

1 SENATE BILL 148

2 **52ND LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2015**

3 INTRODUCED BY

4 Mimi Stewart

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7  
8 FOR THE LEGISLATIVE EDUCATION STUDY COMMITTEE

9  
10 AN ACT

11 RELATING TO PUBLIC EDUCATION; AMENDING THE PUBLIC SCHOOL CODE  
12 TO DEFINE CERTAIN CHARTER SCHOOL TERMS AND TO CLARIFY CERTAIN  
13 RESPONSIBILITIES OF CHARTER SCHOOL AUTHORIZERS, CHARTER SCHOOL  
14 GOVERNING BODIES AND CHARTER SCHOOLS.

15  
16 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

17 SECTION 1. Section 22-1-2 NMSA 1978 (being Laws 2003,  
18 Chapter 153, Section 3, as amended) is amended to read:

19 "22-1-2. DEFINITIONS.--As used in the Public School Code:

20 A. "academic proficiency" means mastery of the  
21 subject-matter knowledge and skills specified in state academic  
22 content and performance standards for a student's grade level;

23 B. "adequate yearly progress" means the measure  
24 adopted by the department based on federal requirements to  
25 assess the progress that a public school or school district or

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1 the state makes toward improving student achievement;

2 C. "charter school" means a school authorized by a  
3 chartering authority to operate as a public school;

4 ~~[G.]~~ D. "commission" means the public education  
5 commission;

6 ~~[D.]~~ E. "department" means the public education  
7 department;

8 ~~[E.]~~ F. "home school" means the operation by the  
9 parent of a school-age person of a home study program of  
10 instruction that provides a basic academic educational program,  
11 including reading, language arts, mathematics, social studies  
12 and science;

13 ~~[F.]~~ G. "instructional support provider" means a  
14 person who is employed to support the instructional program of  
15 a school district, including educational assistant, school  
16 counselor, social worker, school nurse, speech-language  
17 pathologist, psychologist, physical therapist, occupational  
18 therapist, recreational therapist, marriage and family  
19 therapist, interpreter for the deaf and diagnostician;

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

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

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

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

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

7           [~~L-~~] M. "public school" means that part of a school  
8 district that is a single attendance center in which  
9 instruction is offered by one or more teachers and is  
10 discernible as a building or group of buildings generally  
11 recognized as either an elementary, middle, junior high or high  
12 school or any combination of those and includes a charter  
13 school;

14           [~~M-~~] N. "school" means a supervised program of  
15 instruction designed to educate a student in a particular  
16 place, manner and subject area;

17           [~~N-~~] O. "school administrator" means a person  
18 licensed to administer in a school district and includes school  
19 principals, [~~and~~] central district administrators and charter  
20 school head administrators;

21           [~~O-~~] P. "school-age person" means a person who is  
22 at least five years of age prior to 12:01 a.m. on September 1  
23 of the school year and who has not received a high school  
24 diploma or its equivalent. A maximum age of twenty-one shall  
25 be used for a person who is classified as special education

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1 membership as defined in Section 22-8-21 NMSA 1978 or as a  
2 resident of a state institution;

3 ~~[P.]~~ Q. "school building" means a public school, an  
4 administration building and related school structures or  
5 facilities, including teacher housing, that is owned, acquired  
6 or constructed by the school district as necessary to carry out  
7 the functions of the school district;

8 ~~[Q.]~~ R. "school bus private owner" means a person,  
9 other than a school district, the department, the state or any  
10 other political subdivision of the state, that owns a school  
11 bus;

12 ~~[R.]~~ S. "school district" means an area of land  
13 established as a political subdivision of the state for the  
14 administration of public schools and segregated geographically  
15 for taxation and bonding purposes;

16 ~~[S.]~~ T. "school employee" includes licensed and  
17 nonlicensed employees of a school district;

18 ~~[T.]~~ U. "school principal" means the chief  
19 instructional leader and administrative head of a public  
20 school;

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

24 ~~[V.]~~ W. "secretary" means the secretary of public  
25 education;

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1           ~~[W.]~~ X. "state agency" or "state institution" means  
2 the New Mexico military institute, New Mexico school for the  
3 blind and visually impaired, New Mexico school for the deaf,  
4 New Mexico boys' school, girls' welfare home, New Mexico youth  
5 diagnostic and development center, Sequoyah adolescent  
6 treatment center, Carrie Tingley crippled children's hospital,  
7 New Mexico behavioral health institute at Las Vegas and any  
8 other state agency responsible for educating resident children;

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

12           ~~[Y.]~~ Z. "substitute teacher" means a person who  
13 holds a certificate to substitute for a teacher in the  
14 classroom;

15           ~~[Z.]~~ AA. "teacher" means a person who holds a level  
16 one, two or three-A license and whose primary duty is classroom  
17 instruction or the supervision, below the school principal  
18 level, of an instructional program or whose duties include  
19 curriculum development, peer intervention, peer coaching or  
20 mentoring or serving as a resource teacher for other teachers;

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

23           ~~[BB.]~~ CC. "certified school employee" or "certified  
24 school personnel" means a licensed school employee."

25           SECTION 2. Section 22-2-21 NMSA 1978 (being Laws 2011,  
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1 Chapter 50, Section 1, as amended) is amended to read:

2 "22-2-21. BULLYING AND CYBERBULLYING PREVENTION  
3 PROGRAMS.--

4 A. The department shall establish guidelines for  
5 bullying prevention policies to be promulgated by local school  
6 boards. Every local school board and governing body of a  
7 charter school shall promulgate a bullying prevention policy by  
8 August 2011. Every public school shall implement a bullying  
9 prevention program by August 2012.

10 B. Every local school board and governing body of a  
11 charter school shall promulgate a specific cyberbullying  
12 prevention policy by August 2013. Cyberbullying prevention  
13 policies shall require that:

14 (1) all licensed school employees complete  
15 training on how to recognize signs that a person is being  
16 cyberbullied;

17 (2) any licensed school employee who has  
18 information about or a reasonable suspicion that a person is  
19 being cyberbullied report the matter immediately to the school  
20 principal or the local superintendent or both;

21 (3) any school administrator or local  
22 superintendent who receives a report of cyberbullying take  
23 immediate steps to ensure prompt investigation of the report;  
24 and

25 (4) school administrators take prompt

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1 disciplinary action in response to cyberbullying confirmed  
2 through investigation. Disciplinary action taken pursuant to  
3 this subsection must be by the least restrictive means  
4 necessary to address a hostile environment on the school campus  
5 resulting from the confirmed cyberbullying and may include  
6 counseling, mediation and appropriate disciplinary action that  
7 is consistent with the legal rights of the involved students.

8 C. Each local school board and governing body of a  
9 charter school shall make any necessary revisions to its  
10 disciplinary policies to ensure compliance with the provisions  
11 of this section.

12 D. As used in this section, "cyberbullying" means  
13 electronic communication that:

- 14 (1) targets a specific student;
- 15 (2) is published with the intention that the  
16 communication be seen by or disclosed to the targeted student;
- 17 (3) is in fact seen by or disclosed to the  
18 targeted student; and
- 19 (4) creates or is certain to create a hostile  
20 environment on the school campus that is so severe or pervasive  
21 as to substantially interfere with the targeted student's  
22 educational benefits, opportunities or performance."

23 SECTION 3. Section 22-2E-4 NMSA 1978 (being Laws 2011,  
24 Chapter 10, Section 4, as amended) is amended to read:

25 "22-2E-4. ANNUAL RATINGS--LETTER GRADES--RATINGS BASED ON  
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1 STANDARDS-BASED ASSESSMENTS--RIGHT TO SCHOOL CHOICE--DISTANCE  
2 LEARNING--RESPONSIBILITY FOR COST--USE OF FUNDS--ADDITIONAL  
3 REMEDY.--

4 A. All public schools shall be graded annually by  
5 the department.

6 B. The department shall assign a letter grade of A,  
7 B, C, D or F to each public school pursuant to criteria  
8 established by department rules, after input from the  
9 secretary's superintendents' council, that include as a minimum  
10 a combination of the following factors in a public school's  
11 grade:

12 (1) for elementary and middle schools:

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

15 (b) student growth in reading and  
16 mathematics; and

17 (c) growth of the lowest twenty-fifth  
18 percentile of students in the public school in reading and  
19 mathematics; and

20 (2) for high schools:

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

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

25 (c) growth of the lowest twenty-fifth

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

3 (d) additional academic indicators such  
4 as high school graduation rates, growth in high school  
5 graduation rates, advanced placement and international  
6 baccalaureate courses, dual enrollment courses and SAT and ACT  
7 scores.

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

12 D. In addition to any rights a parent may have  
13 pursuant to federal law, the parent of a student enrolled in a  
14 public school rated F for two of the last four years has the  
15 right to transfer the student in the same grade to any public  
16 school in the state not rated F or the right to have the  
17 student continue schooling by means of distance learning  
18 offered through the statewide or a local cyber academy. The  
19 school district or charter school in which the student is  
20 enrolled is responsible for the cost of distance learning.

21 E. The department shall ensure that a local school  
22 board or, for a charter school, the governing body of [a] the  
23 charter school is prioritizing resources of a public school  
24 rated D or F toward proven programs and methods linked to  
25 improved student achievement until the public school earns a

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1 grade of C or better for two consecutive years.

2 F. The school options available pursuant to the  
3 A-B-C-D-F Schools Rating Act are in addition to any remedies  
4 provided for in the Assessment and Accountability Act for  
5 students in schools in need of improvement or any other  
6 interventions prescribed by the federal No Child Left Behind  
7 Act of 2001.

8 G. When reporting a school's grade, the department  
9 shall include student data disaggregated by ethnicity, race,  
10 limited English proficiency, students with disabilities,  
11 poverty and gender; provided that ethnicity and race shall be  
12 reported using the following categories:

- 13 (1) Caucasian, non-Hispanic;
- 14 (2) Hispanic;
- 15 (3) African American;
- 16 (4) American Indian or Alaska Native;
- 17 (5) Native Hawaiian or other Pacific Islander;
- 18 (6) Asian;
- 19 (7) two or more races; and
- 20 (8) other; provided that if the sample of

21 students in any category enumerated in Paragraphs (1) through  
22 (7) of this subsection is so small that a student in the sample  
23 may be personally identifiable in violation of the federal  
24 Family Educational Rights and Privacy Act of 1974, the report  
25 may combine that sample into the "other" category."

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1           SECTION 4. Section 22-8-6.1 NMSA 1978 (being Laws 1993,  
2 Chapter 227, Section 8, as amended) is amended to read:

3           "22-8-6.1. CHARTER SCHOOL BUDGETS.--

4           A. Each state-chartered charter school shall submit  
5 to the [~~charter schools division of the department~~] public  
6 education commission a school-based budget. For the first year  
7 of operation, the budget of every state-chartered charter  
8 school shall be based on the projected number of program units  
9 generated by that charter school and its students, using the  
10 at-risk index and the instructional staff training and  
11 experience index of the school district in which it is  
12 geographically located. For second and subsequent fiscal years  
13 of operation, the budgets of state-chartered charter schools  
14 shall be based on the number of program units generated using  
15 the average of the MEM on the second and third reporting dates  
16 of the prior year and its own instructional staff training and  
17 experience index and the at-risk index of the school district  
18 in which the state-chartered charter school is geographically  
19 located. The budget shall be submitted to the [~~division~~]  
20 commission for approval or amendment. The approval or  
21 amendment authority of the commission relative to the charter  
22 school budget is limited to ensuring that sound fiscal  
23 practices are followed in the development of the budget and  
24 that the charter school budget is within the allotted  
25 resources. The commission shall have no veto authority over

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1 individual line items within the charter school's proposed  
2 budget but shall approve or disapprove the budget in its  
3 entirety. Upon final approval of the charter school budget by  
4 the commission, the charter school budget shall be submitted to  
5 the department for approval or amendment pursuant to the Public  
6 School Finance Act and the Charter Schools Act.

7 B. Each locally chartered charter school shall  
8 submit to the local school board a school-based budget. For  
9 the first year of operation, the budget of every locally  
10 chartered charter school shall be based on the projected number  
11 of program units generated by the charter school and its  
12 students, using the at-risk index and the instructional staff  
13 training and experience index of the school district in which  
14 it is geographically located. For second and subsequent fiscal  
15 years of operation, the budgets of locally chartered charter  
16 schools shall be based on the number of program units generated  
17 using the average of the MEM on the second and third reporting  
18 dates of the prior year and its own instructional staff  
19 training and experience index and the at-risk index of the  
20 school district in which the locally chartered charter school  
21 is geographically located. The budget shall be submitted to  
22 the local school board for approval or amendment. The approval  
23 or amendment authority of the local school board relative to  
24 the charter school budget is limited to ensuring that sound  
25 fiscal practices are followed in the development of the budget

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1 and that the charter school budget is within the allotted  
2 resources. The local school board shall have no veto authority  
3 over individual line items within the charter school's proposed  
4 budget, but shall approve or disapprove the budget in its  
5 entirety. Upon final approval of the local budget by the local  
6 school board, the individual charter school budget shall be  
7 included separately in the budget submission to the department  
8 required pursuant to the Public School Finance Act and the  
9 Charter Schools Act.

10 C. For the first year of operation after a locally  
11 chartered charter school converts to a state-chartered charter  
12 school or a state-chartered charter school converts to a  
13 locally chartered charter school, the charter school's budget  
14 shall be based on the number of program units generated using  
15 the average of the MEM on the second and third reporting dates  
16 of the prior year and the instructional staff training and  
17 experience index and the at-risk index of the school district  
18 in which it is geographically located. For second and  
19 subsequent fiscal years of operation, the charter school shall  
20 follow the provisions of Subsection A or B of this section, as  
21 applicable.

22 ~~[D. Notwithstanding the provisions of Subsections A~~  
23 ~~through C of this section, each charter school that was in~~  
24 ~~existence in fiscal year 2009 shall be held harmless in the~~  
25 ~~calculation of its instructional staff training and experience~~

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1 ~~index for two fiscal years. For fiscal years 2010 and 2011,~~  
2 ~~the department shall use the greater of the charter school's~~  
3 ~~2008-2009 funded instructional staff training and experience~~  
4 ~~index or the charter school's own instructional staff training~~  
5 ~~and experience index. Beginning in fiscal year 2012, each~~  
6 ~~charter school shall use its own instructional staff training~~  
7 ~~and experience index.]"~~

8 SECTION 5. Section 22-8-7 NMSA 1978 (being Laws 1967,  
9 Chapter 16, Section 61, as amended) is amended to read:

10 "22-8-7. ~~[BUDGETS--FORM]~~ MANNER OF BUDGET SUBMISSION.--  
11 All budgets submitted ~~[to the department]~~ by a school district,  
12 locally chartered charter school or state-chartered charter  
13 school shall be in a ~~[form]~~ manner specified by the  
14 department."

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

17 "22-8-11. BUDGETS--APPROVAL OF OPERATING BUDGET.--

18 A. The department shall:

19 (1) on or before July 1 of each year, approve  
20 and certify to each local school board and governing body of a  
21 ~~[state-chartered]~~ charter school an operating budget for use by  
22 the school district or ~~[state-chartered]~~ charter school;

23 (2) make corrections, revisions and amendments  
24 to the operating budgets fixed by the local school boards or  
25 governing bodies of ~~[state-chartered]~~ charter schools and the

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1 secretary to conform the budgets to the requirements of law and  
2 to the department's rules and procedures; and

3 (3) ensure that a local school board or, for a  
4 charter school, the governing body of [~~a~~] the charter school is  
5 prioritizing resources of a public school rated D or F toward  
6 proven programs and methods that are linked to improved student  
7 achievement until the public school earns a grade of C or  
8 better for two consecutive years.

9 B. No school district or [~~state-chartered~~] charter  
10 school or officer or employee of a school district or  
11 [~~state-chartered~~] charter school shall make any expenditure or  
12 incur any obligation for the expenditure of public funds unless  
13 that expenditure or obligation is made in accordance with an  
14 operating budget approved by the department. This prohibition  
15 does not prohibit the transfer of funds pursuant to the  
16 department's rules and procedures.

17 C. The department shall not approve and certify an  
18 operating budget of any school district or [~~state-chartered~~]  
19 charter school that fails to demonstrate that parental  
20 involvement in the budget process was solicited."

21 SECTION 7. Section 22-8-18 NMSA 1978 (being Laws 1974,  
22 Chapter 8, Section 8, as amended) is amended to read:

23 "22-8-18. PROGRAM COST CALCULATION--LOCAL  
24 RESPONSIBILITY.--

25 A. The total program units for the purpose of

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1 computing the program cost shall be calculated by multiplying  
2 the sum of the program units itemized as Paragraphs (1) through  
3 (6) in this subsection by the instructional staff training and  
4 experience index and adding the program units itemized as  
5 Paragraphs (7) through (14) in this subsection. The itemized  
6 program units are as follows:

- 7 (1) early childhood education;
- 8 (2) basic education;
- 9 (3) special education, adjusted by subtracting  
10 the units derived from membership in class D special education  
11 programs in private, nonsectarian, nonprofit training centers;
- 12 (4) bilingual multicultural education;
- 13 (5) fine arts education;
- 14 (6) elementary physical education;
- 15 (7) size adjustment;
- 16 (8) at-risk program;
- 17 (9) enrollment growth or new district  
18 adjustment;
- 19 (10) special education units derived from  
20 membership in class D special education programs in private,  
21 nonsectarian, nonprofit training centers;
- 22 (11) national board for professional teaching  
23 standards certification;
- 24 (12) home school student program unit;
- 25 (13) home school student activities; and

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1 (14) charter school student activities.

2 B. The total program cost calculated as prescribed  
3 in Subsection A of this section includes the cost of early  
4 childhood, special, bilingual multicultural, fine arts and  
5 vocational education and other remedial or enrichment programs.  
6 It is the responsibility of the local school board or, for a  
7 charter school, the governing body of [~~a~~] the charter school to  
8 determine its priorities in terms of the needs of the community  
9 served by that board. Except as otherwise provided in this  
10 section, funds generated under the Public School Finance Act  
11 are discretionary to local school boards and governing bodies  
12 of charter schools; provided that the special program needs as  
13 enumerated in this section are met; and provided further that  
14 if a public school has been rated D or F for two consecutive  
15 years, the department shall ensure that the local school board  
16 or, for a charter school, the governing body of [~~a~~] the charter  
17 school is prioritizing resources for the public school toward  
18 proven programs and methods linked to improved student  
19 achievement until the public school earns a C or better for two  
20 consecutive years."

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

23 "22-8B-2. DEFINITIONS.--As used in the Charter Schools  
24 Act:

25 A. "charter school" means a conversion school or

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1 start-up school authorized by the chartering authority to  
2 operate as a public school;

3 B. "chartering authority" means either a local  
4 school board or the commission;

5 C. "commission" means the public education  
6 commission;

7 D. "conversion school" means an existing public  
8 school within a school district that was authorized by a local  
9 school board to become a charter school prior to July 1, 2007;

10 E. "division" means the charter schools division of  
11 the department;

12 F. "enrollment preference" means filling a charter  
13 school's openings with students, or siblings of students, who  
14 have already been admitted to the school through an appropriate  
15 admission process or are continuing through subsequent grades;

16 [~~F.~~] G. "governing body" means the governing  
17 structure of a charter school as set forth in the school's  
18 charter; [~~and~~]

19 H. "governing body training" means the training  
20 required pursuant to Section 22-8B-5.1 NMSA 1978 to educate  
21 governing body members and ensure compliance with all  
22 applicable laws, which training may be obtained from any  
23 source, individual or entity that has been approved by the  
24 department;

25 I. "management" means authority over the hiring,

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1 termination and day-to-day direction of a school's employees or  
2 contractors, whether they are licensed or not;

3 J. "material violation" means the act of failing to  
4 accomplish a requirement of a law, rule or contract or a  
5 charter school's bylaws that substantially affects the charter  
6 school's employees' or students' rights or privileges;

7 K. "nondiscretionary waiver" means a waiver of  
8 requirements or rules and the provisions of the Public School  
9 Code that the department shall grant pursuant to Section  
10 22-8B-5 NMSA 1978 and for which a charter school shall not  
11 require separate approval by the department;

12 L. "performance indicator" means a measurement tool  
13 that enables selected issues or conditions to be monitored over  
14 time for the purposes of evaluating progress toward or away  
15 from a desired direction;

16 M. "performance target" means the specific rating  
17 to which the data from a school's performance indicators shall  
18 be compared to determine whether the school exceeds, meets,  
19 does not meet or falls far below that rating;

20 N. "siblings" means:

21 (1) students living in the same residence at  
22 least fifty percent of the time in a permanent or semipermanent  
23 situation, such as long-term foster care placements; or

24 (2) students related to each other by blood,  
25 marriage or cohabitation; and

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1           [~~G-~~] O. "start-up school" means a public school  
2 developed by one or more parents, teachers or community members  
3 authorized by the chartering authority to become a charter  
4 school."

5           SECTION 9. Section 22-8B-6 NMSA 1978 (being Laws 1999,  
6 Chapter 281, Section 6, as amended) is amended to read:

7           "22-8B-6. CHARTER SCHOOL REQUIREMENTS--APPLICATION  
8 PROCESS--AUTHORIZATION--STATE BOARD OF FINANCE DESIGNATION  
9 REQUIRED--PUBLIC HEARINGS--SUBCOMMITTEES.--

10           A. A local school board has the authority to  
11 approve the establishment of a locally chartered charter school  
12 within [~~the~~] that local school board's district [~~in which it is~~  
13 ~~located~~].

14           B. No later than the second Tuesday of January of  
15 the year in which an application will be filed, the organizers  
16 of a proposed charter school shall provide written notification  
17 to the commission and the school district in which the charter  
18 school is proposed to be located of their intent to establish a  
19 charter school. Failure to notify may result in an application  
20 not being accepted.

21           C. A charter school applicant shall apply to either  
22 a local school board or the commission for a charter. If an  
23 application is submitted to a chartering authority, it must  
24 process the application. Applications for initial charters  
25 shall be submitted [~~between~~] by June 1 [~~and July 1~~] to be

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1 eligible for consideration for the following fiscal year;  
2 provided that the [~~July~~] June 1 deadline may be waived upon  
3 agreement of the applicant and the chartering authority.

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

10 E. An application shall include a detailed  
11 description of the charter school's projected facility needs,  
12 including projected requests for capital outlay assistance that  
13 have been approved by the director of the public school  
14 facilities authority or the director's designee. The director  
15 shall respond to a written request for review from a charter  
16 applicant within forty-five days of the request.

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

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1 charter school's proposed enrollment for all grades in  
2 combination with any other charter school's enrollment for all  
3 grades would equal or exceed ten percent of the total MEM of  
4 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 qualified  
10 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 one  
15 public hearing in the school district in which the charter  
16 school is proposed to be located to obtain information and  
17 community input to assist it in its decision whether to grant a  
18 charter school application. The chartering authority may  
19 designate a subcommittee of no fewer than three members to hold  
20 the public hearing, and, if so, the hearing shall be  
21 transcribed for later review by other members of the chartering  
22 authority. Community input may include written or oral  
23 comments in favor of or in opposition to the application from  
24 the applicant, the local community and, for state-chartered  
25 charter schools, the local school board and school district in

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1 whose geographical boundaries the charter school is proposed to  
2 be located.

3 K. The chartering authority shall rule on the  
4 application for a charter school in a public meeting by  
5 September 1 of the year the application was received; provided,  
6 however, that prior to ruling on the application for which a  
7 designated subcommittee was used, any member of the chartering  
8 authority who was not present at the public hearing shall  
9 receive the transcript of the public hearing together with  
10 documents submitted for the public hearing. If not ruled upon  
11 by that date, the charter application shall be automatically  
12 reviewed by the secretary in accordance with the provisions of  
13 Section 22-8B-7 NMSA 1978. The charter school applicant and  
14 the chartering authority may, however, jointly waive the  
15 deadlines set forth in this section.

16 L. A chartering authority may approve, approve with  
17 conditions or deny an application. A chartering authority may  
18 deny an application if:

19 (1) the application is incomplete or  
20 inadequate;

21 (2) the application does not propose to offer  
22 an educational program consistent with the requirements and  
23 purposes of the Charter Schools Act;

24 (3) the proposed head administrator or other  
25 administrative or fiscal staff was involved with another

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1 charter school whose charter was denied or revoked for fiscal  
2 mismanagement or the proposed head administrator or other  
3 administrative or fiscal staff was discharged from a public  
4 school for fiscal mismanagement;

5 (4) for a proposed state-chartered charter  
6 school, it does not request to have the governing body of the  
7 charter school designated as a board of finance or the  
8 governing body does not qualify as a board of finance; or

9 (5) the application is otherwise contrary to  
10 the best interests of the charter school's projected students,  
11 the local community or the school district in whose geographic  
12 boundaries the charter school applies to operate.

13 M. If the chartering authority denies a charter  
14 school application or approves the application with conditions,  
15 it shall state its reasons for the denial or conditions in  
16 writing within fourteen days of the meeting. If the chartering  
17 authority grants a charter, the approved charter shall be  
18 provided to the applicant together with any imposed conditions.

19 N. A charter school that has received a notice from  
20 the chartering authority denying approval of the charter shall  
21 have a right to a hearing by the secretary as provided in  
22 Section 22-8B-7 NMSA 1978."

23 SECTION 10. Section 22-8B-9 NMSA 1978 (being Laws 1999,  
24 Chapter 281, Section 9, as amended) is amended to read:

25 "22-8B-9. CHARTER SCHOOL CONTRACT--CONTENTS--RULES.--

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

15           B. The charter contract shall include:

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

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

23                   (3) the mission statement of the charter  
24 school and how the charter school will report on implementation  
25 of its mission;

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1 (4) the chartering authority's duties to the  
2 charter school and liabilities of the chartering authority as  
3 provided in Section ~~[8 of this 2011 act]~~ 22-8B-5.3 NMSA 1978;

4 (5) a statement of admission policies and  
5 procedures;

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

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

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

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

20 (10) the term of the contract;

21 (11) the process and criteria that the  
22 chartering authority intends to use to annually monitor and  
23 evaluate the fiscal, overall governance and student performance  
24 of the charter school, including the method that the chartering  
25 authority intends to use to conduct the evaluation as required

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1 by Section 22-8B-12 NMSA 1978;

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

5 (a) written notice of the intent to  
6 invoke the dispute resolution process, which notice shall  
7 include a description of the matter in dispute;

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

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

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

14 (e) a process for final resolution of  
15 the issue reviewed under the dispute resolution process;

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

21 (14) if the charter school contracts with a  
22 third-party provider, the criteria and procedures for the  
23 chartering authority to review the provider's contract and the  
24 charter school's financial independence from the provider;

25 (15) all requests for release of the charter

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1 school from department rules or the Public School Code. Within  
2 ten days after the contract is approved by the local school  
3 board, any request for release from department rules or the  
4 Public School Code shall be delivered by the local school board  
5 to the department. If the department grants the request, it  
6 shall notify the local school board and the charter school of  
7 its decision. If the department denies the request, it shall  
8 notify the local school board and the charter school that the  
9 request is denied and specify the reasons for denial;

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

12 (17) if the charter school is a state-  
13 chartered charter school, a process for qualification of and  
14 review of the school as a qualified board of finance and  
15 provisions for assurance that the school has satisfied any  
16 conditions imposed by the commission; and

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

19 C. The process for revision or amendment to the  
20 terms of the charter contract shall be made only with the  
21 approval of the chartering authority and the governing body of  
22 the charter school. If they cannot agree, either party may  
23 appeal to the secretary as provided in Subsection A of this  
24 section."

25 SECTION 11. Section 22-8B-9.1 NMSA 1978 (being Laws 2011,

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1 Chapter 14, Section 4) is amended to read:

2 "22-8B-9.1. PERFORMANCE FRAMEWORK.--

3 A. The performance provisions in the charter  
4 contract shall be based on a framework that clearly sets forth  
5 the academic and operations performance indicators [~~measures~~]  
6 and [~~metrics~~] performance targets that will guide the  
7 chartering authority's evaluation of each charter school. The  
8 performance framework shall be a material term of the charter  
9 school contract and shall include performance indicators  
10 [~~measures~~] and [~~metrics~~] performance targets for, at a 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           **SECTION 12.** Section 22-8B-12 NMSA 1978 (being Laws 1999,  
25 Chapter 281, Section 12, as amended) is amended to read:

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1 "22-8B-12. CHARTER SCHOOLS--TERM--OVERSIGHT AND  
2 CORRECTIVE ACTIONS--SITE VISITS--RENEWAL OF CHARTER--GROUNDS  
3 FOR NONRENEWAL OR REVOCATION.--

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

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

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

22 D. A chartering authority shall monitor the fiscal,  
23 overall governance and student performance and legal compliance  
24 of the charter schools that it oversees, including reviewing  
25 the data provided by the charter school to support ongoing

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1 evaluation according to the charter contract. Every chartering  
2 authority may conduct or require oversight activities that  
3 allow the chartering authority to fulfill its responsibilities  
4 under the Charter Schools Act, including conducting appropriate  
5 inquiries and investigations; provided that the chartering  
6 authority complies with the provisions of the Charter Schools  
7 Act and the terms of the charter contract and does not unduly  
8 inhibit the autonomy granted to the charter schools that it  
9 governs.

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

16 F. If, based on the performance review conducted by  
17 the chartering authority pursuant to Subsection D of this  
18 section, a charter school's fiscal, overall governance or  
19 student performance or legal compliance appears unsatisfactory,  
20 the chartering authority shall promptly notify the governing  
21 body of the charter school of the unsatisfactory review and  
22 provide reasonable opportunity for the governing body to remedy  
23 the problem; provided that if the unsatisfactory review  
24 warrants revocation, the revocation procedures set forth in  
25 this section shall apply. A chartering authority may take

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1 appropriate corrective actions or exercise sanctions, as long  
2 as such sanctions do not constitute revocation, in response to  
3 the unsatisfactory review. Such actions or sanctions by the  
4 chartering authority may include requiring a governing body to  
5 develop and execute a corrective action plan with the  
6 chartering authority that sets forth time frames for  
7 compliance.

8 G. Every chartering authority shall submit an  
9 annual report to the division, including a performance report  
10 for each charter school that it oversees, in accordance with  
11 the performance framework set forth in the charter contract.

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

22 I. No later than two hundred seventy days prior to  
23 the date in which the charter expires, the governing body may  
24 submit a renewal application to the chartering authority. A  
25 charter school may apply to a different chartering authority

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1 for renewal. The chartering authority shall rule in a public  
2 hearing on the renewal application no later than one hundred  
3 eighty days prior to the expiration of the charter.

4 J. A charter school renewal application submitted  
5 to the chartering authority shall contain:

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

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

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

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

24 (5) a petition in support of the charter  
25 school renewing its charter status signed by at least seventy-

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1 five percent of the households whose children are enrolled in  
2 the charter school; and

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

6 K. A charter may be suspended, revoked or not  
7 renewed by the chartering authority if the chartering authority  
8 determines that the charter school did any of the 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 of excellence or student performance  
15 standards 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 processes  
21 for suspension, revocation or nonrenewal of a charter that:

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

25 (2) allow the charter school a reasonable

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1 amount of time to prepare and submit a response to the  
2 chartering authority's action; and

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

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

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

12 SECTION 13. Section 22-15D-5 NMSA 1978 (being Laws 2003,  
13 Chapter 152, Section 5, as amended) is amended to read:

14 "22-15D-5. PROGRAM PLAN AND EVALUATION.--

15 A. A school district or [~~state-chartered~~] charter  
16 school may prepare and submit to the department a fine arts  
17 education program plan in accordance with guidelines issued by  
18 the department.

19 B. At a minimum, the plan shall include the fine  
20 arts education programs being taught, the ways in which the  
21 fine arts are being integrated into the curriculum and an  
22 evaluation component.

23 C. At yearly intervals, the school district or  
24 [~~state-chartered~~] charter school, the department and a parent  
25 advisory committee from the school district or charter school

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1 shall review the goals and priorities of the plan and make  
2 appropriate recommendations to the secretary."

3 SECTION 14. Section 22-23-2 NMSA 1978 (being Laws 1973,  
4 Chapter 285, Section 2, as amended) is amended to read:

5 "22-23-2. DEFINITIONS.--As used in the Bilingual  
6 Multicultural Education Act:

7 A. "bilingual multicultural education program"  
8 means a program using two languages, including English and the  
9 home or heritage language, as a medium of instruction in the  
10 teaching and learning process;

11 B. "culturally and linguistically different" means  
12 students who are of a different cultural background than  
13 mainstream United States culture and whose home or heritage  
14 language, inherited from the student's family, tribe or country  
15 of origin, is a language other than English;

16 [~~G. "department" means the public education~~  
17 ~~department;~~

18 ~~D.] C. "district" means a public school or any~~  
19 ~~combination of public schools in a district; [or a charter~~  
20 ~~school;~~

21 ~~E.] D. "English language learner" means a student~~  
22 ~~whose first or heritage language is not English and who is~~  
23 ~~unable to read, write, speak or understand English at a level~~  
24 ~~comparable to grade level English proficient peers and native~~  
25 ~~English speakers;~~

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1           ~~[F.]~~ E. "heritage language" means a language other  
2 than English that is inherited from a family, tribe, community  
3 or country of origin;

4           ~~[G.]~~ F. "home language" means a language other than  
5 English that is the primary or heritage language spoken at home  
6 or in the community;

7           ~~[H. "school board" means a local school board or~~  
8 ~~governing body of a state-chartered charter school]~~ and

9           ~~[I.]~~ G. "standardized curriculum" means a district  
10 curriculum that is aligned with the state academic content  
11 standards, benchmarks and performance standards."

12           **SECTION 15.** Section 22-23-5 NMSA 1978 (being Laws 1973,  
13 Chapter 285, Section 5, as amended) is amended to read:

14           "22-23-5. BILINGUAL MULTICULTURAL EDUCATION PROGRAM  
15 PLAN--EVALUATION.--

16           A. ~~[The]~~ A school board or, for charter schools, a  
17 governing body of a charter school may prepare and submit to  
18 the department a bilingual multicultural education program plan  
19 in accordance with rules issued by the department.

20           B. At regular intervals, the school board or  
21 governing body of a charter school and a parent advisory  
22 committee from the district or charter school shall review the  
23 goals and priorities of the plan and make appropriate  
24 recommendations to the department.

25           C. Bilingual multicultural education programs shall

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1 be ~~[located in the district and]~~ delivered as part of the  
2 regular academic program. Involvement of students in a  
3 bilingual multicultural education program shall not have the  
4 effect of segregating students by ethnic group, color or  
5 national origin.

6 D. Each district or charter school shall maintain  
7 academic achievement and language proficiency data and update  
8 the data annually to evaluate bilingual multicultural education  
9 program effectiveness and use of funds. The department shall  
10 annually compile and report ~~[this]~~ these data to the  
11 appropriate interim legislative committee.

12 E. Districts and charter schools shall provide  
13 professional development to ~~[district]~~ employees, including  
14 teachers, teacher assistants, principals, bilingual directors  
15 or coordinators, associate superintendents, superintendents and  
16 financial officers in the areas of:

17 (1) research-based bilingual multicultural  
18 education programs and implications for instruction;

19 (2) best practices of English as a second  
20 language, English language development and bilingual  
21 multicultural education programs; and

22 (3) classroom assessments that support  
23 academic and language development.

24 F. Bilingual multicultural education programs shall  
25 be part of the district's or charter school's professional

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1 development plan. Bilingual educators, including teachers,  
2 teacher assistants, instructional support personnel, principals  
3 and program administrators, shall participate in professional  
4 development and training."

5 SECTION 16. EFFECTIVE DATE.--The effective date of the  
6 provisions of this act is July 1, 2015.

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