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HOUSE BILL 32

55TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2021

INTRODUCED BY

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AN ACT

RELATING TO PUBLIC EDUCATION; REQUIRING THAT EACH PUBLIC SCHOOL  
AND EACH CHARTER SCHOOL EMPLOY A MINIMUM OF ONE FULL-TIME  
SCHOOL NURSE; PROVIDING EXCEPTIONS; PROVIDING RULEMAKING  
AUTHORITY; MAKING AN APPROPRIATION.

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

SECTION 1. A new section of the Public School Code is  
enacted to read:

"[NEW MATERIAL] MANDATORY SCHOOL NURSE--WAIVER--RULEMAKING  
AUTHORITY.--

A. Each public school shall employ a minimum of one  
full-time school nurse each school year, unless the department  
has granted the public school a waiver pursuant to Subsection B  
of this section.

1           B. The department may grant a waiver to a rural  
2 public school with fewer than two hundred fifty MEM that is:

3               (1) able to demonstrate that it can  
4 effectively meet student health needs by hiring a part-time  
5 school nurse; or

6               (2) not able to hire a qualified nurse or  
7 contract with a third party for a qualified nurse because of  
8 insufficient availability of qualified nurses in the public  
9 school's geographic vicinity; provided that the public school  
10 shall provide documentation of the public school's unsuccessful  
11 attempts to hire or contract with a school nurse to the  
12 department.

13           C. The department shall promulgate rules pursuant  
14 to this section.

15           D. As used in this section:

16               (1) "public school" includes a charter school;  
17 and

18               (2) "school nurse" means a person who:

19                   (a) is a nurse authorized pursuant to  
20 the Nursing Practice Act to practice as a professional  
21 registered nurse;

22                   (b) is licensed by the department and  
23 the board of nursing as a school nurse; and

24                   (c) provides services as a school nurse  
25

1 at a school."

2 SECTION 2. Section 22-8-6.1 NMSA 1978 (being Laws 1993,  
3 Chapter 227, Section 8, as amended by Laws 2019, Chapter 206,  
4 Section 9 and by Laws 2019, Chapter 207, Section 9) is amended  
5 to read:

6 "22-8-6.1. CHARTER SCHOOL OPERATING BUDGETS--MAXIMUM  
7 MEM.--

8 A. Each state-chartered charter school shall submit  
9 to the charter schools division of the department a school-  
10 based operating budget. The operating budget shall be  
11 submitted to the division for approval or amendment pursuant to  
12 the Public School Finance Act and the Charter Schools Act.  
13 Thereafter, the operating budget shall be submitted to the  
14 commission for review.

15 B. Each locally chartered charter school shall  
16 submit to the local school board a school-based operating  
17 budget for approval or amendment. The approval or amendment  
18 authority of the local school board relative to the charter  
19 school operating budget is limited to ensuring that sound  
20 fiscal practices are followed in the development of the  
21 operating budget and that the charter school operating budget  
22 is within the allotted resources. The local school board shall  
23 have no veto authority over individual line items within the  
24 charter school's proposed financial budget or over any item in  
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1 the educational plan, but shall approve or disapprove the  
2 operating budget in its entirety. Upon final approval of the  
3 charter school operating budget by the local school board, the  
4 individual charter school operating budget shall be included  
5 separately in the budget submission to the department required  
6 pursuant to the Public School Finance Act and the Charter  
7 Schools Act.

8 C. For its first year of operation, a charter  
9 school's operating budget shall be based on the projected  
10 number of program units generated by the school and its  
11 students using the at-risk index and the staffing cost  
12 multiplier of the school district in which the charter school  
13 is located, and the charter school's operating budget shall be  
14 adjusted using the qualified MEM on the first reporting date of  
15 the current school year. For its second and subsequent fiscal  
16 years of operation, a charter school's operating budget shall  
17 be based on the number of program units generated by the  
18 charter school and its students using the average of the MEM on  
19 the second and third reporting dates of the prior year, the at-  
20 risk index of the school district in which the charter school  
21 is located and the charter school's staffing cost multiplier.

22 D. The department shall not approve the operating  
23 budget of a charter school that does not provide for a full-  
24 time school nurse as provided for in Section 1 of this 2021 act  
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1 unless a waiver has been granted as provided in Section 1 of  
2 this 2021 act.

3 E. As used in this section, "school nurse" means a  
4 person who:

5 (1) is a nurse authorized pursuant to the  
6 Nursing Practice Act to practice as a professional registered  
7 nurse;

8 (2) is licensed by the department and the  
9 board of nursing as a school nurse; and

10 (3) provides services as a school nurse at a  
11 school."

12 SECTION 3. Section 22-8-9 NMSA 1978 (being Laws 1967,  
13 Chapter 16, Section 63, as amended by Laws 2019, Chapter 206,  
14 Section 10 and by Laws 2019, Chapter 207, Section 10) is  
15 amended to read:

16 "22-8-9. BUDGETS--MINIMUM REQUIREMENTS.--

17 A. An operating budget for a school district shall  
18 not be approved by the department if the educational plan does  
19 not provide for:

20 (1) a school year and school day as provided  
21 in Section 22-2-8.1 NMSA 1978; ~~[and]~~

22 (2) a pupil-teacher ratio or class or teaching  
23 load as provided in Section 22-10A-20 NMSA 1978; and

24 (3) employment of a full-time school nurse as  
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1 provided for in Section 1 of this 2021 act at every public  
2 school in the school district unless a waiver has been granted  
3 as provided in Section 1 of this 2021 act.

4 B. The department shall, by rule, establish the  
5 requirements for an instructional day, the standards for an  
6 instructional hour and the standards for a full-time teacher  
7 and for the equivalent thereof.

8 C. As used in this section, "school nurse" means a  
9 person who:

10 (1) is a nurse authorized pursuant to the  
11 Nursing Practice Act to practice as a professional registered  
12 nurse;

13 (2) is licensed by the department and the  
14 board of nursing as a school nurse; and

15 (3) provides services as a school nurse at a  
16 school."

17 SECTION 4. APPROPRIATION.--Five million dollars  
18 (\$5,000,000) is appropriated from the general fund to the  
19 public education department for expenditure in fiscal year 2022  
20 to assist public schools and charter schools with hiring school  
21 nurses in each public school and charter school in the state.  
22 Any unexpended or unencumbered balance remaining at the end of  
23 fiscal year 2022 shall revert to the general fund.

24 SECTION 5. EFFECTIVE DATE.--The effective date of the  
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provisions of this act is July 1, 2021.

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