

1 SENATE BILL 33

2 **53RD LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2018**

3 INTRODUCED BY

4 William P. Soules

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10 AN ACT

11 RELATING TO PUBLIC SCHOOLS; AMENDING THE PUBLIC SCHOOL CODE TO  
12 PROVIDE FUNDING FOR ADMINISTRATIVE SUPPORT AND OVERSIGHT OF  
13 STATE-CHARTERED CHARTER SCHOOL AUTHORIZERS AND THE PUBLIC  
14 EDUCATION DEPARTMENT.

15  
16 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

17 SECTION 1. Section 22-8-25 NMSA 1978 (being Laws 1981,  
18 Chapter 176, Section 5, as amended) is amended to read:

19 "22-8-25. STATE EQUALIZATION GUARANTEE DISTRIBUTION--  
20 DEFINITIONS--DETERMINATION OF AMOUNT.--

21 A. The state equalization guarantee distribution is  
22 that amount of money distributed to each school district to  
23 ensure that its operating revenue, including its local  
24 and federal revenues as defined in this section, is at least  
25 equal to the school district's program cost. For state-

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1 chartered charter schools, the state equalization guarantee  
2 distribution is the difference between the state-chartered  
3 charter school's program cost and the two percent withheld by  
4 the department for use by the department and the commission for  
5 administrative [~~services~~] support.

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

16 C. "Federal revenue", as used in this section,  
17 means receipts to the school district or state-chartered  
18 charter school, excluding amounts that, if taken into account  
19 in the computation of the state equalization guarantee  
20 distribution, result, under federal law or regulations, in a  
21 reduction in or elimination of federal school funding otherwise  
22 receivable by the school district, derived from the following:

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

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

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

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

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

17                   (3) calculate the number of program units to  
18 which a school district or charter school with a MEM of two  
19 hundred or less is entitled by using an average of the MEM on  
20 the second and third reporting dates of the prior year or the  
21 [~~fortieth day~~] first reporting date of the current year,  
22 whichever is greater; and

23                   (4) using the results of the calculations in  
24 Paragraph (1), (2) or (3) of this subsection and the  
25 instructional staff training and experience index from the

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1 October report of the prior school year, establish a total  
2 program cost of the school district or charter school;

3 (5) for school districts and state-chartered  
4 charter schools, calculate the local and federal revenues as  
5 defined in this section;

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

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

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

18 E. Reduction of a school district's state  
19 equalization guarantee distribution shall cease when the school  
20 district's cumulative reductions equal its proportional share  
21 of the cumulative debt service payments necessary to service  
22 the bonds issued pursuant to the Energy Efficiency and  
23 Renewable Energy Bonding Act.

24 F. The amount of the state equalization guarantee  
25 distribution to which a school district is entitled is the

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1 balance remaining after the deductions made in Paragraphs (6)  
2 through (8) of Subsection D of this section.

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

13 SECTION 2. Section 22-8B-9 NMSA 1978 (being Laws 1999,  
14 Chapter 281, Section 9, as amended) is amended to read:

15 "22-8B-9. CHARTER SCHOOL CONTRACT--CONTENTS--RULES.--

16 A. The chartering authority shall enter into a  
17 contract with the governing body of the applicant charter  
18 school within thirty days of approval of the charter  
19 application. The charter contract shall be the final  
20 authorization for the charter school and shall be part of the  
21 charter. If the chartering authority and the applicant charter  
22 school fail to agree upon the terms of or enter into a contract  
23 within thirty days of the approval of the charter application,  
24 either party may appeal to the secretary to finalize the terms  
25 of the contract; provided that such appeal [~~must~~] shall be

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1 provided in writing to the secretary within forty-five days of  
2 the approval of the charter application. Failure to enter into  
3 a charter contract or appeal to the secretary pursuant to this  
4 section precludes the chartering authority from chartering the  
5 school.

6 B. The charter contract shall include:

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

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

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

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

19 (5) a statement of admission policies and  
20 procedures;

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

25 (7) the criteria, processes and procedures

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1 that the chartering authority will use for ongoing oversight of  
2 operational, financial and academic performance of the charter  
3 school;

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

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

10 (10) the term of the contract;

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

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

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

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

25 (c) a procedure for selection of a

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1 neutral third party to assist in resolving the dispute;

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

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

6 (13) the criteria, procedures and time lines,  
7 agreed upon by the charter school and the chartering authority,  
8 addressing charter revocation and deficiencies found in the  
9 annual status report pursuant to the provisions of Section  
10 22-8B-12 NMSA 1978;

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

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

25 (16) an agreement that the charter school will

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1 participate in the public school insurance authority;

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

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

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

11 C. The process for revision or amendment to the  
12 terms of the charter contract shall be made only with the  
13 approval of the chartering authority and the governing body of  
14 the charter school. If they cannot agree, either party may  
15 appeal to the secretary as provided in Subsection A of this  
16 section."

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

19 "22-8B-13. CHARTER SCHOOL FINANCING.--

20 A. The amount of funding allocated to a charter  
21 school shall be not less than ninety-eight percent of the  
22 school-generated program cost. The school district or division  
23 may withhold and use two percent of the school-generated  
24 program cost for its administrative support of a charter  
25 school; provided that the department shall transfer one-fourth

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1 of the two percent of the school-generated program cost it  
2 withholds from state-chartered charter schools to the  
3 commission for its administrative support of a state-chartered  
4 charter school.

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

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

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

18 E. All services centrally or otherwise provided by  
19 a local school district, including custodial, maintenance and  
20 media services, libraries and warehousing, shall be subject to  
21 negotiation between the charter school and the school district.  
22 Any services for which a charter school contracts with a school  
23 district shall be provided by the district at a reasonable  
24 cost."

25 SECTION 4. Section 22-8B-17 NMSA 1978 (being Laws 2006,

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1 Chapter 94, Section 30) is amended to read:

2 "22-8B-17. CHARTER SCHOOLS DIVISION--DUTIES.--The  
3 "charter schools division" is created in the department. The  
4 division shall:

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

10 B. provide technical support to all charter  
11 schools; and

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

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

17 SECTION 5. EFFECTIVE DATE.--The effective date of the  
18 provisions of this act is July 1, 2018.