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HOUSE BILL 355

**50TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2011**

INTRODUCED BY

Dennis J. Roch

AN ACT

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

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

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

"[NEW MATERIAL] SHORT TITLE.--Sections 1 through 5 of this  
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1 act may be cited as the "A-B-C-D-F Schools Rating Act"."

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

4 "[NEW MATERIAL] DEFINITIONS.--As used in the A-B-C-D-F  
5 Schools Rating Act:

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

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

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

14 (3) remaining in beginning step or nearing  
15 proficient performance level but improving a number of scale  
16 score points as specified by department rule;

17 B. "school options" means a right to transfer to  
18 any public school not rated an F in the state or have children  
19 continue their schooling through distance learning offered  
20 through the statewide cyber academy or currently offered or  
21 approved by any other state and the department; and

22 C. "scientifically based research" means  
23 educational programs or practices that are evidence-based and  
24 have a basis in scientific research."

25 SECTION 3. A new section of the Public School Code is

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1 enacted to read:

2 "[NEW MATERIAL] RATING CERTAIN SCHOOLS.--Commencing with  
3 the 2011-2012 school year, public schools shall be subject to  
4 being rated annually by the department as provided in the A-B-  
5 C-D-F Schools Rating Act."

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

8 "[NEW MATERIAL] ANNUAL RATINGS--LETTER GRADES--RATINGS  
9 BASED ON STANDARDS-BASED TESTS--RIGHT TO SCHOOL CHOICE--  
10 DISTANCE LEARNING--RESPONSIBILITY FOR COST--USE OF FUNDS FOR  
11 PROGRAMS GROUNDED IN SCIENTIFICALLY BASED RESEARCH--ADDITIONAL  
12 REMEDY.--

13 A. All public schools shall be graded annually by  
14 the department.

15 B. The department shall assign a letter grade of A,  
16 B, C, D or F to each public school pursuant to criteria  
17 established by department rules that include as a minimum a  
18 combination of the following factors in a public school's  
19 grade:

20 (1) for elementary and middle schools:

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

23 (b) student growth in reading and  
24 mathematics; and

25 (c) growth of the lowest twenty-fifth

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1 percentile of students in the public school in reading and  
2 mathematics; and

3 (2) for high schools:

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

6 (b) student growth in reading and  
7 mathematics;

8 (c) growth of the lowest twenty-fifth  
9 percentile of students in the high school in reading and  
10 mathematics; and

11 (d) additional academic indicators such  
12 as high school graduation rates, advanced placement and  
13 international baccalaureate courses, dual enrollment courses  
14 and SAT and ACT scores.

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

19 D. In addition to any rights a parent may have  
20 pursuant to federal law, the parent of a student enrolled in a  
21 public school rated F for two of the last four years has the  
22 right to transfer the student in the same grade to any public  
23 school in the state not rated F or the right to have the  
24 student continue schooling by means of distance learning  
25 offered through the statewide cyber academy or a cyber academy

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1 currently offered and approved by any other state. The school  
2 district or charter school in which the student is enrolled is  
3 responsible for the cost of distance learning.

4 E. The secretary may require that a school  
5 district's budget for a school rated D or F be directed toward  
6 educational programs and methods that are grounded in  
7 scientifically based research linked to improved student  
8 achievement until the public school earns a grade of C or  
9 better for two consecutive years.

10 F. The school options available pursuant to the A-  
11 B-C-D-F Schools Rating Act are in addition to any remedies  
12 provided for in the Assessment and Accountability Act for  
13 students in schools in need of improvement or any other  
14 interventions prescribed by the federal No Child Left Behind  
15 Act of 2001."

16 SECTION 5. A new section of the Public School Code is  
17 enacted to read:

18 "[NEW MATERIAL] NEW MEXICO PUBLIC SCHOOL RECOGNITION  
19 PROGRAM.--

20 A. The legislature finds that there is a need for a  
21 performance incentive program for outstanding faculty and staff  
22 in highly productive public schools. The legislature finds  
23 further that performance-based incentives are commonplace in  
24 the private sector and should be infused into the public sector  
25 as a reward for productivity.

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1                   B. The "New Mexico public school recognition  
2 program" is created to provide financial awards to public  
3 schools that:

4                   (1) demonstrate high performance by earning or  
5 maintaining a school grade of A; or

6                   (2) demonstrate improvement by improving a  
7 letter grade.

8                   C. All public schools, including charter schools,  
9 are eligible to participate in the program. Depending on the  
10 availability of funding and the number and size of public  
11 schools selected to receive an award, public schools that meet  
12 one of the requirements of Subsection B of this section may  
13 receive financial awards.

14                   D. An award shall be distributed to the school  
15 district for use by the public school for the purposes  
16 specified in Subsection E of this section to be determined  
17 jointly by the public school's staff and its school advisory  
18 council. If the school staff and the school advisory council  
19 cannot reach agreement on how to expend the award by November 1  
20 of the year in which the award is awarded, the award shall be  
21 distributed equally to all classroom teachers currently  
22 teaching in the school.

23                   E. School recognition awards shall be used only for  
24 the following:

25                   (1) nonrecurring merit awards to the faculty

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1 and staff;

2 (2) nonrecurring expenditures for educational  
3 equipment or materials to assist in maintaining and improving  
4 student performance; and

5 (3) temporary personnel for the school to  
6 assist in maintaining and improving student performance.

7 F. Notwithstanding any other laws or agreements,  
8 incentive awards shall not be subject to collective  
9 bargaining."

10 SECTION 6. Section 22-8-11 NMSA 1978 (being Laws 1967,  
11 Chapter 16, Section 66, as amended) is amended to read:

12 "22-8-11. BUDGETS--APPROVAL OF OPERATING BUDGET.--

13 A. The department shall:

14 (1) on or before July 1 of each year, approve  
15 and certify to each local school board and governing body of a  
16 state-chartered charter school an operating budget for use by  
17 the school district or state-chartered charter school; ~~and~~

18 (2) make corrections, revisions and amendments  
19 to the operating budgets fixed by the local school boards or  
20 governing bodies of state-chartered charter schools and the  
21 secretary to conform the budgets to the requirements of law and  
22 to the department's rules and procedures; and

23 (3) have the ability to direct funds and  
24 resources toward programs and methods that are grounded in  
25 scientifically based research linked to improved student

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1 achievement.

2 B. No school district or state-chartered charter  
3 school or officer or employee of a school district or state-  
4 chartered charter school shall make any expenditure or incur  
5 any obligation for the expenditure of public funds unless that  
6 expenditure or obligation is made in accordance with an  
7 operating budget approved by the department. This prohibition  
8 does not prohibit the transfer of funds pursuant to the  
9 department's rules and procedures.

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

14 SECTION 7. Section 22-8-18 NMSA 1978 (being Laws 1974,  
15 Chapter 8, Section 8, as amended by Laws 2007, Chapter 347,  
16 Section 1 and by Laws 2007, Chapter 348, Section 2 and also by  
17 Laws 2007, Chapter 365, Section 1) is amended to read:

18 "22-8-18. PROGRAM COST CALCULATION--LOCAL  
19 RESPONSIBILITY.--

20 A. The total program units for the purpose of  
21 computing the program cost shall be calculated by multiplying  
22 the sum of the program units itemized as Paragraphs (1) through  
23 (6) in this subsection by the instructional staff training and  
24 experience index and adding the program units itemized as  
25 Paragraphs (7) through [~~(12)~~] (13) in this subsection. The

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1 itemized program units are as follows:

2 (1) early childhood education;

3 (2) basic education;

4 (3) special education, adjusted by subtracting

5 the units derived from membership in class D special education

6 programs in private, nonsectarian, nonprofit training centers;

7 (4) bilingual multicultural education;

8 (5) fine arts education;

9 (6) elementary physical education;

10 (7) size adjustment;

11 (8) at-risk program;

12 (9) enrollment growth or new district

13 adjustment;

14 (10) special education units derived from

15 membership in class D special education programs in private,

16 nonsectarian, nonprofit training centers;

17 (11) national board for professional teaching

18 standards certification; [~~and~~

19 ~~(11)] (12) home school student activities; and~~

20 ~~[(12)] (13) charter school student activities.~~

21 B. The total program cost calculated as prescribed

22 in Subsection A of this section includes the cost of early

23 childhood, special, bilingual multicultural, fine arts and

24 vocational education and other remedial or enrichment programs.

25 It is the responsibility of the local school board or governing

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1 body of a charter school to determine its priorities in terms  
2 of the needs of the community served by that board. Except as  
3 otherwise provided in this section, funds generated under the  
4 Public School Finance Act are discretionary to local school  
5 boards and governing bodies of charter schools, provided that  
6 the special program needs as enumerated in this section are  
7 met; provided, however, that if a public school has been rated  
8 D or F for two consecutive years, the secretary may require  
9 that sufficient funds be directed toward educational programs,  
10 methods and resources that are grounded in scientifically based  
11 research linked to improved student achievement until the  
12 public school earns a C or better for two consecutive years."

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