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SENATE BILL 430

44TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 1999

INTRODUCED BY

Richard M. Romero

AN ACT

RELATING TO EDUCATION; ESTABLISHING A PILOT PROGRAM FOR THE
CREATION OF CHARTER SCHOOL DISTRICTS; AMENDING AND ENACTING
SECTIONS OF THE NMSA 1978.

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 6 of
this act may be referred to as the "Charter School District
Act". "

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

"[NEW MATERIAL] CHARTER SCHOOL DISTRICTS CREATED--
DISTRICT RESPONSIBILITIES-- EXEMPTIONS FROM THE PUBLIC SCHOOL
CODE. --

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1 A. Effective with the 1999-2000 school year, the
2 state board shall initiate a pilot program to test the
3 effectiveness of charter school districts. As part of this
4 pilot program, the state board may approve not more than three
5 school districts or clusters in the state to operate as
6 charter school districts.

7 B. To be approved as a charter school district, a
8 local school board shall submit an application to the state
9 board. If the state board approves an application to operate
10 as a charter school district, the local school district shall
11 be exempt from provisions of the Public School Code pertaining
12 to the length of the school day, staffing patterns, subject
13 areas and instructional materials. A charter school district
14 shall continue to:

15 (1) operate as a public, nonsectarian public
16 school district;

17 (2) operate in the same geographic boundaries
18 that existed prior to becoming a charter school district;

19 (3) receive state money as provided in the
20 Public School Code;

21 (4) provide special education services as
22 required by state and federal laws;

23 (5) be liable for timely payment on its
24 bonded indebtedness and subject to the same bonded
25 indebtedness limitations as it did before becoming a charter

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1 school district; and

2 (6) be subject to all state and federal laws
3 and constitutional provisions prohibiting discrimination on
4 the basis of disability, race, creed, color, gender, national
5 origin, religion, ancestry or need for special education
6 services.

7 C. A charter school district shall be accountable
8 to the state board for purposes of ensuring compliance with
9 its charter and applicable state law. "

10 Section 3. A new section of the Public School Code is
11 enacted to read:

12 "[NEW MATERIAL] CHARTER SCHOOL DISTRICT APPLICATION
13 REQUIREMENTS-- PROCESS-- ELECTION. --

14 A. Before a local school board applies for a
15 charter to the state board, the board shall submit the
16 question of whether to operate the school district as a
17 charter school district to the qualified electors of the
18 school district at any regular school board election or at any
19 special election called for the purpose of voting on the
20 question. Any election called for this purpose shall be
21 conducted pursuant to the School Election Law.

22 B. If a majority of those voting voted in favor of
23 the district becoming a charter school district, the local
24 school board shall submit an application for charter school
25 district status to the state board.

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1 C. Not less than sixty-five percent of the
2 employees of the school district must sign a petition in
3 support of the school district becoming a charter district.

4 D. The state board shall establish by rule the
5 application process and requirements for charter school
6 district status.

7 E. Prior to approving an application for charter
8 school district status, the state board shall require that
9 the:

10 (1) proposed charter school district comply
11 with all state board rules regarding accreditation;

12 (2) proposed charter school district comply
13 with Sections 22-1-6 and 22-2-8 NMSA 1978; and

14 (3) charter school district application
15 contain:

16 (a) a statement of mission and purpose
17 for the operation of the district under a charter, including a
18 statement of the district's goals and objectives;

19 (b) evidence of broad-based support
20 among parents, teachers and pupils;

21 (c) evidence that the charter is
22 educationally sound and is in the best educational interests
23 of the students;

24 (d) evidence that the plan is
25 economically sound and complies with all state and federal

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1 laws and rules;

2 (e) an explanation of the relationship
3 that will exist between the charter school district and its
4 employees, including evidence that the terms and conditions of
5 employment have been addressed with affected employees and
6 their recognized representatives;

7 (f) a description of the governing body
8 and operation of the charter school district; and

9 (g) waivers requested from the state
10 board rules. "

11 Section 4. A new section of the Public School Code is
12 enacted to read:

13 "[NEW MATERIAL] CHARTER SCHOOL DISTRICTS-- CONTRACT
14 CONTENTS. --

15 A. An approved charter school district application
16 shall constitute an agreement, and the terms of the agreement
17 shall constitute a contract between the charter school
18 district and the state board.

19 B. The contract between the charter school
20 district and the state board shall reflect all agreements
21 regarding the operation of the charter school district.

22 C. Employees of a charter school district shall be
23 considered continuous employees without interruption of
24 employment pursuant to the School Personnel Act and shall be
25 afforded procedural due process rights and protections.

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1 D. Employees of a charter school district shall
2 have the same right to organize and bargain collectively with
3 the governing body of the charter school district as other
4 public school employees pursuant to the Public Employee
5 Bargaining Act. The governing body and the employees'
6 exclusive representative shall bargain in good faith.
7 Agreements reached between the governing body and the
8 exclusive representative shall be incorporated into a written
9 collective bargaining agreement if requested by the governing
10 body and the exclusive representative.

11 E. The terms of the contract may be revised at any
12 time with the approval of both the state board and the charter
13 school district. "

14 Section 5. A new section of the Public School Code is
15 enacted to read:

16 "NEW MATERIAL CHARTER SCHOOL DISTRICTS--TERMS--RENEWAL
17 OF CHARTER--GROUNDS FOR NONRENEWAL, PROBATION OR REVOCATION--
18 APPEAL. --

19 A. A charter may be approved or renewed for a
20 period not to exceed four academic calendar years. The state
21 board shall establish a charter renewal process by rule.

22 B. The department of education shall provide by
23 rule for ongoing review of the charter school district's
24 compliance with accreditation.

25 C. Staff from the department of education shall

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1 visit each charter school district at least once each year to
2 provide technical assistance and to determine the status of
3 the district and the progress of the district toward the goals
4 of its charter.

5 D. If during the ongoing review or during the
6 renewal process the department of education finds that the
7 charter school district is not in compliance with the charter,
8 the state board may revoke the charter, decline to renew the
9 charter or place the district on probationary status. The
10 state board shall not renew a charter if it determines that
11 the charter is not in the interest of the pupils residing in
12 the district.

13 E. The state board shall not renew any charter
14 prior to July 1, 2003. "

15 Section 6. A new section of the Public School Code is
16 enacted to read:

17 "[NEW MATERIAL] REPORT TO LEGISLATURE ON PILOT
18 PROGRAM --Not later than July 30, 2004, the state board and
19 all charter school districts shall report to the legislature
20 and the governor regarding the effectiveness of the pilot
21 program established pursuant to the Charter School District
22 Act. "

23 Section 7. Section 22-11-2 NMSA 1978 (being Laws 1967,
24 Chapter 16, Section 126, as amended) is amended to read:

25 "22-11-2. DEFINITIONS.--As used in the Educational

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Retirement Act:

A. "member" means any employee, except for a participant coming within the provisions of the Educational Retirement Act;

B. "regular member" means:

(1) a person regularly employed as a teaching, nursing or administrative employee of a state educational institution, except for:

(a) a participant; or

(b) all employees of a general hospital or outpatient clinics thereof operated by a state educational institution named in Article 12, Section 11 of the constitution of New Mexico;

(2) a person regularly employed as a teaching, nursing or administrative employee of a junior college or community college created pursuant to Chapter 21, Article 13 NMSA 1978;

(3) a person regularly employed as a teaching, nursing or administrative employee of a technical and vocational institute created pursuant to the Technical and Vocational Institute Act;

(4) a person regularly employed as a teaching, nursing or administrative employee of the New Mexico boys' school, the New Mexico girls' school, the Los Lunas medical center or a school district or as a certified school

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1 instructor of a state institution or agency providing an
2 educational program and holding a standard or substandard
3 certificate issued by the state board;

4 (5) a person regularly employed by the
5 department of education or the board holding a standard or
6 substandard certificate issued by the state board at the time
7 of commencement of such employment;

8 (6) a member classified as a regular member
9 in accordance with the regulations of the board;

10 (7) a person regularly employed by the New
11 Mexico activities association holding a standard certificate
12 issued by the state board at the time of commencement of such
13 employment; [or]

14 (8) a person regularly employed by a regional
15 education cooperative holding a standard certificate issued by
16 the state board at the time of commencement of such
17 employment; or

18 (9) a person regularly employed by a charter
19 school district holding a standard or substandard certificate
20 issued by the state board at the time of commencement of such
21 employment;

22 C. "provisional member" means a person not
23 eligible to be a regular member but who is employed by a local
24 administrative unit designated in Subsection B of this
25 section; provided, however, that employees of a general

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1 hospital or outpatient clinics thereof operated by a state
2 educational institution named in Article 12, Section 11 of the
3 constitution of New Mexico are not provisional members;

4 D. "local administrative unit" means an employing
5 agency however constituted that is directly responsible for
6 the payment of compensation for the employment of members or
7 participants;

8 E. "beneficiary" means a person having an
9 insurable interest in the life of a member or a participant
10 designated by written instrument duly executed by the member
11 or participant and filed with the director to receive a
12 benefit pursuant to the Educational Retirement Act that may be
13 received by someone other than the member or participant;

14 F. "employment" means employment by a local
15 administrative unit that qualifies a person to be a member or
16 participant;

17 G. "service employment" means employment that
18 qualifies a person to be a regular member;

19 H. "provisional service employment" means
20 employment that qualifies a person to be a provisional member;

21 I. "prior employment" means employment performed
22 prior to the effective date of the Educational Retirement Act
23 that would be service employment or provisional service
24 employment if performed thereafter;

25 J. "service credit" means that period of time with

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1 which a member is accredited for the purpose of determining
2 his eligibility for and computation of retirement or
3 disability benefits;

4 K. "earned service credit" means that period of
5 time during which a member was engaged in employment or prior
6 employment with which he is accredited for the purpose of
7 determining his eligibility for retirement or disability
8 benefits;

9 L. "allowed service credit" means that period of
10 time during which a member has performed certain nonservice
11 employment with which he may be accredited, as provided in the
12 Educational Retirement Act, for the purpose of computing
13 retirement or disability benefits;

14 M. "retirement benefit" means an annuity paid
15 monthly to members whose employment has been terminated by
16 reason of their age;

17 N. "disability benefit" means an annuity paid
18 monthly to members whose employment has been terminated by
19 reason of a disability;

20 O. "board" means the educational retirement board;

21 P. "fund" means the educational retirement fund;

22 Q. "director" means the educational retirement
23 director;

24 R. "medical authority" means a medical doctor
25 within the state or as provided in Subsection D of Section

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1 22-11-36 NMSA 1978 either designated or employed by the board
2 to examine and report on the physical condition of applicants
3 for or recipients of disability benefits;

4 S. "actuary" means a person trained and regularly
5 engaged in the occupation of calculating present and projected
6 monetary assets and liabilities under annuity or insurance
7 programs;

8 T. "actuarial equivalent" means a sum paid as a
9 current or deferred benefit that is equal in value to a
10 regular benefit, computed upon the basis of interest rates and
11 mortality tables;

12 U. "contributory employment" means employment for
13 which contributions have been made by both a member and a
14 local administrative unit pursuant to the Educational
15 Retirement Act;

16 V. "qualifying state educational institution"
17 means the university of New Mexico, New Mexico state
18 university, New Mexico institute of mining and technology, New
19 Mexico highlands university, eastern New Mexico university and
20 western New Mexico university;

21 W. "participant" means:

22 (1) a person regularly employed as a faculty
23 or professional employee of a qualifying state educational
24 institution who first becomes employed with such an
25 educational institution on or after July 1, 1991 and who

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1 elects, pursuant to Section 22-11-47 NMSA 1978, to participate
2 in the alternative retirement plan; and

3 (2) a person regularly employed who performs
4 research or other services pursuant to a contract between a
5 qualifying state educational institution and the United States
6 government or any of its agencies who elects, pursuant to
7 Section 22-11-47 NMSA 1978, to participate in the alternative
8 retirement plan, provided that the research or other services
9 are performed outside the state;

10 X. "salary" means the compensation or wages paid
11 to a member or participant by any local administrative unit
12 for services rendered; and

13 Y. "alternative retirement plan" means the
14 retirement plan provided for in Sections 22-11-47 through
15 22-11-52 NMSA 1978. "

1 FORTY-FOURTH LEGISLATURE

SB 430/a

2 FIRST SESSION, 1999

3
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5
6 March 10, 1999

7
8 Mr. President:

9
10 Your EDUCATION COMMITTEE, to whom has been referred

11
12 SENATE BILL 430

13
14 has had it under consideration and reports same with
15 recommendation that it DO PASS, amended as follows:

16
17 1. On page 1, line 18, strike "6" and insert in lieu
18 thereof "7".

19
20 2. On page 1, between lines 20 and 21, insert the
21 following new section:

22 "Section 2. A new section of the Public School Code is
23 enacted to read:

24 "[NEW MATERIAL] DEFINITION.--For the purpose of the Charter
25

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School District Act, "charter school district" means an existing school district operating under a charter that has been approved by the state board that is nonreligious, does not charge tuition and does not have admission requirements in addition to those found in the Public School Code."".

3. Renumber the succeeding sections accordingly.

4. On page 2, line 4, strike "not more than three" and insert in lieu thereof "large, medium and small".

5. On page 2, line 5, strike "or clusters".

6. On page 3, line 14, strike "Before" and insert in lieu thereof "After".

7. On page 3, line 15, before the comma insert "and the state board approves the application".

8. On page 3, line 20, after the period insert:

FORTY- FOURTH LEGISLATURE

FIRST SESSION, 1999

SEC/SB 430

Page 2

"A majority of those voting must vote in favor of the school district becoming a charter school district.".

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9. On page 3, lines 22 through 25, strike Subsection B in its entirety.

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10. Reletter the succeeding subsections accordingly.

11. On page 4, lines 19 and 20, strike Subparagraph (b) in its entirety.

12. Reletter the succeeding subparagraphs accordingly.

13. On page 5, line 6, after the semicolon insert "and".

14. On page 5, lines 7 and 8, strike Subparagraph (f) in its entirety.

15. Reletter the succeeding subparagraph accordingly.

16. On page 5, line 10, strike the quotation mark and between lines 10 and 11, insert the following subsection:

"E. The governing body of the charter school shall continue to be the local school board."".

17. On page 5, line 24, after "to" insert "and continue to be subject to the requirements of".

18. On page 6, lines 1 through 10, strike subsection D in its entirety.

19. Reletter the succeeding subsection accordingly.

Respectfully submitted,

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Cynthia Nava, Chairman

FORTY-FOURTH LEGISLATURE
FIRST SESSION, 1999

SEC/SB 430

Page 3

Adopted _____ Not

Adopted _____

(Chief Clerk)

(Chief Clerk)

Date _____

The roll call vote was 6 For 0 Against

. 126797. 2

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Yes: 6

No: 0

1 Excused: Adair, Jennings, Lopez, Pinto

2 Absent: None

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1 FORTY-FOURTH LEGISLATURE

2 FIRST SESSION, 1999

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6 March 17, 1999

7
8 Mr. Speaker:

9
10 Your EDUCATION COMMITTEE, to whom has been referred

11
12 SENATE BILL 430, as amended

13
14 has had it under consideration and reports same with
15 recommendation that it DO PASS, amended as follows:

16 1. Strike Senate Education Committee Amendment 4.

17
18 2. On page 2, line 2, after "program" insert "to run
19 from the commencement of the 1999 school year through June
20 30, 2005".

21
22 3. On page 2, line 5, after "districts" insert
23 ", large, medium and small,".

24 4. On page 4, line 6, after the period insert:
25

. 126797. 2

FORTY-FOURTH LEGISLATURE
FIRST SESSION, 1999

HEC/SB 430a

Page 20

"In addition to other application requirements established pursuant to Subsection C of Section 5 of the Charter School District Act, the state board shall require the charter school district to comply with the provisions set forth in Subsection D of this section."

5. On page 4, between lines 6 and 7, insert the following new subsection:

"D. The state board shall give priority consideration for charter school district status to those school districts that have received collaboration school improvement waivers or curriculum planning waivers."

6. Reletter the succeeding subsections accordingly.

7. On page 5, line 24, strike "pursuant to".

8. On page 6, line 19, strike "or renewed".

9. On page 6, lines 20 and 21, strike the sentence beginning with "The" in its entirety.

10. On page 7, lines 5 and 6, strike "or during the renewal process".

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FORTY-FOURTH LEGISLATURE
FIRST SESSION, 1999

HEC/SB 430a

Page 21

11. On page 7, lines 8 and 9, strike ", decline to
renew the charter".

12. On page 7, line 9, after the period insert a
closing quotation mark.

13. On page 7, lines 9 through 12, strike the sentence
beginning with "The" in its entirety.

14. On page 7, lines 13 and 14, strike Subsection E in
its entirety.

15. On page 9, line 18, after "(9)" insert "effective
on the commencement of the 1999 school year through June 30,
2005,".,

and thence referred to the APPROPRIATIONS AND FINANCE
COMMI TTEE.

1 FORTY-FOURTH LEGISLATURE
2 FIRST SESSION, 1999

3 HEC/SB 430a

Page 22

4 Respectfully submitted,

8 _____
9 Rick Miera, Chairman

11 Adopted _____ Not Adopted _____
12 (Chief Clerk) (Chief Clerk)

14 Date _____

15
16 The roll call vote was 13 For 0 Against

17 Yes: 13

18 Excused: Wright

19 Absent: Burpo, Dana

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2 FORTY-FOURTH LEGISLATURE
3 FIRST SESSION, 1999
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5 March 19, 1999
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8 Mr. Speaker:

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10 Your APPROPRIATIONS AND FINANCE COMMITTEE, to
11 whom has been referred

12 SENATE BILL 430, as amended
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14 has had it under consideration and reports same with
15 recommendation that it DO PASS.
16

17 Respectfully submitted,
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21 _____
22 Max Coll, Chairman
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FORTY-FOURTH LEGISLATURE
FIRST SESSION, 1999

Page 24

Adopted _____ Not Adopted _____
(Chief Clerk) (Chief Clerk)

Date _____

The roll call vote was 9 For 3 Against

Yes: 9

No: Heaton, Parsons, Pearce

Excused: Abeyta, Buffett, MH Garcia, Larrañaga, Watchman

Absent: None

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