

SENATE BILL 427

50TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2011

INTRODUCED BY

Vernon D. Asbill

AN ACT

RELATING TO PUBLIC SCHOOLS; ENACTING THE A-B-C-D-F SCHOOLS RATING ACT; PROVIDING FOR A RATING SYSTEM TO GRADE PUBLIC SCHOOLS IN A WAY EASILY UNDERSTANDABLE BY PARENTS, SCHOOL PERSONNEL AND THE COMMUNITY; ESTABLISHING CRITERIA FOR RATING PUBLIC SCHOOLS; PROVIDING SCHOOL OPTIONS; PROVIDING FUNDING FOR FAILING SCHOOLS TO IMPLEMENT ~~SCIENTIFICALLY BASED INSTRUCTIONAL PROGRAMS~~ LINKED TO IMPROVED STUDENT ACHIEVEMENT; ~~CREATING A NEW MEXICO SCHOOL RECOGNITION PROGRAM~~; PROVIDING FINANCIAL AWARDS FOR HIGH-ACHIEVING PUBLIC SCHOOLS; RECONCILING MULTIPLE AMENDMENTS TO THE SAME SECTION OF LAW IN LAWS 2007. 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] SHORT TITLE.--Sections 1 through 5 [4] of this act may be cited as the "A-B-C-D-F Schools Rating Act"."

SECTION 2. A new section of the Public School Code is enacted to read:

"[NEW MATERIAL] DEFINITIONS.--As used in the A-B-C-D-F Schools Rating Act:

A. "growth" means learning a year's worth of knowledge in one year's time, which is demonstrated by a student's performance on New Mexico standards-based assessments that shows the student:

- (1) moving from one performance level to a higher performance level;
- (2) maintaining a proficient or advanced proficient performance level as provided by department rule; or
- (3) remaining in beginning step or nearing proficient performance level but improving a number of scale score points as specified by department rule; [and]

B. "school options" means a right to transfer to any public school not rated an F in the state or have children continue their schooling through distance learning offered through the statewide [or a local] cyber academy ~~or currently offered or approved by any other state and the department; and~~

C. ~~"scientifically based research" means educational programs or practices that are evidence based and have a basis in scientific research."~~ [.]

SECTION 3. A new section of the Public School Code is enacted to read: "[NEW MATERIAL] RATING CERTAIN SCHOOLS.--Commencing with the 2011-2012 school year, public schools shall be subject to being rated annually by the department as provided in the A-B-C-D-F Schools Rating Act."

SECTION 4. A new section of the Public School Code is enacted to read:

"[NEW MATERIAL] ANNUAL RATINGS--LETTER GRADES--RATINGS BASED ON STANDARDS-BASED TESTS--RIGHT TO SCHOOL CHOICE--

DISTANCE LEARNING--RESPONSIBILITY FOR COST--USE OF FUNDS FOR PROGRAMS GROUNDED IN SCIENTIFICALLY BASED RESEARCH

ADDITIONAL REMEDY.--

- A. All public schools shall be graded annually by the department.
- B. The department shall assign a letter grade of A, B, C, D or F to each public school pursuant to criteria established by department rules that include as a minimum a combination of the following factors in a public school's grade:
 - (1) for elementary and middle schools:
 - (a) student proficiency, including achievement on the New Mexico standards-based assessments;
 - (b) student growth in reading and mathematics; and
 - (c) growth of the lowest twenty-fifth percentile of students in the public school in reading and mathematics; and
 - (2) for high schools:
 - (a) student proficiency, including achievement on the New Mexico standards-based assessments;
 - (b) student growth in reading and mathematics;
 - (c) growth of the lowest twenty-fifth percentile of students in the high school in reading and mathematics; and
 - (d) additional academic indicators such as high school graduation rates, advanced placement and international baccalaureate courses, dual enrollment courses and SAT and ACT scores.
- C. The New Mexico standards-based assessments used for rating a school are those administered annually to students in grades three, four, five, six, seven, eight, nine and eleven pursuant to Section 22-2C-4 NMSA 1978.
- D. In addition to any rights a parent may have pursuant to federal law, the parent of a student enrolled in a public school rated F for two of the last four years has the right to transfer the student in the same grade to any public school in the state not rated F or the right to have the student continue schooling by means of distance learning offered through the statewide [or a local] cyber academy or a cyber academy ~~currently offered and approved by any other state. The school district or charter school in which the student is enrolled is responsible for the cost of distance learning.~~
- E. ~~The secretary may require that a school district's budget for a school rated D or F be directed toward educational programs and methods that are grounded in scientifically based research linked to improved student [E. The department shall ensure that a local school board or governing body of a charter school is prioritizing resources of a public school rated D or F toward proven programs and methods linked to improved student"] achievement until the public school earns a grade of C or better for two consecutive years.~~
- F. The school options available pursuant to the A-B-C-D-F Schools Rating Act are in addition to any remedies provided for in the Assessment and Accountability Act for students in schools in need of improvement or any other interventions prescribed by the federal No Child Left Behind Act of 2001."

SECTION 5. A new section of the Public School Code is enacted to read:

"[NEW MATERIAL] NEW MEXICO PUBLIC SCHOOL RECOGNITION PROGRAM.

~~A. The legislature finds that there is a need for a performance incentive program for outstanding faculty and staff in highly productive public schools. The legislature finds further that performance based incentives are commonplace in the private sector and should be infused into the public sector as a reward for productivity.~~

~~B. The "New Mexico public school recognition program" is created to provide financial awards to public schools that:~~

(1) demonstrate high performance by earning or maintaining a school grade of A; or

(2) demonstrate improvement by improving a letter grade.

~~C. All public schools, including charter schools, are eligible to participate in the program. Depending on the availability of funding and the number and size of public schools selected to receive an award, public schools that meet one of the requirements of Subsection B of this section may receive financial awards.~~

~~D. An award shall be distributed to the school district for use by the public school for the purposes specified in Subsection E of this section to be determined jointly by the public school's staff and its school advisory council. If the school staff and the school advisory council cannot reach agreement on how to expend the award by November 1 of the year in which the award is awarded, the award shall be distributed equally to all classroom teachers currently teaching in the school.~~

~~E. School recognition awards shall be used only for the following:~~

(1) nonrecurring merit awards to the faculty and staff;

(2) nonrecurring expenditures for educational equipment or materials to assist in maintaining and improving student performance; and

(3) temporary personnel for the school to assist in maintaining and improving student performance.

~~F. Notwithstanding any other laws or agreements, incentive awards shall not be subject to collective bargaining."~~

SECTION 6 [5]. Section 22-8-11 NMSA 1978 (being Laws 1967, Chapter 16, Section 66, as amended) is amended to read:

"22-8-11. BUDGETS--APPROVAL OF OPERATING BUDGET.--

A. The department shall:

(1) on or before July 1 of each year, approve and certify to each local school board and governing body of a state-chartered charter school an operating budget for use by the school district or state-chartered charter school; [and]

(2) make corrections, revisions and amendments to the operating budgets fixed by the local school boards or governing bodies of state-chartered charter schools and the secretary to conform the budgets to the requirements of law and to the department's rules and procedures; and

(3) have the ability to direct funds and resources toward programs and methods that are grounded in scientifically based research linked to improved student achievement.

[(3) ensure that a local school board or governing body of a charter school is prioritizing resources of a public school rated D or F toward proven programs and methods that are linked to improved student achievement.]

B. No school district or state-chartered charter school or officer or employee of a school district or statechartered charter school shall make any expenditure or incur any obligation for the expenditure of public funds unless that expenditure or obligation is made in accordance with an operating budget approved by the department. This

prohibition does not prohibit the transfer of funds pursuant to the department's rules and procedures.

C. The department shall not approve and certify an operating budget of any school district or state-chartered charter school that fails to demonstrate that parental involvement in the budget process was solicited."

SECTION 7 [6]. Section 22-8-18 NMSA 1978 (being Laws 1974, Chapter 8, Section 8, as amended by Laws 2007, Chapter 347, Section 1 and by Laws 2007, Chapter 348, Section 2 and also by Laws 2007, Chapter 365, Section 1) is amended to read:

"22-8-18. PROGRAM COST CALCULATION—LOCAL RESPONSIBILITY.--

A. The total program units for the purpose of computing the program cost shall be calculated by multiplying the sum of the program units itemized as Paragraphs (1) through (6) in this subsection by the instructional staff training and experience index and adding the program units itemized as Paragraphs (7) through [(12)] (13) in this subsection. The itemized program units are as follows:

- (1) early childhood education;
- (2) basic education;
- (3) special education, adjusted by subtracting the units derived from membership in class D special education programs in private, nonsectarian, nonprofit training centers;
- (4) bilingual multicultural education;
- (5) fine arts education;
- (6) elementary physical education;
- (7) size adjustment;
- (8) at-risk program;
- (9) enrollment growth or new district adjustment;
- (10) special education units derived from membership in class D special education programs in private, nonsectarian, nonprofit training centers;
- (11) national board for professional teaching standards certification; [and
- (11)] (12) home school student activities; and
- [(12)] (13) charter school student activities.

B. The total program cost calculated as prescribed in Subsection A of this section includes the cost of early childhood, special, bilingual multicultural, fine arts and vocational education and other remedial or enrichment programs. It is the responsibility of the local school board or governing body of a charter school to determine its priorities in terms of the needs of the community served by that board. Except as otherwise provided in this section, funds generated under the Public School Finance Act are discretionary to local school boards and governing bodies of charter schools, provided that the special program needs as enumerated in this section are met; provided, however, that if a public school has been rated D or F for two consecutive years, the ~~secretary may require that sufficient funds be directed toward educational programs~~, [department shall ensure that the local school board or governing body of a charter school is prioritizing resources for the public school toward proven programs and] methods ~~and resources that are grounded in scientifically based research~~ linked to improved student achievement until the public school earns a C or better for two consecutive years."