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AN ACT

RELATING TO CHARTER SCHOOL REQUIREMENTS; AMENDING SECTION 22-8B-6 NMSA 1978 (BEING LAWS 1999, CHAPTER 281, SECTION 6, AS AMENDED) TO CLARIFY ENROLLMENT LIMITS; DECLARING AN EMERGENCY.

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

Section 1. Section 22-8B-6 NMSA 1978 (being Laws 1999, Chapter 281, Section 6, as amended) is amended to read:

"22-8B-6. CHARTER SCHOOL REQUIREMENTS--APPLICATION PROCESS--AUTHORIZATION--BOARD OF FINANCE DESIGNATION REQUIRED.--

A. A local school board has the authority to approve the establishment of a charter school within the school district in which it is located.

B. At least one hundred eighty days prior to initial application, the organizers of a proposed charter school shall provide written notification to the commission and the school district in which the charter school is proposed to be located of intent to establish a charter school. Failure to notify may result in an application not being accepted.

C. A charter school applicant shall apply to either a local school board or the commission for a charter.

If an application is submitted to a chartering authority, it

1 must process the application. Applications for initial
2 charters shall be submitted by July 1 to be eligible for
3 consideration for the following fiscal year; provided that
4 the July 1 deadline may be waived upon agreement of the
5 applicant and the chartering authority.

6 D. An application shall include the total number
7 of grades the charter school proposes to provide, either
8 immediately or phased. A charter school may decrease the
9 number of grades it eventually offers, but it shall not
10 increase the number of grades or the total number of students
11 proposed to be served in each grade.

12 E. An application shall include a detailed
13 description of the charter school's projected capital outlay
14 needs, including projected requests for capital outlay
15 assistance.

16 F. An application for a start-up school may be
17 made by one or more teachers, parents or community members or
18 by a public post-secondary educational institution or
19 nonprofit organization. Municipalities, counties, private
20 post-secondary educational institutions and for-profit
21 business entities are not eligible to apply for or receive a
22 charter.

23 G. An initial application for a charter school
24 shall not be made after June 30, 2007 if the proposed charter
25 school's proposed enrollment for all grades or the proposed

1 charter school's proposed enrollment for all grades in
2 combination with any other charter school's enrollment for
3 all grades would equal or exceed ten percent of the total MEM
4 of the school district in which the charter school will be
5 geographically located and that school district has a total
6 enrollment of not more than one thousand three hundred
7 students.

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

11 I. The chartering authority shall receive and
12 review all applications for charter schools submitted to it.
13 The chartering authority shall not charge application fees.

14 J. The chartering authority shall hold at least
15 one public meeting in the school district in which the
16 charter school is proposed to be located to obtain
17 information and community input to assist it in its decision
18 whether to grant a charter school application. Community
19 input may include written or oral comments in favor of or in
20 opposition to the application from the applicant, the local
21 community and, for state-chartered charter schools, the local
22 school board and school district in whose geographical
23 boundaries the charter school is proposed to be located. The
24 chartering authority shall rule on the application for a
25 charter school in a public meeting within sixty days after

1 receiving the application. If not ruled upon within sixty
2 days, the charter application shall be automatically reviewed
3 by the secretary in accordance with the provisions of Section
4 22-8B-7 NMSA 1978. The charter school applicant and the
5 chartering authority may, however, jointly waive the
6 deadlines set forth in this section.

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

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

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

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

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

25 (5) the application is otherwise contrary to

1 the best interests of the charter school's projected
2 students, the local community or the school district in whose
3 geographic boundaries the charter school applies to operate.

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

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

15 Section 2. TEMPORARY PROVISION--TRANSITION.--
16 Notwithstanding the effective date of the Charter Schools Act
17 of July 1, 2007, no school district shall approve an
18 application for a new charter school in a district with a
19 total student membership of one thousand three hundred
20 students or less until the effective date of the Charter
21 Schools Act.

22 Section 3. EMERGENCY.--It is necessary for the public
23 peace, health and safety that this act take effect
24 immediately.
