

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

SENATE BILL 287

48TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2007

INTRODUCED BY

William E. Sharer

FOR THE LEGISLATIVE EDUCATION STUDY COMMITTEE

AN ACT

RELATING TO PUBLIC SCHOOLS; DISTINGUISHING A STUDENT'S ACADEMIC PROFICIENCY FROM THE ADEQUATE YEARLY PROGRESS OF PUBLIC SCHOOLS AND SCHOOL DISTRICTS; CONFORMING RANKINGS OF SCHOOLS IN NEED OF IMPROVEMENT WITH FEDERAL REQUIREMENTS; PROVIDING A PROCESS FOR REOPENING FAILING SCHOOLS AS STATE-CHARTERED CHARTER SCHOOLS; PROVIDING FOR THE DISAGGREGATION OF DATA BY GENDER; RECONCILING MULTIPLE AMENDMENTS TO THE SAME SECTION OF LAW IN LAWS 2005.

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

Section 1. Section 22-1-2 NMSA 1978 (being Laws 2003, Chapter 153, Section 3, as amended by Laws 2005, Chapter 313, Section 3 and by Laws 2005, Chapter 315, Section 1) is amended to read:

"22-1-2. DEFINITIONS.--As used in the Public School Code:

A. "academic proficiency" means mastery of the

underscoring material = new
[bracketed material] = delete

underscored material = new
[bracketed material] = delete

1 subject-matter knowledge and skills specified in state academic
2 content and performance standards for a student's grade level;

3 [A.] B. "adequate yearly progress" means the
4 measure adopted by the department based on federal requirements
5 to assess the progress that [~~a student~~] a public school or
6 school district or the state makes toward improving student
7 achievement;

8 [B.] C. "commission" means the public education
9 commission;

10 [C.] D. "department" means the public education
11 department;

12 [D.] E. "forty-day report" means the report of
13 qualified student membership of each school district and of
14 those eligible to be qualified students but enrolled in a
15 private school or a home school for the first forty days of
16 school;

17 [E.] F. "home school" means the operation by the
18 parent of a school-age person of a home study program of
19 instruction that provides a basic academic educational program,
20 including reading, language arts, mathematics, social studies
21 and science;

22 [F.] G. "instructional support provider" means a
23 person who is employed to support the instructional program of
24 a school district, including educational assistant, school
25 counselor, social worker, school nurse, speech-language

.165207.1GR

1 pathologist, psychologist, physical therapist, occupational
2 therapist, recreational therapist, interpreter for the deaf and
3 diagnostician;

4 ~~[G.]~~ H. "licensed school employee" means teachers,
5 school administrators and instructional support providers;

6 ~~[H.]~~ I. "local school board" means the policy-
7 setting body of a school district;

8 ~~[I.]~~ J. "local superintendent" means the chief
9 executive officer of a school district;

10 ~~[J.]~~ K. "parent" includes a guardian or other
11 person having custody and control of a school-age person;

12 ~~[K.]~~ L. "private school" means a school, other than
13 a home school, that offers on-site programs of instruction and
14 that is not under the control, supervision or management of a
15 local school board;

16 ~~[L.]~~ M. "public school" means that part of a school
17 district that is a single attendance center in which
18 instruction is offered by one or more teachers and is
19 discernible as a building or group of buildings generally
20 recognized as either an elementary, middle, junior high or high
21 school or any combination of those and includes a charter
22 school;

23 ~~[M.]~~ N. "school" means a supervised program of
24 instruction designed to educate a student in a particular
25 place, manner and subject area;

.165207.1GR

underscored material = new
[bracketed material] = delete

1 ~~[N-]~~ O. "school administrator" means a person
2 licensed to administer in a school district and includes school
3 principals and central district administrators;

4 ~~[O-]~~ P. "school-age person" means a person who is
5 at least five years of age prior to 12:01 a.m. on September 1
6 of the school year and who has not received a high school
7 diploma or its equivalent. A maximum age of twenty-one shall
8 be used for a person who is classified as special education
9 membership as defined in Section 22-8-21 NMSA 1978 or as a
10 resident of a state institution;

11 ~~[P-]~~ Q. "school building" means a public school, an
12 administration building and related school structures or
13 facilities, including teacher housing, that is owned, acquired
14 or constructed by the school district as necessary to carry out
15 the functions of the school district;

16 ~~[O-]~~ R. "school bus private owner" means a person,
17 other than a school district, the department, the state or any
18 other political subdivision of the state, that owns a school
19 bus;

20 ~~[R-]~~ S. "school district" means an area of land
21 established as a political subdivision of the state for the
22 administration of public schools and segregated geographically
23 for taxation and bonding purposes;

24 ~~[S-]~~ T. "school employee" includes licensed and
25 nonlicensed employees of a school district;

.165207.1GR

underscored material = new
[bracketed material] = delete

1 [~~T~~] U. "school principal" means the chief
2 instructional leader and administrative head of a public
3 school;

4 [~~U~~] V. "school year" means the total number of
5 contract days offered by public schools in a school district
6 during a period of twelve consecutive months;

7 [~~V~~] W. "secretary" means the secretary of public
8 education;

9 [~~W~~] X. "state agency" or "state institution" means
10 the New Mexico military institute, New Mexico school for the
11 blind and visually impaired, New Mexico school for the deaf,
12 New Mexico boys' school, girls' welfare home, New Mexico youth
13 diagnostic and development center, Sequoyah adolescent
14 treatment center, Carrie Tingley crippled children's hospital,
15 New Mexico behavioral health institute at Las Vegas and any
16 other state agency responsible for educating resident children;

17 [~~X~~] Y. "state educational institution" means an
18 institution enumerated in Article 12, Section 11 of the
19 constitution of New Mexico;

20 [~~Y~~] Z. "substitute teacher" means a person who
21 holds a certificate to substitute for a teacher in the
22 classroom;

23 [~~Z~~] AA. "teacher" means a person who holds a level
24 one, two or three-A license and whose primary duty is classroom
25 instruction or the supervision, below the school principal

.165207.1GR

underscored material = new
[bracketed material] = delete

1 level, of an instructional program or whose duties include
2 curriculum development, peer intervention, peer coaching or
3 mentoring or serving as a resource teacher for other teachers;

4 ~~[AA.]~~ BB. "certified school instructor" means a
5 teacher or instructional support provider; and

6 ~~[BB.]~~ CC. "certified school employee" or "certified
7 school personnel" means a licensed school employee."

8 Section 2. Section 22-2C-1 NMSA 1978 (being Laws 2003,
9 Chapter 153, Section 10) is amended to read:

10 "22-2C-1. SHORT TITLE.--Chapter 22, Article ~~[2A]~~ 2C NMSA
11 1978 may be cited as the "Assessment and Accountability Act"."

12 Section 3. Section 22-2C-4 NMSA 1978 (being Laws 2003,
13 Chapter 153, Section 13, as amended) is amended to read:

14 "22-2C-4. STATEWIDE ASSESSMENT AND ACCOUNTABILITY
15 SYSTEM--INDICATORS--REQUIRED ~~[TESTS]~~ ASSESSMENTS--ALTERNATIVE
16 ~~[TESTS]~~ ASSESSMENTS--LIMITS ON ALTERNATIVES TO ENGLISH LANGUAGE
17 READING ~~[TEST]~~ ASSESSMENT.--

18 A. The department shall establish a statewide
19 assessment and accountability system that is aligned with the
20 state academic content and performance standards and that
21 measures adequate yearly progress for each ~~[student]~~ public
22 school and school district. Adequate yearly progress shall be
23 determined primarily by student academic achievement, as
24 demonstrated by statewide standards-based ~~[academic performance~~
25 ~~tests]~~ assessment; however, the department may include other

.165207.1GR

underscored material = new
[bracketed material] = delete

1 indicators of adequate yearly progress, including graduation
2 rates for high schools and attendance for elementary and middle
3 schools.

4 B. The academic assessment program for adequate
5 yearly progress shall [~~test~~] assess student achievement as
6 follows by the school year indicated:

7 (1) for grades three through nine and for
8 grade eleven, standards-based [~~academic performance tests~~]
9 assessments in mathematics, reading and language arts and
10 social studies by the 2005-2006 school year; provided that
11 [~~testing~~] assessment in ninth grade and [~~testing~~] assessment in
12 social studies shall not occur until the legislature has
13 provided funding for [~~test~~] assessment development and
14 implementation;

15 (2) for grades three through nine, standards-
16 based [~~academic performance~~] writing [~~assessment~~] assessments
17 with the writing assessment scoring criteria applied to the
18 extended response writing portions of the language arts
19 [~~criterion-referenced tests~~] standards-based assessments by the
20 2005-2006 school year; and

21 (3) for one of grades three through five and
22 six through nine and for grade eleven, standards-based
23 [~~academic performance tests~~] assessments in science by the
24 2007-2008 school year.

25 C. The department shall involve appropriate

.165207.1GR

underscored material = new
[bracketed material] = delete

1 licensed school employees in the development of the standards-
2 based [~~academic performance tests~~] assessments.

3 D. All students shall participate in the academic
4 assessment program. The department shall adopt standards for
5 reasonable accommodations in academic [~~testing~~] assessment for
6 students with disabilities and limited English proficiency,
7 including when and how accommodations may be applied. The
8 legislative education study committee shall review the
9 standards prior to adoption by the department.

10 E. Students who have been determined to be limited
11 English proficient may be allowed to take the standards-based
12 [~~academic performance test~~] assessment in their primary
13 language. A student who has attended school for three
14 consecutive years in the United States shall participate in the
15 English language reading [~~test~~] assessment unless granted a
16 waiver by the department based on criteria established by the
17 department. An English language reading [~~test~~] assessment
18 waiver may be granted only for a maximum of two additional
19 years and only on a case-by-case basis."

20 Section 4. Section 22-2C-5 NMSA 1978 (being Laws 2003,
21 Chapter 153, Section 14) is amended to read:

22 "22-2C-5. STUDENT ACHIEVEMENT RATINGS--CALCULATION OF
23 ADEQUATE YEARLY PROGRESS.--The [~~state board~~] department shall
24 adopt the process and methodology for calculating adequate
25 yearly progress. The statewide standards-based [~~academic~~

.165207.1GR

underscored material = new
[bracketed material] = delete

1 ~~performance tests~~] assessments used to assess adequate yearly
2 progress shall be valid and reliable and shall conform with
3 nationally recognized professional and technical standards.
4 Academic performance shall be measured by school and by the
5 following subgroups:

- 6 A. ethnicity;
- 7 B. race;
- 8 C. limited English proficiency;
- 9 D. students with disabilities; and
- 10 E. poverty."

11 Section 5. Section 22-2C-6 NMSA 1978 (being Laws 1986,
12 Chapter 33, Section 7, as amended) is amended to read:

13 "22-2C-6. REMEDIATION PROGRAMS--PROMOTION POLICIES--
14 RESTRICTIONS.--

15 A. Remediation programs, academic improvement
16 programs and promotion policies shall be aligned with
17 [~~alternative~~] school-district-determined assessment results and
18 requirements of the state assessment and accountability
19 program.

20 B. Local school boards shall approve school-
21 district-developed remediation programs and academic
22 improvement programs to provide special instructional
23 assistance to students in grades one through eight who [~~fail to~~
24 ~~attain adequate yearly progress~~] do not demonstrate academic
25 proficiency. The cost of remediation programs and academic

.165207.1GR

underscored material = new
[bracketed material] = delete

1 improvement programs shall be borne by the school district.
2 Remediation programs and academic improvement programs shall be
3 incorporated into the school district's educational plan for
4 student success and filed with the department.

5 C. The cost of summer and extended day remediation
6 programs and academic improvement programs offered in grades
7 nine through twelve shall be borne by the parent; however,
8 where parents are determined to be indigent according to
9 guidelines established by the [~~state board~~] department, the
10 school district shall bear those costs.

11 D. Diagnosis of weaknesses identified by a
12 student's academic achievement may serve as criteria in
13 assessing the need for remedial programs or retention.

14 E. A parent shall be notified no later than the end
15 of the second grading period that [~~his~~] the parent's child is
16 [~~failing to make adequate yearly progress~~] not academically
17 proficient, and a conference consisting of the parent and the
18 teacher shall be held to discuss possible remediation programs
19 available to assist the student in [~~attaining adequate yearly~~
20 ~~progress~~] becoming academically proficient. Specific academic
21 deficiencies and remediation strategies shall be explained to
22 the student's parent and a written intervention plan developed
23 containing [~~timelines~~] time lines, academic expectations and
24 the measurements to be used to verify that a student has
25 overcome [~~his~~] academic deficiencies. Remediation programs and

.165207.1GR

underscored material = new
[bracketed material] = delete

1 academic improvement programs include tutoring, extended day or
2 week programs, summer programs and other research-based
3 interventions and models for student improvement.

4 F. At the end of grades one through seven, three
5 options are available, dependent on a student's [~~adequate~~
6 ~~yearly progress~~] academic proficiency:

7 (1) the student [~~has made adequate yearly~~
8 ~~progress~~] is academically proficient and shall enter the next
9 higher grade;

10 (2) the student [~~has not made adequate yearly~~
11 ~~progress~~] is not academically proficient and shall participate
12 in the required level of remediation. Upon certification by
13 the school district that the student [~~has made adequate yearly~~
14 ~~progress, he~~] is academically proficient, the student shall
15 enter the next higher grade; or

16 (3) the student [~~has not made adequate yearly~~
17 ~~progress upon~~] is not academically proficient after completion
18 of the prescribed remediation program and upon the
19 recommendation of the teacher and school principal shall either
20 be:

21 (a) retained in the same grade for no
22 more than one school year with an academic improvement plan
23 developed by the student assistance team in order to [~~meet~~
24 ~~adequate yearly progress~~] become academically proficient, at
25 which time the student shall enter the next higher grade; or

.165207.1GR

underscored material = new
[bracketed material] = delete

1 (b) promoted to the next grade if the
2 parent refuses to allow [~~his~~] the child to be retained pursuant
3 to Subparagraph (a) of this paragraph. In this case, the
4 parent shall sign a waiver indicating [~~his~~] the parent's desire
5 that the student be promoted to the next higher grade with an
6 academic improvement plan designed to address specific academic
7 deficiencies. The academic improvement plan shall be developed
8 by the student assistance team outlining [~~timelines~~] time lines
9 and monitoring activities to ensure progress toward overcoming
10 those academic deficiencies. Students failing to [~~make~~
11 ~~adequate yearly progress~~] become academically proficient at the
12 end of that year as measured by grades, performance on school
13 district assessments and other measures identified by the
14 school district shall [~~then~~] be retained in the same grade for
15 no more than one year in order to have additional time to
16 [~~master the required content standards~~] achieve academic
17 proficiency.

18 G. At the end of the eighth grade, a student who
19 [~~fails to make adequate yearly progress~~] is not academically
20 proficient shall be retained in the eighth grade for no more
21 than one school year to [~~make adequate yearly progress~~] become
22 academically proficient or if the student assistance team
23 determines that retention of the student in the eighth grade
24 will not assist the student [~~make adequate yearly progress~~] to
25 become academically proficient, the team shall design a high

underscored material = new
[bracketed material] = delete

1 school graduation plan to meet the student's needs for entry
2 into the work force or a post-secondary educational
3 institution. If a student is retained in the eighth grade, the
4 student assistance team shall develop a specific academic
5 improvement plan that clearly delineates the student's academic
6 deficiencies and prescribes a specific remediation plan to
7 address those academic deficiencies.

8 H. A student who [~~fails to make adequate yearly~~
9 ~~progress~~] does not demonstrate academic proficiency for two
10 successive school years shall be referred to the student
11 assistance team for placement in an alternative program
12 designed by the school district. Alternative program plans
13 shall be filed with the department.

14 I. Promotion and retention decisions affecting a
15 student enrolled in special education shall be made in
16 accordance with the provisions of the individual educational
17 plan established for that student.

18 J. For the purposes of this section:

19 (1) "academic improvement plan" means a
20 written document developed by the student assistance team that
21 describes the specific content standards required for a certain
22 grade level that a student has not achieved and that prescribes
23 specific remediation programs such as summer school, extended
24 day or week school and tutoring;

25 (2) "[~~alternative~~] school-district-determined

underscored material = new
[bracketed material] = delete

1 assessment results" means the results obtained from student
2 assessments developed or adopted by a local school board and
3 conducted at an elementary grade level or middle school level;

4 (3) "educational plan for student success"
5 means a student-centered tool developed to define the role of
6 the academic improvement plan within the public school and the
7 school district that addresses methods to improve [~~a student's~~]
8 student learning and success in school and that identifies
9 specific measures of a student's progress; and

10 (4) "student assistance team" means a group
11 consisting of a student's:

- 12 (a) teacher;
- 13 (b) school counselor;
- 14 (c) school administrator; and
- 15 (d) parent."

16 Section 6. Section 22-2C-7 NMSA 1978 (being Laws 2003,
17 Chapter 153, Section 16, as amended) is amended to read:

18 "22-2C-7. ADEQUATE YEARLY PROGRESS--SCHOOL IMPROVEMENT
19 PLANS--CORRECTIVE ACTION--RESTRUCTURING.--

20 A. A public school that fails to make adequate
21 yearly progress for two consecutive school years shall be
22 [~~ranked~~] identified as a school [~~that needs~~] in need of
23 improvement. A school in need of improvement shall be ranked
24 as:

- 25 (1) school improvement 1;

underscored material = new
[bracketed material] = delete

1 (2) school improvement 2;

2 (3) corrective action;

3 (4) restructuring 1; or

4 (5) restructuring 2.

5 B. Within ninety days of being notified that a
6 public school within the school district has been [~~ranked~~
7 identified as a public school [~~that needs~~] in need of
8 improvement, the school district shall submit an improvement
9 plan for that public school to the department. In developing
10 the improvement plan, the local superintendent, the president
11 of the local school board and the school principal of the
12 public school [~~that needs~~] in need of improvement shall hold a
13 public meeting to inform parents and the public of the public
14 school's rank. The meeting shall be used to elicit suggestions
15 from parents and the public on how to improve the public
16 school. After the public meeting, the school district shall
17 develop the public school's improvement plan, and the local
18 school board shall approve the improvement plan before it is
19 submitted to the department. The improvement plan shall be
20 approved by the department within thirty days of its
21 submission.

22 C. The improvement plan shall include:

23 (1) documentation of performance measures in
24 which the public school failed to make adequate yearly
25 progress;

.165207.1GR

underscored material = new
[bracketed material] = delete

1 (2) measurable objectives to indicate the
2 action that will be taken to address failed measures;

3 (3) benchmarks to be used to indicate progress
4 in meeting academic content and performance standards;

5 (4) an estimate of the time and the resources
6 needed to achieve each objective in the improvement plan;

7 (5) the support services that shall be
8 provided to students; ~~and~~

9 (6) applications that have been made for
10 federal and state funds; and

11 [~~(6)~~] (7) any other information that the
12 public school that needs improvement, the local superintendent,
13 the local school board or the department deems necessary.

14 D. A public school [~~that needs~~] in need of
15 improvement may apply to the department for financial or other
16 assistance in accordance with the improvement plan. The public
17 school shall make application for assistance substantially in
18 the form required by the department. The department shall
19 evaluate applications for assistance and may recommend changes
20 to an application or to an improvement plan if warranted by the
21 final application. The department shall consider innovative
22 methods to assist the public school in meeting its improvement
23 plan, including department or other school employees serving as
24 a mobile assistance team to provide administrative, classroom,
25 human resource and other assistance to the public school that

.165207.1GR

underscored material = new
[bracketed material] = delete

1 needs improvement as needed and as provided in applications
2 approved by the department.

3 E. If a public school [~~fails~~] has failed to make
4 adequate yearly progress for two [~~or more~~] consecutive school
5 years it shall be placed in school improvement 1 and shall
6 provide transportation or pay the cost of transportation,
7 within available funds, for students who choose to enroll in a
8 higher ranked public school.

9 F. If a public school [~~fails~~] has failed to make
10 adequate yearly progress for three [~~or more~~] consecutive school
11 years it shall be placed in school improvement 2 and shall
12 provide supplemental services, including after-school programs,
13 tutoring and summer services to its Title I-eligible students,
14 within available funds.

15 G. The department shall adopt rules that govern the
16 priority for students for whom supplemental services shall be
17 provided and for students for whom transportation costs are
18 paid. The rules shall include the adoption of a sliding-fee
19 schedule based on the educational level of tutors in New Mexico
20 and require that providers use a pre- and post-assessment
21 instrument approved by the department to measure the gains that
22 students achieve through supplemental services.

23 H. If a public school [~~fails~~] has failed to make
24 adequate yearly progress for four consecutive school years, it
25 shall be [~~ranked as a public school subject to~~] placed in

.165207.1GR

underscored material = new
[bracketed material] = delete

1 corrective action and the school district, in conjunction with
2 the department, shall take one or more of the following actions
3 in addition to earlier improvements:

- 4 (1) replace staff as allowed by law;
- 5 (2) implement a new curriculum;
- 6 (3) decrease management authority of the
7 public school;
- 8 (4) appoint an outside expert to advise the
9 public school;
- 10 (5) extend the school day or year; or
- 11 (6) change the public school's internal
12 organizational structure.

13 I. If a public school [~~fails~~] has failed to make
14 adequate yearly progress for five consecutive school years, it
15 shall be placed in restructuring 1 and shall continue the
16 improvement measures implemented in corrective action and begin
17 planning for restructuring of the public school if it fails to
18 make adequate yearly progress in the sixth year.

19 J. If a public school has failed to make adequate
20 yearly progress for six consecutive years, it shall be placed
21 in restructuring 2. The school district, in conjunction with
22 the department, shall take one or more of the following actions
23 in addition to other improvements:

- 24 (1) reopen the public school as a state-
25 chartered charter school as provided in Section 22-2C-7.1 NMSA

.165207.1GR

underscored material = new
[bracketed material] = delete

1 1978;

2 (2) replace all or most of the staff as
3 allowed by law;

4 (3) turn over the management of the public
5 school to the department; or

6 (4) make other governance changes.

7 [~~J.~~] K. A school district that [~~fails~~] has failed
8 to make adequate yearly progress for two consecutive school
9 years may be subject to the same requirements as a [~~public~~
10 ~~school that needs improvement or the same requirements as a~~
11 public school subject to corrective action, as determined by
12 the department. A school district that fails to make adequate
13 yearly progress for four consecutive school years shall be
14 subject to corrective action.

15 [~~K.~~] L. The state [~~or~~], a school district or a
16 charter school shall not enter into management contracts with
17 private entities for the management of a public school or a
18 school district subject to corrective action.

19 M. If a public school that is identified as a
20 school in need of improvement makes adequate yearly progress in
21 the year that it has been placed in school improvement 1,
22 school improvement 2, corrective action or restructuring 1, it
23 shall not move to the next school improvement rank for one
24 year. If the public school makes adequate yearly progress for
25 a second consecutive year, it shall be removed from the ranks

.165207.1GR

1 of schools in need of improvement."

2 Section 7. A new section of the Assessment and
3 Accountability Act, Section 22-2C-7.1 NMSA 1978, is enacted to
4 read:

5 "22-2C-7.1. [NEW MATERIAL] FAILING SCHOOL SUBJECT TO
6 REOPENING AS STATE-CHARTERED CHARTER SCHOOL--REQUIREMENTS.--

7 A. If a public school fails to make adequate yearly
8 progress for five consecutive years and the department
9 determines, after public hearing, that actions provided in
10 Subsection I of Section 22-2C-7 NMSA 1978 are not sufficient,
11 the department may take steps to have the public school
12 reopened as a state-chartered charter school.

13 B. To reopen as a state-chartered charter school:

14 (1) the school's current enrollment for all
15 grades cannot exceed ten percent of the total MEM of the school
16 district where it is located when the school district has a
17 total enrollment of less than one thousand three hundred
18 students;

19 (2) the department shall find at least five
20 qualified persons willing to serve as a governing body;

21 (3) the governing body shall employ a
22 qualified school administrator within thirty days of its
23 appointment by the department;

24 (4) the governing body shall qualify as a
25 board of finance and satisfy any conditions imposed by the

.165207.1GR

underscoring material = new
[bracketed material] = delete

1 commission prior to commencing full operation;

2 (5) the governing body shall develop a written
3 plan and proposed charter that is satisfactory to the
4 commission and that at a minimum addresses the following
5 issues:

6 (a) the employment, discharge,
7 termination or displacement of current school employees,
8 including the effect of employment decisions on current
9 employment contracts and collective bargaining agreements;

10 (b) fiscal and records management;

11 (c) instructional and administrative
12 facilities;

13 (d) student transportation;

14 (e) special education;

15 (f) curriculum;

16 (g) education-related and other
17 services;

18 (h) accreditation;

19 (i) food service;

20 (j) graduation requirements, if a waiver
21 of state graduation requirements is sought;

22 (k) governance turnover; and

23 (l) student assessments and school
24 accountability;

25 (6) the governing body and the school shall

.165207.1GR

underscored material = new
[bracketed material] = delete

1 comply with any other substantive or procedural requirements
2 imposed on them by law or rule of the department; and

3 (7) the department and the governing body
4 shall have a plan to provide for an orderly transition.

5 C. If, within ninety days of its determination that
6 the school should be reopened as a state-chartered charter
7 school, the department is unable to constitute a qualified
8 governing body or the governing body does not have its charter
9 approved by the commission and does not find a qualified school
10 administrator able to commence operation of the proposed state-
11 chartered charter school, the failing school shall not be
12 reopened as a state-chartered charter school. Failure to
13 reopen the school as a state-chartered charter school does not
14 affect other actions that may be taken to improve the school.

15 D. The provisions of the Charter Schools Act shall
16 apply to a public school that is reopened as a state-chartered
17 charter school."

18 Section 8. Section 22-2C-11 NMSA 1978 (being Laws 2003,
19 Chapter 153, Section 20, as amended) is amended to read:

20 "22-2C-11. ASSESSMENT AND ACCOUNTABILITY SYSTEM
21 REPORTING--PARENT SURVEY--DATA SYSTEM--FISCAL INFORMATION.--

22 A. The department shall:

23 (1) issue a state identification number for
24 each public school student for use in the accountability data
25 system;

.165207.1GR

underscoring material = new
[bracketed material] = delete

1 (2) adopt the format for reporting individual
2 student assessments to parents. The student assessments shall
3 report each student's progress and academic needs as measured
4 against state standards; ~~and~~

5 (3) adopt the format for reporting annual
6 yearly progress of public schools, school districts and the
7 department. If the department has adopted a state improving
8 schools program, the annual accountability report shall include
9 the results of that program for each public school. The annual
10 accountability report format shall be clear, concise and
11 understandable to parents and the general public. All annual
12 accountability reports shall ensure that the privacy of
13 individual students is protected; and

14 (4) require that when public schools, school
15 districts and the state disaggregate and report school data for
16 demographic subgroups, they include data disaggregated by
17 gender.

18 B. Local school boards may establish additional
19 indicators through which to measure the school district's
20 performance in areas other than adequate yearly progress.

21 C. The school district's annual accountability
22 report shall include a report of graduation rates for each
23 public high school in the school district. As part of the
24 graduation rate data, the school district shall indicate
25 contributing factors to nongraduation such as transfer out of

.165207.1GR

underscoring material = new
[bracketed material] = delete

1 the school district, pregnancy, dropout and other factors as
2 known.

3 D. The school district's annual accountability
4 report shall include the results of a survey of parents' views
5 of the quality of their children's school. The survey shall be
6 conducted each year in time to include the results in the
7 annual accountability report. The survey shall compile the
8 results of a written questionnaire that shall be sent home with
9 the students to be given to their parents. The survey may be
10 completed anonymously. The survey shall be no more than one
11 page, shall be clearly and concisely written and shall include
12 not more than twenty questions that shall be answered with
13 options of a simple sliding scale ranging from "strongly agree"
14 to "strongly disagree" and shall include the optional response
15 "don't know". The survey shall also include a request for
16 optional written comments, which may be written on the back of
17 the questionnaire form. The questionnaire shall include
18 questions in the following areas:

- 19 (1) parent-teacher-school relationship and
20 communication;
- 21 (2) quality of educational and extracurricular
22 programs;
- 23 (3) instructional practices and techniques;
- 24 (4) resources;
- 25 (5) school employees, including the school

.165207.1GR

underscored material = new
[bracketed material] = delete

1 principal; and

2 (6) parents' views of teaching staff
3 expectations for the students.

4 E. The department shall develop no more than ten of
5 the survey questions, which shall be reviewed by the
6 legislative education study committee prior to implementation.
7 No more than five survey questions shall be developed by the
8 local school board, and no more than five survey questions
9 shall be developed by the staffs of each public school;
10 provided that at least one-half of those questions shall be
11 developed by teachers rather than school administrators, in
12 order to gather information that is specific to the particular
13 community surveyed. The questionnaires shall indicate the
14 public school site and shall be tabulated by the department
15 within thirty days of receipt and shall be returned to the
16 respective schools to be disseminated to all parents.

17 F. The school district's annual accountability
18 report shall be adopted by the local school board, [~~may~~] shall
19 be published no later than November 15 of each year and [~~may~~]
20 shall be published at least once each school year in a
21 newspaper of general circulation in the county where the school
22 district is located. In publication, the report shall be
23 titled "The School District Report Card" and disseminated in
24 accordance with guidelines established by the department to
25 ensure effective communication with parents, students,

.165207.1GR

underscoring material = new
[bracketed material] = delete

1 educators, local policymakers and business and community
2 organizations.

3 G. The annual accountability report shall include
4 the names of those local school board members who failed to
5 attend annual mandatory training.

6 H. The annual accountability report shall include
7 data on expenditures for central office administration and
8 expenditures for the public schools of the school district.

9 I. The department shall create an accountability
10 data system through which data from each public school and each
11 school district may be compiled and reviewed. The department
12 shall provide the resources to train school district personnel
13 in the use of the accountability data system.

14 J. The department shall verify data submitted by
15 the school districts.

16 K. At the end of fiscal year 2005, after the budget
17 approval cycle, the department shall produce a report to the
18 legislature that shows for all school districts using
19 performance-based program budgeting the relationship between
20 that portion of a school district's program cost generated by
21 each public school in the school district and the budgeted
22 expenditures for each public school in the school district as
23 reported in the district's performance-based program budget.
24 At the end of fiscal year 2006 and subsequent fiscal years,
25 after the budget approval cycle, the department shall report on

.165207.1GR

underscored material = new
[bracketed material] = delete

1 this relationship in all public schools in all school districts
2 in the state.

3 L. When all public schools are participating in
4 performance-based budgeting, the department shall recommend
5 annually to the legislature for inclusion in the general
6 appropriation act the maximum percentage of appropriations that
7 may be expended in each school district for central office
8 administration.

9 M. The department shall disseminate its statewide
10 accountability report to school districts; the governor,
11 legislators and other policymakers; and business and economic
12 development organizations."