

**INDEX OF PROPOSED CHANGES IN CHARTER SCHOOL LEGISLATION**  
**FOR THE 2015 REGULAR LEGISLATIVE SESSION**

202 Number	Title	Description of Proposed Amendments
.197704.3 Lunar Blue	<i>Relating to Public Education; Removing the PEC's Administrative Attachment to the PED (PEC Bill)</i>	<p><u>Section 1 (§9-24-9, "Public Education Commission—Creation—Powers, Authority and Duties—Legislative and Executive Oversight") (p1, I21)</u></p> <ul style="list-style-type: none"> <li>• Removes administrative attachment to PED. (p2, I2)</li> <li>• Expressly grants PEC rulemaking authority. (p2, I9)</li> <li>• Allows for employment of staff, subject to legislative appropriation. (p3, I9)</li> <li>• Directs PEC to prepare an annual budget. (p3, I13)</li> <li>• Directs PEC to report to the Legislature and Governor on PEC rules, policies and actions to grant, renew or deny applications for state charters. (p3, I14)</li> </ul> <p><u>Section 2 (§22-8B-6, "Charter School Requirements—Application Process—Authorization—State Board of Finance Designation Required—Public Hearings—Subcommittees—Appeals (p3, I20)</u></p> <ul style="list-style-type: none"> <li>• Clarifies that PEC may approve or deny state charters, and local school boards may approve or deny locally chartered charters within the local school board's district. (p4, I3)</li> <li>• Clarifies timelines and deadlines for the application and approval process. (p7, I5)</li> </ul> <p><u>Section 5 (§22-8B-17, "Charter School Division—Duties") (p12, I16)</u></p> <ul style="list-style-type: none"> <li>• Adds to the CSD a duty of reporting to the PEC on state charter budget matters. (p12, I24)</li> </ul> <p><u>Section 6 (Appropriation) (p13, I5)</u></p> <ul style="list-style-type: none"> <li>• Appropriates \$1.1M to the PEC, with remainder reverting to the General Fund.</li> </ul>

202 Number	Title	Description of Proposed Amendments
<p>.197716.2 Yellow</p>	<p><i>Relating to Public Education; Amending the PSC to Define Certain Charter School Terms and to Clarify Certain Responsibilities of Charter School Authorizers, Charter School Governing Bodies and Charter Schools (Cleanup Bill)</i></p>	<p><u>Section 1 (§22-2-21, “Bullying and Cyberbullying Prevention”) (p1, l17)</u></p> <ul style="list-style-type: none"> <li>Clarifies that local school boards AND governing bodies of charter schools shall adopt bullying prevention policies, with programs to be implemented by schools. (p1, l23, etc.)</li> </ul> <p><u>Section 2 (§22-2E-4, “Annual Ratings – Letter Grades, etc.”) (p3, l17)</u></p> <ul style="list-style-type: none"> <li>Clarifies that PED is to ensure that, for charter schools, the governing bodies are to prioritize resources of a school rated ‘D’ or ‘F’ toward proven programs and improved student achievement until a ‘C’ or better is earned for two consecutive years. (p5, l14)</li> </ul> <p><u>Section 3 (§22-8-6.1, “Charter School Budgets”) (p6, l18)</u></p> <ul style="list-style-type: none"> <li>Requires state charters to submit a school-based budget to the PEC. (p6, l22)</li> <li>Limits PEC’s approval and amendment authority to ensuring sound fiscal practices, forbids line-item veto power and requires submission of the budget to PED for general approval or amendment. (p7, l12)</li> </ul> <p><u>Section 4 (§22-8-7, “Budgets—Form”) (p9, l25)</u></p> <ul style="list-style-type: none"> <li>Requires all budgets submitted by districts or charter schools to PED to be in a form specified by the department. (p10, l2)</li> </ul> <p><u>Section 5 (§22-8-11, “Budgets—Approval of Operating Budget”) (p10, l6)</u></p> <ul style="list-style-type: none"> <li>Clarifies that PED is to certify operating budgets to local school boards and governing bodies of all charter schools, rather than just state charters. (p10, l12, etc.)</li> </ul>

202 Number	Title	Description of Proposed Amendments
.197716.2 Yellow (continued)	<i>Relating to Public Education; Amending the PSC to Define Certain Charter School Terms and to Clarify Certain Responsibilities of Charter School Authorizers, Charter School Governing Bodies and Charter Schools (Cleanup Bill, Continued)</i>	<p><u>Section 6 (§22-8-18, "Program Cost Calculation – Local Responsibility") (p11, l12)</u></p> <ul style="list-style-type: none"> <li>• Clarifies that it is that is the responsibility of local school boards and, for charter schools, the governing body, to determine its programmatic priorities for the community each serve. (p12, l22)</li> <li>• Notes that PED must ensure school boards and governing bodies, as appropriate, are prioritizing resources toward proven programs and improved student achievement, parallel to provisions in the <i>A-B-C-D-F School Ratings Act</i>. (p13, l7)</li> </ul> <p><u>Section 7 (§22-8-25 "State Equalization Guarantee Distribution—Definitions—Determination of Amount") (p13, l12)</u></p> <ul style="list-style-type: none"> <li>• Notes that, for state charters, the SEG distribution is the difference between the charter school's program cost and the two percent for administrative services that is to be withheld by the PEC rather than PED. (p13, l24)</li> </ul> <p><u>Section 8 (§22-8B-2 "Definitions") (p17, l5)</u></p> <ul style="list-style-type: none"> <li>• Adds definitions for: <ul style="list-style-type: none"> <li>➤ <u>"enrollment preference"</u>;</li> <li>➤ <u>"governing body training"</u>;</li> <li>➤ <u>"management,"</u> which means "authority over the hiring, termination and day to day direction of a school's employees and contractors, whether they are licensed or not" (p18, l9);</li> <li>➤ <u>"material violation"</u>;</li> <li>➤ <u>"nondiscretionary waiver"</u>;</li> <li>➤ <u>"performance indicator"</u>;</li> <li>➤ <u>"performance target"</u>;</li> <li>➤ <u>"siblings"</u>; and</li> <li>➤ <u>"staff support"</u>.</li> </ul> </li> </ul>

202 Number	Title	Description of Proposed Amendments
.197716.2 Yellow (continued)	<i>Relating to Public Education; Amending the PSC to Define Certain Charter School Terms and to Clarify Certain Responsibilities of Charter School Authorizers, Charter School Governing Bodies and Charter Schools (Cleanup Bill, Continued)</i>	<p><u>Section 9 (§22-8B-6 “Charter School Requirements—Application Process—Authorization—State Board of Finance Designation Required—Public Hearings—Subcommittees”)</u> (p19, l8)</p> <ul style="list-style-type: none"> <li>• Clarifies that local school boards may approve a locally chartered charter school within the school board’s district. (p19, l24)</li> <li>• Notes that applications for initial charters are to be submitted to a chartering authority by June 1, though the deadline may be waived by agreement of the applicant and chartering authority. (p20, l13, etc.)</li> </ul> <p><u>Section 10 (§22-8B-9 “Charter School Contract—Contents—Rules”)</u> (p24, l11)</p> <ul style="list-style-type: none"> <li>• Clarifies that the contract shall include both discretionary and those nondiscretionary waivers provided for in §22-8B-5.3. (p25, l7)</li> </ul> <p><u>Section 11 (§22-8B-9.1 “Performance Framework”)</u> (p28, l13)</p> <ul style="list-style-type: none"> <li>• Notes that the framework shall set forth the academic and operations performance indicators and performance targets to guide a chartering authority’s evaluation of each charter school. (p28, l19, etc.)</li> <li>• Indicates that the performance framework shall be a material term of the charter school contract. (p28, l21)</li> </ul> <p><u>Section 12 (§22-8B-12 “Charter Schools—Terms—Oversight and Corrective Actions—Site Visits—Renewal of Charter—Grounds for Nonrenewal or Revocation”)</u> (p30, l12)</p> <ul style="list-style-type: none"> <li>• Corrects outdated language that referred to the department’s minimum education standards so that it now refers to “standards of excellence,” the term currently used in pertinent department rule. (p35, l1)</li> </ul> <p><u>Section 13 (§22-8B-13 “Charter School Financing”)</u> (p35, l25)</p> <ul style="list-style-type: none"> <li>• In reference to the two percent set-aside for administrative support, changes reference to the more general “chartering authority,” rather than a school district or the CSD. (p36, l5)</li> </ul>

202 Number	Title	Description of Proposed Amendments
.197716.2 Yellow (continued)	<i>Relating to Public Education; Amending the PSC to Define Certain Charter School Terms and to Clarify Certain Responsibilities of Charter School Authorizers, Charter School Governing Bodies and Charter Schools (Cleanup Bill, Continued)</i>	<p><u>Section 14 (§22-15D-5 “Program Plan and Evaluation”) (p37, l4)</u></p> <ul style="list-style-type: none"> <li>• Allows both state- and locally chartered charter schools, along with school districts, to prepare and submit to PED a fine arts education program. (p37, l7)</li> <li>• Requires both sorts of charter schools, and districts, to review priorities of the fine arts education program and make recommendations to the secretary. (p37, l16)</li> </ul> <p><u>Section 15 (§22-23-2 “Definitions” [Bilingual Multicultural Education Act]) (p37, l20)</u></p> <ul style="list-style-type: none"> <li>• Removes “charter schools” from the definition of “district”. (p38, l11)</li> <li>• Strikes the definition of “school board.” (p38, l24)</li> </ul> <p><u>Section 16 (§22-23-5 “Bilingual Multicultural Education Program Plan—Evaluation”) (p39, l4)</u></p> <ul style="list-style-type: none"> <li>• Continuing the clarifying changes of Section 15, above, when appropriate. When the language refers to districts, includes “charter schools,” and where it refers to “school boards,” includes governing bodies. Currently, the statutory language fails to differentiate between the two sorts of charter schools, so that school boards are making decisions for charter schools that would be better left to their governing bodies. (p39, l8, etc.)</li> </ul>

202 Number	Title	Description of Proposed Amendments
.197726.2 Tan	<i>Relating to Public Education; Amending the PSC to Remove Charter School Eligibility for Small-School Size Adjustment Program Units and Making State-Chartered Charter Schools Eligible for At-Risk Units (Small-School Size Adjustment)</i>	<p><u>Section 1 (§22-8-23 “Size Adjustment Program Units”) (p1, I17)</u></p> <ul style="list-style-type: none"> <li>• Adds charter schools to those schools that are not eligible for the SSSA. (p2, I2)</li> </ul> <p><u>Section 2 (§ 22-8-23.3 “At-Risk Program Units”) (p4, I22)</u></p> <ul style="list-style-type: none"> <li>• Places state-chartered charter schools on their own calculation for at-risk program units. (p4, I25, etc.)</li> </ul>

202 Number	Title	Description of Proposed Amendments
.197727.1 Lilac	<i>Relating to Public Education; Allowing School Districts and Charter Schools to Establish Transportation Agreements to Transport Charter School Students (Transportation)</i>	<p><b><u>Section 1 (§22-8-26 “Transportation Distribution) (p1, l16)</u></b></p> <ul style="list-style-type: none"> <li>Removes state-chartered charter schools from transportation allocation and distribution. (p1, l21, etc.)</li> </ul> <p><b><u>Section 2 (§22-8-27 “Transportation Equipment) (p3, l11)</u></b></p> <ul style="list-style-type: none"> <li>Removes reference to state charters from provision requiring PED to establish a payment schedule for rental fees for contractor-owned buses. (p4, l4)</li> </ul> <p><b><u>Section 3 (§22-8-29 “Transportation Distributions—Reports—Payments”) (p6, l2)</u></b></p> <ul style="list-style-type: none"> <li>Removes state charters and their governing boards from requirements for reporting certain information to the state transportation director. (p6, l7, etc.)</li> <li>Removes state charters from those schools whose transportation allocations the transportation director must certify to the secretary as being based upon the transportation distribution formula. (p7, l11, etc.)</li> </ul> <p><b><u>Section 4 (§22-8-29.1 “Calculation of Transportation Allocation) (p8, l4)</u></b></p> <ul style="list-style-type: none"> <li>Paragraph A, removes reference to state charters from all section-specific definitions. (p8, l11, etc.)</li> <li>Removes requirement that PED calculate allocations, base amounts and variable amounts for state charters. (p9, l4, etc.)</li> </ul> <p><b><u>Section 5 (§22-8-29.4 “Transportation Distribution Adjustment Factor”) (p10, l6)</u></b></p> <ul style="list-style-type: none"> <li>Removes state charters from requirement that PED establish a transportation distribution adjustment factor. (p10, l14, etc.)</li> </ul> <p><b><u>Section 6 (§22-8B-4 “Charter Schools’ Rights and Responsibilities—Operation”) (p11, l6)</u></b></p> <ul style="list-style-type: none"> <li>As with locally chartered charter schools, state charters may now choose to provide state-funded transportation to its students, and those that do choose must negotiate with the school district. (p14, l3)</li> <li>Notes that, while required to negotiate, there is no requirement that a charter school and a district reach an agreement with regard to transportation services. (p14, l11)</li> </ul>

202 Number	Title	Description of Proposed Amendments
.197795.1 Salmon	<p><i>Relating to Public Schools; Amending the Public School Lease Purchase Act to Clarify the Definition of “Governing Body”; Establishing the Relationship between a Governing Body and a School District or a Locally Chartered or State-Chartered Charter School in the Acquisition of Public School Facilities Pursuant to Lease Purchase Arrangements; Repealing a Section of the NMSA 1978 (Public School Lease Purchase Act)</i></p>	<p><b>Section 1 (§22-26A-3 “Definitions”) (p1, l20)</b></p> <ul style="list-style-type: none"> <li>Removes definitions for “local school board” and “school district” that were overly broad, as they included, in all instances, charter school governing boards and charter schools, respectively. Further removes unnecessary limiting reference to 22-26A-19) (p2, l11, etc.)</li> <li>Adds a new definition for “governing body,” which includes local school boards as the governing bodies of school districts. New definition allows for separate reference to local school boards, which is necessary to preserve their power to adopt resolutions proposing the imposition of property taxes to pay for lease purchase arrangements. (p2, l18)</li> </ul> <p><b>Sections 2, and subsequent (§22-26A-4, “Notice of Proposed Lease Purchase Arrangement,” etc.) (p3, l1, etc.)</b></p> <ul style="list-style-type: none"> <li>Changes references to “local school boards,” under the old definitions, to references to “governing bodies,” under the new definition. (p3, l2, etc.)</li> </ul> <p><b>Sections 3, and subsequent (§22-26A-5, “Lease Purchase Arrangements—Terms,” etc.) (p3, l13, etc.)</b></p> <ul style="list-style-type: none"> <li>Where statutory language refers to “school districts,” adds “and/or charter schools,” as appropriate, so that language now covers all instances previously dealt with by old definitions. (p4, l16, etc.)</li> </ul> <p><b>Section 4 (§22-26A-6, “Authorizing Lease Purchase Arrangements—Resolution”) (p6, l13)</b></p> <ul style="list-style-type: none"> <li>Notes that if a charter school governing body finds that the imposition or a property tax is necessary to pay for the lease purchase arrangement, the local school board of the district in which the charter school is located may adopt a resolution to be presented to the voters on the question of the imposition of the tax. (p8, l4)</li> </ul>

202 Number	Title	Description of Proposed Amendments
.197795.1 Salmon (continued)		<p data-bbox="865 219 1787 285"><u>Section 11 (§22-26A-19, "Lease Purchase Arrangements for Charter Schools") (p14, l18)</u></p> <ul data-bbox="915 293 1887 605" style="list-style-type: none"> <li data-bbox="915 293 1887 500">• Repeals §22-26A-19, which, reserving these powers to local school boards, barred governing bodies of charter schools from: <ul style="list-style-type: none"> <li data-bbox="961 363 1887 430">➤ adopting resolutions proposing property taxes to pay for lease purchase arrangements;</li> <li data-bbox="961 435 1260 469">➤ proposing taxes; and</li> <li data-bbox="961 474 1260 508">➤ conducting elections.</li> </ul> </li> <li data-bbox="915 513 1887 605">• These issues were addressed through the inclusion of the new definitions and changes made directly to the relevant sections, rendering §22-26A-19 unnecessary.</li> </ul>

202 Number	Title	Description of Proposed Amendments
.197801.2 Cherry	<i>Relating to Public Education; Enacting Sections of the Public School Code Relating to Governance of Charter Schools (Governance)</i>	<p><b><u>Section 1 (NEW Section, “Charter School Governing Bodies”) (p1, l17)</u></b></p> <ul style="list-style-type: none"> <li>• Notes that a charter school governing body shall be composed of five qualified electors who reside in the state and are elected by a majority of the schools founding governing body. (NOTE Rep. DR’s comment that this language is circular)(p1, l18)</li> </ul> <p><b><u>Section 2 (NEW Section, “Charter School Governing Bodies—Powers and Duties”) (p1, l22, etc.)</u></b></p> <ul style="list-style-type: none"> <li>• Develop educational policies for their schools;</li> <li>• Employ a head administrator;</li> <li>• Review and approve annual budget;</li> <li>• May acquire, lease, and dispose of property;</li> <li>• Sue and be sued;</li> <li>• Repair and maintenance;</li> <li>• Except for salaries, shall contract for expenditure of money according to the <i>Procurement Code</i>;</li> <li>• Adopt rules pertaining to administration of governing bodies’ duties;</li> <li>• Shall qualify as board of finance;</li> <li>• Accept or reject charitable gifts, grants, devises, and bequests;</li> <li>• Publish on website school policies and contact information for governing body members; and</li> </ul> <p>Offer rewards for information leading to arrest and conviction of thieves and vandals.</p> <p><b><u>Section 3 (NEW Section, “Charter School Discipline Policies—Student Self-Administration of Certain Medications—Weapon-Free Schools”) (p3, l8)</u></b></p> <ul style="list-style-type: none"> <li>• Establish and file with PED discipline policies. (p3, 13)</li> <li>• Allow for student carry and self-administration of asthma and emergency anaphylaxis medication. (p4, l3, etc.)</li> </ul>

202 Number	Title	Description of Proposed Amendments
197801.2 Cherry (continued)	<i>Relating to Public Education; Enacting Sections of the Public School Code Relating to Governance of Charter Schools (Governance, Continued)</i>	<ul style="list-style-type: none"> <li>• Adopt policies for expulsion of students who bring weapons to school. (p5, l10)</li> <li>• Defines “weapons” as firearms and destructive or incendiary devices, bombs, grenades, etc. (p6, l2)</li> </ul> <p><u>Section 4 (NEW Section, “Nepotism Prohibited”) (p6, l11)</u></p> <ul style="list-style-type: none"> <li>• Prohibits head administrators of charter schools from employing immediate family members. (p6, l13)</li> </ul> <p><u>Section 5 (New Section, “Officers—Surety—Bonds”) (p6, l20)</u></p> <ul style="list-style-type: none"> <li>• Requires a governing body to elect a president, vice president, and secretary from among its members. (p6, l23)</li> <li>• Requires presidents and secretaries of governing bodies, and head administrators of charter schools, to obtain a bond of at least \$5,000, payable to the charter school, and conditioned upon the faithful performance of their duties. (p6, l25)</li> </ul> <p><u>Section 6 (NEW Section, “Charter School Governing Body Vacancies”) (p7, l18)</u></p> <ul style="list-style-type: none"> <li>• Vacancies to be filled at open meeting, with quorum of members, by a majority vote of remaining members. (p7, l21)</li> <li>• If vacancy not filled within 45 days, the secretary shall appoint a replacement. (p8, l6)</li> <li>• If a vacancy of a majority of members occurs, the secretary shall appoint replacements until a majority is reached, whereupon that majority shall appoint additional members until a full board is achieved. (p8, l10)</li> </ul> <p><u>Section 7 (NEW Section, “Charter School Head Administrator—Powers and Duties”) (p8, l16)</u></p>

202 Number	Title	Description of Proposed Amendments
.197728.1 Green	<i>Relating to Public Education; Including Locally Chartered and State-Chartered Charter Schools in the Definition of "Agency" for Purposes of the Audit Act. (Agency/Component Unit)</i>	<p><b>Section 1 (§12-6-2, "Definitions") (p1. L16)</b></p> <ul style="list-style-type: none"> <li>• Adds both state- and locally chartered charter schools to the definition of 'agency.' (p2, l6)</li> </ul>

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52ND LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2015

INTRODUCED BY

DISCUSSION DRAFT

AN ACT

RELATING TO PUBLIC EDUCATION; REMOVING THE PUBLIC EDUCATION  
COMMISSION'S ADMINISTRATIVE ATTACHMENT TO THE PUBLIC EDUCATION  
DEPARTMENT; ESTABLISHING THE PUBLIC EDUCATION COMMISSION AS AN  
INDEPENDENT ENTITY; PROVIDING FOR PUBLIC EDUCATION COMMISSION  
RULEMAKING AUTHORITY AND STAFF; GRANTING THE PUBLIC EDUCATION  
COMMISSION THE AUTHORITY TO MAKE CHARTERING AUTHORITY DECISIONS  
TO GRANT, RENEW, DENY OR REVOKE THE CHARTER OF A STATE-  
CHARTERED CHARTER SCHOOL; MAKING AN APPROPRIATION.

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

SECTION 1. Section 9-24-9 NMSA 1978 (being Laws 2004,  
Chapter 27, Section 9) is amended to read:

"9-24-9. PUBLIC EDUCATION COMMISSION--CREATION--POWERS,  
AUTHORITY AND DUTIES--LEGISLATIVE AND EXECUTIVE OVERSIGHT.--

A. The "public education commission" is created

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1 pursuant to Article 12, Section 6 of the constitution of New  
2 Mexico. [~~The commission shall be administratively attached to~~  
3 ~~the department, with administrative staff provided by the~~  
4 ~~department. Additional requests for staff services shall be~~  
5 ~~made through the secretary.] The commission shall advise the  
6 department on policy matters and shall perform other functions  
7 pursuant to the Charter Schools Act and as otherwise provided  
8 by law.~~

9 B. The commission shall promulgate and enforce such  
10 rules as may be necessary to carry out its functions pursuant  
11 to the Charter Schools Act and as otherwise provided by law.

12 [~~B.~~] C. The commission shall consist of ten members  
13 elected from public education districts as provided in the  
14 decennial educational redistricting act. Members shall be  
15 entitled to receive per diem and mileage as provided in the Per  
16 Diem and Mileage Act, but shall receive no other perquisite,  
17 compensation or allowance.

18 [~~C.~~] D. The commission shall annually elect a  
19 [~~chairman~~] chair, vice [~~chairman~~] chair and secretary from  
20 among its membership. A majority of the members constitutes a  
21 quorum for the conduct of business. The commission shall keep  
22 a record of all proceedings of the commission.

23 [~~D.~~] E. The commission shall meet at the call of  
24 the [~~chairman~~] chair at least quarterly or at the request of  
25 the majority of its members. Meetings of the commission shall

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1 be held in Santa Fe and at other sites within the state at the  
2 direction of the commission. [~~The chairman in consultation~~  
3 ~~with the secretary shall call a meeting at the request of a~~  
4 ~~majority of the members.~~] Commission members shall not vote by  
5 proxy.

6 [E-] F. No member of the commission shall be  
7 appointed secretary or be employed by the department on either  
8 a full- or part-time basis.

9 G. Subject to appropriation by the legislature, the  
10 commission shall employ staff as needed to assist the  
11 commission in the performance of its duties. Staff shall be  
12 subject to the provisions of the Personnel Act.

13 H. The commission shall prepare an annual budget.

14 I. Each year, the commission shall report to the  
15 legislature and governor:

- 16 (1) the commission's policies and rules; and  
17 (2) any actions that the commission takes to  
18 grant, renew or deny an application for a state-chartered  
19 charter school pursuant to the Charter Schools Act."

20 SECTION 2. Section 22-8B-6 NMSA 1978 (being Laws 1999,  
21 Chapter 281, Section 6, as amended) is amended to read:

22 "22-8B-6. CHARTER SCHOOL REQUIREMENTS--APPLICATION  
23 PROCESS--AUTHORIZATION--STATE BOARD OF FINANCE DESIGNATION  
24 REQUIRED--PUBLIC HEARINGS--SUBCOMMITTEES--APPEALS.--

25 A. A local school board has the authority to

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1 approve or deny the establishment or renewal of a locally  
2 chartered charter school within ~~[the]~~ that local school board's  
3 school district ~~[in which it is located]~~. The commission has  
4 the authority to approve or deny an application for the  
5 establishment or renewal of a charter for a state-chartered  
6 charter school.

7 B. No later than the second Tuesday of January of  
8 the year in which an application will be filed, the organizers  
9 of a proposed charter school shall provide written notification  
10 to the commission and the local school board of the school  
11 district in which the charter school is proposed to be located  
12 of their intent to establish a charter school. Failure to  
13 notify may result in an application not being accepted.

14 C. A charter school applicant shall apply to either  
15 a local school board or the commission for a charter. If an  
16 application is submitted to a chartering authority, ~~[it]~~ the  
17 chartering authority must process the application.

18 Applications for initial charters shall be submitted ~~[between]~~  
19 by June 1 ~~[and July 1]~~ to be eligible for consideration for the  
20 following fiscal year; provided that the ~~[July]~~ June 1 deadline  
21 may be waived upon agreement of the applicant and the  
22 chartering authority.

23 D. No fees shall be assessed by a local school  
24 board when authorizing a locally chartered charter school or by  
25 the commission when authorizing a state-chartered charter

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1 school.

2           ~~[D-]~~ E. An application shall include the total  
3 number of grades the charter school proposes to provide, either  
4 immediately or phased. A charter school may decrease the  
5 number of grades it eventually offers, but it shall not  
6 increase the number of grades or the total number of students  
7 proposed to be served in each grade.

8           ~~[E-]~~ F. An application shall include a detailed  
9 description of the charter school's projected facility needs,  
10 including projected requests for capital outlay assistance that  
11 have been approved by the director of the public school  
12 facilities authority or the director's designee. The director  
13 shall respond to a written request for review from a charter  
14 applicant within forty-five days of the request.

15           ~~[F-]~~ G. An application may be made by one or more  
16 teachers, parents or community members or by a public post-  
17 secondary educational institution or nonprofit organization.  
18 Municipalities, counties, private post-secondary educational  
19 institutions and for-profit business entities are not eligible  
20 to apply for or receive a charter.

21           ~~[G-]~~ H. An initial application for a charter school  
22 shall not be made after June 30, 2007 if the proposed charter  
23 school's proposed enrollment for all grades or the proposed  
24 charter school's proposed enrollment for all grades in  
25 combination with any other charter school's enrollment for all

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1 grades would equal or exceed ten percent of the total MEM of  
2 the school district in which the charter school will be  
3 geographically located and that school district has a total  
4 enrollment of not more than one thousand three hundred  
5 students.

6 ~~[H.]~~ I. A state-chartered charter school shall not  
7 be approved for operation unless ~~[its]~~ the governing body of  
8 the charter school has qualified to be a board of finance.

9 ~~[I. The chartering authority shall receive and~~  
10 ~~review all applications for charter schools submitted to it.~~  
11 ~~The chartering authority shall not charge application fees.]~~

12 J. The chartering authority shall hold at least  
13 one public hearing in the school district in which the charter  
14 school is proposed to be located to obtain information and  
15 community input to assist it in its decision whether to grant a  
16 charter school application. The chartering authority may  
17 designate a subcommittee of no fewer than three members to hold  
18 the public hearing, and, if so, the hearing shall be  
19 transcribed for later review by other members of the chartering  
20 authority. Any member of a chartering authority who was not  
21 present at the public hearing shall receive a transcript of the  
22 public hearing, together with documents submitted for the  
23 public hearing, before a chartering authority makes a decision  
24 to accept or deny an application or renewal of a charter.

25 Community input may include written or oral comments in favor

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1 of or in opposition to the application from the applicant, the  
2 local community and, for state-chartered charter schools, the  
3 local school board and school district in whose geographical  
4 boundaries the charter school is proposed to be located.

5 K. Provided that the application was submitted to  
6 the chartering authority by June 1, the chartering authority  
7 shall rule on the application for a charter school in a public  
8 ~~[meeting]~~ hearing by September 1 of the year the application  
9 was received; provided, however, that prior to ruling on the  
10 application for which a designated subcommittee was used, any  
11 member of the chartering authority who was not present at the  
12 public hearing shall receive the transcript of the public  
13 hearing together with documents submitted for the public  
14 hearing. If not ruled upon by that date, the charter  
15 application shall be automatically reviewed by the secretary in  
16 accordance with the provisions of Section 22-8B-7 NMSA 1978.  
17 The charter school applicant and the chartering authority may  
18 ~~[however]~~ jointly waive the deadlines set forth in this  
19 section.

20 L. A chartering authority may approve, approve with  
21 conditions or deny an application. A chartering authority may  
22 deny an application if:

23 (1) the application is incomplete or  
24 inadequate;

25 (2) the application does not propose to offer

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1 an educational program consistent with the requirements and  
2 purposes of the Charter Schools Act;

3 (3) the proposed head administrator or other  
4 administrative or fiscal staff was involved with another  
5 charter school whose charter was denied or revoked for fiscal  
6 mismanagement or the proposed head administrator or other  
7 administrative or fiscal staff was discharged from a public  
8 school for fiscal mismanagement;

9 (4) for a proposed state-chartered charter  
10 school, it does not request to have the governing body of the  
11 charter school designated as a board of finance or the  
12 governing body does not qualify as a board of finance; or

13 (5) the application is otherwise contrary to  
14 the best interests of the charter school's projected students,  
15 the local community or the school district in whose geographic  
16 boundaries the charter school applies to operate.

17 M. If the chartering authority denies a charter  
18 school application or approves the application with conditions,  
19 it shall state its reasons for the denial or conditions in  
20 writing within fourteen days of the ~~[meeting]~~ hearing. If the  
21 chartering authority grants a charter, the approved charter  
22 shall be provided to the applicant together with any imposed  
23 conditions.

24 N. A charter school applicant or governing body  
25 that has received a notice from the chartering authority

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1 denying approval or renewal of the charter shall have a right  
2 to a hearing by the secretary as provided in Section 22-8B-7  
3 NMSA 1978."

4 SECTION 3. Section 22-8B-7 NMSA 1978 (being Laws 1999,  
5 Chapter 281, Section 7, as amended) is amended to read:

6 "22-8B-7. APPEAL OF DENIAL, NONRENEWAL, SUSPENSION OR  
7 REVOCATION--PROCEDURES.--

8 A. The secretary, upon receipt of a notice of  
9 appeal or upon the secretary's own motion, shall review  
10 decisions of a chartering authority concerning charter schools  
11 in accordance with the provisions of this section.

12 B. A charter applicant or governing body that  
13 wishes to appeal a decision of the chartering authority  
14 concerning the denial, nonrenewal, suspension or revocation of  
15 a charter school or the imposition of conditions that are  
16 unacceptable to the charter school or charter school applicant  
17 shall provide the secretary with a notice of appeal within  
18 thirty days after the chartering authority's decision. The  
19 charter school applicant or governing body bringing the appeal  
20 shall limit the grounds of the appeal to the grounds for  
21 denial, nonrenewal, suspension or revocation or the imposition  
22 of conditions that were specified by the chartering authority.  
23 The notice shall include a brief statement of the reasons the  
24 charter school applicant or governing body contends the  
25 chartering authority's decision was in error. Except as

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1 provided in Subsection E of this section, [~~the appeal and~~  
2 ~~review process shall be as follows~~] within sixty days after  
3 receipt of the notice of appeal, the secretary, at a public  
4 hearing that may be held in the school district in which the  
5 charter school is located or in which the proposed charter  
6 school has applied for a charter, shall review the decision of  
7 the chartering authority and make findings. If the secretary  
8 finds that the chartering authority acted arbitrarily or  
9 capriciously, rendered a decision not supported by substantial  
10 evidence or did not act in accordance with law, the secretary  
11 may reverse the decision of the chartering authority and order  
12 the approval of the charter with or without conditions. The  
13 decision of the secretary shall be final.

14 C. The secretary on the secretary's own motion may  
15 review a chartering authority's decision to grant a charter.  
16 Within sixty days after the making of a motion to review by the  
17 secretary, the secretary, at a public hearing that may be held  
18 in the school district in which the proposed charter school  
19 that has applied for a charter will be located, shall review  
20 the decision of the chartering authority and determine whether  
21 the decision was arbitrary or capricious or whether the  
22 establishment or operation of the proposed charter school  
23 would:

24 (1) violate any federal or state laws  
25 concerning civil rights;

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- 1 (2) violate any court order; or
- 2 (3) threaten the health and safety of students
- 3 within the school district.

4 D. If the secretary determines that the charter  
5 would violate the provisions set forth in Subsection C of this  
6 section, the secretary shall deny the charter application. The  
7 secretary may extend the time lines established in this section  
8 for good cause. The decision of the secretary shall be final.

9 E. If a chartering authority denies an application  
10 or refuses to renew a charter because the public school capital  
11 outlay council has determined that the facilities do not meet  
12 the standards required by Section 22-8B-4.2 NMSA 1978, the  
13 charter school applicant or charter school may appeal the  
14 decision to the secretary as otherwise provided in this  
15 section; provided that the secretary shall reverse the decision  
16 of the chartering authority only if the secretary determines  
17 that the decision was arbitrary, capricious, not supported by  
18 substantial evidence or otherwise not in accordance with the  
19 law.

20 F. A person aggrieved by a final decision of the  
21 secretary may appeal the decision to the district court  
22 pursuant to the provisions of Section 39-3-1.1 NMSA 1978."

23 SECTION 4. Section 22-8B-16 NMSA 1978 (being Laws 2006,  
24 Chapter 94, Section 29) is amended to read:

25 "22-8B-16. PUBLIC EDUCATION COMMISSION--POWERS AND  
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1 DUTIES.--The commission shall receive applications for initial  
2 chartering and renewals of charters for charter schools that  
3 want to be chartered by the state and approve or disapprove  
4 those charter applications. The commission may approve, deny,  
5 suspend or revoke the charter of a state-chartered charter  
6 school in accordance with the provisions of the Charter Schools  
7 Act. [~~The chartering authority for a charter school existing~~  
8 ~~on July 1, 2007 may be transferred to the commission; provided,~~  
9 ~~however, that if a school chartered under a previous chartering~~  
10 ~~authority chooses to transfer its chartering authority, it~~  
11 ~~shall continue to operate under the provisions of that charter~~  
12 ~~until its renewal date unless it is suspended or revoked by the~~  
13 ~~commission. An application for a charter school filed with a~~  
14 ~~local school board prior to July 1, 2007, but not approved, may~~  
15 ~~be transferred to the commission on July 1, 2007.]"~~

16 SECTION 5. Section 22-8B-17 NMSA 1978 (being Laws 2006,  
17 Chapter 94, Section 30) is amended to read:

18 "22-8B-17. CHARTER SCHOOLS DIVISION--DUTIES.--The  
19 "charter schools division" is created in the department. The  
20 division shall:

- 21 A. provide staff support to the commission;  
22 B. provide technical support to all charter  
23 schools;

24 C. review, [~~and~~] approve and report to the  
25 commission on state-chartered charter school budget matters;

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1 and

2 D. make recommendations to the commission regarding  
3 the approval, denial, suspension or revocation of the charter  
4 of a state-chartered charter school."

5 SECTION 6. APPROPRIATION.--One million one hundred  
6 thousand dollars (\$1,100,000) is appropriated from the general  
7 fund to the public education commission for expenditure in  
8 fiscal year 2016 to carry out the provisions of this act. Any  
9 unexpended or unencumbered balance remaining at the end of  
10 fiscal year 2016 shall revert to the general fund.

11 SECTION 7. EFFECTIVE DATE.--The effective date of the  
12 provisions of this act is July 1, 2015.

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BILL

52ND LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2015

INTRODUCED BY

DISCUSSION DRAFT

AN ACT

RELATING TO PUBLIC EDUCATION; AMENDING THE PUBLIC SCHOOL CODE TO DEFINE CERTAIN CHARTER SCHOOL TERMS AND TO CLARIFY CERTAIN RESPONSIBILITIES OF CHARTER SCHOOL AUTHORIZERS, CHARTER SCHOOL GOVERNING BODIES AND CHARTER SCHOOLS.

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

SECTION 1. Section 22-2-21 NMSA 1978 (being Laws 2011, Chapter 50, Section 1, as amended) is amended to read:

"22-2-21. BULLYING AND CYBERBULLYING PREVENTION PROGRAMS.--

A. The department shall establish guidelines for bullying prevention policies to be promulgated by local school boards. Every local school board and governing body of a charter school shall promulgate a bullying prevention policy by August 2011. Every public school shall implement a bullying

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1 prevention program by August 2012.

2 B. Every local school board and governing body of a  
3 charter school shall promulgate a specific cyberbullying  
4 prevention policy by August 2013. Cyberbullying prevention  
5 policies shall require that:

6 (1) all licensed school employees complete  
7 training on how to recognize signs that a person is being  
8 cyberbullied;

9 (2) any licensed school employee who has  
10 information about or a reasonable suspicion that a person is  
11 being cyberbullied report the matter immediately to the school  
12 principal or the local superintendent or both;

13 (3) any school administrator or local  
14 superintendent who receives a report of cyberbullying take  
15 immediate steps to ensure prompt investigation of the report;  
16 and

17 (4) school administrators take prompt  
18 disciplinary action in response to cyberbullying confirmed  
19 through investigation. Disciplinary action taken pursuant to  
20 this subsection must be by the least restrictive means  
21 necessary to address a hostile environment on the school campus  
22 resulting from the confirmed cyberbullying and may include  
23 counseling, mediation and appropriate disciplinary action that  
24 is consistent with the legal rights of the involved students.

25 C. Each local school board and governing body of a

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1 charter school shall make any necessary revisions to its  
2 disciplinary policies to ensure compliance with the provisions  
3 of this section.

4 D. As used in this section, "cyberbullying" means  
5 electronic communication that:

6 (1) targets a specific student;

7 (2) is published with the intention that the  
8 communication be seen by or disclosed to the targeted student;

9 (3) is in fact seen by or disclosed to the  
10 targeted student; and

11 (4) creates or is certain to create a hostile  
12 environment on the school campus that is so severe or pervasive  
13 as to substantially interfere with the targeted student's  
14 educational benefits, opportunities or performance."

15 SECTION 2. Section 22-2E-4 NMSA 1978 (being Laws 2011,  
16 Chapter 10, Section 4, as amended) is amended to read:

17 "22-2E-4. ANNUAL RATINGS--LETTER GRADES--RATINGS BASED ON  
18 STANDARDS-BASED ASSESSMENTS--RIGHT TO SCHOOL CHOICE--DISTANCE  
19 LEARNING--RESPONSIBILITY FOR COST--USE OF FUNDS--ADDITIONAL  
20 REMEDY.--

21 A. All public schools shall be graded annually by  
22 the department.

23 B. The department shall assign a letter grade of A,  
24 B, C, D or F to each public school pursuant to criteria  
25 established by department rules, after input from the

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1 secretary's superintendents' council, that include as a minimum  
2 a combination of the following factors in a public school's  
3 grade:

- 4 (1) for elementary and middle schools:
  - 5 (a) student proficiency, including
  - 6 achievement on the New Mexico standards-based assessments;
  - 7 (b) student growth in reading and
  - 8 mathematics; and
  - 9 (c) growth of the lowest twenty-fifth
  - 10 percentile of students in the public school in reading and
  - 11 mathematics; and
- 12 (2) for high schools:
  - 13 (a) student proficiency, including
  - 14 achievement on the New Mexico standards-based assessments;
  - 15 (b) student growth in reading and
  - 16 mathematics;
  - 17 (c) growth of the lowest twenty-fifth
  - 18 percentile of students in the high school in reading and
  - 19 mathematics; and
  - 20 (d) additional academic indicators such
  - 21 as high school graduation rates, growth in high school
  - 22 graduation rates, advanced placement and international
  - 23 baccalaureate courses, dual enrollment courses and SAT and ACT
  - 24 scores.

25 C. The New Mexico standards-based assessments used

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1 for rating a school are those administered annually to students  
2 in grades three, four, five, six, seven, eight, nine and eleven  
3 pursuant to Section 22-2C-4 NMSA 1978.

4 D. In addition to any rights a parent may have  
5 pursuant to federal law, the parent of a student enrolled in a  
6 public school rated F for two of the last four years has the  
7 right to transfer the student in the same grade to any public  
8 school in the state not rated F or the right to have the  
9 student continue schooling by means of distance learning  
10 offered through the statewide or a local cyber academy. The  
11 school district or charter school in which the student is  
12 enrolled is responsible for the cost of distance learning.

13 E. The department shall ensure that a local school  
14 board or, for a charter school, the governing body of [æ] the  
15 charter school is prioritizing resources of a public school  
16 rated D or F toward proven programs and methods linked to  
17 improved student achievement until the public school earns a  
18 grade of C or better for two consecutive years.

19 F. The school options available pursuant to the  
20 A-B-C-D-F Schools Rating Act are in addition to any remedies  
21 provided for in the Assessment and Accountability Act for  
22 students in schools in need of improvement or any other  
23 interventions prescribed by the federal No Child Left Behind  
24 Act of 2001.

25 G. When reporting a school's grade, the department

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1 shall include student data disaggregated by ethnicity, race,  
2 limited English proficiency, students with disabilities,  
3 poverty and gender; provided that ethnicity and race shall be  
4 reported using the following categories:

- 5 (1) Caucasian, non-Hispanic;
  - 6 (2) Hispanic;
  - 7 (3) African American;
  - 8 (4) American Indian or Alaska Native;
  - 9 (5) Native Hawaiian or other Pacific Islander;
  - 10 (6) Asian;
  - 11 (7) two or more races; and
  - 12 (8) other; provided that if the sample of
- 13 students in any category enumerated in Paragraphs (1) through  
14 (7) of this subsection is so small that a student in the sample  
15 may be personally identifiable in violation of the federal  
16 Family Educational Rights and Privacy Act of 1974, the report  
17 may combine that sample into the "other" category."

18 SECTION 3. Section 22-8-6.1 NMSA 1978 (being Laws 1993,  
19 Chapter 227, Section 8, as amended) is amended to read:

20 "22-8-6.1. CHARTER SCHOOL BUDGETS.--

21 A. Each state-chartered charter school shall submit  
22 to the [~~charter schools division of the department~~] public  
23 education commission a school-based budget. For the first year  
24 of operation, the budget of every state-chartered charter  
25 school shall be based on the projected number of program units

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1 generated by that charter school and its students, using the  
2 at-risk index and the instructional staff training and  
3 experience index of the school district in which it is  
4 geographically located. For second and subsequent fiscal years  
5 of operation, the budgets of state-chartered charter schools  
6 shall be based on the number of program units generated using  
7 the average of the MEM on the second and third reporting dates  
8 of the prior year and its own instructional staff training and  
9 experience index and the at-risk index of the school district  
10 in which the state-chartered charter school is geographically  
11 located. The budget shall be submitted to the ~~[division]~~  
12 commission for approval or amendment. The approval or  
13 amendment authority of the commission relative to the charter  
14 school budget is limited to ensuring that sound fiscal  
15 practices are followed in the development of the budget and  
16 that the charter school budget is within the allotted  
17 resources. The commission shall have no veto authority over  
18 individual line items within the charter school's proposed  
19 budget but shall approve or disapprove the budget in its  
20 entirety. Upon final approval of the charter school budget by  
21 the commission, the charter school budget shall be submitted to  
22 the department for approval or amendment pursuant to the Public  
23 School Finance Act and the Charter Schools Act.

24 B. Each locally chartered charter school shall  
25 submit to the local school board a school-based budget. For

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1 the first year of operation, the budget of every locally  
2 chartered charter school shall be based on the projected number  
3 of program units generated by the charter school and its  
4 students, using the at-risk index and the instructional staff  
5 training and experience index of the school district in which  
6 it is geographically located. For second and subsequent fiscal  
7 years of operation, the budgets of locally chartered charter  
8 schools shall be based on the number of program units generated  
9 using the average of the MEM on the second and third reporting  
10 dates of the prior year and its own instructional staff  
11 training and experience index and the at-risk index of the  
12 school district in which the locally chartered charter school  
13 is geographically located. The budget shall be submitted to  
14 the local school board for approval or amendment. The approval  
15 or amendment authority of the local school board relative to  
16 the charter school budget is limited to ensuring that sound  
17 fiscal practices are followed in the development of the budget  
18 and that the charter school budget is within the allotted  
19 resources. The local school board shall have no veto authority  
20 over individual line items within the charter school's proposed  
21 budget, but shall approve or disapprove the budget in its  
22 entirety. Upon final approval of the local budget by the local  
23 school board, the individual charter school budget shall be  
24 included separately in the budget submission to the department  
25 required pursuant to the Public School Finance Act and the

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1 Charter Schools Act.

2 C. For the first year of operation after a locally  
3 chartered charter school converts to a state-chartered charter  
4 school or a state-chartered charter school converts to a  
5 locally chartered charter school, the charter school's budget  
6 shall be based on the number of program units generated using  
7 the average of the MEM on the second and third reporting dates  
8 of the prior year and the instructional staff training and  
9 experience index and the at-risk index of the school district  
10 in which it is geographically located. For second and  
11 subsequent fiscal years of operation, the charter school shall  
12 follow the provisions of Subsection A or B of this section, as  
13 applicable.

14 ~~[D. Notwithstanding the provisions of Subsections A~~  
15 ~~through C of this section, each charter school that was in~~  
16 ~~existence in fiscal year 2009 shall be held harmless in the~~  
17 ~~calculation of its instructional staff training and experience~~  
18 ~~index for two fiscal years. For fiscal years 2010 and 2011,~~  
19 ~~the department shall use the greater of the charter school's~~  
20 ~~2008-2009 funded instructional staff training and experience~~  
21 ~~index or the charter school's own instructional staff training~~  
22 ~~and experience index. Beginning in fiscal year 2012, each~~  
23 ~~charter school shall use its own instructional staff training~~  
24 ~~and experience index.]"~~

25 SECTION 4. Section 22-8-7 NMSA 1978 (being Laws 1967,

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1 Chapter 16, Section 61, as amended) is amended to read:

2 "22-8-7. BUDGETS--FORM.--All budgets submitted to the  
3 department by a school district, locally chartered charter  
4 school or state-chartered charter school shall be in a form  
5 specified by the department."

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

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

9 A. The department shall:

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

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

19 (3) ensure that a local school board or, for a  
20 charter school, the governing body of [a] the charter school is  
21 prioritizing resources of a public school rated D or F toward  
22 proven programs and methods that are linked to improved student  
23 achievement until the public school earns a grade of C or  
24 better for two consecutive years.

25 B. No school district or [~~state-chartered~~] charter

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1 school or officer or employee of a school district or  
2 [~~state-chartered~~] charter school shall make any expenditure or  
3 incur any obligation for the expenditure of public funds unless  
4 that expenditure or obligation is made in accordance with an  
5 operating budget approved by the department. This prohibition  
6 does not prohibit the transfer of funds pursuant to the  
7 department's rules and procedures.

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

12 SECTION 6. Section 22-8-18 NMSA 1978 (being Laws 1974,  
13 Chapter 8, Section 8, as amended) is amended to read:

14 "22-8-18. PROGRAM COST CALCULATION--LOCAL  
15 RESPONSIBILITY.--

16 A. The total program units for the purpose of  
17 computing the program cost shall be calculated by multiplying  
18 the sum of the program units itemized as Paragraphs (1) through  
19 (6) in this subsection by the instructional staff training and  
20 experience index and adding the program units itemized as  
21 Paragraphs (7) through (14) in this subsection. The itemized  
22 program units are as follows:

- 23 (1) early childhood education;  
24 (2) basic education;  
25 (3) special education, adjusted by subtracting

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1 the units derived from membership in class D special education  
2 programs in private, nonsectarian, nonprofit training centers;

3 (4) bilingual multicultural education;

4 (5) fine arts education;

5 (6) elementary physical education;

6 (7) size adjustment;

7 (8) at-risk program;

8 (9) enrollment growth or new district  
9 adjustment;

10 (10) special education units derived from  
11 membership in class D special education programs in private,  
12 nonsectarian, nonprofit training centers;

13 (11) national board for professional teaching  
14 standards certification;

15 (12) home school student program unit;

16 (13) home school student activities; and

17 (14) charter school student activities.

18 B. The total program cost calculated as prescribed  
19 in Subsection A of this section includes the cost of early  
20 childhood, special, bilingual multicultural, fine arts and  
21 vocational education and other remedial or enrichment programs.  
22 It is the responsibility of the local school board or, for a  
23 charter school, the governing body of [æ] the charter school to  
24 determine its priorities in terms of the needs of the community  
25 served by that board. Except as otherwise provided in this

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1 section, funds generated under the Public School Finance Act  
2 are discretionary to local school boards and governing bodies  
3 of charter schools; provided that the special program needs as  
4 enumerated in this section are met; and provided further that  
5 if a public school has been rated D or F for two consecutive  
6 years, the department shall ensure that the local school board  
7 or, for a charter school, the governing body of [⌘] the charter  
8 school is prioritizing resources for the public school toward  
9 proven programs and methods linked to improved student  
10 achievement until the public school earns a C or better for two  
11 consecutive years."

12 SECTION 7. Section 22-8-25 NMSA 1978 (being Laws 1981,  
13 Chapter 176, Section 5, as amended) is amended to read:

14 "22-8-25. STATE EQUALIZATION GUARANTEE DISTRIBUTION--  
15 DEFINITIONS--DETERMINATION OF AMOUNT.--

16 A. The state equalization guarantee distribution is  
17 that amount of money distributed to each school district to  
18 ensure that its operating revenue, including its local and  
19 federal revenues as defined in this section, is at least equal  
20 to the school district's program cost. For state-chartered  
21 charter schools, the state equalization guarantee distribution  
22 is the difference between the state-chartered charter school's  
23 program cost and the two percent withheld by the [~~department~~]  
24 commission for administrative services.

25 B. "Local revenue", as used in this section, means

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1 seventy-five percent of receipts to the school district derived  
2 from that amount produced by a school district property tax  
3 applied at the rate of fifty cents (\$.50) to each one thousand  
4 dollars (\$1,000) of net taxable value of property allocated to  
5 the school district and to the assessed value of products  
6 severed and sold in the school district as determined under the  
7 Oil and Gas Ad Valorem Production Tax Act and upon the assessed  
8 value of equipment in the school district as determined under  
9 the Oil and Gas Production Equipment Ad Valorem Tax Act.

10 C. "Federal revenue", as used in this section,  
11 means receipts to the school district, excluding amounts that,  
12 if taken into account in the computation of the state  
13 equalization guarantee distribution, result, under federal law  
14 or regulations, in a reduction in or elimination of federal  
15 school funding otherwise receivable by the school district,  
16 derived from the following:

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

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

25 D. To determine the amount of the state

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1 equalization guarantee distribution, the department shall:

2 (1) calculate the number of program units to  
3 which each school district or charter school is entitled using  
4 an average of the MEM on the second and third reporting dates  
5 of the prior year; or

6 (2) calculate the number of program units to  
7 which a school district or charter school operating under an  
8 approved year-round school calendar is entitled using an  
9 average of the MEM on appropriate dates established by the  
10 department; or

11 (3) calculate the number of program units to  
12 which a school district or charter school with a MEM of two  
13 hundred or less is entitled by using an average of the MEM on  
14 the second and third reporting dates of the prior year or the  
15 fortieth day of the current year, whichever is greater; and

16 (4) using the results of the calculations in  
17 Paragraph (1), (2) or (3) of this subsection and the  
18 instructional staff training and experience index from the  
19 October report of the prior school year, establish a total  
20 program cost of the school district or charter school;

21 (5) for school districts, calculate the local  
22 and federal revenues as defined in this section;

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

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1                   (7) deduct the total amount of guaranteed  
2 energy savings contract payments that the department determines  
3 will be made to the school district from the public school  
4 utility conservation fund during the fiscal year for which the  
5 state equalization guarantee distribution is being computed;  
6 and

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

10                  E. Reduction of a school district's state  
11 equalization guarantee distribution shall cease when the school  
12 district's cumulative reductions equal its proportional share  
13 of the cumulative debt service payments necessary to service  
14 the bonds issued pursuant to the Energy Efficiency and  
15 Renewable Energy Bonding Act.

16                  F. The amount of the state equalization guarantee  
17 distribution to which a school district is entitled is the  
18 balance remaining after the deductions made in Paragraphs (6)  
19 through (8) of Subsection D of this section.

20                  G. The state equalization guarantee distribution  
21 shall be distributed prior to June 30 of each fiscal year. The  
22 calculation shall be based on the local and federal revenues  
23 specified in this section received from June 1 of the previous  
24 fiscal year through May 31 of the fiscal year for which the  
25 state equalization guarantee distribution is being computed.

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1 In the event that a school district or charter school has  
2 received more state equalization guarantee funds than its  
3 entitlement, a refund shall be made by the school district or  
4 charter school to the state general fund."

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

7 "22-8B-2. DEFINITIONS.--As used in the Charter Schools  
8 Act:

9 A. "charter school" means a conversion school or  
10 start-up school authorized by the chartering authority to  
11 operate as a public school;

12 B. "chartering authority" means either a local  
13 school board or the commission;

14 C. "commission" means the public education  
15 commission;

16 D. "conversion school" means an existing public  
17 school within a school district that was authorized by a local  
18 school board to become a charter school prior to July 1, 2007;

19 E. "division" means the charter schools division of  
20 the department;

21 F. "enrollment preference" means filling a charter  
22 school's openings with students who have already been admitted  
23 to the school through an appropriate admission process and are  
24 continuing through subsequent grades;

25 [F.] G. "governing body" means the governing

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1 structure of a charter school as set forth in the school's  
2 charter; [~~and~~]

3 H. "governing body training" means the training  
4 required pursuant to Section 22-8B-5.1 NMSA 1978 to educate  
5 governing body members and ensure compliance with all  
6 applicable laws, which training may be obtained from any  
7 source, individual or entity that has been approved by the  
8 commission;

9 I. "management" means authority over the hiring,  
10 termination and day-to-day direction of a school's employees or  
11 contractors, whether they are licensed or not;

12 J. "material violation" means the act of failing to  
13 accomplish a requirement of a law, rule or contract or a  
14 charter school's bylaws that substantially affects the charter  
15 school's employees' or students' rights or privileges;

16 K. "nondiscretionary waiver" means a waiver of  
17 requirements or rules and the provisions of the Public School  
18 Code that the department shall grant pursuant to Section  
19 22-8B-5 NMSA 1978 and for which a charter school shall not  
20 require separate approval by the department;

21 L. "performance indicator" means a measurement tool  
22 that enables selected issues or conditions to be monitored over  
23 time for the purposes of evaluating progress toward or away  
24 from a desired direction;

25 M. "performance target" means the specific rating

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1 to which the data from a school's performance indicators shall  
2 be compared to determine whether the school exceeds, meets,  
3 does not meet or falls far below that rating;

4 N. "siblings" means students living the same  
5 residence at least fifty percent of the time in a permanent or  
6 semipermanent arrangement, including long-term foster care  
7 placements and students related to each other by blood,  
8 marriage or cohabitation;

9 O. "staff support" means employees who are directed  
10 to perform duties as delegated to them by the commission in  
11 order to render technical assistance to charter schools and to  
12 assist the commission in the performance of its statutory  
13 duties; and

14 [G-] P. "start-up school" means a public school  
15 developed by one or more parents, teachers or community members  
16 authorized by the chartering authority to become a charter  
17 school."

18 SECTION 9. Section 22-8B-6 NMSA 1978 (being Laws 1999,  
19 Chapter 281, Section 6, as amended) is amended to read:

20 "22-8B-6. CHARTER SCHOOL REQUIREMENTS--APPLICATION  
21 PROCESS--AUTHORIZATION--STATE BOARD OF FINANCE DESIGNATION  
22 REQUIRED--PUBLIC HEARINGS--SUBCOMMITTEES.--

23 A. A local school board has the authority to  
24 approve the establishment of a locally chartered charter school  
25 within ~~[the]~~ that local school board's district ~~[in which it is~~

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1 located].

2 B. No later than the second Tuesday of January of  
3 the year in which an application will be filed, the organizers  
4 of a proposed charter school shall provide written notification  
5 to the commission and the school district in which the charter  
6 school is proposed to be located of their intent to establish a  
7 charter school. Failure to notify may result in an application  
8 not being accepted.

9 C. A charter school applicant shall apply to either  
10 a local school board or the commission for a charter. If an  
11 application is submitted to a chartering authority, it must  
12 process the application. Applications for initial charters  
13 shall be submitted [~~between~~] by June 1 [~~and July 1~~] to be  
14 eligible for consideration for the following fiscal year;  
15 provided that the [~~July~~] June 1 deadline may be waived upon  
16 agreement of the applicant and the chartering authority.

17 D. An application shall include the total number of  
18 grades the charter school proposes to provide, either  
19 immediately or phased. A charter school may decrease the  
20 number of grades it eventually offers, but it shall not  
21 increase the number of grades or the total number of students  
22 proposed to be served in each grade.

23 E. An application shall include a detailed  
24 description of the charter school's projected facility needs,  
25 including projected requests for capital outlay assistance that

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1 have been approved by the director of the public school  
2 facilities authority or the director's designee. The director  
3 shall respond to a written request for review from a charter  
4 applicant within forty-five days of the request.

5 F. An application may be made by one or more  
6 teachers, parents or community members or by a public post-  
7 secondary educational institution or nonprofit organization.  
8 Municipalities, counties, private post-secondary educational  
9 institutions and for-profit business entities are not eligible  
10 to apply for or receive a charter.

11 G. An initial application for a charter school  
12 shall not be made after June 30, 2007 if the proposed charter  
13 school's proposed enrollment for all grades or the proposed  
14 charter school's proposed enrollment for all grades in  
15 combination with any other charter school's enrollment for all  
16 grades would equal or exceed ten percent of the total MEM of  
17 the school district in which the charter school will be  
18 geographically located and that school district has a total  
19 enrollment of not more than one thousand three hundred  
20 students.

21 H. A state-chartered charter school shall not be  
22 approved for operation unless its governing body has qualified  
23 to be a board of finance.

24 I. The chartering authority shall receive and  
25 review all applications for charter schools submitted to it.

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1 The chartering authority shall not charge application fees.

2 J. The chartering authority shall hold at least one  
3 public hearing in the school district in which the charter  
4 school is proposed to be located to obtain information and  
5 community input to assist it in its decision whether to grant a  
6 charter school application. The chartering authority may  
7 designate a subcommittee of no fewer than three members to hold  
8 the public hearing, and, if so, the hearing shall be  
9 transcribed for later review by other members of the chartering  
10 authority. Community input may include written or oral  
11 comments in favor of or in opposition to the application from  
12 the applicant, the local community and, for state-chartered  
13 charter schools, the local school board and school district in  
14 whose geographical boundaries the charter school is proposed to  
15 be located.

16 K. The chartering authority shall rule on the  
17 application for a charter school in a public meeting by  
18 September 1 of the year the application was received; provided,  
19 however, that prior to ruling on the application for which a  
20 designated subcommittee was used, any member of the chartering  
21 authority who was not present at the public hearing shall  
22 receive the transcript of the public hearing together with  
23 documents submitted for the public hearing. If not ruled upon  
24 by that date, the charter application shall be automatically  
25 reviewed by the secretary in accordance with the provisions of

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1 Section 22-8B-7 NMSA 1978. The charter school applicant and  
2 the chartering authority may, however, jointly waive the  
3 deadlines set forth in this section.

4 L. A chartering authority may approve, approve with  
5 conditions or deny an application. A chartering authority may  
6 deny an application if:

7 (1) the application is incomplete or  
8 inadequate;

9 (2) the application does not propose to offer  
10 an educational program consistent with the requirements and  
11 purposes of the Charter Schools Act;

12 (3) the proposed head administrator or other  
13 administrative or fiscal staff was involved with another  
14 charter school whose charter was denied or revoked for fiscal  
15 mismanagement or the proposed head administrator or other  
16 administrative or fiscal staff was discharged from a public  
17 school for fiscal mismanagement;

18 (4) for a proposed state-chartered charter  
19 school, it does not request to have the governing body of the  
20 charter school designated as a board of finance or the  
21 governing body does not qualify as a board of finance; or

22 (5) the application is otherwise contrary to  
23 the best interests of the charter school's projected students,  
24 the local community or the school district in whose geographic  
25 boundaries the charter school applies to operate.

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1 M. If the chartering authority denies a charter  
2 school application or approves the application with conditions,  
3 it shall state its reasons for the denial or conditions in  
4 writing within fourteen days of the meeting. If the chartering  
5 authority grants a charter, the approved charter shall be  
6 provided to the applicant together with any imposed conditions.

7 N. A charter school that has received a notice from  
8 the chartering authority denying approval of the charter shall  
9 have a right to a hearing by the secretary as provided in  
10 Section 22-8B-7 NMSA 1978."

11 SECTION 10. Section 22-8B-9 NMSA 1978 (being Laws 1999,  
12 Chapter 281, Section 9, as amended) is amended to read:

13 "22-8B-9. CHARTER SCHOOL CONTRACT--CONTENTS--RULES.--

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

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1 contract or appeal to the secretary pursuant to this section  
2 precludes the chartering authority from chartering the school.

3 B. The charter contract shall include:

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

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

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

14 (4) the chartering authority's duties to the  
15 charter school and liabilities of the chartering authority as  
16 provided in Section [~~8 of this 2011 act~~] 22-8B-5.3 NMSA 1978;

17 (5) a statement of admission policies and  
18 procedures;

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

23 (7) the criteria, processes and procedures  
24 that the chartering authority will use for ongoing oversight of  
25 operational, financial and academic performance of the charter

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1 school;

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

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

8 (10) the term of the contract;

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

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

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

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

23 (c) a procedure for selection of a  
24 neutral third party to assist in resolving the dispute;

25 (d) a process for apportionment of all

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1 costs related to the dispute resolution process; and

2 (e) a process for final resolution of  
3 the issue reviewed under the dispute resolution process;

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

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

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

23 (16) an agreement that the charter school will  
24 participate in the public school insurance authority;

25 (17) if the charter school is a state-

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1 chartered charter school, a process for qualification of and  
2 review of the school as a qualified board of finance and  
3 provisions for assurance that the school has satisfied any  
4 conditions imposed by the commission; and

5 (18) any other information reasonably required  
6 by either party to the contract.

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

13 SECTION 11. Section 22-8B-9.1 NMSA 1978 (being Laws 2011,  
14 Chapter 14, Section 4) is amended to read:

15 "22-8B-9.1. PERFORMANCE FRAMEWORK.--

16 A. The performance provisions in the charter  
17 contract shall be based on a framework that clearly sets forth  
18 the academic and operations performance indicators [~~measures~~]  
19 and [~~metrics~~] performance targets that will guide the  
20 chartering authority's evaluation of each charter school. The  
21 performance framework shall be a material term of the charter  
22 school contract and shall include indicators [~~measures~~] and  
23 [~~metrics~~] performance targets for, at a minimum:

- 24 (1) student academic performance;  
25 (2) student academic growth;

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1 (3) achievement gaps in both proficiency and  
2 growth between student subgroups;

3 (4) attendance;

4 (5) recurrent enrollment from year to year;

5 (6) if the charter school is a high school,  
6 post-secondary readiness;

7 (7) if the charter school is a high school,  
8 graduation rate;

9 (8) financial performance and sustainability;  
10 and

11 (9) governing body performance, including  
12 compliance with all applicable laws, rules and terms of the  
13 charter contract.

14 B. Annual performance targets shall be set by each  
15 chartering authority in consultation with its charter schools  
16 and shall be designed to help each charter school meet  
17 applicable federal, state and chartering authority expectations  
18 as set forth in the charter contracts to which the authority is  
19 a party.

20 C. The performance framework shall allow for the  
21 inclusion of additional rigorous, valid and reliable indicators  
22 proposed by a charter school to augment external evaluations of  
23 its performance, provided that the chartering authority shall  
24 approve the quality and rigor of such proposed indicators and  
25 the indicators are consistent with the purposes of the Charter

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1 Schools Act.

2 D. The performance framework shall require the  
3 disaggregation of all student performance data collected in  
4 compliance with this section by student subgroup, including  
5 gender, race, poverty status, special education or gifted  
6 status and English language learner.

7 E. The chartering authority shall collect, analyze  
8 and report all data from state assessment tests in accordance  
9 with the performance framework set forth in the charter  
10 contract for each charter school overseen by that chartering  
11 authority."

12 SECTION 12. Section 22-8B-12 NMSA 1978 (being Laws 1999,  
13 Chapter 281, Section 12, as amended) is amended to read:

14 "22-8B-12. CHARTER SCHOOLS--TERM--OVERSIGHT AND  
15 CORRECTIVE ACTIONS--SITE VISITS--RENEWAL OF CHARTER--GROUNDS  
16 FOR NONRENEWAL OR REVOCATION.--

17 A. A charter school may be approved for an initial  
18 term of six years; provided that the first year shall be used  
19 exclusively for planning and not for completing the  
20 application. A charter may be renewed for successive periods  
21 of five years each. Approvals of less than five years may be  
22 agreed to between the charter school and the chartering  
23 authority.

24 B. During the planning year, the charter school  
25 shall file a minimum of three status reports with the

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1 chartering authority and the department for the purpose of  
2 demonstrating that the charter school's implementation progress  
3 is consistent with the conditions, standards and procedures of  
4 its approved charter. The report content, format and schedule  
5 for submission shall be agreed to by the chartering authority  
6 and the charter school and become part of the charter contract.

7 C. Prior to the end of the planning year, the  
8 charter school shall demonstrate that its facilities meet the  
9 requirements of Section 22-8B-4.2 NMSA 1978.

10 D. A chartering authority shall monitor the fiscal,  
11 overall governance and student performance and legal compliance  
12 of the charter schools that it oversees, including reviewing  
13 the data provided by the charter school to support ongoing  
14 evaluation according to the charter contract. Every chartering  
15 authority may conduct or require oversight activities that  
16 allow the chartering authority to fulfill its responsibilities  
17 under the Charter Schools Act, including conducting appropriate  
18 inquiries and investigations; provided that the chartering  
19 authority complies with the provisions of the Charter Schools  
20 Act and the terms of the charter contract and does not unduly  
21 inhibit the autonomy granted to the charter schools that it  
22 governs.

23 E. As part of its performance review of a charter  
24 school, a chartering authority shall visit a charter school  
25 under its authority at least once annually to provide technical

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1 assistance to the charter school and to determine the status of  
2 the charter school and the progress of the charter school  
3 toward the performance framework goals in its charter contract.

4 F. If, based on the performance review conducted by  
5 the chartering authority pursuant to Subsection D of this  
6 section, a charter school's fiscal, overall governance or  
7 student performance or legal compliance appears unsatisfactory,  
8 the chartering authority shall promptly notify the governing  
9 body of the charter school of the unsatisfactory review and  
10 provide reasonable opportunity for the governing body to remedy  
11 the problem; provided that if the unsatisfactory review  
12 warrants revocation, the revocation procedures set forth in  
13 this section shall apply. A chartering authority may take  
14 appropriate corrective actions or exercise sanctions, as long  
15 as such sanctions do not constitute revocation, in response to  
16 the unsatisfactory review. Such actions or sanctions by the  
17 chartering authority may include requiring a governing body to  
18 develop and execute a corrective action plan with the  
19 chartering authority that sets forth time frames for  
20 compliance.

21 G. Every chartering authority shall submit an  
22 annual report to the division, including a performance report  
23 for each charter school that it oversees, in accordance with  
24 the performance framework set forth in the charter contract.

25 H. The department shall review the annual report

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1 received from the chartering authority to determine if the  
2 department or local school board rules and policies from which  
3 the charter school was released pursuant to the provisions of  
4 Section 22-8B-5 NMSA 1978 assisted or impeded the charter  
5 school in meeting its stated goals and objectives. The  
6 department shall use the annual reports received from the  
7 chartering authorities as part of its report to the governor,  
8 the legislative finance committee and the legislative education  
9 study committee as required by the Charter Schools Act.

10 I. No later than two hundred seventy days prior to  
11 the date in which the charter expires, the governing body may  
12 submit a renewal application to the chartering authority. A  
13 charter school may apply to a different chartering authority  
14 for renewal. The chartering authority shall rule in a public  
15 hearing on the renewal application no later than one hundred  
16 eighty days prior to the expiration of the charter.

17 J. A charter school renewal application submitted  
18 to the chartering authority shall contain:

19 (1) a report on the progress of meeting the  
20 academic performance, financial compliance and governance  
21 responsibilities of the charter school, including achieving the  
22 goals, objectives, student performance outcomes, state minimum  
23 educational standards and other terms of the charter contract,  
24 including the accountability requirements set forth in the  
25 Assessment and Accountability Act;

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1                   (2) a financial statement that discloses the  
2 costs of administration, instruction and other spending  
3 categories for the charter school that is understandable to the  
4 general public, that allows comparison of costs to other  
5 schools or comparable organizations and that is in a format  
6 required by the department;

7                   (3) a copy of the charter contract executed in  
8 compliance with the provisions of Section 22-8B-9 NMSA 1978;

9                   (4) a petition in support of the charter  
10 school renewing its charter status signed by not less than  
11 sixty-five percent of the employees in the charter school;

12                   (5) a petition in support of the charter  
13 school renewing its charter status signed by at least seventy-  
14 five percent of the households whose children are enrolled in  
15 the charter school; and

16                   (6) a description of the charter school  
17 facilities and assurances that the facilities are in compliance  
18 with the requirements of Section 22-8B-4.2 NMSA 1978.

19                   K. A charter may be suspended, revoked or not  
20 renewed by the chartering authority if the chartering authority  
21 determines that the charter school did any of the following:

22                   (1) committed a material violation of any of  
23 the conditions, standards or procedures set forth in the  
24 charter contract;

25                   (2) failed to meet or make substantial

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1 progress toward achievement of the department's [~~minimum~~  
2 ~~educational~~] standards of excellence or student performance  
3 standards identified in the charter contract;

4 (3) failed to meet generally accepted  
5 standards of fiscal management; or

6 (4) violated any provision of law from which  
7 the charter school was not specifically exempted.

8 L. The chartering authority shall develop processes  
9 for suspension, revocation or nonrenewal of a charter that:

10 (1) provide the charter school with timely  
11 notification of the prospect of suspension, revocation or  
12 nonrenewal of the charter and the reasons for such action;

13 (2) allow the charter school a reasonable  
14 amount of time to prepare and submit a response to the  
15 chartering authority's action; and

16 (3) require the final determination made by  
17 the chartering authority to be submitted to the department.

18 M. If a chartering authority suspends, revokes or  
19 does not renew a charter, the chartering authority shall state  
20 in writing its reasons for the suspension, revocation or  
21 nonrenewal.

22 N. A decision to suspend, revoke or not to renew a  
23 charter may be appealed by the governing body pursuant to  
24 Section 22-8B-7 NMSA 1978."

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

2 "22-8B-13. CHARTER SCHOOL FINANCING.--

3 A. The amount of funding allocated to a charter  
4 school shall be not less than ninety-eight percent of the  
5 school-generated program cost. The [~~school district or~~  
6 ~~division~~] chartering authority may withhold and use two percent  
7 of the school-generated program cost for its administrative  
8 support of a charter school.

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

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

20 D. Charter schools may apply for all federal funds  
21 for which they are eligible.

22 E. All services centrally or otherwise provided by  
23 a local school district, including custodial, maintenance and  
24 media services, libraries and warehousing, shall be subject to  
25 negotiation between the charter school and the school district.

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1 Any services for which a charter school contracts with a school  
2 district shall be provided by the district at a reasonable  
3 cost."

4 SECTION 14. Section 22-15D-5 NMSA 1978 (being Laws 2003,  
5 Chapter 152, Section 5, as amended) is amended to read:

6 "22-15D-5. PROGRAM PLAN AND EVALUATION.--

7 A. A school district or [~~state-chartered~~] charter  
8 school may prepare and submit to the department a fine arts  
9 education program plan in accordance with guidelines issued by  
10 the department.

11 B. At a minimum, the plan shall include the fine  
12 arts education programs being taught, the ways in which the  
13 fine arts are being integrated into the curriculum and an  
14 evaluation component.

15 C. At yearly intervals, the school district or  
16 [~~state-chartered~~] charter school, the department and a parent  
17 advisory committee from the school district or charter school  
18 shall review the goals and priorities of the plan and make  
19 appropriate recommendations to the secretary."

20 SECTION 15. Section 22-23-2 NMSA 1978 (being Laws 1973,  
21 Chapter 285, Section 2, as amended) is amended to read:

22 "22-23-2. DEFINITIONS.--As used in the Bilingual  
23 Multicultural Education Act:

24 A. "bilingual multicultural education program"  
25 means a program using two languages, including English and the

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1 home or heritage language, as a medium of instruction in the  
2 teaching and learning process;

3 B. "culturally and linguistically different" means  
4 students who are of a different cultural background than  
5 mainstream United States culture and whose home or heritage  
6 language, inherited from the student's family, tribe or country  
7 of origin, is a language other than English;

8 C. "department" means the public education  
9 department;

10 D. "district" means a public school or any  
11 combination of public schools in a district ~~[or a charter~~  
12 ~~school]~~;

13 E. "English language learner" means a student whose  
14 first or heritage language is not English and who is unable to  
15 read, write, speak or understand English at a level comparable  
16 to grade level English proficient peers and native English  
17 speakers;

18 F. "heritage language" means a language other than  
19 English that is inherited from a family, tribe, community or  
20 country of origin;

21 G. "home language" means a language other than  
22 English that is the primary or heritage language spoken at home  
23 or in the community;

24 ~~[H. "school board" means a local school board or~~  
25 ~~governing body of a state chartered charter school] and~~

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1 I. "standardized curriculum" means a district  
2 curriculum that is aligned with the state academic content  
3 standards, benchmarks and performance standards."

4 SECTION 16. Section 22-23-5 NMSA 1978 (being Laws 1973,  
5 Chapter 285, Section 5, as amended) is amended to read:

6 "22-23-5. BILINGUAL MULTICULTURAL EDUCATION PROGRAM  
7 PLAN--EVALUATION.--

8 A. ~~[The]~~ A school board or, for charter schools, a  
9 governing body of a charter school may prepare and submit to  
10 the department a bilingual multicultural education program plan  
11 in accordance with rules issued by the department.

12 B. At regular intervals, the school board or  
13 governing body of a charter school and a parent advisory  
14 committee from the district or charter school shall review the  
15 goals and priorities of the plan and make appropriate  
16 recommendations to the department.

17 C. Bilingual multicultural education programs shall  
18 be ~~[located in the district and]~~ delivered as part of the  
19 regular academic program. Involvement of students in a  
20 bilingual multicultural education program shall not have the  
21 effect of segregating students by ethnic group, color or  
22 national origin.

23 D. Each district or charter school shall maintain  
24 academic achievement and language proficiency data and update  
25 the data annually to evaluate bilingual multicultural education

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1 program effectiveness and use of funds. The department shall  
2 annually compile and report [~~this~~] these data to the  
3 appropriate interim legislative committee.

4 E. Districts and charter schools shall provide  
5 professional development to [~~district~~] employees, including  
6 teachers, teacher assistants, principals, bilingual directors  
7 or coordinators, associate superintendents, superintendents and  
8 financial officers in the areas of:

9 (1) research-based bilingual multicultural  
10 education programs and implications for instruction;

11 (2) best practices of English as a second  
12 language, English language development and bilingual  
13 multicultural education programs; and

14 (3) classroom assessments that support  
15 academic and language development.

16 F. Bilingual multicultural education programs shall  
17 be part of the district's or charter school's professional  
18 development plan. Bilingual educators, including teachers,  
19 teacher assistants, instructional support personnel, principals  
20 and program administrators, shall participate in professional  
21 development and training."

22 SECTION 17. EFFECTIVE DATE.--The effective date of the  
23 provisions of this act is July 1, 2015.

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BILL

52ND LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2015

INTRODUCED BY

DISCUSSION DRAFT

AN ACT

RELATING TO PUBLIC EDUCATION; AMENDING THE PUBLIC SCHOOL CODE TO REMOVE CHARTER SCHOOL ELIGIBILITY FOR SMALL-SCHOOL SIZE ADJUSTMENT PROGRAM UNITS AND TO MAKE STATE-CHARTERED CHARTER SCHOOLS ELIGIBLE FOR AT-RISK UNITS.

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

SECTION 1. Section 22-8-23 NMSA 1978 (being Laws 1975, Chapter 119, Section 1, as amended) is amended to read:

"22-8-23. SIZE ADJUSTMENT PROGRAM UNITS.--

A. An approved public school with a MEM of less than 400, including early childhood education full-time-equivalent MEM but excluding membership in class C and class D programs and excluding full-time-equivalent membership in three- and four-year-old developmentally disabled programs, is eligible for additional program units. Separate schools

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1 established to provide special programs, including but not  
2 limited to vocational and alternative education and charter  
3 schools, shall not be classified as public schools for purposes  
4 of generating size adjustment program units. The number of  
5 additional program units to which a school district is entitled  
6 under this subsection is the sum of elementary-junior high  
7 units and senior high units computed in the following manner:

8 Elementary-Junior High Units  
9 200 - MEM  
10 \_\_\_\_\_ x 1.0 x MEM = Units  
11 200

12 where MEM is equal to the membership of an approved elementary  
13 or junior high school, including early childhood education  
14 full-time-equivalent membership but excluding membership in  
15 class C and class D programs and excluding full-time-equivalent  
16 membership in three- and four-year-old developmentally disabled  
17 programs;

18 Senior High Units  
19 200 - MEM  
20 \_\_\_\_\_ x 2.0 x MEM = Units  
21 200

22 or,

23 Senior High Units  
24 400 - MEM  
25 \_\_\_\_\_ x 1.6 x MEM = Units

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1 400

2 whichever calculation for senior high units is higher, where  
3 MEM is equal to the membership of an approved senior high  
4 school excluding membership in class C and class D programs.

5 B. A school district with total MEM of less than  
6 4,000, including early childhood education full-time-equivalent  
7 MEM, is eligible for additional program units. The number of  
8 additional program units to which a school district is entitled  
9 under this subsection is the number of district units computed  
10 in the following manner:

$$\begin{array}{r}
 \text{District Units} \\
 4,000 - \text{MEM} \\
 \hline
 4,000
 \end{array}
 \times 0.15 \times \text{MEM} = \text{Units}$$

15 where MEM is equal to the total district membership,  
16 including early childhood education full-time-equivalent  
17 membership.

18 C. A school district with over 10,000 MEM with a  
19 ratio of MEM to senior high schools less than 4,000:1 is  
20 eligible for additional program units based on the number of  
21 approved regular senior high schools that are not eligible for  
22 senior high units under Subsection A of this section. The  
23 number of additional program units to which an eligible school  
24 district is entitled under this subsection is the number of  
25 units computed in the following manner:

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1 district is eligible for additional program units if it  
2 establishes within its department-approved educational plan  
3 identified services to assist students to reach their full  
4 academic potential. A state-chartered charter school or a  
5 school district receiving additional at-risk program units  
6 shall include a report of specified services implemented to  
7 improve the academic success of at-risk students. The report  
8 shall identify the ways in which the state-chartered charter  
9 school or the school district and individual schools use  
10 funding generated through the at-risk index and the intended  
11 outcomes. For purposes of this section, "at-risk student"  
12 means a student who meets the criteria to be included in the  
13 calculation of the three-year average total rate in Subsection  
14 B of this section. The number of additional units to which a  
15 state-chartered charter school or a school district is entitled  
16 under this section is computed in the following manner:

$$\text{At-Risk Index} \times \text{MEM} = \text{Units}$$

17 where MEM is equal to the total respective state-chartered  
18 charter school or district membership, including early  
19 childhood education, full-time-equivalent membership and  
20 special education membership and where the at-risk index is  
21 calculated in the following manner:

$$\text{Three-Year Average Total Rate} \times 0.106 = \text{At-Risk Index.}$$

22 B. To calculate the three-year average total rate,  
23 the department shall compute a three-year average of the state-  
24 .197726.2

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1 chartered charter school's or school district's percentage of  
2 membership used to determine its Title I allocation, a three-  
3 year average of the percentage of membership classified as  
4 English language learners using criteria established by the  
5 federal office of civil rights and a three-year average of the  
6 percentage of student mobility. The department shall then add  
7 the three-year average rates. The number obtained from this  
8 calculation is the three-year average total rate.

9 C. The department shall recalculate the at-risk  
10 index for each state-chartered charter school or school  
11 district every year."

12 SECTION 3. EFFECTIVE DATE.--The effective date of the  
13 provisions of this act is July 1, 2015.

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BILL

52ND LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2015

INTRODUCED BY

DISCUSSION DRAFT

AN ACT

RELATING TO PUBLIC EDUCATION; ALLOWING SCHOOL DISTRICTS AND  
CHARTER SCHOOLS TO ESTABLISH TRANSPORTATION AGREEMENTS TO  
TRANSPORT CHARTER SCHOOL STUDENTS.

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

SECTION 1. Section 22-8-26 NMSA 1978 (being Laws 1967,  
Chapter 16, Section 76, as amended) is amended to read:

"22-8-26. TRANSPORTATION DISTRIBUTION.--

A. Money in the transportation distribution of the  
public school fund shall be used only for the purpose of making  
payments to each school district [~~or state-chartered charter  
school~~] for the to-and-from school transportation costs of  
students in grades kindergarten through twelve attending public  
school within the school district [~~or state-chartered charter  
school~~] and of three- and four-year-old children who meet the

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1 department-approved criteria and definition of developmentally  
2 disabled and for transportation of students to and from their  
3 regular attendance centers and the place where vocational  
4 education programs are being offered.

5 B. In the event a school district's ~~[or state-~~  
6 ~~chartered charter school's]~~ transportation allocation exceeds  
7 the amount required to meet obligations to provide  
8 to-and-from transportation, three- and four-year-old  
9 developmentally disabled transportation and vocational  
10 education transportation, fifty percent of the remaining  
11 balance shall be deposited in the transportation emergency  
12 fund.

13 C. Of the excess amount retained by the school  
14 district ~~[or state-chartered charter school]~~, at least  
15 twenty-five percent shall be used for to-and-from  
16 transportation-related services, excluding salaries and  
17 benefits, and up to twenty-five percent may be used for other  
18 transportation-related services, excluding salaries and  
19 benefits as defined by rule of the department.

20 D. In the event the sum of the proposed  
21 transportation allocations to each school district ~~[or state-~~  
22 ~~chartered charter school]~~ exceeds the amounts in the  
23 transportation distribution, the allocation to each school  
24 district ~~[or state-chartered charter school]~~ shall be reduced  
25 in the proportion that the school district ~~[or state-chartered~~

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1 ~~charter school]~~ allocation bears to the total statewide  
2 transportation distribution.

3 E. A local school board [~~or governing body of a~~  
4 ~~state chartered charter school]~~, with the approval of the state  
5 transportation director, may provide additional transportation  
6 services pursuant to Section 22-16-4 NMSA 1978 to meet  
7 established program needs.

8 F. Nothing in this section prohibits the use of  
9 school buses to transport the general public pursuant to the  
10 Emergency Transportation Act."

11 SECTION 2. Section 22-8-27 NMSA 1978 (being Laws 1967,  
12 Chapter 16, Section 77, as amended) is amended to read:

13 "22-8-27. TRANSPORTATION EQUIPMENT.--

14 A. The department shall establish a systematic  
15 program for the purchase of necessary school bus transportation  
16 equipment.

17 B. In establishing a system for the replacement of  
18 school-district-owned buses, the department shall provide for  
19 the replacement of school buses on a twelve-year cycle. School  
20 districts requiring additional buses to accommodate growth in  
21 the school district or to meet other special needs may petition  
22 the department for additional buses. Under exceptional  
23 circumstances, school districts may also petition the  
24 department for permission to replace buses prior to the  
25 completion of a twelve-year cycle or to use buses in excess of

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1 twelve years contingent upon satisfactory annual safety  
2 inspections.

3 C. In establishing a system for the use of  
4 contractor-owned buses by school districts [~~or state-chartered~~  
5 ~~charter schools~~], the department shall establish a schedule for  
6 the payment of rental fees for the use of contractor-owned  
7 buses. The department shall establish procedures to ensure the  
8 systematic replacement of buses on a twelve-year replacement  
9 cycle. School districts requiring additional buses to  
10 accommodate growth in the school district or to meet other  
11 special needs may petition the department for additional buses.  
12 Under exceptional circumstances, school districts may also  
13 petition the department for permission to replace buses prior  
14 to the completion of a twelve-year cycle or to use buses in  
15 excess of twelve years contingent upon satisfactory annual  
16 safety inspections.

17 D. The school district shall file a lien on every  
18 contractor-owned school bus under the contract on which the  
19 contractor owes money, which lien shall have priority second  
20 only to a lien securing the purchase-money obligation. The  
21 school district shall perfect its lien on each contractor-owned  
22 school bus by filing the lien with the motor vehicle division  
23 of the taxation and revenue department. The lien shall be  
24 recorded on the title of the school bus. A school bus  
25 contractor shall not refinance or use a school bus on which a

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1 school district has a lien as collateral for any other loan  
2 without prior written permission of the department. A school  
3 bus lien shall be collected and enforced as provided in Chapter  
4 55, Article 9 NMSA 1978. The school district shall release its  
5 lien on a school bus:

6 (1) when the department authorizes a  
7 replacement of the school bus; or

8 (2) when the contractor has reimbursed the  
9 school district the amount calculated pursuant to Subsection E  
10 of this section if the school bus service contract is  
11 terminated or not renewed and the contractor owes the school  
12 district as provided in that subsection.

13 E. No school district shall pay rental fees for any  
14 one bus for a period in excess of five years. In the event a  
15 school bus service contract is terminated or not renewed by  
16 either party, the department shall calculate the remaining  
17 number of years that a bus could be used based on a twelve-year  
18 replacement cycle and calculate a value reflecting that use.  
19 The school district shall deduct an amount equal to that value  
20 from any remaining amount due on the contract, or if no balance  
21 remains on the contract, the contractor shall reimburse the  
22 school district an amount equal to the value calculated.

23 F. If the school district fails to take action to  
24 collect money owed to it when a school bus contract is  
25 terminated or not renewed, the department may deduct the amount

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1 from the school district's transportation distribution."

2 SECTION 3. Section 22-8-29 NMSA 1978 (being Laws 1967,  
3 Chapter 16, Section 78, as amended) is amended to read:

4 "22-8-29. TRANSPORTATION DISTRIBUTIONS--REPORTS--  
5 PAYMENTS.--

6 A. Prior to November 15 of each year, each local  
7 school board of a school district [~~and governing body of a~~  
8 ~~state-chartered charter school~~] shall report to the state  
9 transportation director, upon forms furnished by the state  
10 transportation director, the following information concerning  
11 the school district's [~~or state-chartered charter school's~~]  
12 operation on the first reporting date of the current year:

13 (1) the number and designation of school bus  
14 routes in operation in the school district;

15 (2) the number of miles traveled by each  
16 school bus on each school bus route, showing the route mileage  
17 in accordance with the type of road surface traveled;

18 (3) the number of students transported on the  
19 first reporting date of the current year and adjusted for  
20 special education students on December 1;

21 (4) the projected number of students to be  
22 transported in the next school year;

23 (5) the seating capacity, age and mileage of  
24 each bus used in the school district for student  
25 transportation; and

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1                   (6) the number of total miles traveled for  
2 each school district's ~~[or state-chartered charter school's]~~  
3 per capita feeder routes.

4                   B. Each local school board of a school district  
5 ~~[and governing body of a state-chartered charter school]~~  
6 maintaining a school bus route shall make further reports to  
7 the state transportation director at other times specified by  
8 the state transportation director.

9                   C. The state transportation director shall certify  
10 to the secretary that the allocations from the transportation  
11 distributions to each school district ~~[and state-chartered~~  
12 ~~charter school]~~ are based upon the transportation distribution  
13 formula established in the Public School Code. The allocations  
14 for the first six months of a school year shall be based upon  
15 the tentative transportation budget of the school district ~~[or~~  
16 ~~state-chartered charter school]~~ for the current fiscal year.  
17 Allocations to a school district ~~[or state-chartered charter~~  
18 ~~school]~~ for the remainder of the school year shall adjust the  
19 amount received by the school district ~~[or state-chartered~~  
20 ~~charter school]~~ so that it equals the amount the school  
21 district ~~[or state-chartered charter school]~~ is entitled to  
22 receive for the entire school year based upon the November 15  
23 report and subject to audit and verification.

24                   D. The department shall make periodic installment  
25 payments to school districts ~~[and state-chartered charter~~

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1 ~~schools]~~ during the school year from the transportation  
2 distributions, based upon the allocations certified by the  
3 state transportation director."

4 SECTION 4. Section 22-8-29.1 NMSA 1978 (being Laws 1995,  
5 Chapter 208, Section 10, as amended) is amended to read:

6 "22-8-29.1. CALCULATION OF TRANSPORTATION ALLOCATION.--

7 A. As used in this section:

8 (1) "annual variables" means the coefficients  
9 calculated by regressing the total operational expenditures  
10 from two years prior to the current school year for each school  
11 district [~~and state-chartered charter school]~~ using the number  
12 of students transported and the numerical value of site  
13 characteristics;

14 (2) "base amount" means the fixed amount that  
15 is the same for all school districts [~~and an amount established  
16 by rule for state-chartered charter schools]~~;

17 (3) "total operational expenditures" means the  
18 sum of all to-and-from school transportation expenditures,  
19 excluding expenditures incurred in accordance with the  
20 provisions of Section 22-8-27 NMSA 1978; and

21 (4) "variable amount" means the sum of the  
22 product of the annual variables multiplied by each school  
23 district's [~~or state-chartered charter school's]~~ numerical  
24 value of the school district's [~~and state-chartered charter  
25 school's]~~ site characteristics multiplied by the number of days

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1 of operation for each school district [~~or state-chartered~~  
2 ~~charter school~~].

3 B. The department shall calculate the  
4 transportation allocation for each school district [~~and state-~~  
5 ~~chartered charter school~~].

6 C. The base amount is designated as product A.  
7 Product A is the constant calculated by regressing the total  
8 operations expenditures from the two years prior to the current  
9 school year for school district [~~or state-chartered charter~~  
10 ~~school~~] operations using the numerical value of site  
11 characteristics approved by the department. The legislative  
12 education study committee and the legislative finance committee  
13 may review the site characteristics developed by the state  
14 transportation director prior to approval by the department.

15 D. The variable amount is designated as product B.  
16 Product B is the predicted additional expenditures for each  
17 school district [~~or state-chartered charter school~~] based on  
18 the regression analysis using the site characteristics as  
19 predictor variables multiplied by the number of days.

20 E. The allocation to each school district [~~and~~  
21 ~~state-chartered charter school~~] shall be equal to product A  
22 plus product B.

23 F. For the 2001-2002, 2002-2003 and 2003-2004  
24 school years, the transportation allocation for each school  
25 district shall not be less than ninety-five percent or more

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1 than one hundred five percent of the prior school year's  
2 transportation expenditure.

3 G. The adjustment factor shall be applied to the  
4 allocation amount determined pursuant to Subsections E and F of  
5 this section."

6 SECTION 5. Section 22-8-29.4 NMSA 1978 (being Laws 1995,  
7 Chapter 208, Section 13, as amended) is amended to read:

8 "22-8-29.4. TRANSPORTATION DISTRIBUTION ADJUSTMENT  
9 FACTOR.--

10 A. The department shall establish a transportation  
11 distribution adjustment factor. The adjustment factor shall be  
12 calculated as follows:

13 (1) calculate the unadjusted transportation  
14 allocation for each school district [~~and state-chartered~~  
15 ~~charter school~~] designated in Section 22-8-29.1 NMSA 1978 as  
16 product A plus product B;

17 (2) the sum total of product A plus product B  
18 in all school districts [~~and state-chartered charter schools~~]  
19 added together equals product C; and

20 (3) subtract product C from the total  
21 operational transportation distribution for the current year  
22 and divide the result by product C and then add 1 in the  
23 following manner:

24 "[ $(\text{total operational transportation distribution} - C) \div C$ ]  
25 + 1". The result is the transportation distribution adjustment  
  
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1 factor.

2 B. As used in this section, "total operational  
3 transportation distribution" means the total legislative  
4 appropriation for the transportation distribution minus amounts  
5 included for capital outlay expenses."

6 SECTION 6. Section 22-8B-4 NMSA 1978 (being Laws 1999,  
7 Chapter 281, Section 4, as amended) is amended to read:

8 "22-8B-4. CHARTER SCHOOLS' RIGHTS AND RESPONSIBILITIES--  
9 OPERATION.--

10 A. A charter school shall be subject to all federal  
11 and state laws and constitutional provisions prohibiting  
12 discrimination on the basis of disability, physical or mental  
13 handicap, serious medical condition, race, creed, color, sex,  
14 gender identity, sexual orientation, spousal affiliation,  
15 national origin, religion, ancestry or need for special  
16 education services.

17 B. A charter school shall be governed by a  
18 governing body in the manner set forth in the charter contract;  
19 provided that a governing body shall have at least five  
20 members; and provided further that no member of a governing  
21 body for a charter school that is initially approved on or  
22 after July 1, 2005 or whose charter is renewed on or after July  
23 1, 2005 shall serve on the governing body of another charter  
24 school. No member of a local school board shall be a member of  
25 a governing body for a charter school or employed in any

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1 capacity by a locally chartered charter school located within  
2 the local school board's school district during the term of  
3 office for which the member was elected or appointed.

4 C. A charter school shall be responsible for:

5 (1) its own operation, including preparation  
6 of a budget, subject to audits pursuant to the Audit Act; and

7 (2) contracting for services and personnel  
8 matters.

9 D. A charter school may contract with a school  
10 district, a university or college, the state, another political  
11 subdivision of the state, the federal government or one of its  
12 agencies, a tribal government or any other third party for the  
13 use of a facility, its operation and maintenance and the  
14 provision of any service or activity that the charter school is  
15 required to perform in order to carry out the educational  
16 program described in its charter contract. Facilities used by  
17 a charter school shall meet the standards required pursuant to  
18 Section 22-8B-4.2 NMSA 1978.

19 E. A conversion school chartered before July 1,  
20 2007 may choose to continue using the school district  
21 facilities and equipment it had been using prior to conversion,  
22 subject to the provisions of Subsection F of this section.

23 F. The school district in which a charter school is  
24 geographically located shall provide a charter school with  
25 available facilities for the school's operations unless the

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1 facilities are currently used for other educational purposes.  
2 An agreement for the use of school district facilities by a  
3 charter school may provide for reasonable lease payments;  
4 provided that the payments do not exceed the sum of the lease  
5 reimbursement rate provided in Subparagraph (b) of Paragraph  
6 (1) of Subsection I of Section 22-24-4 NMSA 1978 plus any  
7 reimbursement for actual direct costs incurred by the school  
8 district in providing the facilities; and provided further that  
9 any lease payments received by a school district may be  
10 retained by the school district and shall not be considered to  
11 be cash balances in any calculation pursuant to Section 22-8-41  
12 NMSA 1978. The available facilities provided by a school  
13 district to a charter school shall meet all occupancy standards  
14 as specified by the public school capital outlay council. As  
15 used in this subsection, "other educational purposes" includes  
16 health clinics, daycare centers, teacher training centers,  
17 school district administration functions and other ancillary  
18 services related to a school district's functions and  
19 operations.

20 G. A locally chartered charter school may pay the  
21 costs of operation and maintenance of its facilities or may  
22 contract with the school district to provide facility operation  
23 and maintenance services.

24 H. Locally chartered charter school facilities are  
25 eligible for state and local capital outlay funds and shall be

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1 included in the school district's five-year facilities plan.

2 I. A [~~locally chartered~~] charter school may choose  
3 to provide state-funded transportation services for its  
4 eligible students. A charter school that chooses to provide  
5 such transportation services shall negotiate with a school  
6 district to provide transportation to students eligible for  
7 transportation under the provisions of the Public School Code.  
8 The school district, in conjunction with the charter school,  
9 may establish a limit for student transportation to and from  
10 the charter school site not to extend beyond the school  
11 district boundary. However, nothing in this subsection shall  
12 be construed to require a charter school and school district to  
13 negotiate a transportation agreement.

14 J. A charter school shall be a nonsectarian,  
15 nonreligious and non-home-based public school.

16 K. Except as otherwise provided in the Public  
17 School Code, a charter school shall not charge tuition or have  
18 admission requirements.

19 L. With the approval of the chartering authority, a  
20 single charter school may maintain separate facilities at two  
21 or more locations within the same school district; but, for  
22 purposes of calculating program units pursuant to the Public  
23 School Finance Act, the separate facilities shall be treated  
24 together as one school.

25 M. A charter school shall be subject to the

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1 provisions of Section 22-2-8 NMSA 1978 and the Assessment and  
2 Accountability Act.

3 N. Within constitutional and statutory limits, a  
4 charter school may acquire and dispose of property; provided  
5 that, upon termination of the charter, all assets of the  
6 locally chartered charter school shall revert to the local  
7 school board and all assets of the state-chartered charter  
8 school shall revert to the state, except that, if all or any  
9 portion of a state-chartered charter school facility is  
10 financed with the proceeds of general obligation bonds issued  
11 by a local school board, the facility shall revert to the local  
12 school board.

13 O. The governing body of a charter school may  
14 accept or reject any charitable gift, grant, devise or bequest;  
15 provided that no such gift, grant, devise or bequest shall be  
16 accepted if subject to any condition contrary to law or to the  
17 terms of the charter. The particular gift, grant, devise or  
18 bequest shall be considered an asset of the charter school to  
19 which it is given.

20 P. The governing body may contract and sue and be  
21 sued. A local school board shall not be liable for any acts or  
22 omissions of the charter school.

23 Q. A charter school shall comply with all state and  
24 federal health and safety requirements applicable to public  
25 schools, including those health and safety codes relating to

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1 educational building occupancy.

2 R. A charter school is a public school that may  
3 contract with a school district or other party for provision of  
4 financial management, food services, transportation, facilities,  
5 education-related services or other services. The governing  
6 body shall not contract with a for-profit entity for the  
7 management of the charter school.

8 S. To enable state-chartered charter schools to  
9 submit required data to the department, an accountability data  
10 system shall be maintained by the department.

11 T. A charter school shall comply with all  
12 applicable state and federal laws and rules related to  
13 providing special education services. Charter school students  
14 with disabilities and their parents retain all rights under the  
15 federal Individuals with Disabilities Education Act and its  
16 implementing state and federal rules. Each charter school is  
17 responsible for identifying, evaluating and offering a free  
18 appropriate public education to all eligible children who are  
19 accepted for enrollment in that charter school. The state-  
20 chartered charter school, as a local educational agency, shall  
21 assume responsibility for determining students' needs for  
22 special education and related services. The division may  
23 promulgate rules to implement the requirements of this  
24 subsection."

25 SECTION 7. EFFECTIVE DATE.--The effective date of

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provisions of this act is July 1, 2015.



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52ND LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2015

INTRODUCED BY

DISCUSSION DRAFT

AN ACT

RELATING TO PUBLIC SCHOOLS; AMENDING THE PUBLIC SCHOOL LEASE PURCHASE ACT TO CLARIFY THE DEFINITION OF "GOVERNING BODY"; ESTABLISHING THE RELATIONSHIP BETWEEN A GOVERNING BODY AND A SCHOOL DISTRICT OR A LOCALLY CHARTERED OR STATE-CHARTERED CHARTER SCHOOL IN THE ACQUISITION OF PUBLIC SCHOOL FACILITIES PURSUANT TO LEASE PURCHASE ARRANGEMENTS; REPEALING A SECTION OF THE NMSA 1978.

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

SECTION 1. Section 22-26A-3 NMSA 1978 (being Laws 2007, Chapter 173, Section 3) is amended to read:

"22-26A-3. DEFINITIONS.--As used in the Public School Lease Purchase Act:

A. "financing agreement" or "lease purchase arrangement" means an agreement for the leasing of a building

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1 or other real property with an option to purchase for a price  
2 that is reduced according to the payments made, which periodic  
3 lease payments composed of principal and interest components  
4 are to be paid to the holder of the agreement and pursuant to  
5 which the owner of the building or other real property may  
6 retain title to or a security interest in the building or other  
7 real property and may agree to release the security interest or  
8 transfer title to the building or other real property to the  
9 school district for nominal consideration after payment of the  
10 final periodic lease payment; and

11 ~~B. except as limited by Section 19 of the Public~~  
12 ~~School Lease Purchase Act, "local school board" includes the~~  
13 ~~governing body of a locally chartered or state chartered~~  
14 ~~charter school; and~~

15 ~~C. except as limited by Section 19 of the Public~~  
16 ~~School Lease Purchase Act, "school district" includes a locally~~  
17 ~~chartered or state chartered charter school]~~

18 B. "governing body" means:

19 (1) the governing structure of a charter  
20 school, as set forth in its approved charter; or

21 (2) a local school board as the governing  
22 structure of a school district."

23 SECTION 2. Section 22-26A-4 NMSA 1978 (being Laws 2007,  
24 Chapter 173, Section 4, as amended) is amended to read:

25 "22-26A-4. NOTICE OF PROPOSED LEASE PURCHASE

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1 ARRANGEMENT--APPROVAL OF DEPARTMENT.--

2 A. When a [~~local school board~~] governing body  
3 determines, pursuant to Subsection B of Section 22-26A-6 NMSA  
4 1978, that a lease purchase arrangement is in the best interest  
5 of the school district or the charter school, the [~~board~~]  
6 governing body shall forward to the department a copy of the  
7 proposed lease purchase arrangement and the source of funds  
8 that the [~~local school board~~] governing body has identified to  
9 make payments due under the lease purchase arrangement.

10 B. A [~~local school board~~] governing body shall not  
11 enter into a lease purchase arrangement without the approval of  
12 the department."

13 SECTION 3. Section 22-26A-5 NMSA 1978 (being Laws 2007,  
14 Chapter 173, Section 5, as amended) is amended to read:

15 "22-26A-5. LEASE PURCHASE ARRANGEMENTS--TERMS.--Lease  
16 purchase arrangements:

17 A. may have payments payable annually or more  
18 frequently as determined by the [~~local school board~~] governing  
19 body;

20 B. may be subject to prepayment at the option of  
21 the [~~local school board~~] governing body at such time or times  
22 and upon such terms and conditions with or without the payment  
23 of such premium or premiums as determined by the [~~local school~~  
24 ~~board~~] governing body;

25 C. may have a final payment date not exceeding  
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1 thirty years after the date of execution;

2 D. may be acquired or executed at a public or  
3 negotiated sale;

4 E. may be entered into between the [~~local school~~  
5 ~~board~~] governing body and the owner of the building or other  
6 real property who may be a trustee or other person that issues  
7 or sells certificates of participation or other interests in  
8 the payments to be made under the lease purchase arrangement,  
9 the proceeds of which may be used to acquire the building or  
10 other real property;

11 F. shall specify the principal and interest  
12 component of each payment made under the lease purchase  
13 arrangement; provided that the net effective interest rate  
14 shall not exceed the maximum permitted by the Public Securities  
15 Act;

16 G. shall provide that, if the school district or  
17 charter school makes capital improvements to the building or  
18 other real property, there shall be no change in the lease  
19 payments or final payment without a written amendment approved  
20 by the department;

21 H. shall provide that, if state, [~~or~~] school  
22 district or charter school funds, above those required for  
23 lease payments, are used to construct or acquire improvements,  
24 the cost of the improvements shall constitute a lien on the  
25 real estate in favor of the school district or charter school

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1 and then, if the lease purchase arrangement is terminated prior  
2 to the final payment and the release of the security interest  
3 or the transfer of title at the option of the school district  
4 or charter school:

5 (1) the school district or charter school may  
6 foreclose on the real estate lien; or

7 (2) the current market value of the building  
8 or other real property at the time of termination, as  
9 determined by an independent appraisal certified by the  
10 taxation and revenue department, in excess of the outstanding  
11 principal due under the lease purchase arrangement shall be  
12 paid to the school district or charter school;

13 I. shall provide that there is no legal obligation  
14 for the school district or charter school to continue the lease  
15 purchase arrangement from year to year or to purchase the  
16 building or other real property;

17 J. shall provide that the lease purchase  
18 arrangement shall be terminated if sufficient money is not  
19 available to meet any current lease payment;

20 K. shall provide that, with the prior approval of  
21 the lessor, which shall not be unreasonably withheld, the lease  
22 purchase arrangement is assignable, without cost to the school  
23 district, ~~[if the lessee is a charter school]~~ and with all of  
24 the rights and benefits of its predecessor in interest being  
25 transferred to the assignee, to:

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1                   (1) a locally chartered or state-chartered  
2 charter school, if the lessee is a charter school; or ~~[to]~~  
3                   (2) the state or one of its institutions,  
4 instrumentalities or other political subdivisions ~~[The assignee~~  
5 ~~shall acquire all rights and benefits of its predecessor in~~  
6 ~~interest under the terms and conditions of the lease purchase~~  
7 ~~arrangement]~~; and

8                   L. shall provide that amendments to the lease  
9 purchase arrangement, except amendments that would improve the  
10 building or other real property without additional financial  
11 obligations to the school district or charter school, shall be  
12 approved by the department."

13                   SECTION 4. Section 22-26A-6 NMSA 1978 (being Laws 2007,  
14 Chapter 173, Section 6, as amended) is amended to read:

15                   "22-26A-6. AUTHORIZING LEASE PURCHASE ARRANGEMENTS--  
16 RESOLUTION.--

17                   A. If a ~~[local school board]~~ governing body  
18 proposes to acquire a building or other real property through a  
19 lease purchase arrangement, it shall comply with the  
20 requirements of this section and the provisions of the Open  
21 Meetings Act.

22                   B. At a regular meeting or at a special meeting  
23 called for the purpose of considering the acquisition of a  
24 building or other real property through a lease purchase  
25 arrangement, a ~~[local school board]~~ governing body shall:

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1 (1) make a determination of the necessity for  
2 acquiring the building or other real property through a lease  
3 purchase arrangement;

4 (2) determine the estimated cost of the  
5 buildings or other real property needed;

6 (3) review a summary of the terms of the  
7 proposed lease purchase arrangement;

8 (4) identify the source of funds for the lease  
9 purchase payments;

10 (5) if obtaining all or part of the funds  
11 needed requires or anticipates the imposition of a property  
12 tax, determine the estimated rate of the tax and what, if any,  
13 the percentage increase in property taxes will be for real  
14 property owners in the school district; and

15 (6) if the [~~board~~] governing body determines  
16 that the lease purchase arrangement is in the best interest of  
17 the school district or charter school, forward a copy of the  
18 arrangement to the department pursuant to Section 22-26A-4 NMSA  
19 1978.

20 C. After receiving department approval of the lease  
21 purchase arrangement, the [~~local school board~~] governing body  
22 may adopt a final resolution approving the lease purchase of  
23 the building or other real property.

24 D. If [~~the~~] a local school board finds that  
25 obtaining all or part of the funds needed for [~~the~~] a lease

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1 purchase arrangement requires the imposition of a property tax,  
2 the board may ~~[also]~~ adopt a resolution to be presented to the  
3 voters pursuant to Section 22-26A-8 NMSA 1978. ~~[provided that]~~

4 E. If the governing body of a charter school finds  
5 that obtaining all or part of the necessary funds requires the  
6 imposition of a property tax, the local school board of the  
7 school district in which the charter school is located may  
8 adopt a resolution to be presented to the voters, pursuant to  
9 Section 22-26A-8 NMSA 1978; provided that the governing body  
10 has notified the local school board that the charter school has  
11 been approved to enter into a lease purchase arrangement and  
12 has identified revenue from the proposed tax as a necessary  
13 source of funds. The local school board:

14 (1) ~~[if a charter school that is located~~  
15 ~~within the school district has notified the local school board~~  
16 ~~that the charter school has been approved to enter into a lease~~  
17 ~~purchase arrangement and has identified revenue from the~~  
18 ~~proposed tax as a source of needed funds, the local school~~  
19 ~~board:~~

20 (a) shall include the tax revenue needed  
21 by the charter school in the resolution if the ~~[charter school~~  
22 ~~is a locally chartered or state-chartered charter school whose]~~  
23 school's charter has been renewed at least once; and

24 ~~[(b)]~~ (2) may ~~[in its discretion]~~ include the  
25 tax revenue needed by the charter school in the resolution if

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1 the charter school is a locally chartered charter school prior  
2 to its first renewal term. [~~and~~  
3 ~~(2) if the tax revenue for a charter school is~~  
4 ~~included in the resolution]~~

5 F. If a local school board adopts a resolution that  
6 includes tax revenue for a charter school, and, if the tax is  
7 approved in an election pursuant to Sections 22-26A-8 through  
8 22-26A-12 NMSA 1978, the local school board shall distribute an  
9 amount of the tax revenue, as established in its resolution, to  
10 the charter school to be used in the lease purchase  
11 arrangement.

12 [~~F.~~] G. The local school board shall not adopt a  
13 resolution for or approve a lease purchase arrangement for a  
14 term that exceeds thirty years."

15 SECTION 5. Section 22-26A-7 NMSA 1978 (being Laws 2007,  
16 Chapter 173, Section 7, as amended) is amended to read:

17 "22-26A-7. PAYMENTS UNDER LEASE PURCHASE ARRANGEMENTS.--A  
18 school district or charter school may apply any legally  
19 available funds to acquire or improve buildings or other real  
20 property subject to a lease purchase arrangement or to the  
21 payments due under a lease purchase arrangement, including any  
22 combination of:

- 23 A. money from the school district's general fund;
- 24 B. investment income actually received from
- 25 investments;

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1 C. proceeds from taxes imposed pursuant to the  
2 Public School Capital Improvements Act or the Public School  
3 Buildings Act;

4 D. loans, grants or lease payments received from  
5 the public school capital outlay council pursuant to the Public  
6 School Capital Outlay Act;

7 E. state distributions to the school district  
8 pursuant to the Public School Capital Improvements Act;

9 F. fees or assessments received by the school  
10 district;

11 G. proceeds from the sale of real property and  
12 rental income received from the rental or leasing of school  
13 district property;

14 H. grants from the federal government as assistance  
15 to those areas affected by federal activity authorized in  
16 accordance with Title 20 of the United States Code, commonly  
17 known as "PL 874 funds" or "impact aid";

18 I. revenues from the tax authorized pursuant to  
19 Sections 22-26A-8 through 22-26A-12 NMSA 1978, if proposed by  
20 the local school board and approved by the voters; and

21 J. legislative appropriations."

22 SECTION 6. Section 22-26A-13 NMSA 1978 (being Laws 2007,  
23 Chapter 173, Section 13) is amended to read:

24 "22-26A-13. PUBLICATION OF NOTICE--VALIDATION.--

25 A. After adoption of a resolution approving a lease

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1 purchase arrangement, the ~~[local school board]~~ governing body  
2 shall publish notice of the adoption of the resolution once in  
3 a newspaper of general circulation in the school district in  
4 which the governing body's school is located.

5 B. After the passage of thirty days from the  
6 publication required by Subsection A of this section, any  
7 action attacking the validity of the proceedings taken by the  
8 ~~[local school board]~~ governing body preliminary to and in the  
9 authorization of and entering into the lease purchase  
10 arrangement described in the notice is perpetually barred."

11 SECTION 7. Section 22-26A-14 NMSA 1978 (being Laws 2007,  
12 Chapter 173, Section 14) is amended to read:

13 "22-26A-14. REFUNDING OR REFINANCING LEASE PURCHASE  
14 ARRANGEMENTS.--School districts and charter schools may enter  
15 into lease purchase arrangements for the purpose of refunding  
16 or refinancing any lease purchase arrangements then  
17 outstanding, including the payment of any prepayment premiums  
18 thereon and any interest accrued or to accrue to the date of  
19 prepayment maturity of the outstanding lease purchase  
20 arrangements. Until the proceeds of the lease purchase  
21 arrangements issued for the purpose of refunding or refinancing  
22 outstanding lease purchase arrangements are applied to the  
23 prepayment or retirement of the outstanding lease purchase  
24 arrangements, the proceeds may be placed in escrow and invested  
25 and reinvested. The interest, income and profits, if any,

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1 earned or realized on any such investment may, in the  
2 discretion of the [~~local school board~~] governing body, also be  
3 applied to the payment of the outstanding lease purchase  
4 arrangements to be refunded or refinanced by prepayment or  
5 retirement, as the case may be. After the terms of the escrow  
6 have been fully satisfied and carried out, any balance of such  
7 proceeds and interest, if any, earned or realized on the  
8 investments thereof may be returned to the [~~local school board~~]  
9 governing body to be used for payment of the refunding or  
10 refinancing lease purchase arrangement. If the proceeds from a  
11 tax imposed pursuant to Sections [~~8 through 12 of the Public~~  
12 ~~School Lease Purchase Act~~] 22-26A-8 through 22-26A-12 NMSA 1978  
13 were used as a source of payments for the refunded lease  
14 purchase arrangement, the proceeds may continue to be used for  
15 the refunding or refinancing lease purchase arrangements  
16 without the requirement of an additional election on the  
17 issue."

18 SECTION 8. Section 22-26A-15 NMSA 1978 (being Laws 2007,  
19 Chapter 173, Section 15, as amended) is amended to read:

20 "22-26A-15. AGREEMENT OF THE STATE.--The state does  
21 hereby pledge to and agree with the holders of any lease  
22 purchase arrangement, certificates of participation or other  
23 partial interest in a lease purchase arrangement entered into  
24 under the Public School Lease Purchase Act that the state will  
25 not limit or alter the rights vested in school districts or

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1 charter schools to fulfill the terms of any lease purchase  
2 arrangement or related sublease arrangement or in any way  
3 impair the rights and remedies of the holders of lease purchase  
4 arrangements, certificates of participation or other partial  
5 interests in lease purchase arrangements until the payments due  
6 thereon, and all costs and expenses in connection with any  
7 action or proceedings by or on behalf of those holders, are  
8 fully met and discharged. School districts and charter schools  
9 are authorized to include this pledge and agreement of the  
10 state in any lease purchase arrangement or related sublease  
11 arrangement."

12 SECTION 9. Section 22-26A-17 NMSA 1978 (being Laws 2007,  
13 Chapter 173, Section 17, as amended) is amended to read:

14 "22-26A-17. TAX EXEMPTION.--The state covenants with the  
15 original holder and all subsequent holders and transferees of  
16 lease purchase arrangements entered into by [~~the local school~~  
17 ~~boards~~] governing bodies, in consideration of the acceptance of  
18 and payment for the lease purchase arrangements entered into  
19 pursuant to the Public School Lease Purchase Act, that lease  
20 purchase arrangements, certificates of participation and other  
21 partial interests in lease purchase arrangements and the  
22 interest income from the lease purchase arrangements,  
23 certificates of participation and other partial interests shall  
24 at all times be free from taxation by the state, except for  
25 estate or gift taxes and taxes on transfers."

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**52ND LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2015**

INTRODUCED BY

DISCUSSION DRAFT

AN ACT

RELATING TO PUBLIC EDUCATION; ENACTING SECTIONS OF THE PUBLIC SCHOOL CODE RELATING TO GOVERNANCE OF CHARTER SCHOOLS.

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

SECTION 1. A new section of the Charter Schools Act is enacted to read:

"[NEW MATERIAL] CHARTER SCHOOL GOVERNING BODIES-- MEMBERS.--A governing body shall be composed of at least five qualified electors residing in the state selected by a majority of the members of the charter school's founding governing body."

SECTION 2. A new section of the Charter Schools Act is enacted to read:

"[NEW MATERIAL] CHARTER SCHOOL GOVERNING BODIES--POWERS AND DUTIES.--A governing body:

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- 1           A. subject to rules of the department, shall
- 2 develop educational policies for the charter school;
- 3           B. shall employ a head administrator of the charter
- 4 school and fix the head administrator's salary;
- 5           C. shall review and approve the charter school's
- 6 annual budget;
- 7           D. may acquire, lease and dispose of property;
- 8           E. may sue and be sued;
- 9           F. shall provide for the repair of and maintain all
- 10 property belonging to the charter school;
- 11           G. except for expenditures for salaries, shall
- 12 contract for the expenditure of money according to the
- 13 provisions of the Procurement Code;
- 14           H. shall adopt rules pertaining to the
- 15 administration of all powers or duties of the governing body;
- 16           I. shall become qualified as a board of finance for
- 17 the charter school;
- 18           J. may accept or reject any charitable gift, grant,
- 19 devise or bequest. The particular gift, grant, devise or
- 20 bequest accepted shall be considered an asset of the charter
- 21 school;
- 22           K. shall publish on a publicly available web site
- 23 the policies of the charter school and names and contact
- 24 information for the members of the charter school's governing
- 25 body; and

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1 L. may offer and, upon compliance with the  
2 conditions of such offer, pay rewards for information leading  
3 to the arrest and conviction or other appropriate disciplinary  
4 disposition by the courts or juvenile authorities of offenders  
5 in case of theft, defacement or destruction of charter school  
6 property. All such awards shall be paid from school district  
7 funds in accordance with rules promulgated by the department."

8 SECTION 3. A new section of the Charter Schools Act is  
9 enacted to read:

10 "[NEW MATERIAL] CHARTER SCHOOL DISCIPLINE POLICIES--  
11 STUDENT SELF-ADMINISTRATION OF CERTAIN MEDICATIONS--WEAPON-FREE  
12 SCHOOLS.--

13 A. Governing bodies shall establish student  
14 discipline policies and shall file them with the department.  
15 The governing body shall involve parents, school personnel and  
16 students in the development of these policies.

17 B. Each charter school discipline policy shall  
18 establish rules of conduct governing areas of student and  
19 school activity; detail specific prohibited acts and  
20 activities; and enumerate possible disciplinary sanctions that  
21 may include in-school suspension, school service, suspension or  
22 expulsion. Corporal punishment shall be prohibited.

23 C. No school employee who in good faith reports any  
24 known or suspected violation of the school discipline policy or  
25 in good faith attempts to enforce the policy shall be held

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1 liable for any civil damages as a result of such report or of  
2 the employee's efforts to enforce any part of the policy.

3 D. All charter school discipline policies shall  
4 allow students to carry and self-administer asthma medication  
5 and emergency anaphylaxis medication that has been legally  
6 prescribed to the student by a licensed health care provider  
7 under the following conditions:

8 (1) the health care provider has instructed  
9 the student in the correct and responsible use of the  
10 medication;

11 (2) the student has demonstrated to the health  
12 care provider and the school nurse or other school official the  
13 skill level necessary to use the medication and any device that  
14 is necessary to administer the medication as prescribed;

15 (3) the health care provider formulates a  
16 written treatment plan for managing asthma or anaphylaxis  
17 episodes of the student and for medication use by the student  
18 during school hours or school-sponsored activities, including  
19 transit to or from school or school-sponsored activities; and

20 (4) the student's parent has completed and  
21 submitted to the charter school any written documentation  
22 required by the charter school's governing body, including the  
23 treatment plan required in Paragraph (3) of this subsection and  
24 other documents related to liability.

25 E. The parent of a charter school student who is

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1 allowed to carry and self-administer asthma medication and  
2 emergency anaphylaxis medication may provide the charter school  
3 with backup medication, which shall be kept in a location to  
4 which the student has immediate access in the event of an  
5 asthma or anaphylaxis emergency.

6 F. Authorized charter school personnel who in good  
7 faith provide a person with backup medication as provided in  
8 this section shall not be held liable for civil damages as a  
9 result of providing the medication.

10 G. Each governing body shall:

11 (1) adopt a policy providing for the expulsion  
12 from school, for a period of not less than one year, of any  
13 student who is determined to have knowingly brought a weapon to  
14 a charter school under the jurisdiction of the governing body.  
15 The governing body or head administrator of the charter school  
16 may modify the expulsion requirement on a case-by-case basis;  
17 and

18 (2) provide for placement in an alternative  
19 educational setting, for not more than forty-five days, of any  
20 student with a disability who is determined to have knowingly  
21 brought a weapon to a school under the jurisdiction of the  
22 governing body. If a parent or guardian requests a due process  
23 hearing, the student shall remain in the alternative education  
24 setting during the pendency of any proceeding, unless the  
25 parent or guardian and the governing body or head administrator

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1 of the charter school agree otherwise.

2 H. For purposes of this section, "weapon" means:

3 (1) any firearm that is designed to, may  
4 readily be converted to or will expel a projectile by the  
5 action of an explosion; and

6 (2) any destructive device that is an  
7 explosive or incendiary device, bomb, grenade, rocket having  
8 propellant charge of more than four ounces, missile having an  
9 explosive or incendiary charge of more than one-fourth ounce,  
10 mine or similar device."

11 SECTION 4. A new section of the Charter Schools Act is  
12 enacted to read:

13 "[NEW MATERIAL] NEPOTISM PROHIBITED.--A head administrator  
14 of a charter school shall not initially employ or approve the  
15 initial employment in any capacity of a person who is the  
16 spouse, father, father-in-law, mother, mother-in-law, son, son-  
17 in-law, daughter, daughter-in-law, brother, brother-in-law,  
18 sister or sister-in-law of a member of the charter school's  
19 governing body or the head administrator."

20 SECTION 5. A new section of the Charter Schools Act is  
21 enacted to read:

22 "[NEW MATERIAL] OFFICERS--SURETY BONDS.--

23 A. From among its members, a governing body shall  
24 elect a president, vice president and secretary.

25 B. Before assuming the duties of office, the

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1 president and secretary of a governing body and the head  
2 administrator of a charter school shall each obtain an official  
3 bond payable to the charter school and conditioned upon the  
4 faithful performance of their respective duties during their  
5 terms of office. The bonds shall be executed by a corporate  
6 surety company authorized to do business in this state. The  
7 amount of each bond required shall be fixed by the governing  
8 body but shall not be less than five thousand dollars (\$5,000).

9 C. A governing body may elect to obtain a schedule  
10 or blanket corporate surety bond covering all of the charter  
11 school's governing body members, administrators and employees  
12 for any period not exceeding four years.

13 D. The cost of bonds obtained pursuant to this  
14 section shall be paid from the operation fund of the charter  
15 school. The bonds shall be approved by the secretary of public  
16 education and filed with the secretary of finance and  
17 administration."

18 SECTION 6. A new section of the Charter Schools Act is  
19 enacted to read:

20 "[NEW MATERIAL] CHARTER SCHOOL GOVERNING BODY VACANCIES.--

21 A. A vacancy occurring in the membership of a  
22 governing body shall be filled at an open meeting at which a  
23 quorum of the membership is present, by a majority vote of the  
24 remaining members appointing a qualified person to fill the  
25 vacancy.

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1           B. A qualified person appointed to fill a vacancy  
2 occurring in the membership of a governing body shall hold that  
3 office until the member chooses to vacate the office or the  
4 member is replaced by a majority vote of the other governing  
5 body members.

6           C. If a qualified person is not appointed to fill a  
7 vacancy within forty-five days from the date that the vacancy  
8 occurred, the secretary shall appoint a qualified person to  
9 fill the vacancy.

10           D. In the event that vacancies occur in a majority  
11 of the full membership of a governing body, the secretary shall  
12 appoint qualified persons to fill the vacancies until a  
13 majority has been appointed; at which time, the majority shall  
14 appoint additional members until the membership of the board is  
15 complete."

16           SECTION 7. A new section of the Charter Schools Act is  
17 enacted to read:

18           "[NEW MATERIAL] CHARTER SCHOOL HEAD ADMINISTRATOR--POWERS  
19 AND DUTIES.--

20           A. The head administrator is the chief executive  
21 officer of a charter school.

22           B. The head administrator shall:

23                   (1) carry out the educational policies and  
24 rules of the department and the charter school's governing  
25 body;

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- (2) administer and supervise the charter school;
- (3) employ, fix the salaries of, assign, terminate or discharge all employees of the charter school;
- (4) prepare the charter school budget based upon the governing body's recommendations and review; and
- (5) perform other duties as required by law, the department and the charter school's governing body."

SECTION 8. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2015.



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BILL

52ND LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2015

INTRODUCED BY

DISCUSSION DRAFT

AN ACT

RELATING TO PUBLIC EDUCATION; INCLUDING LOCALLY CHARTERED AND  
STATE-CHARTERED CHARTER SCHOOLS IN THE DEFINITION OF "AGENCY"  
FOR PURPOSES OF THE AUDIT ACT.

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

SECTION 1. Section 12-6-2 NMSA 1978 (being Laws 1969,  
Chapter 68, Section 2, as amended) is amended to read:

"12-6-2. DEFINITIONS.--As used in the Audit Act:

A. "agency" means:

(1) any department, institution, board,  
bureau, court, commission, district or committee of the  
government of the state, including district courts, magistrate  
or metropolitan courts, district attorneys and charitable  
institutions for which appropriations are made by the  
legislature;

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(2) any political subdivision of the state, created under either general or special act, that receives or expends public money from whatever source derived, including counties, county institutions, boards, bureaus or commissions; municipalities; drainage, conservancy, irrigation or other special districts; ~~[and]~~ school districts; and locally chartered or state-chartered charter schools;

(3) any entity or instrumentality of the state specifically provided for by law, including the New Mexico finance authority, the New Mexico mortgage finance authority and the New Mexico lottery authority; and

(4) every office or officer of any entity listed in Paragraphs (1) through (3) of this subsection; and

B. "local public body" means a mutual domestic water consumers association, a land grant, an incorporated municipality or a special district."

**SECTION 2. EFFECTIVE DATE.**--The effective date of the provisions of this act is July 1, 2015.