue."

3 Section 3. Section 22-8-23.1 NMSA 1978 (being Laws 1990
4 (1st S.S.), Chapter 3, Section 7, as amended) is amended to
5 read:

6 "22-8-23.1. ENROLLMENT GROWTH PROGRAM UNITS.--

7 A. A school district or charter school with an
8 increase in MEM equal to or greater than one percent, when
9 compared with the immediately preceding year, is eligible for
10 additional program units. The increase in MEM shall be
11 calculated as follows:

12 (Current Year MEM - Previous Year MEM)

13 Previous Year MEM X 100 = Percent
14 Increase.

15 The number of additional program units shall be calculated as
16 follows:

17 ((Current Year MEM - Previous Year MEM) - (Current Year
18 MEM x .01)) X 1.5 = Units.

19 B. In addition to the units calculated in
20 Subsection A of this section, a school district or charter
21 school with an increase in MEM equal to or greater than one
22 percent, when compared with the immediately preceding year, is
23 eligible for additional program units. The increase in MEM
24 shall be calculated in the following manner:

25 (Current Year MEM - Previous Year MEM)

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1 professional teaching standards is determined by multiplying by
2 one and one-half the number of teachers certified by the
3 national board for professional teaching standards employed by
4 the school district or charter school on or before the
5 [~~fortieth day~~] first reporting date of the school year and
6 verified by the department. Department approval of these units
7 shall be contingent on verification by the school district or
8 charter school that these teachers are receiving a one-time
9 salary differential equal to or greater than the amount
10 generated by the units multiplied by the program unit value
11 during the fiscal year in which the school district or charter
12 school will receive these units."

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

15 "22-8-25. STATE EQUALIZATION GUARANTEE DISTRIBUTION--
16 DEFINITIONS--DETERMINATION OF AMOUNT.--

17 A. The state equalization guarantee distribution is
18 that amount of money distributed to each school district to
19 ensure that its operating revenue, including its local and
20 federal revenues as defined in this section, is at least equal
21 to the school district's program cost. For state-chartered
22 charter schools, the state equalization guarantee distribution
23 is the difference between the state-chartered charter school's
24 program cost and the two percent withheld by the department for
25 administrative services.

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1 B. "Local revenue", as used in this section, means
2 seventy-five percent of receipts to the school district derived
3 from that amount produced by a school district property tax
4 applied at the rate of fifty cents (\$.50) to each one thousand
5 dollars (\$1,000) of net taxable value of property allocated to
6 the school district and to the assessed value of products
7 severed and sold in the school district as determined under the
8 Oil and Gas Ad Valorem Production Tax Act and upon the assessed
9 value of equipment in the school district as determined under
10 the Oil and Gas Production Equipment Ad Valorem Tax Act.

11 C. "Federal revenue", as used in this section,
12 means receipts to the school district, excluding amounts that,
13 if taken into account in the computation of the state
14 equalization guarantee distribution, result, under federal law
15 or regulations, in a reduction in or elimination of federal
16 school funding otherwise receivable by the school district,
17 derived from the following:

18 (1) seventy-five percent of the school
19 district's share of forest reserve funds distributed in
20 accordance with Section 22-8-33 NMSA 1978; and

21 (2) seventy-five percent of grants from the
22 federal government as assistance to those areas affected by
23 federal activity authorized in accordance with Title 20 of the
24 United States Code, commonly known as "PL 874 funds" or "impact
25 aid".

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1 D. To determine the amount of the state
2 equalization guarantee distribution, the department shall:

3 (1) calculate the number of program units to
4 which each school district or charter school is entitled using
5 an average of the MEM on the [~~eightieth and one hundred~~
6 ~~twentieth days~~] second and third reporting dates of the prior
7 year; or

8 (2) calculate the number of program units to
9 which a school district or charter school operating under an
10 approved year-round school calendar is entitled using an
11 average of the MEM on appropriate dates established by the
12 department; or

13 (3) calculate the number of program units to
14 which a school district or charter school with a MEM of two
15 hundred or less is entitled by using an average of the MEM on
16 the [~~eightieth and one hundred twentieth days~~] second and third
17 reporting dates of the prior year or the fortieth day of the
18 current year, whichever is greater; and

19 (4) using the results of the calculations in
20 Paragraph (1), (2) or (3) of this subsection and the
21 instructional staff training and experience index from the
22 October report of the prior school year, establish a total
23 program cost of the school district or charter school;

24 (5) for school districts, calculate the local
25 and federal revenues as defined in this section;

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

4 (7) deduct the total amount of guaranteed
5 energy savings contract payments that the department determines
6 will be made to the school district from the public school
7 utility conservation fund during the fiscal year for which the
8 state equalization guarantee distribution is being computed;
9 and

10 (8) deduct ninety percent of the amount
11 certified for the school district by the department pursuant to
12 the Energy Efficiency and Renewable Energy Bonding Act.

13 E. Reduction of a school district's state
14 equalization guarantee distribution shall cease when the school
15 district's cumulative reductions equal its proportional share
16 of the cumulative debt service payments necessary to service
17 the bonds issued pursuant to the Energy Efficiency and
18 Renewable Energy Bonding Act.

19 F. The amount of the state equalization guarantee
20 distribution to which a school district is entitled is the
21 balance remaining after the deductions made in Paragraphs (6)
22 through (8) of Subsection D of this section.

23 G. The state equalization guarantee distribution
24 shall be distributed prior to June 30 of each fiscal year. The
25 calculation shall be based on the local and federal revenues

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1 specified in this section received from June 1 of the previous
2 fiscal year through May 31 of the fiscal year for which the
3 state equalization guarantee distribution is being computed.
4 In the event that a school district or charter school has
5 received more state equalization guarantee funds than its
6 entitlement, a refund shall be made by the school district or
7 charter school to the state general fund."

8 Section 6. Section 22-8-29 NMSA 1978 (being Laws 1967,
9 Chapter 16, Section 78, as amended) is amended to read:

10 "22-8-29. TRANSPORTATION DISTRIBUTIONS--REPORTS--
11 PAYMENTS.--

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

11 B. Each local school board of a school district and
12 governing body of a state-chartered charter school maintaining
13 a school bus route shall make further reports to the state
14 transportation director at other times specified by the state
15 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 district
3 or state-chartered charter school is entitled to receive for
4 the entire school year based upon the November 15 report and
5 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 7. Section 22-26-9 NMSA 1978 (being Laws 2007,
12 Chapter 366, Section 23) is amended to read:

13 "22-26-9. CHARTER SCHOOLS--RECEIPT OF LOCAL PROPERTY TAX
14 REVENUE.--If, in an election held after July 1, 2007, the
15 qualified electors of a school district have voted in favor of
16 the imposition of a property tax as provided in Section
17 22-26-3 NMSA 1978, the amount of tax revenue to be distributed
18 to each charter school that was included in the resolution
19 shall be determined each year and shall be in the same
20 proportion as the average full-time-equivalent enrollment of
21 the charter school on the [~~fortieth day~~] first reporting date
22 of the prior school year is to the total such enrollment in the
23 district; provided that, in the case of an approved charter
24 school that had not commenced classroom instruction in the
25 prior school year, the estimated full-time-equivalent

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1 enrollment in the first year of instruction, as shown in the
2 approved charter school application, shall be used, subject to
3 adjustment after the [~~fortieth day~~] first reporting date. Each
4 year, the department shall certify to the county treasurer of
5 the county in which the eligible charter schools in the school
6 district are located the percentage of the revenue to be
7 distributed to each charter school. The county treasurer shall
8 distribute the charter school's share of the property tax
9 revenue directly to the charter school."

10 Section 8. TEMPORARY PROVISION--STATUTORY REFERENCES TO
11 PUBLIC SCHOOL FORTIETH-, EIGHTIETH- AND ONE-HUNDRED-TWENTIETH-
12 DAY REPORTS--PROJECTIONS AND BUDGET PREPARATION.--

13 A. References in the Public School Code pertaining
14 to the fortieth-day or forty-day report of public school
15 membership or enrollment shall be deemed to be references to
16 the first reporting date, which is the second Wednesday in
17 October.

18 B. References in the Public School Code pertaining
19 to the eightieth-day or eighty-day report of public school
20 membership or enrollment shall be deemed to be references to
21 the second reporting date, which is the second Wednesday in
22 December.

23 C. References in the Public School Code pertaining
24 to the one-hundred-twentieth-day or one-hundred-twenty-day
25 report of public school membership or enrollment shall be

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1 deemed to be references to the third reporting date, which is
2 the second Wednesday in February.

3 D. As the public schools transition from former
4 reporting dates to new reporting dates, the public education
5 department may use any combination of former and new reporting
6 dates as necessary to develop membership and cost projections
7 and budgets for the 2009-2010 school year.

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