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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 [⌘] 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 [a] 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 [~~a~~] 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 responsibility for the
10 operation of a school that includes controlling authority and
11 direction over the hiring, termination and day-to-day
12 operations of the licensed and unlicensed employees and
13 contractors of the school;

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

18 K. "nondiscretionary waiver" means a waiver of
19 requirements or rules and the provisions of the Public School
20 Code that the department shall grant pursuant to Section
21 22-8B-5 NMSA 1978 and for which a charter school shall not
22 require separate approval by the department;

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

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1 from a desired direction;

2 M. "performance target" means the specific rating
3 to which the data from a school's performance indicators shall
4 be compared to determine whether the school exceeds, meets,
5 does not meet or falls far below that rating;

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

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

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

20 **SECTION 9.** 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.--

25 A. A local school board has the authority to

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1 approve the establishment of a locally chartered charter school
2 within ~~[the]~~ that local school board's district ~~[in which it is~~
3 ~~located]~~.

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

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

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

25 E. An application shall include a detailed

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1 description of the charter school's projected facility needs,
2 including projected requests for capital outlay assistance that
3 have been approved by the director of the public school
4 facilities authority or the director's designee. The director
5 shall respond to a written request for review from a charter
6 applicant within forty-five days of the request.

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

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

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

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1 I. The chartering authority shall receive and
2 review all applications for charter schools submitted to it.
3 The chartering authority shall not charge application fees.

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

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

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1 by that date, the charter application shall be automatically
2 reviewed by the secretary in accordance with the provisions of
3 Section 22-8B-7 NMSA 1978. The charter school applicant and
4 the chartering authority may, however, jointly waive the
5 deadlines set forth in this section.

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

9 (1) the application is incomplete or
10 inadequate;

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

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

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

24 (5) the application is otherwise contrary to
25 the best interests of the charter school's projected students,

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1 the local community or the school district in whose geographic
2 boundaries the charter school applies to operate.

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

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

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

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

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

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

5 B. The charter contract shall include:

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

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

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

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

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

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

25 (7) the criteria, processes and procedures

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

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

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

10 (10) the term of the contract;

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

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

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

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

25 (c) a procedure for selection of a

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1 neutral third party to assist in resolving the dispute;

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

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

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

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

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

25 (16) an agreement that the charter school will

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1 participate in the public school insurance authority;

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

7 (18) any other information reasonably required
8 by either party to the contract.

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

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

17 "22-8B-9.1. PERFORMANCE FRAMEWORK.--

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

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- 1 (1) student academic performance;
- 2 (2) student academic growth;
- 3 (3) achievement gaps in both proficiency and
- 4 growth between student subgroups;
- 5 (4) attendance;
- 6 (5) recurrent enrollment from year to year;
- 7 (6) if the charter school is a high school,
- 8 post-secondary readiness;
- 9 (7) if the charter school is a high school,
- 10 graduation rate;
- 11 (8) financial performance and sustainability;
- 12 and
- 13 (9) governing body performance, including
- 14 compliance with all applicable laws, rules and terms of the
- 15 charter contract.

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

22 C. The performance framework shall allow for the
23 inclusion of additional rigorous, valid and reliable indicators
24 proposed by a charter school to augment external evaluations of
25 its performance, provided that the chartering authority shall

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1 approve the quality and rigor of such proposed indicators and
2 the indicators are consistent with the purposes of the Charter
3 Schools Act.

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

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

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

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

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

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1 B. During the planning year, the charter school
2 shall file a minimum of three status reports with the
3 chartering authority and the department for the purpose of
4 demonstrating that the charter school's implementation progress
5 is consistent with the conditions, standards and procedures of
6 its approved charter. The report content, format and schedule
7 for submission shall be agreed to by the chartering authority
8 and the charter school and become part of the charter contract.

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

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

25 E. As part of its performance review of a charter

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1 school, a chartering authority shall visit a charter school
2 under its authority at least once annually to provide technical
3 assistance to the charter school and to determine the status of
4 the charter school and the progress of the charter school
5 toward the performance framework goals in its charter contract.

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

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

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1 the performance framework set forth in the charter contract.

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

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

19 J. A charter school renewal application submitted
20 to the chartering authority shall contain:

21 (1) a report on the progress of meeting the
22 academic performance, financial compliance and governance
23 responsibilities of the charter school, including achieving the
24 goals, objectives, student performance outcomes, state minimum
25 educational standards and other terms of the charter contract,

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1 including the accountability requirements set forth in the
2 Assessment and Accountability Act;

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

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

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

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

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

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

24 (1) committed a material violation of any of
25 the conditions, standards or procedures set forth in the

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1 charter contract;

2 (2) failed to meet or make substantial
3 progress toward achievement of the department's [~~minimum~~
4 ~~educational~~] standards of excellence or student performance
5 standards identified in the charter contract;

6 (3) failed to meet generally accepted
7 standards of fiscal management; or

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

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

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

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

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

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

24 N. A decision to suspend, revoke or not to renew a
25 charter may be appealed by the governing body pursuant to

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1 Section 22-8B-7 NMSA 1978."

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

4 "22-8B-13. CHARTER SCHOOL FINANCING.--

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

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

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

22 D. Charter schools may apply for all federal funds
23 for which they are eligible.

24 E. All services centrally or otherwise provided by
25 a local school district, including custodial, maintenance and

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1 media services, libraries and warehousing, shall be subject to
2 negotiation between the charter school and the school district.
3 Any services for which a charter school contracts with a school
4 district shall be provided by the district at a reasonable
5 cost."

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

8 "22-15D-5. PROGRAM PLAN AND EVALUATION.--

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

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

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

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

24 "22-23-2. DEFINITIONS.--As used in the Bilingual
25 Multicultural Education Act:

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1 A. "bilingual multicultural education program"
2 means a program using two languages, including English and the
3 home or heritage language, as a medium of instruction in the
4 teaching and learning process;

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

10 C. "department" means the public education
11 department;

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

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

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

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

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1 ~~[H. "school board" means a local school board or~~
2 ~~governing body of a state-chartered charter school]~~ and

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

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

8 "22-23-5. BILINGUAL MULTICULTURAL EDUCATION PROGRAM
9 PLAN--EVALUATION.--

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

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

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

25 D. Each district or charter school shall maintain

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1 academic achievement and language proficiency data and update
2 the data annually to evaluate bilingual multicultural education
3 program effectiveness and use of funds. The department shall
4 annually compile and report [~~this~~] these data to the
5 appropriate interim legislative committee.

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

11 (1) research-based bilingual multicultural
12 education programs and implications for instruction;

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

16 (3) classroom assessments that support
17 academic and language development.

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

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

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