

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 22-1-2 NMSA 1978 (being Laws 2003, Chapter 153, Section 3, as amended) 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. "adequate yearly progress" means the measure adopted by the department based on federal requirements to assess the progress that a public school or school district or the state makes toward improving student achievement;

C. "commission" means the public education commission;

D. "department" means the public education department;

E. "home school" means the operation by the parent of a school-age person of a home study program of instruction that provides a basic academic educational program, including reading, language arts, mathematics, social studies and

science;

F. "instructional support provider" means a person who is employed to support the instructional program of a school district, including educational assistant, school counselor, social worker, school nurse, speech-language pathologist, psychologist, physical therapist, occupational therapist, recreational therapist, marriage and family therapist, interpreter for the deaf and diagnostician;

G. "licensed school employee" means teachers, school administrators and instructional support providers;

H. "local school board" means the policy-setting body of a school district;

I. "local superintendent" means the chief executive officer of a school district;

J. "parent" includes a guardian or other person having custody and control of a school-age person;

K. "private school" means a school, other than a home school, that offers on-site programs of instruction and that is not under the control, supervision or management of a local school board;

L. "public school" means that part of a school district that is a single attendance center in which instruction is offered by one or more teachers and is discernible as a building or group of buildings generally recognized as either an elementary, middle, junior high or

high school or any combination of those and includes a charter school;

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

N. "school administrator" means a person licensed to administer in a school district and includes school principals and central district administrators;

O. "school-age person" means a person who is at least five years of age prior to 12:01 a.m. on September 1 of the school year and who has not received a high school diploma or its equivalent. A maximum age of twenty-one shall be used for a person who is classified as special education membership as defined in Section 22-8-21 NMSA 1978 or as a resident of a state institution;

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

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

R. "school district" means an area of land

established as a political subdivision of the state for the administration of public schools and segregated geographically for taxation and bonding purposes;

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

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

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

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

W. "state agency" or "state institution" means the New Mexico military institute, New Mexico school for the blind and visually impaired, New Mexico school for the deaf, New Mexico boys' school, girls' welfare home, New Mexico youth diagnostic and development center, Sequoyah adolescent treatment center, Carrie Tingley crippled children's hospital, New Mexico behavioral health institute at Las Vegas and any other state agency responsible for educating resident children;

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

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

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

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

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

Section 2. 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 the first year of operation, 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 which it is geographically located. For second and subsequent fiscal years of operation, the budgets of state-chartered charter schools shall be based on the

number of program units generated using the average of the MEM on the second and third reporting dates of the prior year and its own instructional staff training and experience index and the at-risk index of the school district in which the state-chartered charter school is geographically located. The budget shall be submitted to the division for approval or amendment pursuant to the Public School Finance Act and the Charter Schools Act.

B. Each locally chartered charter school shall submit to the local school board a school-based budget. For the first year of operation, the budget of every locally chartered charter school shall be based on the projected number of program units generated by the charter school and its students, using the at-risk index and the instructional staff training and experience index of the school district in which it is geographically located. For second and subsequent fiscal years of operation, the budgets of locally chartered charter schools shall be based on the number of program units generated using the average of the MEM on the second and third reporting dates of the prior year and its own instructional staff training and experience index and the at-risk index of the school district in which the locally chartered charter school is geographically located. The budget shall be submitted to the local school board for approval or amendment. The approval or amendment authority of the local school board

relative to the charter school budget is limited to ensuring that sound fiscal practices are followed in the development of the budget and that the charter school budget is within the allotted resources. The local school board shall have no veto authority over individual line items within the charter school's proposed budget, but shall approve or disapprove the budget in its entirety. Upon final approval of the local budget by the local school board, the individual charter school budget shall be included separately in the budget submission to the department required pursuant to the Public School Finance Act and the Charter Schools Act.

C. For the first year of operation after a locally chartered charter school converts to a state-chartered charter school or a state-chartered charter school converts to a locally chartered charter school, the charter school's budget shall be based on the number of program units generated using the average of the MEM on the second and third reporting dates of the prior year and the instructional staff training and experience index and the at-risk index of the school district in which it is geographically located. For second and subsequent fiscal years of operation, the charter school shall follow the provisions of Subsection A or B of this section, as applicable.

D. Notwithstanding the provisions of Subsections A through C of this section, each charter school that was in

existence in fiscal year 2009 shall be held harmless in the calculation of its instructional staff training and experience index for two fiscal years. For fiscal years 2010 and 2011, the department shall use the greater of the charter school's 2008-2009 funded instructional staff training and experience index or the charter school's own instructional staff training and experience index. Beginning in fiscal year 2012, each charter school shall use its own instructional staff training and experience index."

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

"22-8-13. REPORTS.--

A. Each public school shall keep accurate records concerning membership in the public school.

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

(1) the first reporting date, the second Wednesday in October;

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

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

C. The superintendent of each school district or head administrator of a state-chartered charter school shall maintain the following reports for each reporting period:

- (1) the basic program MEM by grade in each public school;
- (2) the early childhood education MEM;
- (3) the special education MEM in each public school in class C and class D programs as defined in Section 22-8-21 NMSA 1978;
- (4) the number of class A and class B programs as defined in Section 22-8-21 NMSA 1978; and
- (5) the full-time-equivalent MEM for bilingual multicultural education programs.

D. The superintendent of each school district and the head administrator of each state-chartered charter school shall furnish all reports required by law or the department to the department within ten days of the close of each reporting period. Failure of the department to approve timely submissions shall not cause a school district or charter school to be found noncompliant with the requirements of this section.

E. All information required pursuant to this section shall be on forms prescribed and furnished by the department. A copy of any report made pursuant to this section shall be kept as a permanent record of the school district or charter school and shall be subject to inspection and audit at any reasonable time.

F. The department may withhold up to one hundred

percent of allotments of funds to any school district or state-chartered charter school where the superintendent or head administrator has failed to comply with the requirements of this section. Withholding may continue until the superintendent or head administrator complies with and agrees to continue complying with requirements of this section.

G. The provisions of this section may be modified or suspended by the department for any school district or school or state-chartered charter school operating under the Variable School Calendar Act. The department shall require MEM reports consistent with the calendar of operations of such school district or school or state-chartered charter school and shall calculate an equivalent MEM for use in projecting school district or charter school revenue."

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

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

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

(Current Year MEM - Previous Year MEM)

Previous Year MEM X 100 = Percent Increase.

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

$((\text{Current Year MEM} - \text{Previous Year MEM}) - (\text{Current Year MEM} \times .01)) \times 1.5 = \text{Units}.$

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

$(\text{Current Year MEM} - \text{Previous Year MEM})$

$\frac{\text{Previous Year MEM}}{\text{Previous Year MEM}} \times 100 = \text{Percent Increase}.$

The number of additional program units to which an eligible school district or charter school is entitled under this subsection is the number of units computed in the following manner:

$(\text{Current Year MEM} - \text{Previous Year MEM}) \times .50 = \text{Units}.$

C. As used in this section:

(1) "current year MEM" means MEM on the first reporting date of the current year;

(2) "MEM" means the total school district or charter school membership, including early childhood education full-time-equivalent membership and special education membership, but excluding full-day kindergarten membership for the first year that full-day kindergarten is implemented in a

school pursuant to Subsection D of Section 22-13-3.2 NMSA 1978; and

(3) "previous year MEM" means MEM on the first reporting date of the previous year."

Section 5. Section 22-8-23.4 NMSA 1978 (being Laws 2003, Chapter 144, Section 2 and Laws 2003, Chapter 152, Section 9, as amended) is amended to read:

"22-8-23.4. NATIONAL BOARD FOR PROFESSIONAL TEACHING STANDARDS--CERTIFIED TEACHERS PROGRAM UNITS.--The number of program units for teachers certified by the national board for professional teaching standards is determined by multiplying by one and one-half the number of teachers certified by the national board for professional teaching standards employed by the school district or charter school on or before the first reporting date of the school year and verified by the department. Department approval of these units shall be contingent on verification by the school district or charter school that these teachers are receiving a one-time salary differential equal to or greater than the amount generated by the units multiplied by the program unit value during the fiscal year in which the school district or charter school will receive these units."

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

"22-8-25. STATE EQUALIZATION GUARANTEE DISTRIBUTION--

DEFINITIONS--DETERMINATION OF AMOUNT.--

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

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

C. "Federal revenue", as used in this section, means receipts to the school district, excluding amounts that, if taken into account in the computation of the state equalization guarantee distribution, result, under federal law

or regulations, in a reduction in or elimination of federal school funding otherwise receivable by the school district, derived from the following:

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

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

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

(1) calculate the number of program units to which each school district or charter school is entitled using an average of the MEM on the second and third reporting dates of the prior year; or

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

(3) calculate the number of program units to which a school district or charter school with a MEM of two hundred or less is entitled by using an average of the MEM on

the second and third reporting dates of the prior year or the fortieth day of the current year, whichever is greater; and

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

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

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

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

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

E. Reduction of a school district's state equalization guarantee distribution shall cease when the school district's cumulative reductions equal its proportional share of the cumulative debt service payments necessary to

service the bonds issued pursuant to the Energy Efficiency and Renewable Energy Bonding Act.

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

G. The state equalization guarantee distribution shall be distributed prior to June 30 of each fiscal year. The calculation shall be based on the local and federal revenues specified in this section received from June 1 of the previous fiscal year through May 31 of the fiscal year for which the state equalization guarantee distribution is being computed. In the event that a school district or charter school has received more state equalization guarantee funds than its entitlement, a refund shall be made by the school district or charter school to the state general fund."

Section 7. Section 22-8-29 NMSA 1978 (being Laws 1967, Chapter 16, Section 78, as amended) is amended to read:

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

A. Prior to November 15 of each year, each local school board of a school district and governing body of a state-chartered charter school shall report to the state transportation director, upon forms furnished by the state transportation director, the following information concerning

the school district's or state-chartered charter school's operation on the first reporting date of the current year:

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

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

(3) the number of students transported on the first reporting date of the current year and adjusted for special education students on December 1;

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

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

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

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

C. The state transportation director shall certify to the secretary that the allocations from the transportation

distributions to each school district and state-chartered charter school are based upon the transportation distribution formula established in the Public School Code. The allocations for the first six months of a school year shall be based upon the tentative transportation budget of the school district or state-chartered charter school for the current fiscal year. Allocations to a school district or state-chartered charter school for the remainder of the school year shall adjust the amount received by the school district or state-chartered charter school so that it equals the amount the school district or state-chartered charter school is entitled to receive for the entire school year based upon the November 15 report and subject to audit and verification.

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

Section 8. Section 22-26-9 NMSA 1978 (being Laws 2007, Chapter 366, Section 23) is amended to read:

"22-26-9. CHARTER SCHOOLS--RECEIPT OF LOCAL PROPERTY TAX REVENUE.--If, in an election held after July 1, 2007, the qualified electors of a school district have voted in favor of the imposition of a property tax as provided in Section 22-26-3 NMSA 1978, the amount of tax revenue to be distributed

to each charter school that was included in the resolution shall be determined each year and shall be in the same proportion as the average full-time-equivalent enrollment of the charter school on the first reporting date of the prior school year is to the total such enrollment in the district; provided that, in the case of an approved charter school that had not commenced classroom instruction in the prior school year, the estimated full-time-equivalent enrollment in the first year of instruction, as shown in the approved charter school application, shall be used, subject to adjustment after the first reporting date. Each year, the department shall certify to the county treasurer of the county in which the eligible charter schools in the school district are located the percentage of the revenue to be distributed to each charter school. The county treasurer shall distribute the charter school's share of the property tax revenue directly to the charter school."

Section 9. TEMPORARY PROVISION--STATUTORY REFERENCES TO PUBLIC SCHOOL FORTIETH-, EIGHTIETH- AND ONE-HUNDRED-TWENTIETH-DAY REPORTS--PROJECTIONS AND BUDGET PREPARATION.--

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

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

C. References in the Public School Code pertaining to the one-hundred-twentieth-day or one-hundred-twenty-day report of public school membership or enrollment shall be deemed to be references to the third reporting date, which is the second Wednesday in February.

D. As the public schools transition from former reporting dates to new reporting dates, the public education department may use any combination of former and new reporting dates as necessary to develop membership and cost projections and budgets for the 2010-2011 school year.