

## SENATE BILL 193

## 53RD LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2017

INTRODUCED BY

William P. Soules

## AN ACT

RELATING TO PUBLIC SCHOOLS; AMENDING THE PUBLIC SCHOOL CODE TO PROVIDE FUNDING FOR ADMINISTRATIVE SUPPORT AND OVERSIGHT OF CHARTER SCHOOLS TO CHARTER SCHOOL AUTHORITIES AND THE PUBLIC EDUCATION DEPARTMENT.

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

**SECTION 1.** 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

use by the department and the commission for administrative [services] support.

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~~] first reporting date 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 2.** Section 22-8B-9 NMSA 1978 (being Laws 1999, Chapter 281, Section 9, as amended) is amended to read:

"22-8B-9. CHARTER SCHOOL CONTRACT--CONTENTS--RULES.--

A. The chartering authority shall enter into a contract with the governing body of the applicant charter school within thirty days of approval of the charter application. The charter contract shall be the final authorization for the charter school and shall be part of the charter. If the chartering authority and the applicant charter school fail

to agree upon the terms of or enter into a contract within thirty days of the approval of the charter application, either party may appeal to the secretary to finalize the terms of the contract; provided that such appeal [~~must~~] shall be provided in writing to the secretary within forty-five days of the approval of the charter application. Failure to enter into a charter contract or appeal to the secretary pursuant to this section precludes the chartering authority from chartering the school.

B. The charter contract shall include:

(1) all agreements regarding the release of the charter school from department and local school board rules and policies, including discretionary waivers provided for in Section 22-8B-5 NMSA 1978;

(2) any material term of the charter application as determined by the parties to the contract;

(3) the mission statement of the charter school and how the charter school will report on implementation of its mission;

(4) the chartering authority's duties to the charter school and liabilities of the chartering authority as provided in Section 22-8B-5.3 NMSA 1978;

(5) a statement of admission policies and procedures;

(6) signed assurances from the charter school's governing body members regarding compliance with all federal and state laws governing organizational, programmatic and financial requirements applicable to charter schools;

(7) the criteria, processes and procedures that the chartering authority will use for ongoing oversight of operational, financial and academic performance of the charter school;

(8) a detailed description of how the chartering authority will use the withheld [~~two percent~~] percentage of the school-generated program cost as provided in Section 22-8B-13 NMSA 1978;

(9) the types and amounts of insurance liability coverage to be obtained by the charter school;

(10) the term of the contract;

(11) the process and criteria that the chartering authority intends to use to annually monitor and evaluate the fiscal, overall governance and student performance of the charter school, including the method that the chartering authority intends to use to conduct the evaluation as required by Section 22-8B-12 NMSA 1978;

(12) the dispute resolution processes agreed upon by the chartering authority and the charter school; provided that the processes shall, at a minimum, include:

(a) written notice of the intent to invoke the dispute resolution process, which notice shall include a description of the matter in dispute;

(b) a time limit for response to the notice and cure of the matter in dispute;

(c) a procedure for selection of a neutral third party to assist in resolving the dispute;

(d) a process for apportionment of all costs related to the dispute resolution process; and

(e) a process for final resolution of the issue reviewed under the dispute resolution process;

(13) the criteria, procedures and time lines, agreed upon by the charter school and the chartering authority, addressing charter

revocation and deficiencies found in the annual status report pursuant to the provisions of Section 22-8B-12 NMSA 1978;

(14) if the charter school contracts with a third-party provider, the criteria and procedures for the chartering authority to review the provider's contract and the charter school's financial independence from the provider;

(15) all requests for release of the charter school from department rules or the Public School Code. Within ten days after the contract is approved by the local school board, any request for release from department rules or the Public School Code shall be delivered by the local school board to the department. If the department grants the request, it shall notify the local school board and the charter school of its decision. If the department denies the request, it shall notify the local school board and the charter school that the request is denied and specify the reasons for denial;

(16) an agreement that the charter school will participate in the public school insurance authority;

(17) if the charter school is a state-chartered charter school, a process for qualification of and review of the school as a qualified board of finance and provisions for assurance that the school has satisfied any conditions imposed by the commission;

(18) a listing of the charter school's nondiscretionary waivers; and

(19) any other information reasonably required by either party to the contract.

C. The process for revision or amendment to the terms of the charter contract shall be made only with the approval of the chartering authority and the governing body of the charter school. If they cannot

agree, either party may appeal to the secretary as provided in Subsection A of this section."

**SECTION 3.** Section 22-8B-13 NMSA 1978 (being Laws 1999, Chapter 281, Section 13, as amended) is amended to read:

"22-8B-13. CHARTER SCHOOL FINANCING.--

A. The amount of funding allocated to a charter school shall be not less than ninety-eight percent of the school-generated program cost. The school district or division may withhold and use two percent of the school-generated program cost for its administrative support of a charter school; provided that the department shall transfer one-fourth of the two percent of the school-generated program cost it withholds from state-chartered charter schools to the commission for its administrative support of a state-chartered charter school.

B. That portion of money from state or federal programs generated by students enrolled in a locally chartered charter school shall be allocated to that charter school serving students eligible for that aid. Any other public school program not offered by the locally chartered charter school shall not be entitled to the share of money generated by a charter school program.

C. When a state-chartered charter school is designated as a board of finance pursuant to Section 22-8-38 NMSA 1978, it shall receive state and federal funds for which it is eligible.

D. Charter schools may apply for all federal funds for which they are eligible.

E. All services centrally or otherwise provided by a local school district, including custodial, maintenance and media services, libraries and warehousing, shall be subject to negotiation between the charter school and the school district. Any services for which a charter

school contracts with a school district shall be provided by the district at a reasonable cost."

**SECTION 4.** Section 22-8B-17 NMSA 1978 (being Laws 2006, Chapter 94, Section 30) is amended to read:

"22-8B-17. CHARTER SCHOOLS DIVISION--DUTIES.--The "charter schools division" is created in the department. The division shall:

A. provide [~~staff support to~~] the commission with all information related to the administration of charter schools necessary for the commission to carry out its duties regarding the oversight and approval, denial, suspension and revocation of charters of state-chartered charter schools;

B. provide technical support to all charter schools; and

C. review and approve state-chartered charter school budget matters [~~and~~

~~D. make recommendations to the commission regarding the approval, denial, suspension or revocation of the charter of a state-chartered charter school]."~~

**SECTION 5.** EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2017.