

1 SENATE BILL 446

2 **50TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2011**

3 INTRODUCED BY

4 John M. Sapien and Rhonda S. King

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10 AN ACT

11 RELATING TO EDUCATION; AMENDING AND ENACTING SECTIONS OF THE
12 CHARTER SCHOOLS ACT; PROVIDING FOR CHARTER SCHOOL CONTRACTS;
13 REQUIRING CHARTER CONTRACTS BETWEEN A CHARTER SCHOOL AND THE
14 CHARTERING AUTHORITY AND SETTING FORTH CONTRACT REQUIREMENTS;
15 ESTABLISHING CONFLICT OF INTEREST PROCEDURES FOR A CHARTER
16 SCHOOL GOVERNING BODY AND ADMINISTRATION; CREATING AN ANNUAL
17 EVALUATION PROCESS FOR CHARTER SCHOOLS.

18
19 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

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

22 "22-8B-4. CHARTER SCHOOLS' RIGHTS AND RESPONSIBILITIES--
23 OPERATION.--

24 A. A charter school shall be subject to all federal
25 and state laws and constitutional provisions prohibiting

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1 discrimination on the basis of disability, physical or mental
2 handicap, serious medical condition, race, creed, color, sex,
3 gender identity, sexual orientation, spousal affiliation,
4 national origin, religion, ancestry or need for special
5 education services.

6 B. A charter school shall be governed by a
7 governing body in the manner set forth in the charter contract;
8 provided that a governing body shall have at least five
9 members; and provided further that no member of a governing
10 body for a charter school that is initially approved on or
11 after July 1, 2005 or whose charter is renewed on or after July
12 1, 2005 shall serve on the governing body of another charter
13 school.

14 C. A charter school shall be responsible for:

15 (1) its own operation, including preparation
16 of a budget, subject to audits pursuant to the Audit Act; and

17 (2) contracting for services and personnel
18 matters.

19 D. A charter school may contract with a school
20 district, a university or college, the state, another political
21 subdivision of the state, the federal government or one of its
22 agencies, a tribal government or any other third party for the
23 use of a facility, its operation and maintenance and the
24 provision of any service or activity that the charter school is
25 required to perform in order to carry out the educational

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1 program described in its charter contract. Facilities used by
2 a charter school shall meet the standards required pursuant to
3 Section 22-8B-4.2 NMSA 1978.

4 E. A conversion school chartered before July 1,
5 2007 may choose to continue using the school district
6 facilities and equipment it had been using prior to conversion,
7 subject to the provisions of Subsection F of this section.

8 F. The school district in which a charter school is
9 geographically located shall provide a charter school with
10 available facilities for the school's operations unless the
11 facilities are currently used for other educational purposes.
12 An agreement for the use of school district facilities by a
13 charter school may provide for reasonable lease payments;
14 provided that the payments do not exceed the sum of the lease
15 reimbursement rate provided in Subparagraph (b) of Paragraph
16 (1) of Subsection I of Section 22-24-4 NMSA 1978 plus any
17 reimbursement for actual direct costs incurred by the school
18 district in providing the facilities; and provided further that
19 any lease payments received by a school district may be
20 retained by the school district and shall not be considered to
21 be cash balances in any calculation pursuant to Section 22-8-41
22 NMSA 1978. The available facilities provided by a school
23 district to a charter school shall meet all occupancy standards
24 as specified by the public school capital outlay council. As
25 used in this subsection, "other educational purposes" includes

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1 health clinics, daycare centers, teacher training centers,
2 school district administration functions and other ancillary
3 services related to a school district's functions and
4 operations.

5 G. A locally chartered charter school may pay the
6 costs of operation and maintenance of its facilities or may
7 contract with the school district to provide facility operation
8 and maintenance services.

9 H. Locally chartered charter school facilities are
10 eligible for state and local capital outlay funds and shall be
11 included in the school district's five-year facilities plan.

12 I. A locally chartered charter school shall
13 negotiate with a school district to provide transportation to
14 students eligible for transportation under the provisions of
15 the Public School Code. The school district, in conjunction
16 with the charter school, may establish a limit for student
17 transportation to and from the charter school site not to
18 extend beyond the school district boundary.

19 J. A charter school shall be a nonsectarian,
20 nonreligious and non-home-based public school.

21 K. Except as otherwise provided in the Public
22 School Code, a charter school shall not charge tuition or have
23 admission requirements.

24 L. With the approval of the chartering authority, a
25 single charter school may maintain separate facilities at two

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1 or more locations within the same school district; but, for
2 purposes of calculating program units pursuant to the Public
3 School Finance Act, the separate facilities shall be treated
4 together as one school.

5 M. A charter school shall be subject to the
6 provisions of Section 22-2-8 NMSA 1978 and the Assessment and
7 Accountability Act.

8 N. Within constitutional and statutory limits, a
9 charter school may acquire and dispose of property; provided
10 that, upon termination of the charter, all assets of the
11 locally chartered charter school shall revert to the local
12 school board and all assets of the state-chartered charter
13 school shall revert to the state, except that, if all or any
14 portion of a state-chartered charter school facility is
15 financed with the proceeds of general obligation bonds issued
16 by a local school board, the facility shall revert to the local
17 school board.

18 O. The governing body of a charter school may
19 accept or reject any charitable gift, grant, devise or bequest;
20 provided that no such gift, grant, devise or bequest shall be
21 accepted if subject to any condition contrary to law or to the
22 terms of the charter. The particular gift, grant, devise or
23 bequest shall be considered an asset of the charter school to
24 which it is given.

25 P. The governing body may contract and sue and be

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1 sued. A local school board shall not be liable for any acts or
2 omissions of the charter school.

3 Q. A charter school shall comply with all state and
4 federal health and safety requirements applicable to public
5 schools, including those health and safety codes relating to
6 educational building occupancy.

7 R. A charter school is a public school that may
8 contract with a school district or other party for provision of
9 financial management, food services, transportation,
10 facilities, education-related services or other services. The
11 governing body shall not contract with a for-profit entity for
12 the management of the charter school.

13 S. To enable state-chartered charter schools to
14 submit required data to the department, an accountability data
15 system shall be maintained by the department.

16 T. A charter school shall comply with all
17 applicable state and federal laws and rules related to
18 providing special education services. Charter school students
19 with disabilities and their parents retain all rights under the
20 federal Individuals with Disabilities Education Act and its
21 implementing state and federal rules. Each charter school is
22 responsible for identifying, evaluating and offering a free
23 appropriate public education to all eligible children who are
24 accepted for enrollment in that charter school. The state-
25 chartered charter school, as a local educational agency, shall

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1 assume responsibility for determining students' needs for
2 special education and related services. The division may
3 promulgate rules to implement the requirements of this
4 subsection."

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

7 "22-8B-8. CHARTER APPLICATION--CONTENTS.--The charter
8 school application [~~for a start-up school shall be a proposed~~
9 ~~agreement between the chartering authority and the charter~~
10 ~~school and~~] shall include:

11 A. the mission statement of the charter school;

12 B. the goals, objectives and student performance
13 [~~standards~~] outcomes to be achieved by the charter school;

14 C. a description of the charter school's
15 educational program, student performance standards and
16 curriculum that must meet or exceed the department's
17 educational standards and must be designed to enable each
18 student to achieve those standards;

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

22 E. a description of the charter school's plan for
23 evaluating student performance, the types of assessments that
24 will be used to measure student progress toward achievement of
25 the state's standards and the school's student performance

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1 ~~[standards]~~ outcomes, the time line for achievement of the
2 ~~[standards]~~ outcomes and the procedures for taking corrective
3 action in the event that student performance falls below the
4 standards;

5 F. evidence that the plan for the charter school is
6 economically sound, including a proposed budget for the term of
7 the charter and a description of the manner in which the annual
8 audit of the financial and administrative operations of the
9 charter school is to be conducted;

10 G. evidence that the fiscal management of the
11 charter school complies with all applicable federal and state
12 laws and rules relative to fiscal procedures;

13 H. evidence of a plan for the displacement of
14 students, teachers and other employees who will not attend or
15 be employed in the conversion school;

16 I. a description of the governing body and
17 operation of the charter school, including:

18 (1) how the ~~[initial]~~ governing body will be
19 selected;

20 (2) qualification and terms of members, how
21 vacancies on the governing body will be filled and procedures
22 for changing governing body membership; and

23 (3) the nature and extent of parental,
24 professional educator and community involvement in the
25 governance and operation of the school;

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1 J. an explanation of the relationship that will
2 exist between the proposed charter school and its employees,
3 including evidence that the terms and conditions of employment
4 will be addressed with affected employees and their recognized
5 representatives, if any;

6 K. the employment and student discipline policies
7 of the proposed charter school;

8 L. [~~for a locally chartered charter school~~] an
9 agreement between the charter school and the [~~local school~~
10 ~~board~~] chartering authority regarding their respective legal
11 liability and applicable insurance coverage;

12 M. a description of how the charter school plans to
13 meet the transportation and food service needs of its students;

14 N. a description of both the discretionary waivers
15 and the waivers provided for in Section 22-8B-5 NMSA 1978 that
16 the charter school is requesting or that will be provided from
17 the local school board [~~and~~] or the department and the charter
18 school's plan for addressing and using these waiver requests;
19 and

20 O. a description of the facilities the charter
21 school plans to use [~~and~~

22 ~~P. any other information reasonably required by the~~
23 ~~chartering authority]."~~

24 SECTION 3. Section 22-8B-9 NMSA 1978 (being Laws 1999,
25 Chapter 281, Section 9, as amended) is amended to read:

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1 "22-8B-9. CHARTER SCHOOL CONTRACT--CONTENTS--RULES.--

2 [~~A. An approved charter application is a contract~~
3 ~~between the charter school and the chartering authority.~~]

4 A. The chartering authority shall enter into a
5 contract with the governing body of the applicant charter
6 school within thirty days of approval of the charter
7 application. The charter contract shall be the final
8 authorization for the charter school and shall be part of the
9 charter. If the chartering authority and the applicant charter
10 school fail to agree upon the terms of or enter into a contract
11 within thirty days of the approval of the charter application,
12 either party may appeal to the secretary for assistance in
13 negotiating the terms of the contract; provided that such
14 appeal must be provided in writing to the secretary within
15 forty-five days of the approval of the charter application.
16 Failure to enter into a charter contract or appeal to the
17 secretary pursuant to this section precludes the chartering
18 authority from chartering the school.

19 B. The charter contract shall [~~reflect~~] include:

20 (1) all agreements regarding the release of
21 the charter school from department and local school board rules
22 and policies, including discretionary waivers and waivers
23 provided for in Section 22-8B-5 NMSA 1978;

24 (2) any material term of the charter
25 application as determined by the parties to the contract;

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1 (3) the mission statement of the charter
2 school and how the charter school will report on implementation
3 of its mission;

4 (4) the chartering authority's duties to the
5 charter school and liabilities of the chartering authority as
6 provided in Section 8 of this 2011 act;

7 (5) a statement of admission policies and
8 procedures;

9 (6) signed assurances from the charter
10 school's governing body members regarding compliance with all
11 federal and state laws governing organizational, programmatic
12 and financial requirements applicable to charter schools;

13 (7) the criteria, processes and procedures
14 that the chartering authority will use for ongoing oversight of
15 operational, financial and academic performance of the charter
16 school;

17 (8) a detailed description of how the
18 chartering authority will use the withheld two percent of the
19 school-generated program cost as provided in Section 22-8B-13
20 NMSA 1978;

21 (9) the types and amounts of insurance
22 liability coverage to be obtained by the charter school;

23 (10) the term of the contract;

24 (11) the process and criteria that the
25 chartering authority intends to use to annually monitor and

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1 evaluate the fiscal, overall governance and student performance
2 of the charter school, including the method that the chartering
3 authority intends to use to conduct the evaluation as required
4 by Section 22-8B-12 NMSA 1978;

5 (12) the dispute resolution processes agreed
6 upon by the chartering authority and the charter school,
7 provided that the processes shall, at a minimum, include:

8 (a) written notice of the intent to
9 invoke the dispute resolution process, which notice shall
10 include a description of the matter in dispute;

11 (b) a time limit for response to the
12 notice and cure of the matter in dispute;

13 (c) a procedure for selection of a
14 neutral third party to assist in resolving the dispute;

15 (d) a process for apportionment of all
16 costs related to the dispute resolution process; and

17 (e) a process for final resolution of
18 the issue reviewed under the dispute resolution process;

19 (13) the criteria, procedures and time lines,
20 agreed upon by the charter school and the chartering authority,
21 addressing charter revocation and deficiencies found in the
22 annual status report pursuant to the provisions of Section
23 22-8B-12 NMSA 1978;

24 ~~[G. For locally chartered charter schools, the~~
25 ~~contract between the charter school and the local school board~~

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1 ~~shall reflect]~~

2 (14) if the charter school contracts with a
3 third-party provider, the criteria and procedures for the
4 chartering authority to review the provider's contract and the
5 charter school's financial independence from the provider;

6 (15) all requests for release of the charter
7 school from department rules or the Public School Code. Within
8 ten days after the contract is approved by the local school
9 board, any request for release from department rules or the
10 Public School Code shall be delivered by the local school board
11 to the department. If the department grants the request, it
12 shall notify the local school board and the charter school of
13 its decision. If the department denies the request, it shall
14 notify the local school board and the charter school that the
15 request is denied and specify the reasons for denial;

16 ~~[D-]~~ (16) an agreement that the charter school
17 ~~[shall]~~ will participate in the public school insurance
18 authority;

19 (17) if the charter school is a state-
20 chartered charter school, a process for qualification of and
21 review of the school as a qualified board of finance and
22 provisions for assurance that the school has satisfied any
23 conditions imposed by the commission;

24 (18) an agreement that, if the governing body
25 wants to open and operate another charter school under an

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1 existing charter contract, the governing body must obtain the
2 approval of the chartering authority and amend the terms of the
3 contract accordingly; provided that if the chartering authority
4 and the governing body fail to agree upon the terms of the
5 amended charter contract as required in this paragraph within
6 thirty days of the governing body's notice to the chartering
7 authority of its intent to open and operate another charter
8 school under the same charter contract, either party may appeal
9 to the secretary for assistance in negotiating the terms of the
10 contract in the same manner as provided for in Subsection A of
11 this section; and

12 (19) any other information reasonably required
13 by either party to the contract.

14 ~~[E.—Any]~~ C. The process for revision or amendment
15 to the terms of the charter contract shall be made only with
16 the approval of the chartering authority and the governing body
17 of the charter school.

18 ~~[F.—For locally chartered charter schools, the~~
19 ~~charter shall include procedures agreed upon by the charter~~
20 ~~school and the local school board for the resolution of~~
21 ~~disputes between the charter school and the local school board.~~
22 ~~The charter shall include procedures that shall be agreed upon~~
23 ~~by the charter school and the local school board in the event~~
24 ~~that the board determines that the charter shall be revoked~~
25 ~~pursuant to the provisions of Section 22-8B-12 NMSA 1978.]"~~

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1 SECTION 4. A new section of the Charter Schools Act is
2 enacted to read:

3 "[NEW MATERIAL] PERFORMANCE FRAMEWORK.--

4 A. The performance provisions in the charter
5 contract shall be based on a framework that clearly sets forth
6 the academic and operations performance indicators, measures
7 and metrics that will guide the chartering authority's
8 evaluation of each charter school. The performance framework
9 shall include indicators, measures and metrics for, at a
10 minimum:

- 11 (1) student academic performance;
- 12 (2) student academic growth;
- 13 (3) achievement gaps in both proficiency and
14 growth between student subgroups;
- 15 (4) attendance;
- 16 (5) recurrent enrollment from year to year;
- 17 (6) if the charter school is a high school,
18 post-secondary readiness;
- 19 (7) if the charter school is a high school,
20 graduation rate;
- 21 (8) financial performance and sustainability;
- 22 and
- 23 (9) governing body performance, including
24 compliance with all applicable laws, rules and terms of the
25 charter contract.

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1 B. Annual performance targets shall be set by each
2 chartering authority in consultation with its charter schools
3 and shall be designed to help each charter school meet
4 applicable federal, state and chartering authority expectations
5 as set forth in the charter contracts to which the authority is
6 a party.

7 C. The performance framework shall allow for the
8 inclusion of additional rigorous, valid and reliable indicators
9 proposed by a charter school to augment external evaluations of
10 its performance, provided that the chartering authority shall
11 approve the quality and rigor of such proposed indicators and
12 the indicators are consistent with the purposes of the Charter
13 Schools Act.

14 D. The performance framework shall require the
15 disaggregation of all student performance data collected in
16 compliance with this section by student subgroup, including
17 gender, race, poverty status, special education or gifted
18 status and English language learner.

19 E. The chartering authority shall collect, analyze
20 and report all data from state assessment tests in accordance
21 with the performance framework set forth in the charter
22 contract for each charter school overseen by that chartering
23 authority.

24 F. Multiple charter schools operating under a
25 single charter contract shall report each school's performance

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1 as a separate, individual school, and each school shall be held
2 independently accountable for its performance."

3 SECTION 5. Section 22-8B-12 NMSA 1978 (being Laws 1999,
4 Chapter 281, Section 12, as amended) is amended to read:

5 "22-8B-12. CHARTER SCHOOLS--~~TERM--~~OVERSIGHT AND
6 CORRECTIVE ACTIONS--SITE VISITS--RENEWAL OF CHARTER--GROUND
7 FOR NONRENEWAL OR REVOCATION.--

8 A. A charter school may be approved for an initial
9 term of six years; provided that the first year shall be used
10 exclusively for planning and not for completing the
11 application. A charter may be renewed for successive periods
12 of five years each. Approvals of less than five years may be
13 agreed to between the charter school and the chartering
14 authority.

15 B. During the planning year, the charter school
16 shall file a minimum of three status reports with the
17 chartering authority and the department for the purpose of
18 demonstrating that the charter school's implementation progress
19 is consistent with the conditions, standards and procedures of
20 its approved charter. The report content, format and schedule
21 for submission shall be agreed to by the chartering authority
22 and the charter school [~~prior to signing~~] and become part of
23 the charter contract.

24 C. Prior to the end of the planning year, the
25 charter school shall demonstrate that its facilities meet the

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

2 ~~[D. Prior to the end of the planning year, a state-~~
3 ~~chartered charter school shall demonstrate that it has~~
4 ~~qualified as a board of finance and has satisfied any~~
5 ~~conditions imposed by the commission before commencing full~~
6 ~~operation for the remainder of its charter term. The~~
7 ~~commission shall either issue or refuse to issue the~~
8 ~~authorization to commence full operation within twenty-one days~~
9 ~~of the request. If the commission refuses to issue the~~
10 ~~authorization, it shall provide its reasons in writing to the~~
11 ~~charter school.]~~

12 D. A chartering authority shall monitor the fiscal,
13 overall governance and student performance and legal compliance
14 of the charter schools that it oversees, including collecting
15 and analyzing data to support ongoing evaluation according to
16 the charter contract. Every chartering authority may conduct
17 or require oversight activities that allow the chartering
18 authority to fulfill its responsibilities under the Charter
19 Schools Act, including conducting appropriate inquiries and
20 investigations; provided that the chartering authority complies
21 with the provisions of the Charter Schools Act and the terms of
22 the charter contract and does not unduly inhibit the autonomy
23 granted to the charter schools that it governs.

24 E. As part of its performance review of a charter
25 school, a chartering authority shall visit a charter school

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1 under its authority at least once annually to provide technical
2 assistance to the charter school and to determine the status of
3 the charter school and the progress of the charter school
4 toward the performance framework goals in its charter contract.

5 F. If, based on the performance review conducted by
6 the chartering authority pursuant to Subsection D of this
7 section, a charter school's fiscal, overall governance or
8 student performance or legal compliance appears unsatisfactory,
9 the chartering authority shall promptly notify the governing
10 body of the charter school of the unsatisfactory review and
11 provide reasonable opportunity for the governing body to remedy
12 the problem; provided that if the unsatisfactory review
13 warrants revocation, the revocation procedures set forth in
14 this section shall apply. A chartering authority may take
15 appropriate corrective actions or exercise sanctions, as long
16 as such sanctions do not constitute revocation, in response to
17 the unsatisfactory review. Such actions or sanctions by the
18 chartering authority may include requiring a governing body to
19 develop and execute a corrective action plan with the
20 chartering authority that sets forth time frames for
21 compliance.

22 G. Every chartering authority shall submit an
23 annual report to the division, including a performance report
24 for each charter school that it oversees, in accordance with
25 the performance framework set forth in the charter contract.

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1 H. The department shall review the annual report
2 received from the chartering authority to determine if the
3 department or local school board rules and policies from which
4 the charter school was released pursuant to the provisions of
5 Section 22-8B-5 NMSA 1978 assisted or impeded the charter
6 school in meeting its stated goals and objectives. The
7 department shall use the annual reports received from the
8 chartering authorities as part of its report to the governor,
9 the legislative finance committee and the legislative education
10 study committee as required by the Charter Schools Act.

11 ~~[E.]~~ I. No later than ~~[two hundred seventy days]~~
12 July 1 of the year prior to the date in which the charter
13 expires, the governing body may submit a renewal application to
14 the chartering authority. A charter school may apply to a
15 different chartering authority for renewal. The chartering
16 authority shall rule in a public hearing on the renewal
17 application no later than ~~[one hundred eighty days]~~ September 1
18 of the year prior to the expiration of the charter.

19 ~~[F.]~~ J. A charter school renewal application
20 submitted to the chartering authority shall contain:

21 (1) a report on the progress of meeting the
22 academic performance, financial compliance and governance
23 responsibilities of the charter school ~~[in]~~, including
24 achieving the goals, objectives, student performance
25 ~~[standards]~~ outcomes, state minimum educational standards and

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1 other terms of the [~~initial approved charter application~~]
2 charter contract, including the accountability requirements set
3 forth in the Assessment and Accountability Act;

4 (2) a financial statement that discloses the
5 costs of administration, instruction and other spending
6 categories for the charter school that is understandable to the
7 general public, that allows comparison of costs to other
8 schools or comparable organizations and that is in a format
9 required by the department;

10 (3) [~~contents of the charter application set~~
11 ~~forth in Section 22-8B-8 NMSA 1978~~] a copy of the charter
12 contract executed in compliance with the provisions of Section
13 22-8B-9 NMSA 1978;

14 (4) a petition in support of the charter
15 school renewing its charter status signed by not less than
16 sixty-five percent of the employees in the charter school;

17 (5) a petition in support of the charter
18 school renewing its charter status signed by at least seventy-
19 five percent of the households whose children are enrolled in
20 the charter school; and

21 (6) a description of the charter school
22 facilities and assurances that the facilities are in compliance
23 with the requirements of Section 22-8B-4.2 NMSA 1978.

24 [~~G.~~] K. A charter may be suspended, revoked or not
25 renewed by the chartering authority if the chartering authority

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1 determines that the charter school did any of the following:

2 (1) committed a material violation of any of
3 the conditions, standards or procedures set forth in the
4 charter contract;

5 (2) failed to meet or make substantial
6 progress toward achievement of the department's minimum
7 educational standards or student performance standards
8 identified in the charter [~~application~~] contract;

9 (3) failed to meet generally accepted
10 standards of fiscal management; or

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

13 L. The chartering authority shall develop processes
14 for suspension, revocation or nonrenewal of a charter that:

15 (1) provide the charter school with timely
16 notification of the prospect of suspension, revocation or
17 nonrenewal of the charter and the reasons for such action;

18 (2) allow the charter school a reasonable
19 amount of time to prepare and submit a response to the
20 chartering authority's action; and

21 (3) require the final determination made by
22 the chartering authority to be submitted to the department.

23 [~~H.~~] M. If a chartering authority suspends, revokes
24 or does not renew a charter, the chartering authority shall
25 state in writing its reasons for the suspension, revocation or

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1 nonrenewal.

2 [~~F.~~] N. A decision to suspend, revoke or not to
3 renew a charter may be appealed by the governing body pursuant
4 to Section 22-8B-7 NMSA 1978."

5 **SECTION 6.** A new section of the Charter Schools Act is
6 enacted to read:

7 "[NEW MATERIAL] CHARTER SCHOOL CLOSURE--CHARTERING
8 AUTHORITY PROTOCOLS--CHARTERING AUTHORITY DUTIES--DISTRIBUTION
9 OF ASSETS.--

10 A. Prior to any charter school closure decision,
11 the chartering authority shall develop a charter school closure
12 protocol to ensure timely notification to parents, orderly
13 transition of students and student records to new schools and
14 proper disposition of school funds, property and assets in
15 accordance with the provisions of Subsection C of this section.
16 The protocol shall specify tasks, time lines and responsible
17 parties, including delineating the respective duties of the
18 charter school, the governing body and the chartering
19 authority.

20 B. If a charter school is ordered closed for any
21 reason, prior to closure, the chartering authority shall
22 oversee and work with the closing school to ensure a smooth and
23 orderly closure and transition for students and parents
24 according to the closure protocol.

25 C. When a charter school is closed, the assets of

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1 the school shall be distributed first to satisfy outstanding
2 payroll obligations for employees of the school, then to
3 creditors of the school and then to the state treasury to the
4 credit of the current school fund. If the assets of the school
5 are insufficient to pay all parties to whom the schools owes
6 compensation, the prioritization of the distribution of assets
7 may be determined by decree of a court of law."

8 SECTION 7. A new section of the Charter Schools Act is
9 enacted to read:

10 "[NEW MATERIAL] GOVERNING BODY CONFLICTS OF INTEREST.--

11 A. A person shall not serve as a member of a
12 governing body of a charter school if the person or an
13 immediate family member of the person is an owner, employee or
14 agent of, or a contractor with, a for-profit or nonprofit
15 entity with which the charter school contracts, directly or
16 indirectly, for professional services, goods or facilities. A
17 violation of this subsection renders the contract between the
18 person or the person's immediate family member and the charter
19 school voidable at the option of the chartering authority, the
20 department or the governing body. A person who violates this
21 subsection is individually liable to the charter school for any
22 damage caused by the violation.

23 B. No member of a governing body or employee,
24 officer or agent of a charter school shall participate in
25 selecting, awarding or administering a contract with the

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1 charter school if a conflict of interest exists. A conflict of
2 interest exists when the member, employee, officer or agent or
3 an immediate family member of the member, employee, officer or
4 agent has a financial or other interest in the entity with
5 which the charter school is contracting. A violation of this
6 subsection renders the contract void.

7 C. Any employee, agent or board member of the
8 chartering authority who participates in the initial review,
9 approval, ongoing oversight, evaluation or charter renewal
10 process of a charter school is ineligible to serve on the
11 governing body of the charter school chartered by the
12 chartering authority.

13 D. The conflict-of-interest provisions under this
14 section do not apply to compensation paid to a teacher employed
15 by the charter school who also serves as a member of the
16 governing body.

17 E. As used in this section, "immediate family
18 member" means:

- 19 (1) a spouse, including a former spouse;
20 (2) a child or an adult child, including an
21 adopted child, a stepchild or an ex-nuptial child;
22 (3) a parent or a stepparent;
23 (4) a grandparent;
24 (5) a grandchild;
25 (6) a sibling or a stepsibling;

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- 1 (7) a first cousin;
- 2 (8) an aunt or an uncle;
- 3 (9) a father-in-law or a mother-in-law;
- 4 (10) a sister-in-law or a brother-in-law; and
- 5 (11) any other relative who is financially
- 6 supported."

7 SECTION 8. A new section of the Charter Schools Act is
8 enacted to read:

9 "[NEW MATERIAL] CHARTERING AUTHORITY--POWERS--DUTIES--
10 LIABILITY.--A chartering authority shall:

- 11 A. evaluate charter applications;
- 12 B. actively pursue the utilization of charter
- 13 schools to satisfy identified education needs and promote a
- 14 diversity of educational choices;
- 15 C. approve charter applications that meet the
- 16 requirements of the Charter Schools Act;
- 17 D. decline to approve charter applications that
- 18 fail to meet the requirements of the Charter Schools Act or are
- 19 otherwise inadequate;
- 20 E. negotiate and execute, in good faith, charter
- 21 contracts that meet the requirements of the Charter Schools Act
- 22 with each approved charter school;
- 23 F. monitor, in accordance with the requirements of
- 24 the Charter Schools Act and the terms of the charter contract,
- 25 the performance and legal compliance of charter schools under

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1 their authority;

2 G. determine whether a charter school merits
3 suspension, revocation or nonrenewal; and

4 H. develop and maintain chartering policies and
5 practices consistent with nationally recognized principles and
6 standards for quality charter authorizing in all major areas of
7 authorizing, including:

8 (1) organizational capacity and
9 infrastructure;

10 (2) evaluating charter applications;

11 (3) performance contracting;

12 (4) charter school oversight and evaluation;

13 and

14 (5) charter school suspension, revocation and
15 renewal processes."

16 SECTION 9. A new section of the Charter Schools Act is
17 enacted to read:

18 "[NEW MATERIAL] DIVISION--ANNUAL REPORT.--By December 1
19 annually, the division shall issue to the governor, the
20 legislative finance committee and the legislative education
21 study committee a report on the state's charter schools for the
22 school year ending in the preceding calendar year, drawing from
23 the annual reports submitted by every chartering authority as
24 well as any relevant data compiled by the division. The annual
25 report shall include a comparison of the performance of charter

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1 school students with the performance of academically,
2 ethnically and economically comparable groups of students in
3 noncharter public schools. The report shall also include an
4 assessment of the successes, challenges and areas for
5 improvement in meeting the purposes of the Charter Schools Act,
6 including the division's assessment of the sufficiency of
7 funding for charter schools, the efficacy of the state formula
8 for chartering authority funding and any suggested changes to
9 state law or policy necessary to strengthen the state's charter
10 schools. The annual report shall be published on the
11 department's web site."

12 SECTION 10. EFFECTIVE DATE.--The effective date of the
13 provisions of this act is July 1, 2011.

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