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HOUSE BILL 227

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

INTRODUCED BY

Tanya Mirabal Moya

AN ACT

RELATING TO PUBLIC SCHOOLS; PHASING IN MAXIMUM CLASS LOAD LIMITS FOR ELEMENTARY SCHOOL CLASSES; REPLACING AVERAGE CLASS LOAD LIMITS WITH MAXIMUM CLASS LOADS; ALLOWING WAIVERS; REQUIRING SCHOOL DISTRICTS TO REPORT CLASS LOAD WAIVERS ON THEIR WEBSITES; REQUIRING SCHOOL AND CHARTER SCHOOL EDUCATIONAL PLANS TO REPORT CLASS AND TEACHING LOADS; REQUIRING THE PUBLIC EDUCATION DEPARTMENT TO CREATE AND MAINTAIN AN ONLINE PORTAL TO RECEIVE CONFIDENTIAL REPORTS OF CLASS LOAD VIOLATIONS; MAKING AN APPROPRIATION.

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.--

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1 A. Prior to April 15 of each year, each local
2 school board shall submit to the department an operating budget
3 for the school district and any locally chartered charter
4 school in the school district for the ensuing fiscal year.

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

9 C. The operating budget required by this section
10 may include:

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

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

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

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

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1 include:

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

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

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

18 [~~(3)~~] (4) a narrative explaining the services
19 provided to students enrolled in the following programs:

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

24 (b) K-5 plus programs;

25 [~~(4)~~] (5) a narrative explaining the school

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1 district's or charter school's beginning teacher mentorship
2 programs as well as class size and teaching load information;

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

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

12 (a) program cost generated for students
13 enrolled in approved special education programs;

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

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

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

24 (e) a description of the steps taken to
25 ensure that students with disabilities have access to a free

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1 and appropriate public education; and

2 [~~(7)~~] (8) a common set of performance targets
3 and performance measures, as determined by the department in
4 consultation with the department of finance and administration,
5 the legislative finance committee and the legislative education
6 study committee.

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

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1 spending and outcomes report to the appropriate tribal
2 authorities. No later than November 15 of each year, the
3 department shall compile the federal and local revenue outcomes
4 reports into a statewide report to the legislative education
5 study committee and the legislative finance committee that
6 includes an analysis and identification of effective programs
7 and strategies that improve outcomes for students.

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

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

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1 department.

2 I. As used in this section:

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

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

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

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

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

18 "22-10A-20. STAFFING PATTERNS--CLASS LOAD--TEACHING
19 LOAD.--

20 A. The maximum individual class load for elementary
21 school teachers [~~shall not exceed~~] at each individual school is
22 twenty students for kindergarten; provided that any teacher in
23 kindergarten with a class load of fifteen to twenty students in
24 a full-time kindergarten shall be entitled to the assistance of
25 an educational assistant.

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1 B. The maximum individual class load of twenty
2 students for elementary school teachers at each individual
3 school shall be phased in as follows:
4 (1) for teachers in grade one beginning with
5 the 2024-2025 school year; provided that a teacher with a class
6 load of fifteen to twenty students shall be entitled to the
7 assistance of an educational assistant;
8 (2) for teachers in grade two beginning with
9 the 2025-2026 school year;
10 (3) for teachers in grade three beginning with
11 the 2026-2027 school year;
12 (4) for teachers in grade four beginning with
13 the 2027-2028 school year;
14 (5) for teachers in grade five beginning with
15 the 2028-2029 school year; and
16 (6) for teachers in grade six beginning with
17 the 2029-2030 school year.

18 ~~[B. The average]~~ C. Before the maximum class load
19 for a specific grade is phased in, the maximum class load for
20 elementary school teachers at an individual school ~~[shall not~~
21 ~~exceed]~~ is:

22 (1) twenty-two students ~~[when averaged among~~
23 ~~grades one]~~ for grades two and three ~~[provided that any teacher~~
24 ~~in grade one with a class load of twenty-one or more shall be~~
25 ~~entitled to the full-time assistance of an educational~~

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1 ~~assistant.~~

2 ~~G. The average class load for an elementary school~~
3 ~~teacher at an individual school shall not exceed]; and~~

4 (2) twenty-four students [~~when averaged among~~]
5 ~~in grades four, five and six.~~

6 D. The daily teaching load per teacher for grades
7 seven through twelve shall not exceed one hundred sixty
8 students, except the daily teaching load for teachers of
9 required English courses in grades seven and eight shall not
10 exceed one hundred thirty-five with a maximum of twenty-seven
11 students per class and the daily teaching load for teachers of
12 required English courses in grades nine through twelve shall
13 not exceed one hundred fifty students with a maximum of thirty
14 students per class.

15 E. Students receiving special education services
16 integrated into a regular classroom for any part of the day
17 shall be counted in the calculation of class load averages.
18 Students receiving special education services not integrated
19 into the regular classroom shall not be counted in the
20 calculation of class load averages. Only classroom teachers
21 charged with responsibility for the regular classroom
22 instructional program shall be counted in determining [~~average~~]
23 ~~maximum~~ class loads. [~~In elementary schools offering only one~~
24 ~~grade level, average class loads may be calculated by averaging~~
25 ~~appropriate grade levels between schools in the school~~

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1 ~~district.]~~

2 F. Class load limits provided for in this section
3 do not apply to band or music classes or athletic electives.

4 G. The [~~state superintendent~~] secretary may waive
5 the individual school class load requirements, [~~established in~~
6 ~~this section~~] which waivers shall be applied for annually and a
7 waiver shall not be granted for more than two consecutive
8 years. Waivers may only be granted if a school district
9 demonstrates that:

10 (1) no portable classrooms or alternative
11 classroom sites are available;

12 (2) no other available sources of funding
13 exist to meet its need for additional classrooms;

14 (3) the school district [~~is planning~~
15 ~~alternatives to increase building capacity for implementation~~
16 ~~within one year; and~~] has a specific plan demonstrating how it
17 will increase building capacity to meet the class load limits
18 the following school years;

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

21 (a) of the statutory class load
22 requirements;

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

25 (c) of the school district plan to

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1 achieve compliance with the class load requirements; and
2 (5) the school district has notified all
3 families affected by a waiver request and has held a public
4 hearing in accordance with the Open Meetings Act to explain the
5 reasons for the waiver request, the statutory class load limits
6 and the school district's plan to achieve compliance with those
7 limits by the following school year.

8 H. If a waiver is granted pursuant to Subsection G
9 of this section to an individual school, the [~~average~~]
10 individual class load for elementary school teachers at that
11 school shall not exceed twenty students in kindergarten and
12 grade one, twenty-two students in grades two and three and
13 [~~shall not exceed twenty-five~~] twenty-four students [~~when~~
14 ~~averaged among grades two three, four, five and~~] in grades four
15 through six.

16 I. Each school district shall report to the
17 department the size and composition of classes [~~subsequent to~~
18 ~~the fortieth day and the December 1 count~~] on the first and
19 second reporting dates. Failure to meet class load
20 requirements within [~~two years~~] one year shall be justification
21 for the disapproval of the school district's budget by the
22 [~~state superintendent~~] department.

23 J. The department shall post approved waivers on
24 the department's website and report to the legislative
25 education study committee by November 30 of each year regarding

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1 each school district's ability to meet class load requirements
2 imposed by law.

3 ~~[K. Notwithstanding the provisions of Subsection G~~
4 ~~of this section, the state board may waive the individual class~~
5 ~~load and teaching load requirements established in this section~~
6 ~~upon a demonstration of a viable alternative curricular plan~~
7 ~~and a finding by the state board that the plan is in the best~~
8 ~~interest of the school district and that, on an annual basis,~~
9 ~~the plan has been presented to and is supported by the affected~~
10 ~~teaching staff. The department shall evaluate the impact of~~
11 ~~each alternative curricular plan annually. Annual reports~~
12 ~~shall be made to the legislative education study committee.~~

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

18 SECTION 3. APPROPRIATION.--One million four hundred
19 thirty thousand dollars (\$1,430,000) is appropriated from the
20 general fund to the public school capital outlay fund for
21 expenditure in fiscal year 2025 and subsequent fiscal years to
22 provide additional classroom space for public schools that
23 demonstrate the need for additional classrooms to comply with
24 the class load maximums provided for in Section 22-10A-20 NMSA
25 1978. Any unexpended or unencumbered balance remaining at the
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end of a fiscal year shall not revert to the general fund.

SECTION 4. APPLICABILITY.--The provisions of this act apply to the 2024-2025 and subsequent school years.

SECTION 5. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2024.