

SENATE FLOOR SUBSTITUTE FOR
SENATE EDUCATION COMMITTEE SUBSTITUTE FOR
SENATE BILLS 224 & 696

46TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2003

AN ACT

RELATING TO PUBLIC EDUCATION; PROVIDING FOR A RENEWAL TERM OF
FIFTEEN YEARS FOR CHARTER SCHOOLS; CREATING A LEASE ASSISTANCE
FUND; AUTHORIZING SHORT-TERM SEVERANCE TAX BONDS TO ASSIST
CHARTER SCHOOLS AND OTHER PUBLIC SCHOOLS WITH LEASED
FACILITIES; PROVIDING FOR AN ANNUAL DISTRIBUTION; MAKING
APPROPRIATIONS.

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

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

"22-8B-1. SHORT TITLE. -- [~~Sections 1 through 15 of this
act~~] Chapter 22, Article 8B NMSA 1978 may be cited as the "1999
Charter Schools Act". "

Section 2. Section 22-8B-12 NMSA 1978 (being Laws 1999,
Chapter 281, Section 12) is amended to read:

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1 "22-8B-12. CHARTER SCHOOLS--TERM--RENEWAL OF CHARTER--
2 GROUNDS FOR NONRENEWAL OR REVOCATION.--

3 A. A charter school may be approved for an initial
4 term of five years. A charter may be renewed for successive
5 periods of [~~five~~] fifteen years each. Approvals of less than
6 [~~five~~] fifteen years can be agreed to between the charter
7 school and the local school board.

8 B. No later than [~~January~~] July 1 of the year
9 [~~prior to the year~~] in which the charter expires, the governing
10 body of a charter school may submit a renewal application to
11 the local school board. The local school board shall rule in a
12 public hearing on the renewal application no later than [~~March~~]
13 September 1 of the year in which the charter expires, or on a
14 mutually [~~agreed~~] agreed-upon date.

15 C. A charter school renewal application submitted
16 to the local school board shall contain:

17 (1) a report on the progress of the charter
18 school in achieving the goals, objectives, student performance
19 standards, state board minimum educational standards and other
20 terms of the initial approved charter application, including
21 the accountability requirements set forth in Section 22-1-6
22 NMSA 1978;

23 (2) a financial statement that discloses the
24 costs of administration, instruction and other spending
25 categories for the charter school that is understandable to the

1 general public, that will allow comparison of costs to other
2 schools or comparable organizations and that is in a format
3 required by the state board;

4 (3) contents of the charter application set
5 forth in Section [~~8 of the 1999 Charter Schools Act~~] 22-8B-8
6 NMSA 1978;

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

10 (5) a petition in support of the charter
11 school renewing its charter status signed by a majority of the
12 households whose children are enrolled in the charter school.

13 D. A charter may be revoked or not be renewed by
14 the local school board if the board determines that the charter
15 school did any of the following:

16 (1) committed a material violation of any of
17 the conditions, standards or procedures set forth in the
18 charter;

19 (2) failed to meet or make substantial
20 progress toward achievement of the state board minimum
21 educational standards or student performance standards
22 identified in the charter application;

23 (3) failed to meet generally accepted
24 standards of fiscal management; or

25 (4) violated any provision of law from which

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1 the charter school was not specifically exempted.

2 E. If a local school board revokes or does not
3 renew a charter, the local school board shall state in writing
4 its reasons for the revocation or nonrenewal.

5 F. A decision to revoke or not to renew a charter
6 may be appealed by the governing body of the charter school
7 pursuant to Section [~~7 of the 1999 Charter Schools Act~~] 22-8B-7
8 NMSA 1978. "

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

11 "[NEW MATERIAL] LEASE ASSISTANCE FUND--DISTRIBUTION. --

12 A. The "lease assistance fund" is created in the
13 state treasury. The fund shall be administered by the
14 department of education. The fund shall consist of the
15 proceeds of severance tax bonds appropriated to the fund and
16 other money appropriated and transferred to the fund. Earnings
17 to the fund shall be credited to the fund, and the fund shall
18 not revert until the end of fiscal year 2012 when any
19 unexpended or unencumbered balance shall revert to the
20 severance tax bonding fund. Expenditures from the fund shall
21 be by warrant of the secretary of finance and administration
22 upon vouchers signed by the state superintendent.

23 B. The department of education shall, by rule,
24 establish an application process for public schools, including
25 charter schools, that desire allocations from the fund. The

1 process shall provide that applications for allocations shall
2 be due no later than June 30 of each year and, except as
3 provided in Subsection C of this section, shall include:

4 (1) a copy of a lease or other agreement
5 showing that the public school is leasing educational
6 facilities;

7 (2) a certification from the school district
8 showing the number of students enrolled in the public school in
9 the preceding school year;

10 (3) an explanation of the necessity of leasing
11 the charter school facilities or, for other public schools, the
12 educational space, and a description of what the facility or
13 educational space will be used for; and

14 (4) any other information reasonably required
15 by the department of education.

16 C. Pursuant to rule of the department of education,
17 a start-up charter school may submit an application for an
18 allocation from the fund. An application of a start-up charter
19 school shall include:

20 (1) a copy of the lease or other agreement or,
21 if no lease or agreement exists, evidence that the start-up
22 charter school will be leasing facilities and an estimate of
23 the lease costs;

24 (2) an estimate of the number of students that
25 will be attending the start-up charter school; and

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1 (3) an agreement to repay excess amounts
2 received from the fund if the lease costs and number of
3 students submitted pursuant to Subsections A and B of this
4 section are overestimated.

5 D. Upon a determination that the information
6 submitted by a public school is complete and accurate, the
7 department of education shall make an allocation to the public
8 school. The amount of the annual allocation shall equal the
9 lesser of the amount of the annual lease payments or an amount
10 equal to nine hundred dollars (\$900) for each student who was
11 enrolled in the school during the preceding school year, or, in
12 the case of a start-up charter school, each student estimated
13 to attend in the subsequent school year; provided, however,
14 that if the total amount to be distributed pursuant to this
15 section is greater than the unexpended or unencumbered balance
16 in the fund, the amount allocated shall be reduced
17 proportionately pursuant to rules adopted by the department of
18 education.

19 E. Money received by a public school pursuant to
20 this section may only be used for construction, purchase or
21 lease of charter school facilities or, for other public
22 schools, lease of educational space. "

23 Section 4. SEVERANCE TAX BONDS AUTHORIZED--APPROPRIATION
24 OF PROCEEDS TO LEASE ASSISTANCE FUND. --

25 A. The state board of finance may issue and sell

1 severance tax bonds with a term that does not extend beyond the
2 fiscal year in which they are issued in fiscal years 2004
3 through 2008 in compliance with the Severance Tax Bonding Act
4 in an amount not exceeding a total of fifteen million dollars
5 (\$15,000,000) when the state department of public education
6 certifies the need for the issuance of the bonds; provided that
7 no more than three million dollars (\$3,000,000) may be issued
8 in any one fiscal year.

9 B. The state board of finance shall schedule the
10 issuance and sale of the bonds in the most expeditious and
11 economical manner possible upon a finding by the board that the
12 proceeds are needed by the state department of public education
13 for distributions as provided by Section 3 of this act. The
14 board shall further take the appropriate steps necessary to
15 comply with the Internal Revenue Code of 1986, as amended.

16 C. The proceeds from the sale of the bonds are
17 appropriated to the lease assistance fund.

18 D. Any unexpended or unencumbered balance remaining
19 at the end of fiscal year 2012 shall revert to the severance
20 tax bonding fund.

21 E. If the state department of public education has
22 not certified the need for the issuance of the bonds by the end
23 of fiscal year 2008, the authorization provided in this section
24 shall expire.

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