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HOUSE BILL 510

47TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2005

INTRODUCED BY

Roberto "Bobby" J. Gonzales

FOR THE LEGISLATIVE EDUCATION STUDY COMMITTEE

AN ACT

RELATING TO EDUCATION; PROVIDING STANDARDS FOR CHARTER SCHOOL FACILITIES; PROVIDING PROCEDURES FOR ESTABLISHING CHARTER SCHOOLS; PROVIDING FOR CHARTER SCHOOLS TO BE THEIR OWN BOARDS OF FINANCE FOR CERTAIN PURPOSES; PROVIDING PROCEDURES FOR APPEALING THE REJECTION, NONRENEWAL OR REVOCATION OF A CHARTER; PROVIDING A MEDIATION PROCESS TO RESOLVE CERTAIN DISPUTES BETWEEN A CHARTER SCHOOL OR A PROPOSED CHARTER SCHOOL AND A LOCAL SCHOOL BOARD; PROVIDING LEASE PAYMENTS FOR CHARTER SCHOOLS; MAKING AN APPROPRIATION.

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

Section 1. Section 22-8-38 NMSA 1978 (being Laws 1967, Chapter 16, Section 96, as amended) is amended to read:

"22-8-38. BOARDS OF FINANCE-- DESIGNATION. --

A. Upon written application to and approval of the

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1 ~~[state superintendent, any]~~ secretary, a local school board may
2 be designated a board of finance for public school funds of the
3 school district. ~~[Any]~~ A local school board designated a board
4 of finance may require all funds distributed to, allocated to
5 or collected for the school district or the public schools
6 under its jurisdiction, other than charter schools, to be
7 deposited with it. The ~~[state superintendent]~~ secretary shall
8 designate a local school board as a board of finance if:

9 ~~[A.]~~ (1) the local school board shows to the
10 satisfaction of the ~~[state superintendent]~~ secretary that it
11 has personnel properly trained to keep accurate and complete
12 fiscal records;

13 ~~[B.]~~ (2) the local school board agrees to
14 consult with the ~~[state superintendent]~~ secretary on any
15 matters not covered by the manual of accounting and budgeting
16 before taking any action relating to funds held by it as a
17 board of finance;

18 ~~[C.]~~ (3) the persons handling ~~[these]~~ the
19 funds are adequately bonded to protect the funds entrusted to
20 them from loss; and

21 ~~[D.]~~ (4) the local school board making
22 application has not been suspended and not reinstated as a
23 board of finance within the past year.

24 B. For an initial application for a new charter
25 school or an application to renew a charter, a request for

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1 designation shall be submitted to the secretary at the same
2 time the application is submitted to the local school board,
3 unless the secretary grants additional time to the applicant
4 for good cause. A charter school designated a board of finance
5 may require all funds distributed to, allocated to or collected
6 for the charter school to be deposited with it. The secretary
7 shall designate a charter school as a board of finance if:

8 (1) the charter school shows to the
9 satisfaction of the secretary that it has personnel properly
10 trained to keep accurate and complete fiscal records;

11 (2) the charter school agrees to consult with
12 the secretary on any matters not covered by the manual of
13 accounting and budgeting before taking any action relating to
14 funds held by it as a board of finance;

15 (3) the persons handling the funds are
16 adequately bonded to protect the funds entrusted to them from
17 loss; and

18 (4) the charter school making application,
19 including its governing body or a similarly constituted
20 governing body that operated a charter school under a different
21 name, has not been suspended and not reinstated as a board of
22 finance within the past year.

23 C. Failure of a charter school to qualify for
24 designation as a board of finance pursuant to Subsection B of
25 this section shall be grounds for denial of an initial

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1 application or a renewal application or, for a charter school
2 initially approved or whose charter is renewed after July 1,
3 2005, for revocation of a charter."

4 Section 2. Section 22-8-39 NMSA 1978 (being Laws 1967,
5 Chapter 16, Section 97, as amended) is amended to read:

6 "22-8-39. BOARDS OF FINANCE--SUSPENSION.--The [~~state~~
7 ~~superintendent~~] secretary may at any time suspend a local
8 school board or charter school from acting as a board of
9 finance if [~~he~~] the secretary reasonably believes there is
10 mismanagement, improper recording or improper reporting of
11 public school funds under its control. When a local school
12 board or charter school is suspended from acting as a board of
13 finance, the [~~state superintendent shall~~] secretary:

14 A. shall immediately take control of all public
15 school funds under the control of the local school board or
16 charter school acting as a board of finance;

17 B. shall immediately have an audit made of all
18 funds under the control of the local school board or charter
19 school acting as a board of finance and charge the cost of the
20 audit to the school district or charter school;

21 C. shall act as a fiscal agent for the school
22 district or charter school and take any action necessary to
23 conform the fiscal management of funds of the school district
24 or charter school to the requirements of law and good
25 accounting practices;

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1 D. shall report any violations of the law to the
2 proper law enforcement officers;

3 E. shall act as fiscal agent for the school
4 district or charter school until [~~he~~] the secretary determines
5 that the local school board or charter school is capable of
6 acting as a board of finance or until [~~he~~] the secretary
7 determines that the county treasurer should act as fiscal agent
8 for the school district [~~and~~] or charter school;

9 F. shall inform the local school board or charter
10 school in writing of [~~his~~] the secretary's determination as to
11 who is to act as board of finance or fiscal agent for the
12 school district or charter school and also inform the county
13 treasurer in writing if [~~he~~] the secretary determines that the
14 county treasurer should act as fiscal agent for the school
15 district or charter school; and

16 G. in the case of a charter school that has engaged
17 in serious or repeated mismanagement, improper recording or
18 improper reporting of public school funds under its control,
19 may commence proceedings to revoke the charter of the charter
20 school. "

21 Section 3. Section 22-8B-1 NMSA 1978 (being Laws 1999,
22 Chapter 281, Section 1) is amended to read:

23 "22-8B-1. SHORT TITLE. -- [~~Sections 1 through 15 of this~~
24 ~~act~~] Chapter 22, Article 8B NMSA 1978 may be cited as the "1999
25 Charter Schools Act". "

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1 Section 4. Section 22-8B-2 NMSA 1978 (being Laws 1999,
2 Chapter 281, Section 2) is amended to read:

3 "22-8B-2. DEFINITIONS. --As used in the 1999 Charter
4 Schools Act:

5 A. "charter school" means a conversion school or
6 start-up school within a school district authorized by the
7 local school board to operate as a charter school;

8 B. "conversion school" means an existing public
9 school within a school district authorized by the local school
10 board to become a charter school;

11 C. "governing body" means the governing structure
12 of a charter school as set forth in the school's charter; ~~[and]~~

13 D. "interested party" means a charter school
14 applicant, a governing body or a local school board that is
15 involved in a dispute arising from a decision of a local school
16 board and that participates in mediation regarding that
17 dispute;

18 E. "mediation" means a process whereby a mediator,
19 through negotiation and problem-solving, attempts to help
20 interested parties resolve a dispute arising from a decision of
21 a local school board;

22 F. "mediator" means an individual or organization
23 that is independent of interested parties and acts to assist
24 interested parties in the resolution of a dispute arising from
25 a decision of a local school board; and

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1 ~~[D-]~~ G. "start-up school" means a public school
2 developed by one or more parents, teachers or community members
3 or a public post-secondary educational institution and
4 authorized by the local school board of the school district in
5 which the school is located to become a charter school."

6 Section 5. 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, race, creed, color,
13 gender, national origin, religion, ancestry or need for special
14 education services.

15 B. A charter school shall be ~~[administered and]~~
16 governed by a governing body in the manner set forth in the
17 charter; provided that no member of a governing body for a
18 charter school that is initially approved on or after July 1,
19 2005 or whose charter is renewed on or after July 1, 2005 shall
20 serve on the governing body of another charter school.

21 C. A charter school shall be responsible for its
22 own operation, including ~~[preparation of a budget]~~ contracting
23 for services, ~~[and]~~ personnel matters and preparation of a
24 budget, subject to periodic audits through the school district
25 or pursuant to the Audit Act.

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1 D. A charter school, initially chartered or whose
2 charter is renewed after June 30, 2005, shall meet
3 qualifications for and be designated as a board of finance
4 except for capital outlay and transportation funding.

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

15 ~~[E. In no event shall a charter school be required~~
16 ~~to pay rent for space that is deemed available, as negotiated~~
17 ~~by contract, in school district facilities; provided that the~~
18 ~~facilities can be made available at no cost to the district.~~
19 ~~All costs for the operation and maintenance of the facilities~~
20 ~~used by the charter school shall be subject to negotiation~~
21 ~~between the charter school and the district.]~~

22 F. A conversion school may choose to continue using
23 the school district facilities and equipment it had been using
24 prior to conversion.

25 G. A school district shall provide a charter school

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1 with available facilities for the school's operations unless
2 the facilities are currently used for other educational
3 purposes. A charter school shall not be required to pay rent
4 for the school district facilities if the facilities can be
5 provided at no cost to the school district. If facilities are
6 available but cannot be provided at no cost to the school
7 district, the school district shall not charge more than the
8 actual direct cost of providing the facilities. As used in
9 this subsection, "other educational purposes" includes health
10 clinics, daycare centers, teacher training centers, school
11 district administration functions and other ancillary services
12 related to a school district's functions and operations.

13 H. A charter school may pay the costs of operation
14 and maintenance of its facilities or may contract with the
15 school district to provide facility operation and maintenance
16 services.

17 I. Charter school facilities are eligible for state
18 and local capital outlay funds and shall be included in the
19 school district's five-year facilities plan.

20 ~~[F.]~~ J. A charter school shall negotiate with a
21 school district to provide transportation to students eligible
22 for transportation under the provisions of the Public School
23 Code. The school district, in conjunction with the charter
24 school, may establish a limit for student transportation to and
25 from the charter school site not to extend beyond the school

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1 district boundary.

2 ~~[G.] A charter school may negotiate with a school~~
3 ~~district for capital expenditures.~~

4 ~~H.]~~ K. A charter school shall be a nonsectarian,
5 nonreligious and non-home-based public school that operates
6 within a school district.

7 ~~[I.]~~ L. Except as otherwise provided in the Public
8 School Code, a charter school shall not charge tuition or have
9 admission requirements.

10 M With the approval of the school district, a
11 single charter school may maintain separate facilities at two
12 or more locations within the same school district; but, for
13 purposes of calculating program units pursuant to the Public
14 School Finance Act, the separate facilities shall be treated
15 together as one school.

16 ~~[J.]~~ N. A charter school shall be subject to the
17 provisions of Section 22-2-8 NMSA 1978 and the Assessment and
18 Accountability Act.

19 ~~[K.]~~ O. A charter school may acquire and dispose of
20 property; provided that, upon termination of the charter, all
21 assets of the charter school shall revert to the local school
22 board. ~~[that authorized the charter.]~~

23 ~~L.]~~ P. A charter school may accept or reject any
24 charitable gift, grant, devise or bequest; provided that no
25 such gift, grant, devise or bequest shall be accepted if

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1 subject to any condition contrary to law or to the terms of the
2 charter. The particular gift, grant, devise or bequest shall
3 be considered an asset of the charter school to which it is
4 given.

5 [M-] Q. A charter school may contract and sue and
6 be sued. A local school board [~~that approves a charter school~~]
7 shall not be liable for any acts or omissions of the charter
8 school.

9 [N-] R. A charter school shall comply with all
10 state and federal health and safety requirements applicable to
11 public schools, including those health and safety codes
12 relating to educational building occupancy.

13 S. A charter school is a public school that may
14 contract with a school district or other party for provision of
15 financial management, food services, transportation,
16 facilities, education-related services or other services. A
17 charter school may also contract with the school district for a
18 non-charter public school to provide extracurricular activities
19 to those charter school students residing within the attendance
20 boundaries of the non-charter public school. The governing
21 body of a charter school shall not contract with a for-profit
22 or nonprofit entity for the management of the charter school."

23 Section 6. A new section of the 1999 Charter Schools Act,
24 Section 22-8B-4.2 NMSA 1978, is enacted to read:

25 "22-8B-4.2. [NEW MATERIAL] CHARTER SCHOOL FACILITIES--
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1 **STANDARDS. --**

2 A. The facilities of a charter school that is
3 approved on or after July 1, 2005 and before July 1, 2010 shall
4 meet educational occupancy standards required by applicable New
5 Mexico construction codes.

6 B. The facilities of a charter school that is in
7 existence, or has been approved, prior to July 1, 2005 shall be
8 evaluated, prioritized and eligible for grants pursuant to the
9 Public School Capital Outlay Act in the same manner as all
10 other public schools in the state; provided that for charter
11 school facilities in leased facilities, grants may be used as
12 additional lease payments for leasehold improvements.

13 C. After January 1, 2010, an application for a
14 charter shall not be approved and an existing charter shall not
15 be renewed unless the charter school:

16 (1) is housed in a public building that is:

17 (a) owned by the charter school, the
18 school district, the state, an institution of the state,
19 another political subdivision of the state, the federal
20 government or one of its agencies or a tribal government; and

21 (b) subject to evaluation and
22 prioritization and eligible for grants pursuant to the Public
23 School Capital Outlay Act in the same manner as all other
24 public schools in the state; or

25 (2) if it is not housed in a public building

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1 described in Paragraph (1) of this subsection, demonstrates
2 that:

3 (a) the facility in which the charter
4 school is housed meets the statewide adequacy standards
5 developed pursuant to the Public School Capital Outlay Act and
6 the owner of the facility is contractually obligated to
7 maintain those standards at no additional cost to the charter
8 school or the state; and

9 (b) either: 1) public buildings are not
10 available or adequate for the educational program of the
11 charter school; or 2) the owner of the facility is a nonprofit
12 entity specifically organized for the purpose of providing the
13 facility for the charter school.

14 D. The public school capital outlay council:

15 (1) shall determine whether facilities of a
16 charter school meet the educational occupancy standards
17 pursuant to the requirements of Subsection A of this section;

18 (2) shall determine whether facilities of a
19 charter school meet the requirements of Subsections B and C of
20 this section; and

21 (3) upon a determination that specific
22 requirements are not appropriate or reasonable for a charter
23 school, may grant a variance from those requirements for that
24 charter school. "

25 Section 7. Section 22-8B-5 NMSA 1978 (being Laws 1999,

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1 Chapter 281, Section 5) is amended to read:

2 "22-8B-5. CHARTER SCHOOLS--LOCAL SCHOOL BOARD AUTHORITY--

3 [~~STATE BOARD~~] DEPARTMENT AUTHORITY. --

4 A. The local school board may waive only locally
5 imposed school district requirements.

6 B. The [~~state board~~] secretary shall waive
7 requirements relating to individual class load and teaching
8 load, length of the school day, staffing patterns, subject
9 areas and the purchase of instructional material. The [~~state~~
10 ~~board~~] secretary may waive [~~state board~~] requirements or rules
11 and provisions of the Public School Code pertaining to
12 graduation requirements, [~~evaluation standards for school~~
13 ~~personnel~~] school principal duties and driver education. Any
14 waivers granted pursuant to this section shall be for the term
15 of the charter granted unless revoked sooner by the local
16 school board or the secretary.

17 C. A charter school shall be a public school,
18 accredited by the [~~state board~~] department and shall be
19 accountable to the school district's local school board for
20 purposes of ensuring compliance with applicable laws, rules and
21 charter provisions.

22 D. No local school board shall require any employee
23 of the school district to be employed in a charter school.

24 E. No local school board shall require any student
25 residing within the geographic boundary of its school district

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1 to enroll in a charter school.

2 F. A student who is suspended or expelled from a
3 charter school shall be deemed to be suspended or expelled from
4 the school district in which the student resides. "

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

7 "22-8B-6. CHARTER SCHOOL REQUIREMENTS--APPLICATION
8 PROCESS--AUTHORIZATION. --

9 A. ~~[The]~~ A local school board ~~[shall have]~~ has the
10 authority to approve the establishment of a charter school
11 within the ~~[local]~~ school district in which it is located.

12 B. A charter school applicant shall apply to a
13 local school board for a charter. An applicant shall only
14 submit an application in the district in which the school is
15 located. Applications shall be submitted by ~~[October 1]~~ July 1
16 to be eligible for consideration for the following ~~[school]~~
17 fiscal year; provided that the [October 1] July 1 deadline may
18 be waived upon agreement of the applicant and the local school
19 board.

20 C. An application shall include a request for
21 capital outlay or transportation funding.

22 D. At the time of application for a charter, a
23 charter school applicant shall request approval to be
24 designated a board of finance and shall not be allowed a
25 charter without the approval.

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1 ~~[E.-]~~ E. An application for a start-up school may be
2 made by one or more teachers, parents or community members or a
3 public post-secondary educational institution.

4 ~~[D.-]~~ F. An application for a conversion school
5 shall include a petition of support signed by ~~[not]~~ no less
6 than ~~[sixty-five percent]~~ two-thirds of the employees in the
7 school. Additionally, a petition in support of the charter
8 school signed by ~~[a majority]~~ no less than two-thirds of the
9 households whose children are enrolled in a proposed conversion
10 school ~~[must]~~ shall accompany the application.

11 ~~[E.-]~~ G. The local school board shall receive and
12 review all applications for charter schools. The local school
13 board shall not charge application fees. If the board finds
14 the charter school application is incomplete, the board shall
15 request the necessary information from the charter school
16 applicant.

17 ~~[F.-]~~ H. The local school board shall hold at least
18 ~~[one meeting]~~ two public meetings to obtain information and
19 community input to assist the local school board in its
20 decision whether to grant a charter school application. Upon
21 receipt of the charter school application, the local school
22 board shall hold the first meeting to inform the community and
23 to begin a discussion of the charter school application with
24 the charter school applicant and other persons interested in
25 the charter school application. The local school board shall

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1 rule on the application for a charter school in a second public
2 meeting within sixty days after receiving the application. If
3 not ruled upon within sixty days, the charter application
4 [~~will~~] shall be automatically reviewed by the [~~state board~~]
5 secretary in accordance with the provisions of Section [~~7 of~~
6 ~~the 1999 Charter Schools Act~~] 22-8B-7 NMSA 1978. The charter
7 school applicant and the local school board may, however,
8 jointly waive the deadlines set forth in this section.

9 [~~G.~~] I. If the local school board denies a charter
10 school application or imposes conditions that are unacceptable
11 to the charter school applicant, the charter school applicant
12 may appeal the decision to the [~~state board~~] secretary pursuant
13 to Section [~~7 of the 1999 Charter Schools Act~~] 22-8B-7 NMSA
14 1978.

15 [~~H.~~] J. If a local school board denies a charter
16 school application or approves the application with conditions,
17 it shall state in writing its reasons for the denial or
18 conditions and provide the applicant with the written reasons
19 within three weeks of the decision. If a local school board
20 grants a charter, it shall send a copy of the approved charter
21 to the department [~~of education~~] within [~~fifteen days~~] three
22 weeks after granting the charter."

23 Section 9. Section 22-8B-7 NMSA 1978 (being Laws 1999,
24 Chapter 281, Section 7) is amended to read:

25 "22-8B-7. CHARTER SCHOOL APPLICATION APPEAL--

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1 PROCEDURES. - -

2 A. The ~~[state board]~~ secretary, upon receipt of a
3 notice of appeal or upon ~~[its]~~ the secretary's own motion,
4 shall review decisions of ~~[any]~~ a local school board concerning
5 charter schools in accordance with the provisions of this
6 section.

7 B. A charter applicant or governing body ~~[of a~~
8 ~~charter school]~~ that wishes to appeal a decision of a local
9 school board concerning the denial, nonrenewal or revocation of
10 a charter school or the imposition of conditions that are
11 unacceptable to the charter school or charter school applicant
12 shall provide the ~~[state board]~~ secretary with a notice of
13 appeal within thirty days ~~[after]~~ of receipt of the local
14 school board's written decision. The charter school applicant
15 or governing body ~~[of the charter school]~~ bringing the appeal
16 shall limit the grounds of the appeal to the grounds for
17 denial, nonrenewal or revocation or the imposition of
18 conditions that were specified by the local school board. The
19 notice shall include a brief statement of the reasons the
20 charter school applicant or governing body contends the local
21 school board's decision was in error. Except as provided in
22 Subsection E of this section, the appeal and review process
23 shall be as follows:

24 (1) within sixty days after receipt of the
25 notice of appeal, the ~~[state board]~~ secretary, at a public

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1 hearing that may be held in the school district in which the
2 charter school is located or in which the proposed charter
3 school has applied for a charter, shall review the decision of
4 the local school board and make [its] findings. If the [state
5 board] secretary finds that the local school board's decision
6 was arbitrary or capricious or contrary to the best interests
7 of the students, school district or community, the [state
8 board] secretary shall [remand] refer the decision to the local
9 school board with written instructions [for approval of] to
10 reconsider the charter [The instructions shall include specific
11 recommendations concerning approval of the charter. The
12 decision of the state board shall be final and not subject to
13 appeal]; and

14 (2) within thirty days following the [remand]
15 referral of a decision by the [state board, the local school
16 board, at a public hearing, shall approve the charter]
17 secretary, if the local school board does not decide in favor
18 of the charter school applicant or governing body, the
19 interested parties shall enter mediation pursuant to Sections
20 22-8B-16 through 22-8B-18 NMSA 1978 in an effort to resolve the
21 dispute concerning the local school board's decision. The
22 local school board shall pay the cost of the mediation.

23 C. The [state board, on its] secretary, on the
24 secretary's own motion, may review a local school board's
25 decision to grant a charter. Within sixty days after the

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1 making of a motion to review by the [~~state board~~] secretary,
2 the [~~board~~] secretary, at a public hearing that may be held in
3 the school district in which the proposed charter school has
4 applied for a charter, shall review the decision of the local
5 school board and determine whether the decision was arbitrary
6 [~~and~~] or capricious or whether the establishment or operation
7 of the proposed charter school would:

- 8 (1) violate any federal or state laws
9 concerning civil rights;
- 10 (2) violate any court order;
- 11 (3) threaten the health and safety of students
12 within the school district; [~~or~~]
- 13 (4) violate the provisions of Section [~~11 of~~
14 ~~the 1999 Charter Schools Act~~] 22-8B-11 NMSA 1978, prescribing
15 the permissible number of charter schools;
- 16 (5) violate the Public School Finance Act;
- 17 (6) otherwise not be in the best interests of
18 the state because the applicant has not demonstrated sufficient
19 knowledge, experience, credentials or planning to operate a
20 charter school; or
- 21 (7) not be in the best interests of the
22 incoming students to the charter school of the school district
23 in which the charter school is to be geographically located.

24 D. If the [~~state board~~] secretary determines that
25 the charter would violate the provisions set forth in

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1 Subsection C of this section, the [~~state board~~] secretary shall
2 [~~remand~~] refer the decision back to the local school board with
3 instructions to deny the charter application. The [~~state~~
4 ~~board~~] secretary may extend the time lines established in this
5 section for good cause. The decision of the [~~state board~~]
6 secretary shall be final and not subject to appeal.

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

18 Section 10. Section 22-8B-8 NMSA 1978 (being Laws 1999,
19 Chapter 281, Section 8) is amended to read:

20 "22-8B-8. CHARTER APPLICATION--CONTENTS.--The charter
21 school application, whether for a start-up school or a
22 conversion school, shall be a proposed agreement between the
23 local school board and the charter school and shall include:

- 24 A. the mission statement of the charter school;
25 B. the goals, objectives and student performance

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1 standards to be achieved by the charter school;

2 C. a description of the charter school's
3 educational program, student performance standards and
4 curriculum that ~~[must]~~ shall meet or exceed ~~[the]~~ state ~~[board~~
5 ~~of education's]~~ educational standards and ~~[must]~~ shall be
6 designed to enable each student to achieve those standards;

7 D. a description of the way a charter school's
8 educational program will meet the individual needs of the
9 students, including those students determined to be at risk;

10 E. a description of the charter school's plan for
11 evaluating student performance, the types of assessments that
12 will be used to measure student progress toward achievement of
13 the state's standards and the school's student performance
14 standards, the time line for achievement of the standards and
15 the procedures for taking corrective action in the event that
16 student performance falls below the standards;

17 F. evidence that the plan for the charter school is
18 economically sound, including a proposed budget for the term of
19 the charter and a description of the manner in which the annual
20 audit of the financial and administrative operations of the
21 charter school is to be conducted;

22 G. evidence that the fiscal management of the
23 charter school complies with all applicable federal and state
24 laws and regulations relative to fiscal procedures;

25 H. evidence of a plan for the displacement of

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1 students, teachers and other employees who will not attend or
2 be employed in the conversion school;

3 I. a description of the governing body and
4 operation of the charter school, including how the governing
5 body will be selected, the nature and extent of parental,
6 professional educator and community involvement in the
7 governance and operation of the school and the relationship
8 between the governing body and the local school board;

9 J. an explanation of the relationship that will
10 exist between the proposed charter school and its employees,
11 including evidence that the terms and conditions of employment
12 will be addressed with affected employees and their recognized
13 representatives, if any;

14 K. the employment and student discipline policies
15 of the proposed charter school;

16 L. an agreement between the charter school and the
17 local school board regarding their respective legal liability
18 and applicable insurance coverage;

19 M a description of how the charter school plans to
20 meet the transportation and food service needs of its students;

21 N. a description of the waivers that the charter
22 school is requesting from the local school board and the [state
23 board] secretary and the charter school's plan for addressing
24 these waiver requests;

25 O. a description of the facilities the charter

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1 school plans to use; and

2 P. any other information reasonably required by the
3 local school board. "

4 Section 11. Section 22-8B-9 NMSA 1978 (being Laws 1999,
5 Chapter 281, Section 9) is amended to read:

6 "22-8B-9. CHARTER SCHOOL--CONTRACT CONTENTS--RULES. --

7 A. An approved charter application shall be a
8 contract between the charter school and the local school board.

9 B. The contract between the charter school and the
10 local school board shall reflect all agreements regarding the
11 release of the charter school from state and school district
12 policies.

13 C. The contract between the charter school and the
14 local school board shall reflect all requests for release of
15 the charter school from [~~state board rules or~~] the Public
16 School Code or rules enacted pursuant to that code. Within ten
17 days after the contract is approved by the local school board,
18 any request for release from [~~state board~~] rules or the Public
19 School Code shall be delivered by the local school board to the
20 [~~state board~~] secretary. If the [~~state board~~] secretary grants
21 the request, [~~it~~] the secretary shall notify the local school
22 board and the charter school of [~~its~~] the decision. If the
23 [~~state board~~] secretary denies the request, [~~it~~] the secretary
24 shall notify the local school board and the charter school that
25 the request is denied and specify the reasons for denial.

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1 D. Upon approval of the charter [~~by the local~~
2 ~~school board~~], the charter school shall be waived from the
3 Public School Code provisions relating to individual class load
4 and teaching load requirements, length of school day, staffing
5 patterns, subject areas and purchase of instructional
6 materials.

7 E. The charter school shall participate in the
8 public school insurance authority.

9 F. Any revision or amendment to the terms of the
10 [~~contract~~] charter may be made only with the approval of the
11 local school board and the governing body [~~of the charter~~
12 ~~school~~].

13 G. The charter shall include procedures agreed upon
14 by the charter school and the local school board for the
15 resolution of disputes between the charter school and the local
16 school board. Each party shall designate a person of contact,
17 who shall be responsible for resolving disputes between the
18 charter school and the local school board. A designee may be
19 changed by written notice to the other party. If, in a dispute
20 between the charter school and the local school board, the
21 parties do not reach an agreement after following the
22 procedures, the interested parties shall enter into mediation
23 pursuant to Sections 22-8B-16 through 22-8B-18 NMSA 1978 in an
24 effort to resolve a dispute.

25 ~~[H. The charter shall include procedures that shall~~

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1 ~~be agreed upon by the charter school and the local school board~~
2 ~~in the event that such board determines that the charter shall~~
3 ~~be revoked pursuant to the provisions of Section 12 of the 1999~~
4 ~~Charter Schools Act.] "~~

5 Section 12. Section 22-8B-11 NMSA 1978 (being Laws 1999,
6 Chapter 281, Section 11) is amended to read:

7 "22-8B-11. CHARTER SCHOOLS--MAXIMUM NUMBER ESTABLISHED. --

8 A. A local school ~~[boards shall authorize the~~
9 ~~approval of]~~ board may approve or disapprove both conversion
10 and start-up charter schools within ~~[their]~~ its school
11 ~~[districts]~~ district.

12 B. No more than fifteen start-up schools and five
13 conversion schools may be established per year statewide. The
14 ~~[number of]~~ charter school slots remaining in ~~[that]~~ a year
15 shall be transferred to succeeding years ~~[up to a]~~; provided
16 that a maximum of seventy-five start-up schools and twenty-five
17 conversion schools may be established in any five-year period.
18 The ~~[state board]~~ department shall promptly notify the local
19 school board of each school district when the limits set forth
20 in this section have been reached. "

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

23 "22-8B-12. CHARTER SCHOOLS--TERM--RENEWAL OF CHARTER--
24 GROUNDS FOR NONRENEWAL OR REVOCATION. --

25 A. A charter school may be approved for an initial

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1 term of ~~[five]~~ six years; provided that the first year shall be
2 used for planning. A charter ~~may~~ be renewed for successive
3 periods of five years each. Approvals of less than five years
4 ~~[can]~~ may be agreed to between the charter school and the local
5 school board.

6 B. Prior to the end of the planning year, the
7 charter school shall demonstrate that its facilities meet the
8 requirements of Section 22-8B-4.2 NMSA 1978 and that the
9 charter school has satisfied any conditions imposed by the
10 local school board before commencing full operation for the
11 remainder of its charter term. The local school board shall
12 either issue or refuse to issue the authorization to commence
13 full operation within twenty-one days of the request. If the
14 local school board refuses to issue the authorization, it shall
15 provide its reasons in writing to the charter school.

16 ~~[B.]~~ C. No later than ~~[January 1]~~ July 1 of the
17 fiscal year ~~[prior to the year]~~ in which the charter expires,
18 the governing body ~~[of a charter school]~~ may submit a renewal
19 application to the local school board. The local school board
20 shall rule in a public hearing on the renewal application no
21 later than ~~[March 1]~~ September 1 of the fiscal year in which
22 the charter expires, or on a mutually ~~[agreed]~~ agreed-upon
23 date.

24 ~~[C.]~~ D. A charter school renewal application
25 submitted to the local school board shall contain:

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1 (1) a report on the progress of the charter
2 school in achieving the goals, objectives, student performance
3 standards, state ~~[board]~~ minimum educational standards and
4 other terms of the initial approved charter application,
5 including the accountability requirements set forth in ~~[Section~~
6 ~~22-1-6 NMSA 1978]~~ the Assessment and Accountability Act;

7 (2) a financial statement that discloses the
8 costs of administration, instruction and other spending
9 categories for the charter school that is understandable to the
10 general public, that ~~[will allow]~~ allows comparison of costs to
11 other schools or comparable organizations and that is in a
12 format required by the ~~[state board]~~ department;

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

16 (4) a petition in support of the charter
17 school renewing its charter status signed by not less than
18 ~~[sixty-five percent]~~ two-thirds of the employees in the charter
19 school; ~~[and]~~

20 (5) a petition in support of the charter
21 school renewing its charter status signed by ~~[a majority]~~
22 seventy-five percent of the households whose children are
23 enrolled in the charter school; and

24 (6) a description of the charter school
25 facilities and assurances that the facilities are in compliance

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1 with the requirements of Section 22-8B-4.2 NMSA 1978.

2 ~~[D. A charter may be revoked or not renewed by the~~
3 ~~local school board if the board determines that the charter~~
4 ~~school did any of the following:~~

5 ~~(1) committed a material violation of any of~~
6 ~~the conditions, standards or procedures set forth in the~~
7 ~~charter;~~

8 ~~(2) failed to meet or make substantial~~
9 ~~progress toward achievement of the state board minimum~~
10 ~~educational standards or student performance standards~~
11 ~~identified in the charter application;~~

12 ~~(3) failed to meet generally accepted~~
13 ~~standards of fiscal management; or~~

14 ~~(4) violated any provision of law from which~~
15 ~~the charter school was not specifically exempted.]~~

16 E. The local school board may deny a renewal
17 application or may revoke a charter at any time if past or
18 continued operation of the charter school would:

19 (1) violate or actually has violated any
20 federal or state laws concerning civil rights;

21 (2) violate or actually has violated any court
22 order;

23 (3) threaten or actually has threatened the
24 health and safety of students within the school district;

25 (4) violate or actually has violated the

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1 provisions of Section 22-8B-11 NMSA 1978 prescribing the
2 permissible number of charter schools;

3 (5) violate the Public School Finance Act;

4 (6) materially breach or has materially
5 breached its charter; or

6 (7) result or has resulted in the
7 mismanagement of public funds as established by findings of the
8 state auditor, the charter school's independent certified
9 public accountant or the local school board's auditor.

10 F. In addition to the grounds set forth in
11 Subsection E of this section, a charter renewal application may
12 be denied or a charter may be revoked, if the local school
13 board determines that the charter school did any of the
14 following:

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

18 (2) failed to meet or make substantial
19 progress toward achievement of the department's minimum
20 educational standards or student performance standards
21 identified in the charter application or required by law;

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

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

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1 ~~[E.]~~ G. If a local school board revokes or does not
2 renew a charter, the local school board shall state in writing
3 its reasons for the revocation or nonrenewal and shall provide
4 the charter school with the written reasons within three weeks
5 of the date that the local school board revokes or does not
6 renew the charter.

7 ~~[F.]~~ H. A decision to revoke or not to renew a
8 charter may be appealed by the governing body ~~[of the charter~~
9 ~~school]~~ pursuant to Section ~~[7 of the 1999 Charter Schools Act]~~
10 22-8B-7 NMSA 1978. "

11 Section 14. Section 22-8B-13 NMSA 1978 (being Laws 1999,
12 Chapter 281, Section 13) is amended to read:

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

14 A. The amount of funding allocated to the charter
15 school shall be not less than ninety-eight percent of the
16 school-generated program cost, provided that the portion of the
17 school-generated program cost not allocated to the charter
18 school shall be allocated to the school district in which the
19 charter school is located.

20 ~~[B. That portion of money from state or federal~~
21 ~~programs generated by students enrolled in a charter school~~
22 ~~shall be allocated to charter schools serving students eligible~~
23 ~~for that aid. Any other public school program not offered by~~
24 ~~the charter school shall not be entitled to the share of money~~
25 ~~generated by a charter school program.]~~

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1 B. When a charter school is designated as a board
2 of finance pursuant to Section 22-8-38 NMSA 1978, it shall
3 receive state and federal funds for which it is eligible.

4 C. All services centrally or otherwise provided by
5 the ~~[board]~~ school district, including custodial, maintenance
6 and media services, libraries and warehousing shall be subject
7 to negotiation between the charter school and the ~~[board]~~
8 school district. Any services for which a charter school
9 contracts with a school district shall be provided by the
10 district at a reasonable cost.

11 D. For purposes of computation of a charter
12 school's state equalization guarantee distribution by the
13 department pursuant to the Public School Finance Act, the
14 department shall use the at-risk index and instructional staff
15 training and experience index from the school district where
16 each charter school is geographically located."

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

19 "22-8B-14. CHARTER SCHOOLS STIMULUS FUND CREATED. --

20 A. The "charter schools stimulus fund" is created
21 in the state treasury. Money in the fund is appropriated to
22 the department ~~[of education]~~ to provide financial support to
23 charter schools, whether start-up or conversion, for initial
24 planning and start-up costs and initial costs associated with
25 renovating or remodeling existing buildings and structures ~~[for~~

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1 ~~expenditure in fiscal year 2000 and subsequent fiscal years~~].

2 The fund shall consist of money appropriated by the legislature
3 and grants, gifts, devises and donations from any public or
4 private source. The department [~~of education~~] shall administer
5 the fund in accordance with rules adopted by the [~~state board~~]
6 secretary. The department [~~of education~~] may use up to three
7 percent of the fund for administrative costs. Money in the
8 fund shall not revert to the general fund at the end of a
9 fiscal year.

10 B. If the charter school receives an initial grant
11 and fails to begin operating a charter school within the next
12 [~~eighteen~~] twenty-four months, the charter school shall
13 immediately reimburse the fund."

14 Section 16. A new section of the 1999 Charter Schools
15 Act, Section 22-8B-16 NMSA 1978, is enacted to read:

16 "22-8B-16. [NEW MATERIAL] DISPUTE RESOLUTION--MEDIATION
17 REQUIREMENT--EXEMPTION--SELECTION OF MEDIATOR.--

18 A. The provisions of this section and Sections
19 22-8B-17 and 22-8B-18 NMSA 1978 shall apply to:

20 (1) disputes arising from a decision of a
21 local school board concerning the application of a charter
22 school or the denial, nonrenewal or revocation of a charter
23 that remains wholly or partially unresolved thirty days after
24 it is referred to the local school board for reconsideration
25 pursuant to Subsection B of Section 22-8B-7 NMSA 1978; and

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1 (2) except as provided in Subsection B of this
2 section, other disputes arising between a charter school and
3 its local school board that are not resolved pursuant to
4 dispute resolution provisions in the charter pursuant to
5 Subsection G of Section 22-8B-9 NMSA 1978.

6 B. The provisions of this section and Sections
7 22-8B-17 and 22-8B-18 NMSA 1978 shall not apply in a dispute:

8 (1) between a charter school and a school
9 district concerning the priority of the charter school in the
10 school district's five-year facilities plan;

11 (2) between a charter school employee and the
12 charter school or the school district; or

13 (3) arising as a result of the negotiation of
14 a contract, or from a contract agreement, between a charter
15 school and any person other than the local school board.

16 C. The mediator hired to perform a mediation
17 pursuant to this section shall be agreed to by each interested
18 party.

19 D. The local school board entering mediation shall
20 provide written notice of the date, time and location of the
21 mediation session to all interested parties at least fourteen
22 days prior to the first session and at least five days prior to
23 each succeeding session.

24 E. The mediation session shall take place at a
25 neutral location providing no advantage to an interested party.

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1 The location shall be within the boundaries of the school
2 district in which the charter school is proposed to be
3 established or is located. The mediator has final authority
4 regarding the location of a mediation session if the interested
5 parties are unable to agree on a location. "

6 Section 17. A new section of the 1999 Charter Schools
7 Act, Section 22-8B-17 NMSA 1978, is enacted to read:

8 "22-8B-17. [NEW MATERIAL] INTERESTED PARTIES--
9 PREPARATION--WRITTEN SUMMARIES--ATTENDANCE--DURATION.--

10 A. Prior to the first mediation session, each
11 interested party shall prepare a written summary that contains
12 a list of the issues to be resolved in the mediation and that
13 party's position relative to each issue. The summary shall not
14 exceed five pages and shall be delivered to the mediator seven
15 days prior to the first mediation session. A mediator may
16 request additional information from any interested party.

17 B. All interested parties properly notified of a
18 mediation session shall attend each session in its entirety
19 unless otherwise agreed to by all other interested parties and
20 the mediator. An interested party attending a mediation
21 session may enter into a settlement of any issue being
22 mediated.

23 C. The mediation of the dispute shall be completed
24 within forty-five days from the date of the first mediation
25 session. "

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1 Section 18. A new section of the 1999 Charter Schools
2 Act, Section 22-8B-18 NMSA 1978, is enacted to read:

3 "22-8B-18. [NEW MATERIAL] MEDIATION REPORT-- APPEAL--
4 COSTS. --

5 A. Within ten days of the completion of the
6 mediation process, the mediator shall provide each interested
7 party and the secretary with a copy of the mediation report.
8 The report shall state:

- 9 (1) the issues that were mediated;
10 (2) which issues, if any, were resolved; and
11 (3) which issues, if any, remain partially or
12 wholly unresolved and suggestions of the mediator for
13 resolution of unresolved issues.

14 B. At the conclusion of the mediation, if the
15 interested parties do not reach an agreement, either interested
16 party may appeal the unresolved issues in the dispute to the
17 secretary. After reviewing and considering the issues
18 mediated, the secretary shall render a decision that shall be
19 final and not subject to appeal.

20 C. Except as otherwise provided in Section 22-8B-7
21 NMSA 1978, the costs associated with a mediation shall be borne
22 equally by the interested parties to the dispute."

23 Section 19. APPROPRIATION. --

24 A. Four million dollars (\$4,000,000) is
25 appropriated from the public school capital outlay fund to the

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1 public school capital outlay council for expenditure in fiscal
2 year 2006 for the purpose of making lease payments for
3 classroom facilities, including facilities leased by charter
4 schools. The payments shall be made upon application by the
5 school districts or charter schools and pursuant to rules
6 adopted by the council and the following criteria:

7 (1) the amount of a grant to a school district
8 or charter school shall not exceed:

9 (a) the actual annual lease payments
10 owed for leasing classroom space for schools, including charter
11 schools, in the school district; or

12 (b) six hundred dollars (\$600)
13 multiplied by the number of MEM using the leased classroom
14 facilities; provided that, if the total payments made pursuant
15 to this subsection would exceed the total amount available, the
16 rate specified in this subparagraph shall be reduced
17 proportionately; and

18 (2) money received for the lease payments of a
19 charter school may be used by that charter school as a state
20 match necessary to obtain federal grants pursuant to the
21 federal No Child Left Behind Act of 2001.

22 B. Any unexpended or unencumbered balance remaining
23 at the end of fiscal year 2006 shall revert to the public
24 school capital outlay fund.

25 C. As used in this section, "MEM" means:

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1 (1) the average full-time-equivalent
2 enrollment using leased classroom facilities on the fortieth,
3 eightieth and one hundred twentieth days of the prior school
4 year; or

5 (2) in the case of an approved charter school
6 that has not commenced classroom instruction, the estimated
7 full-time-equivalent enrollment that will use leased classroom
8 facilities in the first year of instruction, as shown in the
9 approved charter school application.

10 Section 20. EFFECTIVE DATE. --The effective date of the
11 provisions of this act is July 1, 2005.

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