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AN ACT

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

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

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

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

A. A charter school shall be subject to all  
federal and state laws and constitutional provisions  
prohibiting discrimination on the basis of disability,  
physical or mental handicap, serious medical condition, race,  
creed, color, sex, gender identity, sexual orientation,  
spousal affiliation, national origin, religion, ancestry or  
need for special education services.

B. A charter school shall be governed by a  
governing body in the manner set forth in the charter  
contract; provided that a governing body shall have at least  
five members; and provided further that no member of a

1 governing body for a charter school that is initially  
2 approved on or after July 1, 2005 or whose charter is renewed  
3 on or after July 1, 2005 shall serve on the governing body of  
4 another charter school. No member of a local school board  
5 shall be a member of a governing body for a charter school or  
6 employed in any capacity by a locally chartered charter  
7 school located within the local school board's school  
8 district during the term of office for which the member was  
9 elected or appointed.

10 C. A charter school shall be responsible for:

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

13 (2) contracting for services and personnel  
14 matters.

15 D. A charter school may contract with a school  
16 district, a university or college, the state, another  
17 political subdivision of the state, the federal government or  
18 one of its agencies, a tribal government or any other third  
19 party for the use of a facility, its operation and  
20 maintenance and the provision of any service or activity that  
21 the charter school is required to perform in order to carry  
22 out the educational program described in its charter  
23 contract. Facilities used by a charter school shall meet the  
24 standards required pursuant to Section 22-8B-4.2 NMSA 1978.

25 E. A conversion school chartered before July 1,

1 2007 may choose to continue using the school district  
2 facilities and equipment it had been using prior to  
3 conversion, subject to the provisions of Subsection F of this  
4 section.

5 F. The school district in which a charter school  
6 is geographically located shall provide a charter school with  
7 available facilities for the school's operations unless the  
8 facilities are currently used for other educational purposes.

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

1 functions and operations.

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

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

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

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

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

22 L. With the approval of the chartering authority,  
23 a single charter school may maintain separate facilities at  
24 two or more locations within the same school district; but,  
25 for purposes of calculating program units pursuant to the

1 Public School Finance Act, the separate facilities shall be  
2 treated together as one school.

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

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

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

23 P. The governing body may contract and sue and be  
24 sued. A local school board shall not be liable for any acts  
25 or omissions of the charter school.

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

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

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

14           T. A charter school shall comply with all  
15 applicable state and federal laws and rules related to  
16 providing special education services. Charter school  
17 students with disabilities and their parents retain all  
18 rights under the federal Individuals with Disabilities  
19 Education Act and its implementing state and federal rules.  
20 Each charter school is responsible for identifying,  
21 evaluating and offering a free appropriate public education  
22 to all eligible children who are accepted for enrollment in  
23 that charter school. The state-chartered charter school, as  
24 a local educational agency, shall assume responsibility for  
25 determining students' needs for special education and related

1 services. The division may promulgate rules to implement the  
2 requirements of this subsection."

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

5 "22-8B-8. CHARTER APPLICATION--CONTENTS.--The charter  
6 school application shall include:

7 A. the mission statement of the charter school;

8 B. the goals, objectives and student performance  
9 outcomes to be achieved by the charter school;

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

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

18 E. a description of the charter school's plan for  
19 evaluating student performance, the types of assessments that  
20 will be used to measure student progress toward achievement  
21 of the state's standards and the school's student performance  
22 outcomes, the time line for achievement of the outcomes and  
23 the procedures for taking corrective action in the event that  
24 student performance falls below the standards;

25 F. evidence that the plan for the charter school

1 is economically sound, including a proposed budget for the  
2 term of the charter and a description of the manner in which  
3 the annual audit of the financial and administrative  
4 operations of the charter school is to be conducted;

5 G. evidence that the fiscal management of the  
6 charter school complies with all applicable federal and state  
7 laws and rules relative to fiscal procedures;

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

11 I. a description of the governing body and  
12 operation of the charter school, including:

13 (1) how the governing body will be selected;

14 (2) qualification and terms of members, how  
15 vacancies on the governing body will be filled and procedures  
16 for changing governing body membership; and

17 (3) the nature and extent of parental,  
18 professional educator and community involvement in the  
19 governance and operation of the school;

20 J. an explanation of the relationship that will  
21 exist between the proposed charter school and its employees,  
22 including evidence that the terms and conditions of  
23 employment will be addressed with affected employees and  
24 their recognized representatives, if any;

25 K. the employment and student discipline policies



1 of the proposed charter school;

2 L. an agreement between the charter school and the  
3 chartering authority regarding their respective legal  
4 liability and applicable insurance coverage;

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

8 N. a description of both the discretionary waivers  
9 and the waivers provided for in Section 22-8B-5 NMSA 1978  
10 that the charter school is requesting or that will be  
11 provided from the local school board or the department and  
12 the charter school's plan for addressing and using these  
13 waiver requests; and

14 O. a description of the facilities the charter  
15 school plans to use."

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

18 "22-8B-9. CHARTER SCHOOL CONTRACT--CONTENTS--RULES.--

19 A. The chartering authority shall enter into a  
20 contract with the governing body of the applicant charter  
21 school within thirty days of approval of the charter  
22 application. The charter contract shall be the final  
23 authorization for the charter school and shall be part of the  
24 charter. If the chartering authority and the applicant  
25 charter school fail to agree upon the terms of or enter into

1 a contract within thirty days of the approval of the charter  
2 application, either party may appeal to the secretary to  
3 finalize the terms of the contract; provided that such appeal  
4 must be provided in writing to the secretary within  
5 forty-five days of the approval of the charter application.  
6 Failure to enter into a charter contract or appeal to the  
7 secretary pursuant to this section precludes the chartering  
8 authority from chartering the school.

9 B. The charter contract shall include:

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

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

16 (3) the mission statement of the charter  
17 school and how the charter school will report on  
18 implementation of its mission;

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

22 (5) a statement of admission policies and  
23 procedures;

24 (6) signed assurances from the charter  
25 school's governing body members regarding compliance with all

1 federal and state laws governing organizational, programmatic  
2 and financial requirements applicable to charter schools;

3 (7) the criteria, processes and procedures  
4 that the chartering authority will use for ongoing oversight  
5 of operational, financial and academic performance of the  
6 charter school;

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

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

13 (10) the term of the contract;

14 (11) the process and criteria that the  
15 chartering authority intends to use to annually monitor and  
16 evaluate the fiscal, overall governance and student  
17 performance of the charter school, including the method that  
18 the chartering authority intends to use to conduct the  
19 evaluation as required by Section 22-8B-12 NMSA 1978;

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

23 (a) written notice of the intent to  
24 invoke the dispute resolution process, which notice shall  
25 include a description of the matter in dispute;

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

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

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

7 (e) a process for final resolution of  
8 the issue reviewed under the dispute resolution process;

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

14 (14) if the charter school contracts with a  
15 third-party provider, the criteria and procedures for the  
16 chartering authority to review the provider's contract and  
17 the charter school's financial independence from the  
18 provider;

19 (15) all requests for release of the charter  
20 school from department rules or the Public School Code.  
21 Within ten days after the contract is approved by the local  
22 school board, any request for release from department rules  
23 or the Public School Code shall be delivered by the local  
24 school board to the department. If the department grants the  
25 request, it shall notify the local school board and the

1 charter school of its decision. If the department denies the  
2 request, it shall notify the local school board and the  
3 charter school that the request is denied and specify the  
4 reasons for denial;

5 (16) an agreement that the charter school  
6 will participate in the public school insurance authority;

7 (17) if the charter school is a  
8 state-chartered charter school, a process for qualification  
9 of and review of the school as a qualified board of finance  
10 and provisions for assurance that the school has satisfied  
11 any conditions imposed by the commission; and

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

14 C. The process for revision or amendment to the  
15 terms of the charter contract shall be made only with the  
16 approval of the chartering authority and the governing body  
17 of the charter school. If they cannot agree, either party  
18 may appeal to the secretary as provided in Subsection A of  
19 this Section."

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

22 "PERFORMANCE FRAMEWORK.--

23 A. The performance provisions in the charter  
24 contract shall be based on a framework that clearly sets  
25 forth the academic and operations performance indicators,

1 measures and metrics that will guide the chartering  
2 authority's evaluation of each charter school. The  
3 performance framework shall include indicators, measures and  
4 metrics for, at a minimum:

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

20 B. Annual performance targets shall be set by each  
21 chartering authority in consultation with its charter schools  
22 and shall be designed to help each charter school meet  
23 applicable federal, state and chartering authority  
24 expectations as set forth in the charter contracts to which  
25 the authority is a party.

1 C. The performance framework shall allow for the  
2 inclusion of additional rigorous, valid and reliable  
3 indicators proposed by a charter school to augment external  
4 evaluations of its performance, provided that the chartering  
5 authority shall approve the quality and rigor of such  
6 proposed indicators and the indicators are consistent with  
7 the purposes of the Charter Schools Act.

8 D. The performance framework shall require the  
9 disaggregation of all student performance data collected in  
10 compliance with this section by student subgroup, including  
11 gender, race, poverty status, special education or gifted  
12 status and English language learner.

13 E. The chartering authority shall collect, analyze  
14 and report all data from state assessment tests in accordance  
15 with the performance framework set forth in the charter  
16 contract for each charter school overseen by that chartering  
17 authority."

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

20 "22-8B-12. CHARTER SCHOOLS--TERM--OVERSIGHT AND  
21 CORRECTIVE ACTIONS--SITE VISITS--RENEWAL OF CHARTER--GROUNDS  
22 FOR NONRENEWAL OR REVOCATION.--

23 A. A charter school may be approved for an initial  
24 term of six years; provided that the first year shall be used  
25 exclusively for planning and not for completing the

1 application. A charter may be renewed for successive periods  
2 of five years each. Approvals of less than five years may be  
3 agreed to between the charter school and the chartering  
4 authority.

5 B. During the planning year, the charter school  
6 shall file a minimum of three status reports with the  
7 chartering authority and the department for the purpose of  
8 demonstrating that the charter school's implementation  
9 progress is consistent with the conditions, standards and  
10 procedures of its approved charter. The report content,  
11 format and schedule for submission shall be agreed to by the  
12 chartering authority and the charter school and become part  
13 of the charter contract.

14 C. Prior to the end of the planning year, the  
15 charter school shall demonstrate that its facilities meet the  
16 requirements of Section 22-8B-4.2 NMSA 1978.

17 D. A chartering authority shall monitor the  
18 fiscal, overall governance and student performance and legal  
19 compliance of the charter schools that it oversees, including  
20 reviewing the data provided by the charter school to support  
21 ongoing evaluation according to the charter contract. Every  
22 chartering authority may conduct or require oversight  
23 activities that allow the chartering authority to fulfill its  
24 responsibilities under the Charter Schools Act, including  
25 conducting appropriate inquiries and investigations; provided



1 that the chartering authority complies with the provisions of  
2 the Charter Schools Act and the terms of the charter contract  
3 and does not unduly inhibit the autonomy granted to the  
4 charter schools that it governs.

5 E. As part of its performance review of a charter  
6 school, a chartering authority shall visit a charter school  
7 under its authority at least once annually to provide  
8 technical assistance to the charter school and to determine  
9 the status of the charter school and the progress of the  
10 charter school toward the performance framework goals in its  
11 charter contract.

12 F. If, based on the performance review conducted  
13 by the chartering authority pursuant to Subsection D of this  
14 section, a charter school's fiscal, overall governance or  
15 student performance or legal compliance appears  
16 unsatisfactory, the chartering authority shall promptly  
17 notify the governing body of the charter school of the  
18 unsatisfactory review and provide reasonable opportunity for  
19 the governing body to remedy the problem; provided that if  
20 the unsatisfactory review warrants revocation, the revocation  
21 procedures set forth in this section shall apply. A  
22 chartering authority may take appropriate corrective actions  
23 or exercise sanctions, as long as such sanctions do not  
24 constitute revocation, in response to the unsatisfactory  
25 review. Such actions or sanctions by the chartering

1 authority may include requiring a governing body to develop  
2 and execute a corrective action plan with the chartering  
3 authority that sets forth time frames for compliance.

4 G. Every chartering authority shall submit an  
5 annual report to the division, including a performance report  
6 for each charter school that it oversees, in accordance with  
7 the performance framework set forth in the charter contract.

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

19 I. No later than two hundred seventy days prior to  
20 the date in which the charter expires, the governing body may  
21 submit a renewal application to the chartering authority. A  
22 charter school may apply to a different chartering authority  
23 for renewal. The chartering authority shall rule in a public  
24 hearing on the renewal application no later than one hundred  
25 eighty days prior to the expiration of the charter.

1           J. A charter school renewal application submitted  
2 to the chartering authority shall contain:

3                   (1) a report on the progress of meeting the  
4 academic performance, financial compliance and governance  
5 responsibilities of the charter school, including achieving  
6 the goals, objectives, student performance outcomes, state  
7 minimum educational standards and other terms of the charter  
8 contract, including the accountability requirements set forth  
9 in the Assessment and Accountability Act;

10                   (2) a financial statement that discloses the  
11 costs of administration, instruction and other spending  
12 categories for the charter school that is understandable to  
13 the general public, that allows comparison of costs to other  
14 schools or comparable organizations and that is in a format  
15 required by the department;

16                   (3) a copy of the charter contract executed  
17 in compliance with the provisions of Section 22-8B-9 NMSA  
18 1978;

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

22                   (5) a petition in support of the charter  
23 school renewing its charter status signed by at least  
24 seventy-five percent of the households whose children are  
25 enrolled in the charter school; and

1 (6) a description of the charter school  
2 facilities and assurances that the facilities are in  
3 compliance with the requirements of Section 22-8B-4.2 NMSA  
4 1978.

5 K. A charter may be suspended, revoked or not  
6 renewed by the chartering authority if the chartering  
7 authority determines that the charter school did any of the  
8 following:

9 (1) committed a material violation of any of  
10 the conditions, standards or procedures set forth in the  
11 charter contract;

12 (2) failed to meet or make substantial  
13 progress toward achievement of the department's minimum  
14 educational standards or student performance standards  
15 identified in the charter contract;

16 (3) failed to meet generally accepted  
17 standards of fiscal management; or

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

20 L. The chartering authority shall develop  
21 processes for suspension, revocation or nonrenewal of a  
22 charter that:

23 (1) provide the charter school with timely  
24 notification of the prospect of suspension, revocation or  
25 nonrenewal of the charter and the reasons for such action;

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

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

6 M. If a chartering authority suspends, revokes or  
7 does not renew a charter, the chartering authority shall  
8 state in writing its reasons for the suspension, revocation  
9 or nonrenewal.

10 N. A decision to suspend, revoke or not to renew a  
11 charter may be appealed by the governing body pursuant to  
12 Section 22-8B-7 NMSA 1978."

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

15 "CHARTER SCHOOL CLOSURE--CHARTERING AUTHORITY  
16 PROTOCOLS--CHARTERING AUTHORITY DUTIES--DISTRIBUTION OF  
17 ASSETS.--

18 A. Prior to any charter school closure decision,  
19 the chartering authority shall develop a charter school  
20 closure protocol to ensure timely notification to parents,  
21 orderly transition of students and student records to new  
22 schools and proper disposition of school funds, property and  
23 assets in accordance with the provisions of Subsection C of  
24 this section. The protocol shall specify tasks, time lines  
25 and responsible parties, including delineating the respective

1 duties of the charter school, the governing body and the  
2 chartering authority.

3 B. If a charter school is ordered closed for any  
4 reason, prior to closure, the chartering authority shall  
5 oversee and work with the closing school to ensure a smooth  
6 and orderly closure and transition for students and parents  
7 according to the closure protocol.

8 C. When a charter school is closed, the assets of  
9 the school shall be distributed first to satisfy outstanding  
10 payroll obligations for employees of the school, then to  
11 creditors of the school and then to the state treasury to the  
12 credit of the current school fund. If the assets of the  
13 school are insufficient to pay all parties to whom the  
14 schools owes compensation, the prioritization of the  
15 distribution of assets may be determined by decree of a court  
16 of law."

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

19 "GOVERNING BODY CONFLICTS OF INTEREST.--

20 A. A person shall not serve as a member of a  
21 governing body of a charter school if the person or an  
22 immediate family member of the person is an owner, agent of,  
23 contractor with or otherwise has a financial interest in a  
24 for-profit or nonprofit entity with which the charter school  
25 contracts directly, for professional services, goods or

1 facilities. A violation of this subsection renders the  
2 contract between the person or the person's immediate family  
3 member and the charter school voidable at the option of the  
4 chartering authority, the department or the governing body.  
5 A person who knowingly violates this subsection may be  
6 individually liable to the charter school for any financial  
7 damage caused by the violation.

8 B. No member of a governing body or employee,  
9 officer or agent of a charter school shall participate in  
10 selecting, awarding or administering a contract with the  
11 charter school if a conflict of interest exists. A conflict  
12 of interest exists when the member, employee, officer or  
13 agent or an immediate family member of the member, employee,  
14 officer or agent has a financial interest in the entity with  
15 which the charter school is contracting. A violation of this  
16 subsection renders the contract voidable.

17 C. Any employee, agent or board member of the  
18 chartering authority who participates in the initial review,  
19 approval, ongoing oversight, evaluation or charter renewal  
20 process of a charter school is ineligible to serve on the  
21 governing body of the charter school chartered by the  
22 chartering authority.

23 D. As used in this section, "immediate family  
24 member" means spouse, father, father-in-law, mother,  
25 mother-in-law, son, son-in-law, daughter, daughter-in-law,

1 brother, brother-in-law, sister, sister-in-law or any other  
2 relative who is financially supported."

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

5 "CHARTERING AUTHORITY--POWERS--DUTIES--LIABILITY.--A  
6 chartering authority shall:

7 A. evaluate charter applications;

8 B. actively pursue the utilization of charter  
9 schools to satisfy identified education needs and promote a  
10 diversity of educational choices;

11 C. approve charter applications that meet the  
12 requirements of the Charter Schools Act;

13 D. decline to approve charter applications that  
14 fail to meet the requirements of the Charter Schools Act or  
15 are otherwise inadequate;

16 E. negotiate and execute, in good faith, charter  
17 contracts that meet the requirements of the Charter Schools  
18 Act with each approved charter school;

19 F. monitor, in accordance with the requirements of  
20 the Charter Schools Act and the terms of the charter  
21 contract, the performance and legal compliance of charter  
22 schools under their authority;

23 G. determine whether a charter school merits  
24 suspension, revocation or nonrenewal; and

25 H. develop and maintain chartering policies and



1 practices consistent with nationally recognized principles  
2 and standards for quality charter authorizing in all major  
3 areas of authorizing, including:

- 4 (1) organizational capacity and  
5 infrastructure;
- 6 (2) evaluating charter applications;
- 7 (3) performance contracting;
- 8 (4) charter school oversight and evaluation;
- 9 and
- 10 (5) charter school suspension, revocation  
11 and renewal processes."

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

14 "DIVISION--ANNUAL REPORT.--By December 1 annually, the  
15 division shall issue to the governor, the legislative finance  
16 committee and the legislative education study committee a  
17 report on the state's charter schools for the school year  
18 ending in the preceding calendar year, drawing from the  
19 annual reports submitted by every chartering authority as  
20 well as any relevant data compiled by the division. The  
21 annual report shall include a comparison of the performance  
22 of charter school students with the performance of  
23 academically, ethnically and economically comparable groups  
24 of students in noncharter public schools. The report shall  
25 also include an assessment of the successes, challenges and

1 areas for improvement in meeting the purposes of the Charter  
2 Schools Act, including the division's assessment of the  
3 sufficiency of funding for charter schools, the efficacy of  
4 the state formula for chartering authority funding and any  
5 suggested changes to state law or policy necessary to  
6 strengthen the state's charter schools. The annual report  
7 shall be published on the department's web site."

8 SECTION 10. EFFECTIVE DATE.--The effective date of the  
9 provisions of this act is July 1, 2012. \_\_\_\_\_

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