

STATE OF NEW MEXICO
LEGISLATIVE EDUCATION STUDY COMMITTEE

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May 25, 2011

MEMORANDUM

TO: Legislative Education Study Committee

FR: Pamela Herman, J.D.

RE: **STAFF BRIEF: A-B-C-D-F SCHOOLS RATING SYSTEM (SB 427a, LAWS OF 2011, CHAPTER 10)**

In 2011, the Legislature passed and the Governor signed SB 427a, *A-B-C-D-F Schools Rating System* (Laws of 2011, Chapter 10, attached). Beginning in school year 2011-2012, the legislation creates a new public school accountability system, to operate in addition to, and separate from, the existing Adequate Yearly Progress system created in state and federal law.

Among its provisions, the legislation creates the *A-B-C-D-F Schools Rating Act*, which requires that:

- all public schools be graded annually on an A-F scale that will be established pursuant to Public Education Department (PED) rule after input from the Secretary's Superintendents Council;
- the rating scale for elementary and middle schools include, at a minimum, a combination of the following factors:
 - student proficiency, including achievement on the New Mexico standards-based assessments;
 - student growth (as defined in the act) in reading and mathematics; and
 - growth of the lowest 25th percentile of students in the public school in reading and mathematics; and

- the scale for high schools include, at a minimum, a combination of the following factors:
 - student proficiency;
 - student growth in reading and mathematics;
 - growth of the lowest 25th percentile of students in the school in reading and mathematics; and
 - additional academic indicators such as:
 - ✓ high school graduation rates;
 - ✓ growth in high school graduation rates;
 - ✓ Advanced Placement and International Baccalaureate courses;
 - ✓ dual enrollment courses; and
 - ✓ SAT and ACT scores;
- parents of a student in a public school rated F for two of the last four years have the right to school options, which include, in addition to any rights provided in federal law, the right either:
 - to transfer the student to any public school in the state not rated F; or
 - to have the student continue schooling by distance learning through the statewide cyber academy or a local cyber academy, at the cost of the school district or charter school in which the student is enrolled; and
- PED ensure that a local school board or charter school governing body is prioritizing resources of a public school rated D or F toward proven programs and methods linked to improving student achievement, until the school earns a grade of C or better for two consecutive years.

Other provisions amend the *Public School Finance Act* to:

- require PED, in the budget approval process, to ensure resources are prioritized as noted above; and
- create an explicit exception in law, in the case of a public school rated D or F *for two consecutive years*, to the stated responsibility of local school boards and charter school governing boards to determine budget priorities based on local needs.

Issues:

- The language in the legislation noted above that authorizes PED involvement in a public school’s budget prioritization process may contain internal contradictions as to how soon PED can intervene:
 - in two sub-sections, the legislation refers to schools rated D or F without a time limitation; however,

- in a third subsection, the legislation requires that the public school be rated D or F for two consecutive years.
- Also, unlike the *Assessment and Accountability Act*, which contains a section that requires PED to adopt formats for reporting Adequate Yearly Progress and that specifies in some detail what must be reported, the *A-B-C-D-F School Rating Act* does not include any requirement for public reporting of ratings, nor does it authorize PED to establish a reporting system in agency rule.



The Legislature
of the
State of New Mexico

50th Legislature, 1st Session

LAWS 2011

CHAPTER 10

SENATE BILL 427, as amended

Introduced by

SENATOR VERNON D. ASBILL
SENATOR SUE WILSON BEFFORT
SENATOR STEPHEN H. FISCHMANN
SENATOR MARY JANE M. GARCIA
SENATOR TIMOTHY M. KELLER
SENATOR GAY G. KERNAN
SENATOR LYNDA M. LOVEJOY
SENATOR SANDER RUE
SENATOR BERNADETTE M. SANCHEZ



CHAPTER 10

AN ACT

RELATING TO PUBLIC SCHOOLS; ENACTING THE A-B-C-D-F SCHOOLS RATING ACT; PROVIDING FOR A RATING SYSTEM TO GRADE PUBLIC SCHOOLS IN A WAY EASILY UNDERSTANDABLE BY PARENTS, SCHOOL PERSONNEL AND THE COMMUNITY; ESTABLISHING CRITERIA FOR RATING PUBLIC SCHOOLS; PROVIDING SCHOOL OPTIONS; PROVIDING FUNDING FOR FAILING SCHOOLS TO IMPLEMENT PROGRAMS LINKED TO IMPROVED STUDENT ACHIEVEMENT; RECONCILING MULTIPLE AMENDMENTS TO THE SAME SECTION OF LAW IN LAWS 2007.

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

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

"SHORT TITLE.--Sections 1 through 4 of this act may be cited as the "A-B-C-D-F Schools Rating Act"."

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

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

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

(1) moving from one performance level to a higher performance level;

1 (2) maintaining a proficient or advanced
2 proficient performance level as provided by department rule;
3 or

4 (3) remaining in beginning step or nearing
5 proficient performance level but improving a number of scale
6 score points as specified by department rule; and

7 B. "school options" means a right to transfer to
8 any public school not rated an F in the state or have
9 children continue their schooling through distance learning
10 offered through the statewide or a local cyber academy."

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

13 "RATING CERTAIN SCHOOLS.--Commencing with the 2011-2012
14 school year, public schools shall be subject to being rated
15 annually by the department as provided in the A-B-C-D-F
16 Schools Rating Act."

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

19 "ANNUAL RATINGS--LETTER GRADES--RATINGS BASED ON
20 STANDARDS-BASED TESTS--RIGHT TO SCHOOL CHOICE--DISTANCE
21 LEARNING--RESPONSIBILITY FOR COST--USE OF FUNDS--ADDITIONAL
22 REMEDY.--

23 A. All public schools shall be graded annually by
24 the department.

25 B. The department shall assign a letter grade of

1 A, B, C, D or F to each public school pursuant to criteria
2 established by department rules, after input from the
3 secretary's superintendents' council, that include as a
4 minimum a combination of the following factors in a public
5 school's grade:

6 (1) for elementary and middle schools:

7 (a) student proficiency, including
8 achievement on the New Mexico standards-based assessments;

9 (b) student growth in reading and
10 mathematics; and

11 (c) growth of the lowest twenty-fifth
12 percentile of students in the public school in reading and
13 mathematics; and

14 (2) for high schools:

15 (a) student proficiency, including
16 achievement on the New Mexico standards-based assessments;

17 (b) student growth in reading and
18 mathematics;

19 (c) growth of the lowest twenty-fifth
20 percentile of students in the high school in reading and
21 mathematics; and

22 (d) additional academic indicators such
23 as high school graduation rates, growth in high school
24 graduation rates, advanced placement and international
25 baccalaureate courses, dual enrollment courses and SAT and

1 ACT scores.

2 C. The New Mexico standards-based assessments used
3 for rating a school are those administered annually to
4 students in grades three, four, five, six, seven, eight, nine
5 and eleven pursuant to Section 22-2C-4 NMSA 1978.

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

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

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

1 Act of 2001."

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

4 "22-8-11. BUDGETS--APPROVAL OF OPERATING BUDGET.--

5 A. The department shall:

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

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

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

22 B. No school district or state-chartered charter
23 school or officer or employee of a school district or
24 state-chartered charter school shall make any expenditure or
25 incur any obligation for the expenditure of public funds

1 unless that expenditure or obligation is made in accordance
2 with an operating budget approved by the department. This
3 prohibition does not prohibit the transfer of funds pursuant
4 to the department's rules and procedures.

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

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

13 "22-8-18. PROGRAM COST CALCULATION--LOCAL
14 RESPONSIBILITY.--

15 A. The total program units for the purpose of
16 computing the program cost shall be calculated by multiplying
17 the sum of the program units itemized as Paragraphs (1)
18 through (6) in this subsection by the instructional staff
19 training and experience index and adding the program units
20 itemized as Paragraphs (7) through (13) in this subsection.

21 The itemized program units are as follows:

22 (1) early childhood education;

23 (2) basic education;

24 (3) special education, adjusted by

25 subtracting the units derived from membership in class D

1 special education programs in private, nonsectarian,
2 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
14 teaching standards certification;

15 (12) home school student activities; and

16 (13) charter school student activities.

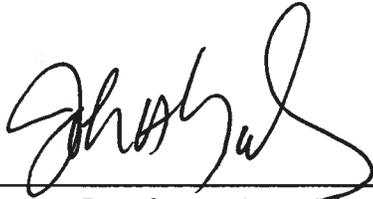
17 B. The total program cost calculated as prescribed
18 in Subsection A of this section includes the cost of early
19 childhood, special, bilingual multicultural, fine arts and
20 vocational education and other remedial or enrichment
21 programs. It is the responsibility of the local school board
22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

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

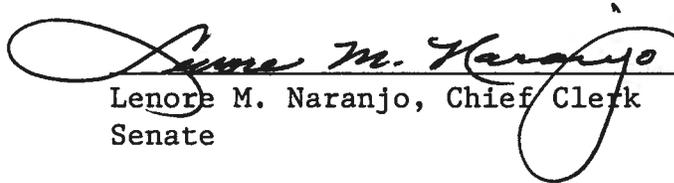
10 SECTION 7. SEVERABILITY.--If any part or application
11 of this act is held invalid, the remainder or its application
12 to other situations or persons shall not be affected. _____

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Page 8

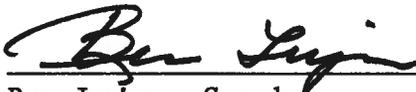
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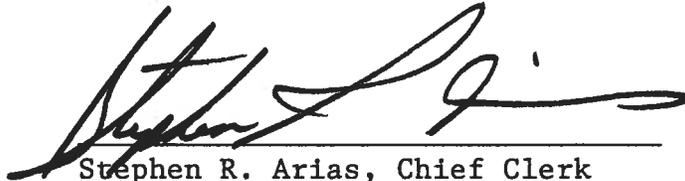
John A. Sanchez, President
Senate



Lenore M. Naranjo, Chief Clerk
Senate

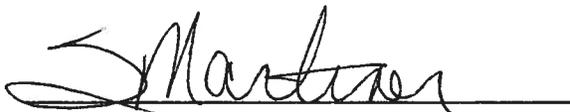


Ben Lujan, Speaker
House of Representatives



Stephen R. Arias, Chief Clerk
House of Representatives

Approved by me this 29th day of March, 2011



Governor Susana Martinez
State of New Mexico

RECEIVED
MARCH 29 2011
GOVERNOR'S OFFICE

RECEIVED
MARCH 29 2011
SENATE



RECEIVED
2011 MAR 29 PM 1:00
OFFICE OF
SECRETARY OF STATE

State of New Mexico

Susana Martinez
Governor

March 29, 2011

SENATE EXECUTIVE MESSAGE NO. 21

The Honorable Timothy Z. Jennings, President Pro Tempore
And Members of the New Mexico State Senate
State Capitol Building
Santa Fe, New Mexico 87501

Dear President Pro Tempore Jennings and Members of the Senate:

I have this day SIGNED:

SENATE BILL 427, as amended

enacted by the Fiftieth Legislature, First Session, 2011.

Respectfully yours,

Susana Martinez
Governor

RECEIVED FROM THE OFFICE OF THE GOVERNOR

Time: 1:00 a.m. (p.m.)
Date: 3/29/ 2011 By Larry Dominguez
for Secretary of State

Time: _____ a.m. p.m.
Date: _____ 2011 By _____
Chief Clerk of the Senate