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AN ACT
RELATING TO PUBLIC EDUCATION; AMENDING THE PUBLIC SCHOOL CODE
TO DEFINE CERTAIN CHARTER SCHOOL TERMS AND TO CLARIFY CERTAIN
RESPONSIBILITIES OF CHARTER SCHOOL AUTHORIZERS, CHARTER
SCHOOL GOVERNING BODIES AND CHARTER SCHOOLS.

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

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

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

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

B. "adequate yearly progress" means the measure
adopted by the department based on federal requirements to
assess the progress that a public school or school district
or the state makes toward improving student achievement;

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

D. "commission" means the public education
commission;

E. "department" means the public education
department;

F. "home school" means the operation by the parent
of a school-age person of a home study program of instruction

1 that provides a basic academic educational program, including
2 reading, language arts, mathematics, social studies and
3 science;

4 G. "instructional support provider" means a person
5 who is employed to support the instructional program of a
6 school district, including educational assistant, school
7 counselor, social worker, school nurse, speech-language
8 pathologist, psychologist, physical therapist, occupational
9 therapist, recreational therapist, marriage and family
10 therapist, interpreter for the deaf and diagnostician;

11 H. "licensed school employee" means teachers,
12 school administrators and instructional support providers;

13 I. "local school board" means the policy-setting
14 body of a school district;

15 J. "local superintendent" means the chief
16 executive officer of a school district;

17 K. "parent" includes a guardian or other person
18 having custody and control of a school-age person;

19 L. "private school" means a school, other than a
20 home school, that offers on-site programs of instruction and
21 that is not under the control, supervision or management of a
22 local school board;

23 M. "public school" means that part of a school
24 district that is a single attendance center in which
25 instruction is offered by one or more teachers and is
discernible as a building or group of buildings generally
recognized as either an elementary, middle, junior high or

1 high school or any combination of those and includes a
2 charter school;

3 N. "school" means a supervised program of
4 instruction designed to educate a student in a particular
5 place, manner and subject area;

6 O. "school administrator" means a person licensed
7 to administer in a school district and includes school
8 principals, central district administrators and charter
9 school head administrators;

10 P. "school-age person" means a person who is at
11 least five years of age prior to 12:01 a.m. on September 1 of
12 the school year and who has not received a high school
13 diploma or its equivalent. A maximum age of twenty-one shall
14 be used for a person who is classified as special education
15 membership as defined in Section 22-8-21 NMSA 1978 or as a
16 resident of a state institution;

17 Q. "school building" means a public school, an
18 administration building and related school structures or
19 facilities, including teacher housing, that is owned,
20 acquired or constructed by the school district as necessary
21 to carry out the functions of the school district;

22 R. "school bus private owner" means a person,
23 other than a school district, the department, the state or
24 any other political subdivision of the state, that owns a
25 school bus;

S. "school district" means an area of land
established as a political subdivision of the state for the

1 administration of public schools and segregated
2 geographically for taxation and bonding purposes;

3 T. "school employee" includes licensed and
4 nonlicensed employees of a school district;

5 U. "school principal" means the chief
6 instructional leader and administrative head of a public
7 school;

8 V. "school year" means the total number of
9 contract days offered by public schools in a school district
10 during a period of twelve consecutive months;

11 W. "secretary" means the secretary of public
12 education;

13 X. "state agency" or "state institution" means the
14 New Mexico military institute, New Mexico school for the
15 blind and visually impaired, New Mexico school for the deaf,
16 New Mexico boys' school, girls' welfare home, New Mexico
17 youth diagnostic and development center, Sequoyah adolescent
18 treatment center, Carrie Tingley crippled children's
19 hospital, New Mexico behavioral health institute at Las Vegas
20 and any other state agency responsible for educating resident
21 children;

22 Y. "state educational institution" means an
23 institution enumerated in Article 12, Section 11 of the
24 constitution of New Mexico;

25 Z. "substitute teacher" means a person who holds a
certificate to substitute for a teacher in the classroom;

AA. "teacher" means a person who holds a level

1 one, two or three-A license and whose primary duty is
2 classroom instruction or the supervision, below the school
3 principal level, of an instructional program or whose duties
4 include curriculum development, peer intervention, peer
5 coaching or mentoring or serving as a resource teacher for
6 other teachers;

7 BB. "certified school instructor" means a teacher
8 or instructional support provider; and

9 CC. "certified school employee" or "certified
10 school personnel" means a licensed school employee."

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

13 "22-2-21. BULLYING AND CYBERBULLYING PREVENTION
14 PROGRAMS.--

15 A. The department shall establish guidelines for
16 bullying prevention policies to be promulgated by local
17 school boards. Every local school board and governing body
18 of a charter school shall promulgate a bullying prevention
19 policy by August 2011. Every public school shall implement a
20 bullying prevention program by August 2012.

21 B. Every local school board and governing body of
22 a charter school shall promulgate a specific cyberbullying
23 prevention policy by August 2013. Cyberbullying prevention
24 policies shall require that:

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

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

5 (3) any school administrator or local
6 superintendent who receives a report of cyberbullying take
7 immediate steps to ensure prompt investigation of the report;
8 and

9 (4) school administrators take prompt
10 disciplinary action in response to cyberbullying confirmed
11 through investigation. Disciplinary action taken pursuant to
12 this subsection must be by the least restrictive means
13 necessary to address a hostile environment on the school
14 campus resulting from the confirmed cyberbullying and may
15 include counseling, mediation and appropriate disciplinary
16 action that is consistent with the legal rights of the
17 involved students.

18 C. Each local school board and governing body of a
19 charter school shall make any necessary revisions to its
20 disciplinary policies to ensure compliance with the
21 provisions of this section.

22 D. As used in this section, "cyberbullying" means
23 electronic communication that:

24 (1) targets a specific student;
25 (2) is published with the intention that the
communication be seen by or disclosed to the targeted
student;

1 (3) is in fact seen by or disclosed to the
2 targeted student; and

3 (4) creates or is certain to create a
4 hostile environment on the school campus that is so severe or
5 pervasive as to substantially interfere with the targeted
6 student's educational benefits, opportunities or
7 performance."

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

10 "22-2E-4. ANNUAL RATINGS--LETTER GRADES--RATINGS BASED
11 ON STANDARDS-BASED ASSESSMENTS--RIGHT TO SCHOOL CHOICE--
12 DISTANCE LEARNING--RESPONSIBILITY FOR COST--USE OF FUNDS--
13 ADDITIONAL REMEDY.--

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

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

22 (1) for elementary and middle schools:

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

25 (b) student growth in reading and
mathematics; and

(c) growth of the lowest twenty-fifth

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

3 (2) for high schools:

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

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

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

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

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

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

1 enrolled is responsible for the cost of distance learning.

2 E. The department shall ensure that a local school
3 board or, for a charter school, the governing body of the
4 charter school is prioritizing resources of a public school
5 rated D or F toward proven programs and methods linked to
6 improved student achievement until the public school earns a
7 grade of C or better for two consecutive years.

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

14 G. When reporting a school's grade, the department
15 shall include student data disaggregated by ethnicity, race,
16 limited English proficiency, students with disabilities,
17 poverty and gender; provided that ethnicity and race shall be
18 reported using the following categories:

- 19 (1) Caucasian, non-Hispanic;
- 20 (2) Hispanic;
- 21 (3) African American;
- 22 (4) American Indian or Alaska Native;
- 23 (5) Native Hawaiian or other Pacific
24 Islander;
- 25 (6) Asian;
- (7) two or more races; and
- (8) other; provided that if the sample of

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

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

9 "22-8-6.1. CHARTER SCHOOL BUDGETS.--

10 A. Each state-chartered charter school shall
11 submit to the charter schools division of the department a
12 school-based budget. For the first year of operation, the
13 budget of every state-chartered charter school shall be based
14 on the projected number of program units generated by that
15 charter school and its students, using the at-risk index and
16 the instructional staff training and experience index of the
17 school district in which it is geographically located. For
18 second and subsequent fiscal years of operation, the budgets
19 of state-chartered charter schools shall be based on the
20 number of program units generated using the average of the
21 MEM on the second and third reporting dates of the prior year
22 and its own instructional staff training and experience index
23 and the at-risk index of the school district in which the
24 state-chartered charter school is geographically located.
25 The budget shall be submitted to the division for approval or
amendment pursuant to the Public School Finance Act and the
Charter Schools Act. Thereafter, the budget shall be

1 submitted to the public education commission for review.

2 B. Each locally chartered charter school shall
3 submit to the local school board a school-based budget. For
4 the first year of operation, the budget of every locally
5 chartered charter school shall be based on the projected
6 number of program units generated by the charter school and
7 its students, using the at-risk index and the instructional
8 staff training and experience index of the school district in
9 which it is geographically located. For second and
10 subsequent fiscal years of operation, the budgets of locally
11 chartered charter schools shall be based on the number of
12 program units generated using the average of the MEM on the
13 second and third reporting dates of the prior year and its
14 own instructional staff training and experience index and the
15 at-risk index of the school district in which the locally
16 chartered charter school is geographically located. The
17 budget shall be submitted to the local school board for
18 approval or amendment. The approval or amendment authority
19 of the local school board relative to the charter school
20 budget is limited to ensuring that sound fiscal practices are
21 followed in the development of the budget and that the
22 charter school budget is within the allotted resources. The
23 local school board shall have no veto authority over
24 individual line items within the charter school's proposed
25 budget, but shall approve or disapprove the budget in its
entirety. Upon final approval of the local budget by the
local school board, the individual charter school budget

1 shall be included separately in the budget submission to the
2 department required pursuant to the Public School Finance Act
3 and the Charter Schools Act.

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

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

18 "22-8-7. MANNER OF BUDGET SUBMISSION.--All budgets
19 submitted by a school district, locally chartered charter
20 school or state-chartered charter school shall be in a manner
21 specified by the department."

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

24 "22-8-11. BUDGETS--APPROVAL OF OPERATING BUDGET.--

25 A. The department shall:

(1) on or before July 1 of each year,
approve and certify to each local school board and governing

1 body of a charter school an operating budget for use by the
2 school district or charter school;

3 (2) make corrections, revisions and
4 amendments to the operating budgets fixed by the local school
5 boards or governing bodies of charter schools and the
6 secretary to conform the budgets to the requirements of law
7 and to the department's rules and procedures; and

8 (3) ensure that a local school board or, for
9 a charter school, the governing body of the charter school is
10 prioritizing resources of a public school rated D or F toward
11 proven programs and methods that are linked to improved
12 student achievement until the public school earns a grade of
13 C or better for two consecutive years.

14 B. No school district or charter school or officer
15 or employee of a school district or charter school shall make
16 any expenditure or incur any obligation for the expenditure
17 of public funds unless that expenditure or obligation is made
18 in accordance with an operating budget approved by the
19 department. This prohibition does not prohibit the transfer
20 of funds pursuant to the department's rules and procedures.

21 C. The department shall not approve and certify an
22 operating budget of any school district or charter school
23 that fails to demonstrate that parental involvement in the
24 budget process was solicited."

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

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

1 RESPONSIBILITY.--

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

9 (1) early childhood education;

10 (2) basic education;

11 (3) special education, adjusted by
12 subtracting the units derived from membership in class D
13 special education programs in private, nonsectarian,
14 nonprofit training centers;

15 (4) bilingual multicultural education;

16 (5) fine arts education;

17 (6) elementary physical education;

18 (7) size adjustment;

19 (8) at-risk program;

20 (9) enrollment growth or new district
21 adjustment;

22 (10) special education units derived from
23 membership in class D special education programs in private,
24 nonsectarian, nonprofit training centers;

25 (11) national board for professional
teaching standards certification;

(12) home school student program unit;

- 1 (13) home school student activities; and
- 2 (14) charter school student activities.

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

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

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

A. "charter school" means a conversion school or
start-up school authorized by the chartering authority to

1 operate as a public school;

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

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

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

10 E. "division" means the charter schools division
11 of 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
15 appropriate admission process or are continuing through
16 subsequent grades;

17 G. "governing body" means the governing structure
18 of a charter school as set forth in the school's charter;

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

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

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

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

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

19 N. "siblings" means:

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

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

O. "start-up school" means a public school
developed by one or more parents, teachers or community

1 members authorized by the chartering authority to become a
2 charter school."

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

5 "22-8B-6. CHARTER SCHOOL REQUIREMENTS--APPLICATION
6 PROCESS--AUTHORIZATION--STATE BOARD OF FINANCE DESIGNATION
7 REQUIRED--PUBLIC HEARINGS--SUBCOMMITTEES.--

8 A. A local school board has the authority to
9 approve the establishment of a locally chartered charter
10 school within that local school board's district.

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

18 C. A charter school applicant shall apply to
19 either a local school board or the commission for a charter.
20 If an application is submitted to a chartering authority, it
21 must process the application. Applications for initial
22 charters shall be submitted by June 1 to be eligible for
23 consideration for the following fiscal year; provided that
24 the June 1 deadline may be waived upon agreement of the
25 applicant and the chartering authority.

D. An application shall include the total number
of grades the charter school proposes to provide, either

1 immediately or phased. A charter school may decrease the
2 number of grades it eventually offers, but it shall not
3 increase the number of grades or the total number of students
4 proposed to be served in each grade.

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

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

19 G. An initial application for a charter school
20 shall not be made after June 30, 2007 if the proposed charter
21 school's proposed enrollment for all grades or the proposed
22 charter school's proposed enrollment for all grades in
23 combination with any other charter school's enrollment for
24 all grades would equal or exceed ten percent of the total MEM
25 of the school district in which the charter school will be
geographically located and that school district has a total
enrollment of not more than one thousand three hundred

1 students.

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

5 I. The chartering authority shall receive and
6 review all applications for charter schools submitted to it.
7 The chartering authority shall not charge application fees.

8 J. The chartering authority shall hold at least
9 one public hearing in the school district in which the
10 charter school is proposed to be located to obtain
11 information and community input to assist it in its decision
12 whether to grant a charter school application. The
13 chartering authority may designate a subcommittee of no fewer
14 than three members to hold the public hearing, and, if so,
15 the hearing shall be transcribed for later review by other
16 members of the chartering authority. Community input may
17 include written or oral comments in favor of or in opposition
18 to the application from the applicant, the local community
19 and, for state-chartered charter schools, the local school
20 board and school district in whose geographical boundaries
21 the charter school is proposed to be located.

22 K. The chartering authority shall rule on the
23 application for a charter school in a public meeting by
24 September 1 of the year the application was received;
25 provided, however, that prior to ruling on the application
for which a designated subcommittee was used, any member of
the chartering authority who was not present at the public

1 hearing shall receive the transcript of the public hearing
2 together with documents submitted for the public hearing. If
3 not ruled upon by that date, the charter application shall be
4 automatically reviewed by the secretary in accordance with
5 the provisions of Section 22-8B-7 NMSA 1978. The charter
6 school applicant and the chartering authority may, however,
7 jointly waive the deadlines set forth in this section.

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

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

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

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

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

(5) the application is otherwise contrary to
the best interests of the charter school's projected

1 students, the local community or the school district in whose
2 geographic boundaries the charter school applies to operate.

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

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

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

16 "22-8B-9. CHARTER SCHOOL CONTRACT--CONTENTS--RULES.--

17 A. The chartering authority shall enter into a
18 contract with the governing body of the applicant charter
19 school within thirty days of approval of the charter
20 application. The charter contract shall be the final
21 authorization for the charter school and shall be part of the
22 charter. If the chartering authority and the applicant
23 charter school fail to agree upon the terms of or enter into
24 a contract within thirty days of the approval of the charter
25 application, either party may appeal to the secretary to
finalize the terms of the contract; provided that such appeal
must be provided in writing to the secretary within

1 forty-five days of the approval of the charter application.
2 Failure to enter into a charter contract or appeal to the
3 secretary pursuant to this section precludes the chartering
4 authority from chartering the school.

5 B. The charter contract shall include:

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

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

12 (3) the mission statement of the charter
13 school and how the charter school will report on
14 implementation of its mission;

15 (4) the chartering authority's duties to the
16 charter school and liabilities of the chartering authority as
17 provided in Section 22-8B-5.3 NMSA 1978;

18 (5) a statement of admission policies and
19 procedures;

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

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

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

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

7 (10) the term of the contract;

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

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

17 (a) written notice of the intent to
18 invoke the dispute resolution process, which notice shall
19 include a description of the matter in dispute;

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

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

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

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

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

6 (14) if the charter school contracts with a
7 third-party provider, the criteria and procedures for the
8 chartering authority to review the provider's contract and
9 the charter school's financial independence from the
10 provider;

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

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

24 (17) if the charter school is a
25 state-chartered charter school, a process for qualification
of and review of the school as a qualified board of finance
and provisions for assurance that the school has satisfied

1 any conditions imposed by the commission;

2 (18) a listing of the charter school's
3 nondiscretionary waivers; and

4 (19) any other information reasonably
5 required by either party to the contract.

6 C. The process for revision or amendment to the
7 terms of the charter contract shall be made only with the
8 approval of the chartering authority and the governing body
9 of the charter school. If they cannot agree, either party
10 may appeal to the secretary as provided in Subsection A of
11 this section."

12 SECTION 11. Section 22-8B-9.1 NMSA 1978 (being Laws
13 2011, Chapter 14, Section 4) is amended to read:

14 "22-8B-9.1. PERFORMANCE FRAMEWORK.--

15 A. The performance provisions in the charter
16 contract shall be based on a framework that clearly sets
17 forth the academic and operations performance indicators and
18 performance targets that will guide the chartering
19 authority's evaluation of each charter school. The
20 performance framework shall be a material term of the charter
21 school contract and shall include performance indicators and
22 performance targets for, at a minimum:

- 23 (1) student academic performance;
24 (2) student academic growth;
25 (3) achievement gaps in both proficiency and
growth between student subgroups;
(4) attendance;

1 (5) recurrent enrollment from year to year;

2 (6) if the charter school is a high school,
3 post-secondary readiness;

4 (7) if the charter school is a high school,
5 graduation rate;

6 (8) financial performance and
7 sustainability; and

8 (9) governing body performance, including
9 compliance with all applicable laws, rules and terms of the
10 charter contract.

11 B. Annual performance targets shall be set by each
12 chartering authority in consultation with its charter schools
13 and shall be designed to help each charter school meet
14 applicable federal, state and chartering authority
15 expectations as set forth in the charter contracts to which
16 the authority is a party.

17 C. The performance framework shall allow for the
18 inclusion of additional rigorous, valid and reliable
19 indicators proposed by a charter school to augment external
20 evaluations of its performance, provided that the chartering
21 authority shall approve the quality and rigor of such
22 proposed indicators and the indicators are consistent with
23 the purposes of the Charter Schools Act.

24 D. The performance framework shall require the
25 disaggregation of all student performance data collected in
compliance with this section by student subgroup, including
gender, race, poverty status, special education or gifted

1 status and English language learner.

2 E. The chartering authority shall collect, analyze
3 and report all data from state assessment tests in accordance
4 with the performance framework set forth in the charter
5 contract for each charter school overseen by that chartering
6 authority."

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

10 "22-8B-12. CHARTER SCHOOLS--TERM--OVERSIGHT AND
11 CORRECTIVE ACTIONS--SITE VISITS--RENEWAL OF CHARTER--GROUNDS
12 FOR NONRENEWAL OR REVOCATION.--

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

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

1 of the charter contract.

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

5 D. A chartering authority shall monitor the
6 fiscal, overall governance and student performance and legal
7 compliance of the charter schools that it oversees, including
8 reviewing the data provided by the charter school to support
9 ongoing evaluation according to the charter contract. Every
10 chartering authority may conduct or require oversight
11 activities that allow the chartering authority to fulfill its
12 responsibilities under the Charter Schools Act, including
13 conducting appropriate inquiries and investigations; provided
14 that the chartering authority complies with the provisions of
15 the Charter Schools Act and the terms of the charter contract
16 and does not unduly inhibit the autonomy granted to the
17 charter schools that it governs.

18 E. As part of its performance review of a charter
19 school, a chartering authority shall visit a charter school
20 under its authority at least once annually to provide
21 technical assistance to the charter school and to determine
22 the status of the charter school and the progress of the
23 charter school toward the performance framework goals in its
24 charter contract.

25 F. If, based on the performance review conducted
by the chartering authority pursuant to Subsection D of this
section, a charter school's fiscal, overall governance or

1 student performance or legal compliance appears
2 unsatisfactory, the chartering authority shall promptly
3 notify the governing body of the charter school of the
4 unsatisfactory review and provide reasonable opportunity for
5 the governing body to remedy the problem; provided that if
6 the unsatisfactory review warrants revocation, the revocation
7 procedures set forth in this section shall apply. A
8 chartering authority may take appropriate corrective actions
9 or exercise sanctions, as long as such sanctions do not
10 constitute revocation, in response to the unsatisfactory
11 review. Such actions or sanctions by the chartering
12 authority may include requiring a governing body to develop
13 and execute a corrective action plan with the chartering
14 authority that sets forth time frames for compliance.

15 G. Every chartering authority shall submit an
16 annual report to the division, including a performance report
17 for each charter school that it oversees, in accordance with
18 the performance framework set forth in the charter contract.

19 H. The department shall review the annual report
20 received from the chartering authority to determine if the
21 department or local school board rules and policies from
22 which the charter school was released pursuant to the
23 provisions of Section 22-8B-5 NMSA 1978 assisted or impeded
24 the charter school in meeting its stated goals and
25 objectives. The department shall use the annual reports
received from the chartering authorities as part of its
report to the governor, the legislative finance committee and

1 the legislative education study committee as required by the
2 Charter Schools Act.

3 I. No later than two hundred seventy days prior to
4 the date in which the charter expires, the governing body may
5 submit a renewal application to the chartering authority. A
6 charter school may apply to a different chartering authority
7 for renewal. The chartering authority shall rule in a public
8 hearing on the renewal application no later than one hundred
9 eighty days prior to the expiration of the charter.

10 J. A charter school renewal application submitted
11 to the chartering authority shall contain:

12 (1) a report on the progress of meeting the
13 academic performance, financial compliance and governance
14 responsibilities of the charter school, including achieving
15 the goals, objectives, student performance outcomes, state
16 standards of excellence and other terms of the charter
17 contract, including the accountability requirements set forth
18 in the Assessment and Accountability Act;

19 (2) a financial statement that discloses the
20 costs of administration, instruction and other spending
21 categories for the charter school that is understandable to
22 the general public, that allows comparison of costs to other
23 schools or comparable organizations and that is in a format
24 required by the department;

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

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

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

8 (6) a description of the charter school
9 facilities and assurances that the facilities are in
10 compliance with the requirements of Section 22-8B-4.2 NMSA
11 1978.

12 K. A charter may be suspended, revoked or not
13 renewed by the chartering authority if the chartering
14 authority determines that the charter school did any of the
15 following:

16 (1) committed a material violation of any of
17 the conditions, standards or procedures set forth in the
18 charter contract;

19 (2) failed to meet or make substantial
20 progress toward achievement of the department's standards of
21 excellence or student performance standards identified in the
22 charter contract;

23 (3) failed to meet generally accepted
24 standards of fiscal management; or

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

L. The chartering authority shall develop

1 processes for suspension, revocation or nonrenewal of a
2 charter that:

3 (1) provide the charter school with timely
4 notification of the prospect of suspension, revocation or
5 nonrenewal of the charter and the reasons for such action;

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

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

11 M. If a chartering authority suspends, revokes or
12 does not renew a charter, the chartering authority shall
13 state in writing its reasons for the suspension, revocation
14 or nonrenewal.

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

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

21 "22-15D-5. PROGRAM PLAN AND EVALUATION.--

22 A. A school district or charter school may prepare
23 and submit to the department a fine arts education program
24 plan in accordance with guidelines issued by the department.

25 B. At a minimum, the plan shall include the fine
arts education programs being taught, the ways in which the
fine arts are being integrated into the curriculum and an

1 evaluation component.

2 C. At yearly intervals, the school district or
3 charter school, the department and a parent advisory
4 committee from the school district or charter school shall
5 review the goals and priorities of the plan and make
6 appropriate recommendations to the secretary."

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

9 "22-23-2. DEFINITIONS.--As used in the Bilingual
10 Multicultural Education Act:

11 A. "bilingual multicultural education program"
12 means a program using two languages, including English and
13 the home or heritage language, as a medium of instruction in
14 the teaching and learning process;

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

20 C. "district" means a public school or any
21 combination of public schools in a district;

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

E. "heritage language" means a language other than

1 English that is inherited from a family, tribe, community or
2 country of origin;

3 F. "home language" means a language other than
4 English that is the primary or heritage language spoken at
5 home or in the community; and

6 G. "standardized curriculum" means a district
7 curriculum that is aligned with the state academic content
8 standards, benchmarks and performance standards."

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

11 "22-23-5. BILINGUAL MULTICULTURAL EDUCATION PROGRAM
12 PLAN--EVALUATION.--

13 A. A school board or, for charter schools, a
14 governing body of a charter school may prepare and submit to
15 the department a bilingual multicultural education program
16 plan in accordance with rules issued by the department.

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

22 C. Bilingual multicultural education programs
23 shall be delivered as part of the regular academic program.
24 Involvement of students in a bilingual multicultural
25 education program shall not have the effect of segregating
students by ethnic group, color or national origin.

D. Each district or charter school shall maintain

1 academic achievement and language proficiency data and update
2 the data annually to evaluate bilingual multicultural
3 education program effectiveness and use of funds. The
4 department shall annually compile and report these data to
5 the appropriate interim legislative committee.

6 E. Districts and charter schools shall provide
7 professional development to employees, including teachers,
8 teacher assistants, principals, bilingual directors or
9 coordinators, associate superintendents, superintendents and
10 financial officers in the areas of:

11 (1) research-based bilingual multicultural
12 education programs and implications for instruction;

13 (2) best practices of English as a second
14 language, English language development and bilingual
15 multicultural education programs; and

16 (3) classroom assessments that support
17 academic and language development.

18 F. Bilingual multicultural education programs
19 shall be part of the district's or charter school's
20 professional development plan. Bilingual educators,
21 including teachers, teacher assistants, instructional support
22 personnel, principals and program administrators, shall
23 participate in professional development and training."

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24 SECTION 16. EFFECTIVE DATE.--The effective date of the
25 provisions of this act is July 1, 2015. _____