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LAWS 2015

CHAPTER 108

SENATE BILL 148, as amended

Introduced by

SENATOR MIMI STEWART

FOR THE LEGISLATIVE EDUCATION STUDY COMMITTEE
CHAPTER 108

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

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

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

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

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

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

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

M. "public school" means that part of a school
district that is a single attendance center in which
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
high school or any combination of those and includes a
charter school;

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

C. "school administrator" means a person licensed
to administer in a school district and includes school
principals, central district administrators and charter
school head administrators;

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

G. "school building" means a public school, an
administration building and related school structures or
facilities, including teacher housing, that is owned,
acquired or constructed by the school district as necessary
to carry out the functions of the school district;
E. "school bus private owner" means a person, other than a school district, the department, the state or any other political subdivision of the state, that owns a school bus;

S. "school district" means an area of land established as a political subdivision of the state for the administration of public schools and segregated geographically for taxation and bonding purposes;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(1) targets a specific student;

(2) is published with the intention that the communication be seen by or disclosed to the targeted student;

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

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

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

"22-2E-4. ANNUAL RATINGS--LETTER GRADES--RATINGS BASED ON STANDARDS-BASED ASSESSMENTS--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.

E. 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
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, for a charter school, the governing body of the
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

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

(1) Caucasian, non-Hispanic;
(2) Hispanic;
(3) African American;
(4) American Indian or Alaska Native;
(5) Native Hawaiian or other Pacific
Islander;
(6) Asian;
(7) two or more races; and
(8) other; provided that if the sample of
students in any category enumerated in Paragraphs (1) through
(7) of this subsection is so small that a student in the
sample may be personally identifiable in violation of the
federal Family Educational Rights and Privacy Act of 1974,
the report may combine that sample into the "other"
category."

SECTION 4. Section 22-8-6.1 NMSA 1978 (being Laws 1993, SB 148

Chapter 227, Section 8, as amended) is amended to read:

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

A. Each state-chartered charter school shall submit to the charter schools division of the department a school-based budget. For the first year of operation, the budget of every state-chartered charter school shall be based on the projected number of program units generated by that charter school and its students, using the at-risk index and the instructional staff training and experience index of the school district in which it is geographically located. For second and subsequent fiscal years of operation, the budgets of state-chartered charter schools shall be based on the number of program units generated using the average of the MEM on the second and third reporting dates of the prior year and its own instructional staff training and experience index and the at-risk index of the school district in which the state-chartered charter school is geographically located. 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 submitted to the public education commission for review.

B. Each locally chartered charter school shall submit to the local school board a school-based budget. For the first year of operation, the budget of every locally chartered charter school shall be based on the projected
number of program units generated by the charter school and its students, using the at-risk index and the instructional staff training and experience index of the school district in which it is geographically located. For second and subsequent fiscal years of operation, the budgets of locally chartered charter schools shall be based on the number of program units generated using the average of the MEM on the second and third reporting dates of the prior year and its own instructional staff training and experience index and the at-risk index of the school district in which the locally chartered charter school is geographically located. The budget shall be submitted to the local school board for approval or amendment. The approval or amendment authority of the local school board relative to the charter school budget is limited to ensuring that sound fiscal practices are followed in the development of the budget and that the charter school budget is within the allotted resources. The local school board shall have no veto authority over individual line items within the charter school's proposed 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 shall be included separately in the budget submission to the department required pursuant to the Public School Finance Act and the Charter Schools Act.
C. For the first year of operation after a locally chartered charter school converts to a state-chartered charter school or a state-chartered charter school converts to a locally chartered charter school, the charter school's budget shall be based on the number of program units generated using the average of the MEM on the second and third reporting dates of the prior year and the instructional staff training and experience index and the at-risk index of the school district in which it is geographically located. For second and subsequent fiscal years of operation, the charter school shall follow the provisions of Subsection A or B of this section, as applicable."

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

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

SECTION 6. 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 charter school an operating budget for use by the
school district or charter school;

(2) make corrections, revisions and amendments to the operating budgets fixed by the local school boards or governing bodies of 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, for a charter school, the governing body of the 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 charter school or officer or employee of a school district or 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 charter school that fails to demonstrate that parental involvement in the budget process was solicited."

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

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 (14) 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 program unit;
(13) home school student activities; and
(14) charter school student activities.

E. 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, for a charter school, the governing body of the 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; and provided further 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, for a charter school, the governing body of the 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 8. Section 22-8B-2 NMSA 1978 (being Laws 1999, SB 148"
Chapter 281, Section 2, as amended) is amended to read:

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

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

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

C. "commission" means the public education commission;

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

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

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

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

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

   I. "management" means authority over the hiring,
termination and day-to-day direction of a school's employees
or contractees, whether they are licensed or not;

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

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

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

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

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

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

C. "start-up school" means a public school developed by one or more parents, teachers or community members authorized by the chartering authority to become a charter school."

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

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

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

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

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

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

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

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

G. An initial application for a charter school
shall not be made after June 30, 2007 if the proposed charter
school's proposed enrollment for all grades or the proposed
charter school's proposed enrollment for all grades in
combination with any other charter school's enrollment for
all grades would equal or exceed ten percent of the total MEM
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
students.

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

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

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

K. The chartering authority shall rule on the
application for a charter school in a public meeting by
September 1 of the year the application was received;
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
hearing shall receive the transcript of the public hearing
together with documents submitted for the public hearing. If
not ruled upon by that date, the charter application shall be
automatically reviewed by the secretary in accordance with
the provisions of Section 22-8B-7 NMSA 1978. The charter
school applicant and the chartering authority may, however,
jointly waive the deadlines set forth in this section.

L. A chartering authority may approve, approve
with conditions or deny an application. A chartering
authority may deny an application if:
(1) the application is incomplete or inadequate;

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

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

(4) for a proposed state-chartered charter school, it does not request to have the governing body of the charter school designated as a board of finance or the 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 students, the local community or the school district in whose geographic boundaries the charter school applies to operate.

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

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

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

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

A. The chartering authority shall enter into a contract with the governing body of the applicant charter school within thirty days of approval of the charter application. The charter contract shall be the final authorization for the charter school and shall be part of the charter. If the chartering authority and the applicant charter school fail to agree upon the terms of or enter into a contract within thirty days of the approval of the charter 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 forty-five days of the approval of the charter application. Failure to enter into a charter contract or appeal to the secretary pursuant to this section precludes the chartering authority from chartering the school.

B. The charter contract shall include:

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

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

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

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

(5) a statement of admission policies and
procedures;

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

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

(8) a detailed description of how the
chartering authority will use the withheld two percent of the
school-generated program cost as provided in Section 22-8B-13
NMSA 1978;
(9) the types and amounts of insurance liability coverage to be obtained by the charter school;

(10) the term of the contract;

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

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

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

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

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

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

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

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

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

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

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

(17) if the charter school is a
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
any conditions imposed by the commission;

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

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

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

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

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

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

(1) student academic performance;

(2) student academic growth;

(3) achievement gaps in both proficiency and
growth between student subgroups;

(4) attendance;

(5) recurrent enrollment from year to year;

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

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

(8) financial performance and sustainability; and

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

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

C. The performance framework shall allow for the inclusion of additional rigorous, valid and reliable indicators proposed by a charter school to augment external evaluations of its performance, provided that the chartering authority shall approve the quality and rigor of such proposed indicators and the indicators are consistent with the purposes of the Charter Schools Act.
D. The performance framework shall require the disaggregation of all student performance data collected in compliance with this section by student subgroup, including gender, race, poverty status, special education or gifted status and English language learner.

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

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

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

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

B. During the planning year, the charter school shall file a minimum of three status reports with the
chartering authority and the department for the purpose of
demonstrating that the charter school's implementation
progress is consistent with the conditions, standards and
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
of the charter contract.

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

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

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

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

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

E. The department shall review the annual report received from the chartering authority to determine if the department or local school board rules and policies from which the charter school was released pursuant to the provisions of Section 22-8B-5 NMSA 1978 assisted or impeded the charter school in meeting its stated goals and 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 the legislative education study committee as required by the Charter Schools Act.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

M. If a chartering authority suspends, revokes or

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does not renew a charter, the chartering authority shall
state in writing its reasons for the suspension, revocation
or nonrenewal.

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

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

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

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

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
evaluation component.

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

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

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

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

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

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

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

E. "heritage language" means a language other than English that is inherited from a family, tribe, community or country of origin;

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

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

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

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

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

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

C. Bilingual multicultural education programs
shall be delivered as part of the regular academic program.
Involvement of students in a bilingual multicultural
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
academic achievement and language proficiency data and update
the data annually to evaluate bilingual multicultural
education program effectiveness and use of funds. The
department shall annually compile and report these data to
the appropriate interim legislative committee.
E. Districts and charter schools shall provide professional development to employees, including teachers, teacher assistants, principals, bilingual directors or coordinators, associate superintendents, superintendents and financial officers in the areas of:

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

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

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

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

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