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**HOUSE BILL 914**

**45TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2001**

**INTRODUCED BY**

**W. C. "Dub" Williams**

**AN ACT**

**RELATING TO EDUCATION; PROVIDING FOR THE ESTABLISHMENT AND  
OPERATION OF CHARTER SCHOOLS; AMENDING, REPEALING AND ENACTING  
SECTIONS OF THE PUBLIC SCHOOL CODE.**

**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:**

**" [NEW MATERIAL] SHORT TITLE. -- Sections 1 through 14 of  
this act may be cited as the "2001 Charter Schools Act". "**

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

**" [NEW MATERIAL] DEFINITIONS. -- As used in the 2001 Charter  
Schools Act:**

**A. "charter school" means a conversion school or  
start-up school within a school district authorized to operate**

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1 as a charter school;

2 B. "charter school board" means the state charter  
3 school board;

4 C. "chartering entity" means a local school board,  
5 the state board or the charter school board that reviews  
6 applications and grants or denies charter school status to  
7 qualifying applicants pursuant to the 2001 Charter Schools  
8 Act;

9 D. "conversion school" means an existing public  
10 school within a school district authorized by a chartering  
11 entity to operate as a charter school; and

12 E. "start-up school" means a public school  
13 developed by one or more parents, teachers or community  
14 members authorized by a chartering entity to become a charter  
15 school. "

16 Section 3. A new section of the Public School Code is  
17 enacted to read:

18 "[NEW MATERIAL] PURPOSE. --The purpose of the 2001 Charter  
19 Schools Act is to improve pupil achievement and provide  
20 additional academic choices for parents and their children. "

21 Section 4. A new section of the Public School Code is  
22 enacted to read:

23 "[NEW MATERIAL] STATE CHARTER SCHOOL BOARD-- CREATED--  
24 MEMBERSHIP-- DUTIES-- TERMS-- COMPENSATION. --

25 A. The "state charter school board" is created.

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1 The board shall be composed of six members as follows:

2 (1) the state superintendent or his designee;

3 (2) three members of the public appointed by  
4 the governor, at least one of whom shall reside in a  
5 neighborhood where a significant number of resident children  
6 meet eligibility requirements established for the federal  
7 school lunch and child nutrition programs for free lunches;  
8 and

9 (3) two members of the business community  
10 appointed by the governor.

11 B. Members of the charter school board shall serve  
12 three-year staggered terms. Terms shall be staggered by lot  
13 with three of the original appointees serving two-year terms.  
14 No member shall serve more than two consecutive terms.

15 C. In addition to the regular members of the  
16 charter school board, three members of the legislature shall  
17 be appointed jointly by the president pro tempore of the  
18 senate and the speaker of the house to serve as advisory  
19 members of the charter school board.

20 D. The members of the charter school board shall  
21 annually elect a president and such other officers deemed  
22 necessary by the members of the board.

23 E. Non-legislative members of the charter school  
24 board shall not receive compensation but shall receive per  
25 diem and mileage pursuant to the provisions of the Per Diem

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1 and Mileage Act.

2 F. Legislative members of the charter school board  
3 shall receive compensation pursuant to the provisions of  
4 Article 4, Section 10 of the constitution of New Mexico. "

5 Section 5. A new section of the Public School Code is  
6 enacted to read:

7 "[NEW MATERIAL] CHARTER SCHOOL BOARD--POWERS AND DUTIES. --

8 A. The charter school board shall review applicants  
9 and grant charter school status to qualifying applicants  
10 pursuant to the 2001 Charter Schools Act.

11 B. The charter school board shall recommend  
12 legislation pertaining to charter schools to the governor and  
13 the legislature.

14 C. The charter school board may enter into contracts  
15 and may sue and be sued. "

16 Section 6. A new section of the Public School Code is  
17 enacted to read:

18 "[NEW MATERIAL] CHARTER SCHOOLS--SPONSORSHIP--APPLICATION  
19 REQUIREMENTS--MAXIMUM NUMBER. --

20 A. An applicant seeking to establish a charter  
21 school shall submit a written application to a chartering  
22 entity.

23 B. The application shall include a mission statement  
24 for the charter school, a description of the charter school's  
25 proposed organizational structure and governing body, a

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1 financial plan for the first three years of operation of the  
2 charter school, a description of the charter school's facilities  
3 and location, a description of the grade levels to be served by  
4 the charter school, a description of the charter school's hiring  
5 policy, an outline of assessment criteria designed to measure  
6 the effectiveness of the school, the name of the proposed  
7 charter school's applicant and the name of the requested  
8 chartering entity.

9 C. An application for a start-up school may be made  
10 by one or more parents, teachers or community members.

11 D. An application for a conversion school shall  
12 include a petition of support signed by not less than sixty-five  
13 percent of the employees in the school. Additionally, a  
14 petition in support of the charter school signed by a majority  
15 of the households whose children are enrolled in a proposed  
16 conversion school shall accompany the application.

17 E. Within ninety days of receipt of an application  
18 for charter school status submitted to a chartering entity that  
19 is a local school board, the local school board shall either  
20 accept the application and grant charter school status to the  
21 applicant or reject the application and notify the applicant in  
22 writing stating the reasons for the rejection. Applicants may  
23 submit revised applications for reconsideration by the local  
24 school board.

25 F. Within ninety days of receipt of an application

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1 for charter school status submitted to a chartering entity that  
2 is either the state board or the charter school board, the state  
3 board or the charter school board shall either accept the  
4 application and grant charter status to the applicant or reject  
5 the application and notify the applicant in writing stating the  
6 reasons for the rejection and suggestions for improving the  
7 application. Applicants may submit revised applications for  
8 reconsideration by the state board or the charter school board.  
9 The state board or the charter school board shall approve an  
10 application for charter school status if the application meets  
11 the requirements of the 2001 Charter Schools Act and if the  
12 state board or the charter school board determines that the  
13 applicant is sufficiently qualified to operate a charter school.

14 G. A chartering entity that is either the state  
15 board or the charter school board may each grant charter school  
16 status to no more than twenty-five charter schools each fiscal  
17 year.

18 H. A chartering entity may contract with a public  
19 body, private person or private organization for the purpose of  
20 establishing a charter school.

21 I. A charter school shall be a public school  
22 accredited by the state board and shall be accountable to the  
23 chartering entity for purposes of ensuring compliance with  
24 applicable laws, rules and charter provisions. "

25 Section 7. A new section of the Public School Code is

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1 enacted to read:

2 " [NEW MATERIAL] CHARTER SCHOOL OPERATION-- CHARTER  
3 REQUIREMENTS-- EXEMPTIONS FROM PUBLIC SCHOOL CODE. --

4 A. Each charter school shall develop a charter that:

5 (1) ensures compliance with all federal, state  
6 and local health and safety laws;

7 (2) ensures nonsectarian admission, operation  
8 and employment practices;

9 (3) ensures a comprehensive program of  
10 instruction;

11 (4) ensures the adoption of accepted methods  
12 for measuring pupil progress and student outcomes; and

13 (5) provides a description of the school's  
14 personnel policies, personnel qualifications, method of  
15 governance and the role and duties of the school's sponsor.

16 B. A school charter may be amended at the request of  
17 the charter school and with the approval of the chartering  
18 entity.

19 C. Charter schools shall be exempt from all  
20 provisions of the Public School Code pertaining to class size,  
21 staffing patterns, length of school day, subject areas,  
22 graduation requirements and essential competencies.

23 D. A chartering entity that is a local school board  
24 may waive only locally imposed school district requirements. "

25 Section 8. A new section of the Public School Code is

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1 enacted to read:

2 "[NEW MATERIAL] CHARTER SCHOOLS' ENROLLMENT--  
3 DISENROLLMENT-- PROCEDURES. --

4 A. A charter school shall give enrollment preference  
5 to students who are enrolled in the public school at the time it  
6 is converted into a charter school and to siblings of students  
7 admitted to or attending the charter school. The charter school  
8 may either enroll all other students on a first-come, first-  
9 served basis or through a lottery selection process if the total  
10 number of applicants exceeds the number of spaces available at  
11 the charter school.

12 B. In subsequent years of its operation, a charter  
13 school shall give enrollment preference to:

14 (1) students who have been admitted to the  
15 charter school through an appropriate admission process and  
16 remain in attendance through subsequent grades; and

17 (2) siblings of students already admitted to or  
18 attending the same charter school.

19 C. No local school board shall require a student  
20 residing within the geographic boundary of its district to  
21 enroll in a charter school.

22 D. A student who is suspended or expelled from a  
23 charter school shall be deemed to be suspended or expelled from  
24 the school district in which the student resides. "

25 Section 9. A new section of the Public School Code is  
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1 enacted to read:

2 " [NEW MATERIAL] CHARTER SCHOOLS-- CHARTERING ENTITIES--  
3 RIGHTS AND RESPONSIBILITIES. --

4 A. A charter school may enter into contracts and may  
5 sue and be sued.

6 B. A charter school sponsored by the state board or  
7 the charter school board shall not be located on school property  
8 unless authorized to do so by the local school board.

9 C. A charter school does not have the authority to  
10 acquire property by eminent domain.

11 D. A charter school shall be subject to all federal  
12 and state laws and constitutional provisions prohibiting  
13 discrimination on the basis of disability, race, creed, color,  
14 gender, national origin, religion, ancestry or need for special  
15 education services.

16 E. A charter school shall be responsible for its own  
17 operation, including preparation of a budget, contracting for  
18 services and personnel matters.

19 F. In no event shall a charter school be required to  
20 pay rent for space that is deemed available, as negotiated by  
21 contract, in school district facilities; provided that the  
22 facilities can be made available at no cost to the district.  
23 All costs for the operation and maintenance of the facilities  
24 used by the charter school shall be subject to negotiation  
25 between the charter school and the district.

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1           G. A charter school may negotiate with a local  
2 school district to provide transportation to students eligible  
3 for transportation under the provisions of the Public School  
4 Code.

5           H. A charter school may negotiate with a local  
6 school district for capital expenditures.

7           I. Except as otherwise provided in the Public School  
8 Code, a charter school shall not charge tuition or have  
9 admission requirements.

10          J. A charter school shall be subject to the  
11 provisions of Sections 22-1-6 and 22-2-8 NMSA 1978.

12          K. A charter school may acquire, pledge and dispose  
13 of property; provided that upon termination of the charter, all  
14 assets of the charter school shall revert to the chartering  
15 entity that authorized the charter.

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

22          M. A charter school may negotiate or contract with a  
23 local school district, a university or college or any third  
24 party for the use of a facility, its operation and maintenance,  
25 and the provision of any service or activity that the charter

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1 school is required to perform in order to carry out the  
2 educational program described in its charter.

3 N. A chartering entity that is a local school board  
4 is not liable for the acts or omissions of the charter school  
5 with regard to the application for charter status, the operation  
6 of the charter school or the performance of its educational  
7 program.

8 O. The state of New Mexico or a chartering entity  
9 shall not be liable for the debts or financial obligations of  
10 any charter school.

11 P. The chartering entity of a charter school shall  
12 have the oversight and administrative responsibilities for the  
13 charter school upon which it grants charter school status.

14 Q. Except as otherwise provided by law, a chartering  
15 entity shall have neither legal authority nor responsibility for  
16 a charter school that was granted charter school status by  
17 another chartering entity. "

18 Section 10. A new section of the Public School Code is  
19 enacted to read:

20 "[NEW MATERIAL] CHARTER SCHOOLS-- TERM - RENEWAL OF  
21 CHARTER-- REVIEW PERIOD. --

22 A. An approved application granting charter school  
23 status to a charter school may remain in effect for fifteen  
24 years from the first day of operation. At the conclusion of the  
25 first fourteen years, the charter school may apply to its

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1 chartering entity for renewal of its charter school status. The  
2 chartering entity may deny the request for renewal if, in its  
3 judgment, the charter school has failed to achieve the goals of  
4 the charter school set forth in its charter or has failed to  
5 comply with the provisions of the 2001 Charter Schools Act. A  
6 chartering entity shall give written notice of its intent not to  
7 renew the charter school status of a charter school at least one  
8 year prior to the expiration of the school's charter. A charter  
9 school may apply to a different chartering entity for a grant of  
10 charter school status. If a different chartering entity agrees  
11 to grant charter school status to the charter school, the  
12 approved application shall remain in effect for fifteen years  
13 following the renewal of charter school status by a different  
14 chartering entity. Chartering entities may renew charters for  
15 periods up to fifteen years.

16 B. Every five years, a chartering entity shall  
17 conduct an extensive review of the operation of all charter  
18 schools upon which it has granted charter school status. If in  
19 conducting the review, the chartering entity determines that the  
20 charter school fails to meet standards established by the  
21 chartering entity, the chartering entity shall inform the  
22 charter school in writing. A charter school shall have ninety  
23 days in which to bring the school into compliance. If after  
24 ninety days a charter school fails to comply with the standards  
25 established by a chartering entity, the chartering entity may

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1 revoke the charter at a public hearing."

2 Section 11. A new section of the Public School Code is  
3 enacted to read:

4 "[NEW MATERIAL] CHARTER SCHOOLS--EMPLOYEE OPTIONS--HIRING  
5 AND FIRING. --

6 A. A charter school shall hire its own employees.  
7 The provisions of the School Personnel Act shall apply to such  
8 employees.

9 B. An employee of a charter school who was  
10 previously an employee of a school district in which the charter  
11 school is located shall be considered to be on a one-year leave  
12 of absence from the school district. The leave of absence shall  
13 commence on the initial date of employment for the charter  
14 school. Upon request of the employee, the one-year leave of  
15 absence shall be renewed for up to two additional one-year  
16 periods, absent good cause.

17 C. The time during which an employee is on a leave  
18 of absence shall be counted for longevity credit on the school  
19 district's salary schedule.

20 D. During the period of time that an employee is on  
21 a leave of absence from the school district and is actively  
22 employed by the charter school, the charter school shall  
23 continue the retirement or other benefits previously granted to  
24 the employee.

25 E. A leave of absence shall not be considered a

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1 break in service with the school district with which an employee  
2 was previously employed.

3 F. An employee who is on a leave of absence and  
4 actively teaching or employed at a charter school and who  
5 submits a notice of intent to return to the school district  
6 where the employee was employed immediately prior to employment  
7 in the charter school shall be given employment preference by  
8 the school district if the:

9 (1) employee's notice of intent to return is  
10 submitted to the school district within three years after  
11 ceasing employment with the school district; and

12 (2) employee is a teacher, a position for  
13 which the teacher is certified or is qualified to become  
14 certified is available. If the employee is not a teacher, a  
15 position for which the employee is qualified is available.

16 G. An employee who is on leave of absence and  
17 employed by a charter school and is discharged or terminated for  
18 just cause by the charter school shall be considered discharged  
19 or terminated by the school district.

20 H. No local school board shall require an employee  
21 of the school district to be employed in a charter school. "

22 Section 12. A new section of the Public School Code is  
23 enacted to read:

24 " [NEW MATERIAL] CHARTER SCHOOLS-- VACANT BUILDINGS LIST. --  
25 The department of education, in conjunction with the general

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1 services department, shall annually publish a list of vacant and  
2 unused buildings and vacant and unused portions of buildings  
3 owned by the state or any local school district in the state  
4 that may be suitable for the operation of a charter school. The  
5 department of education shall make the list available to  
6 applicants for charter school status and to existing charter  
7 schools. "

8 Section 13. A new section of the Public School Code is  
9 enacted to read:

10 "[NEW MATERIAL] CHARTER SCHOOL FINANCING. --

11 A. A charter school shall receive not less than  
12 ninety-eight percent of the school-generated program cost.

13 B. The share of money from state or federal programs  
14 shall be directed to charter schools serving students eligible  
15 for such aid. Any program not offered by the charter school  
16 shall not be entitled to the share of money generated by that  
17 program.

18 C. All services centrally or otherwise provided by  
19 the local school district, including custodial, maintenance,  
20 media services, libraries and warehousing, shall be subject to  
21 negotiation between the charter school and the local school  
22 district. Any services for which a charter school contracts  
23 with a school district shall be provided by the district at a  
24 reasonable cost. "

25 Section 14. A new section of the Public School Code is  
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1 enacted to read:

2 "[NEW MATERIAL] CHARTER SCHOOLS FUND CREATED. --

3 A. The "charter schools fund" is created in the  
4 state treasury. Money in the fund is appropriated to the  
5 department of education to provide financial support to charter  
6 schools for initial start-up costs and initial costs associated  
7 with renovating or remodeling existing buildings and structures.  
8 The fund shall consist of money appropriated by the legislature  
9 and grants, gifts, devises and donations from any public or  
10 private source. Money in the fund shall not revert at the end  
11 of a fiscal year. The department of education shall administer  
12 the fund in accordance with rules adopted by the state board.

13 B. If the charter school receives an initial grant  
14 and fails to begin operating a charter school within the next  
15 eighteen months, the charter school shall immediately reimburse  
16 the fund. "

17 Section 15. A new section of the Public School Code is  
18 enacted to read:

19 "[NEW MATERIAL] 1999 CHARTER SCHOOLS ACT CHARTERS. --

20 A. A charter school that received approval of  
21 charter school status pursuant to the 1999 Charter Schools Act  
22 may continue to operate pursuant to its approved charter until  
23 the term of the charter expires or, upon request, shall receive  
24 a charter pursuant to the 2001 Charter Schools Act for the  
25 unexpired term.

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1           B. A charter school that continues to operate in  
2 accordance with a charter received pursuant to the 1999 Charter  
3 Schools Act shall retain all property and contractual rights  
4 received pursuant to the granting of the charter until such time  
5 as the charter school elects to receive a charter pursuant to  
6 the 2001 Charter Schools Act or its charter expires or is  
7 revoked pursuant to its terms.

8           C. Upon the expiration of a charter received by a  
9 school that continues to operate in accordance with a charter  
10 received pursuant to the 1999 Charter Schools Act, if the  
11 charter school chooses to continue its operation as a charter  
12 school, the charter school shall apply for a new charter  
13 pursuant to the 2001 Charter Schools Act. "

14           Section 16. Section 22-2-6.3 NMSA 1978 (being Laws 1986,  
15 Chapter 94, Section 3, as amended) is amended to read:

16           "22-2-6.3. DEFINITIONS.--As used in the Public School  
17 Insurance Authority Act:

18           A. "authority" means the public school insurance  
19 authority;

20           B. "board" means the board of directors of the  
21 public school insurance authority;

22           C. "charter school" means a school organized as a  
23 charter school pursuant to the provisions of the [1999]  
24 2001 Charter Schools Act;

25           D. "director" means the director of the public

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1 school insurance authority;

2 E. "educational entities" means state educational  
3 institutions as enumerated in Article 12, Section 11 of the  
4 constitution of New Mexico and other state diploma, degree-  
5 granting and certificate-granting post-secondary educational  
6 institutions;

7 F. "fund" means the public school insurance fund;

8 G. "group health insurance" means coverage [~~which~~]  
9 that includes [~~but is not limited to~~] life insurance, accidental  
10 death and dismemberment, medical care and treatment, dental  
11 care, eye care and other coverages as determined by the  
12 authority;

13 H. "risk-related coverage" means coverage [~~which~~]  
14 that includes [~~but is not limited to~~] property and casualty,  
15 general liability, auto and fleet, workers' compensation and  
16 other casualty insurance; and

17 I. "school district" means a school district as  
18 defined in Subsection K of Section 22-1-2 NMSA 1978, excluding  
19 any school district with a student enrollment in excess of sixty  
20 thousand students. "

21 Section 17. Section 22-8-6 NMSA 1978 (being Laws 1967,  
22 Chapter 16, Section 60, as amended by Laws 1999, Chapter 281,  
23 Section 21 and also by Laws 1999, Chapter 291, Section 2) is  
24 amended to read:

25 "22-8-6. BUDGETS--SUBMISSION--FAILURE TO SUBMIT.--

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1           A. Prior to April 15 of each year, each local school  
2 board shall submit to the department an [~~operating~~]  
3 estimated budget for the school district and any charter schools  
4 in the district for the ensuing fiscal year. Upon written  
5 approval of the state superintendent, the date for the  
6 submission of the [~~operating~~] estimated budget as required by  
7 this section may be extended to a later date fixed by the state  
8 superintendent.

9           B. The [~~operating~~] estimated budget required by this  
10 section may include:

11                   (1) estimates of the cost of insurance policies  
12 for periods up to five years if a lower rate may be obtained by  
13 purchasing insurance for the longer term; or

14                   (2) estimates of the cost of contracts for the  
15 transportation of students for terms extending up to four years.

16           ~~[C. The operating budget required by this section  
17 shall include a proposed breakdown for charter schools in the  
18 school district, by individual charter school, of the membership  
19 projected for each charter school, the total program units  
20 generated at that charter school and approximate anticipated  
21 disbursements and expenditures at each charter school.]~~

22           C. The estimated budget required by this section  
23 shall include a budget for each charter school of the membership  
24 projected for each charter school, the total program units  
25 generated at that charter school and approximate anticipated

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1 disbursements and expenditures at each charter school.

2 D. If a local school board fails to submit a budget  
3 pursuant to this section, the department shall prepare the  
4 operating budget for the school district for the ensuing fiscal  
5 year. A local school board shall be considered as failing to  
6 submit a budget pursuant to this section if the budget submitted  
7 exceeds the total projected resources of the school district or  
8 if the budget submitted does not comply with the law or with  
9 rules and procedures of the department. "

10 Section 18. Section 22-8-6.1 NMSA 1978 (being Laws 1993,  
11 Chapter 227, Section 8, as amended) is amended to read:

12 "22-8-6.1. CERTAIN SCHOOL DISTRICT BUDGETS. --

13 A. Each charter school shall submit to [~~the local~~  
14 ~~school board~~] its chartering entity a school-based budget. The  
15 budget shall be based upon the projected number of program units  
16 generated by that charter school and its students, using the at-  
17 risk index and the instructional staff training and experience  
18 index of the district. The budget shall be submitted to the  
19 [~~local school board~~] chartering entity for approval or  
20 amendment. The approval or amendment authority of the [~~local~~  
21 ~~school board~~] chartering entity relative to the charter school  
22 budget is limited to ensuring that sound fiscal practices are  
23 followed in the development of the budget and that the charter  
24 school budget is within the allotted resources. The [~~local~~  
25 ~~school board~~] chartering entity shall have no veto authority

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1 over individual line items within the charter school's proposed  
2 budget, but shall approve or disapprove the budget in its  
3 entirety. Upon final approval of the ~~[local]~~ budget by the  
4 ~~[local school board]~~ chartering entity, the individual charter  
5 school budget shall be included separately in the budget  
6 submission to the department of education required pursuant to  
7 the Public School Finance Act and the ~~[1999]~~ 2001 Charter  
8 Schools Act.

9 B. For the purposes of this section, "chartering  
10 entity" means a local school board, the state board or the state  
11 charter school board that reviews applications and grants or  
12 denies charter school status to qualifying applicants pursuant  
13 to the 2001 Charter Schools Act. "

14 Section 19. Section 22-8-23.2 NMSA 1978 (being Laws 1993,  
15 Chapter 237, Section 2) is amended to read:

16 "22-8-23.2. NEW DISTRICT ADJUSTMENT-- ADDITIONAL PROGRAM  
17 UNITS. --

18 A. A newly created school district is eligible for  
19 additional program units. The number of additional program  
20 units to which a newly created school district is entitled under  
21 this subsection is the number of units computed in the following  
22 manner:

23 (MEM for current year) x .147 = Units

24 where MEM is equal to the total district membership, including  
25 early childhood education full-time equivalent membership and

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1 special education membership.

2 B. A school district whose membership decreases as a  
3 result of the establishment of a newly created school district  
4 or a charter school within the district is eligible for  
5 additional program units. The number of additional program  
6 units to which that district is entitled under this subsection  
7 is the number of units computed in the following manner:

8 (MEM for prior year - MEM for current year)

9 
$$\times .17 = \text{Units}$$

10 where MEM is equal to the total district membership, including  
11 early childhood education full-time equivalent membership and  
12 special education membership.

13 C. As used in this section, "newly created school  
14 district" or "charter school" means a local school district or  
15 charter school not in existence during the immediately preceding  
16 school year. "

17 Section 20. Section 22-11-2 NMSA 1978 (being Laws 1967,  
18 Chapter 16, Section 126, as amended) is amended to read:

19 "22-11-2. DEFINITIONS. --As used in the Educational  
20 Retirement Act:

21 A. "member" means [~~any~~] an employee, except for a  
22 participant coming within the provisions of the Educational  
23 Retirement Act;

24 B. "regular member" means:

25 (1) a person regularly employed as a teaching,

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1 nursing or administrative employee of a state educational  
2 institution, except for:

3 (a) a participant; or

4 (b) all employees of a general hospital  
5 or outpatient clinics [~~thereof~~] operated by a state educational  
6 institution named in Article 12, Section 11 of the constitution  
7 of New Mexico;

8 (2) a person regularly employed as a teaching,  
9 nursing or administrative employee of a junior college or  
10 community college created pursuant to Chapter 21, Article 13  
11 NMSA 1978, except for a participant;

12 (3) a person regularly employed as a teaching,  
13 nursing or administrative employee of a technical and vocational  
14 institute created pursuant to the Technical and Vocational  
15 Institute Act, except for a participant;

16 (4) a person regularly employed as a teaching,  
17 nursing or administrative employee of the New Mexico boys'  
18 school, the New Mexico girls' school, the Los Lunas medical  
19 center or a school district or as a certified school instructor  
20 of a state institution or agency providing an educational  
21 program and holding a standard or substandard certificate issued  
22 by the state board, except for a participant;

23 (5) a person regularly employed by the  
24 department of education or the board holding a standard or  
25 substandard certificate issued by the state board at the time of

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1 commencement of such employment;

2 (6) a member classified as a regular member in  
3 accordance with the [~~regulations~~] rules of the board;

4 (7) a person regularly employed by the New  
5 Mexico activities association holding a standard certificate  
6 issued by the state board at the time of commencement of such  
7 employment; [~~or~~]

8 (8) a person regularly employed by a regional  
9 education cooperative holding a standard certificate issued by  
10 the state board at the time of commencement of such employment;  
11 or

12 (9) a person regularly employed by a charter  
13 school holding a standard certificate issued by the state board  
14 at the time of commencement of such employment;

15 C. "provisional member" means a person not eligible  
16 to be a regular member but who is employed by a local  
17 administrative unit designated in Subsection B of this section;  
18 provided, however, that employees of a general hospital or  
19 outpatient clinics [~~thereof~~] operated by a state educational  
20 institution named in Article 12, Section 11 of the constitution  
21 of New Mexico are not provisional members;

22 D. "local administrative unit" means an employing  
23 agency however constituted that is directly responsible for the  
24 payment of compensation for the employment of members or  
25 participants;

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1           E. "beneficiary" means a person having an insurable  
2 interest in the life of a member or a participant designated by  
3 written instrument duly executed by the member or participant  
4 and filed with the director to receive a benefit pursuant to the  
5 Educational Retirement Act that may be received by someone other  
6 than the member or participant;

7           F. "employment" means employment by a local  
8 administrative unit that qualifies a person to be a member or  
9 participant;

10          G. "service employment" means employment that  
11 qualifies a person to be a regular member;

12          H. "provisional service employment" means employment  
13 that qualifies a person to be a provisional member;

14          I. "prior employment" means employment performed  
15 prior to the effective date of the Educational Retirement Act  
16 that would be service employment or provisional service  
17 employment if performed thereafter;

18          J. "service credit" means that period of time with  
19 which a member is accredited for the purpose of determining his  
20 eligibility for and computation of retirement or disability  
21 benefits;

22          K. "earned service credit" means that period of time  
23 during which a member was engaged in employment or prior  
24 employment with which he is accredited for the purpose of  
25 determining his eligibility for retirement or disability

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1 benefits;

2 L. "allowed service credit" means that period of  
3 time during which a member has performed certain nonservice  
4 employment with which he may be accredited, as provided in the  
5 Educational Retirement Act, for the purpose of computing  
6 retirement or disability benefits;

7 M. "retirement benefit" means an annuity paid  
8 monthly to members whose employment has been terminated by  
9 reason of their age;

10 N. "disability benefit" means an annuity paid  
11 monthly to members whose employment has been terminated by  
12 reason of a disability;

13 O. "board" means the educational retirement board;

14 P. "fund" means the educational retirement fund;

15 Q. "director" means the educational retirement  
16 director;

17 R. "medical authority" means a medical doctor within  
18 the state or as provided in Subsection D of Section 22-11-36  
19 NMSA 1978 either designated or employed by the board to examine  
20 and report on the physical condition of applicants for or  
21 recipients of disability benefits;

22 S. "actuary" means a person trained and regularly  
23 engaged in the occupation of calculating present and projected  
24 monetary assets and liabilities under annuity or insurance  
25 programs;

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1           T. "actuarial equivalent" means a sum paid as a  
2 current or deferred benefit that is equal in value to a regular  
3 benefit, computed upon the basis of interest rates and mortality  
4 tables;

5           U. "contributory employment" means employment for  
6 which contributions have been made by both a member and a local  
7 administrative unit pursuant to the Educational Retirement Act;

8           V. "qualifying state educational institution" means  
9 the university of New Mexico, New Mexico state university, New  
10 Mexico institute of mining and technology, New Mexico highlands  
11 university, eastern New Mexico university, western New Mexico  
12 university, Albuquerque technical-vocational institute, Clovis  
13 community college, Luna vocational-technical institute, Mesa  
14 technical college, New Mexico junior college, northern New  
15 Mexico state school, San Juan college and Santa Fe community  
16 college;

17           W. "participant" means:

18                 (1) a person regularly employed as a faculty or  
19 professional employee of the university of New Mexico, New  
20 Mexico state university, New Mexico institute of mining and  
21 technology, New Mexico highlands university, eastern New Mexico  
22 university or western New Mexico university who first becomes  
23 employed with such an educational institution on or after July  
24 1, 1991, or a person regularly employed as a faculty or  
25 professional employee of the Albuquerque technical-vocational

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1 institute, Clovis community college, Luna vocational-technical  
2 institute, Mesa technical college, New Mexico junior college,  
3 northern New Mexico state school, San Juan college or Santa Fe  
4 community college who is first employed by the institution on or  
5 after July 1, 1999 and who elects, pursuant to Section 22-11-47  
6 NMSA 1978, to participate in the alternative retirement plan;  
7 and

8 (2) a person regularly employed who performs  
9 research or other services pursuant to a contract between a  
10 qualifying state educational institution and the United States  
11 government or any of its agencies who elects, pursuant to  
12 Section 22-11-47 NMSA 1978, to participate in the alternative  
13 retirement plan, provided that the research or other services  
14 are performed outside the state;

15 X. "salary" means the compensation or wages paid to  
16 a member or participant by any local administrative unit for  
17 services rendered; and

18 Y. "alternative retirement plan" means the  
19 retirement plan provided for in Sections 22-11-47 through  
20 22-11-52 NMSA 1978. "

21 Section 21. REPEAL. --

22 A. Sections 22-8B-1 through 22-8B-15 NMSA 1978  
23 (being Laws 1999, Chapter 281, Sections 1 through 4, Laws 2000,  
24 Chapter 82, Section 3 and Laws 1999, Chapter 281, Sections 5  
25 through 15, as amended) are repealed.

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1                   B. Sections 22-8C-1 through 22-8C-7 NMSA 1978 (being  
2 Laws 1999, Chapter 293, Sections 1 through 7) are repealed.

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