AN ACT

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

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

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

"SHORT TITLE.--Sections 1 through 4 of this act may be cited as the "A-B-C-D-F Schools Rating Act"."

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

"DEFINITIONS.--As used in the A-B-C-D-F Schools Rating Act:

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

   (1) moving from one performance level to a higher performance level;"
(2) maintaining a proficient or advanced
proficient performance level as provided by department rule;
or
(3) remaining in beginning step or nearing
proficient performance level but improving a number of scale
score points as specified by department rule; and

B. "school options" means a right to transfer to
any public school not rated an F in the state or have
children continue their schooling through distance learning
offered through the statewide or a local cyber academy."

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

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

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

"ANNUAL RATINGS--LETTER GRADES--RATINGS BASED ON
STANDARDS-BASED TESTS--RIGHT TO SCHOOL CHOICE--DISTANCE
LEARNING--RESPONSIBILITY FOR COST--USE OF FUNDS--ADDITIONAL
REMEDY.--

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

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

(1) for elementary and middle schools:

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

(b) student growth in reading and mathematics; and

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

(2) for high schools:

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

(b) student growth in reading and mathematics;

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

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

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

D. In addition to any rights a parent may have pursuant to federal law, the parent of a student enrolled in a public school rated F for two of the last four years has the right to transfer the student in the same grade to any public school in the state not rated F or the right to have 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 enrolled is responsible for the cost of distance learning.

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

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

SECTION 5. Section 22-8-11 NMSA 1978 (being Laws 1967, Chapter 16, Section 66, as amended) is amended to read:

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

A. The department shall:

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

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

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

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

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

SECTION 6. Section 22-8-18 NMSA 1978 (being Laws 1974, Chapter 8, Section 8, as amended by Laws 2007, Chapter 347, Section 1 and by Laws 2007, Chapter 348, Section 2 and also by Laws 2007, Chapter 365, Section 1) is amended to read:

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

A. The total program units for the purpose of computing the program cost shall be calculated by multiplying the sum of the program units itemized as Paragraphs (1) through (6) in this subsection by the instructional staff training and experience index and adding the program units itemized as Paragraphs (7) through (13) in this subsection. The itemized program units are as follows:

(1) early childhood education;
(2) basic education;
(3) special education, adjusted by subtracting the units derived from membership in class D
special education programs in private, nonsectarian, nonprofit training centers;

(4) bilingual multicultural education;
(5) fine arts education;
(6) elementary physical education;
(7) size adjustment;
(8) at-risk program;
(9) enrollment growth or new district adjustment;
(10) special education units derived from membership in class D special education programs in private, nonsectarian, nonprofit training centers;
(11) national board for professional teaching standards certification;
(12) home school student activities; and
(13) charter school student activities.

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

SECTION 7. SEVERABILITY.--If any part or application of this act is held invalid, the remainder or its application to other situations or persons shall not be affected.