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HOUSE BILL 146

45TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2002

INTRODUCED BY

James R. Madalena

AN ACT

RELATING TO EDUCATION; AMENDING SECTIONS OF THE 1999 CHARTER SCHOOLS ACT; PROVIDING CONVERSION SCHOOLS WITH THE ABILITY TO CONTRACT FOR THE USE OF FACILITIES AND EQUIPMENT USED PRIOR TO CONVERSION; REQUIRING DISTRICTS TO OFFER CHARTER SCHOOLS VACANT LAND AND FACILITIES; INCREASING THE CHARTER SCHOOL TERM TO SIX YEARS; INCREASING THE ALLOWABLE USES OF THE CHARTER SCHOOLS STIMULUS FUND TO INCLUDE CAPITAL BUILDING PURPOSES.

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

Section 1. Section 22-8B-4 NMSA 1978 (being Laws 1999, Chapter 281, Section 4, as amended) is amended to read:

"22-8B-4. CHARTER SCHOOLS' RIGHTS AND RESPONSIBILITIES-- OPERATION. --

A. A charter school shall be subject to all federal and state laws and constitutional provisions

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1 prohibiting discrimination on the basis of disability, race,  
2 creed, color, gender, national origin, religion, ancestry or  
3 need for special education services.

4 B. A charter school shall be administered and  
5 governed by a governing body in the manner set forth in the  
6 charter.

7 C. A charter school shall be responsible for its  
8 own operation, including preparation of a budget, contracting  
9 for services and personnel matters.

10 D. A charter school may negotiate or contract with  
11 a local school district, a university or college or any third  
12 party for the use of a facility, its operation and maintenance  
13 and the provision of any service or activity that the charter  
14 school is required to perform in order to carry out the  
15 educational program described in its charter.

16 E. A local school district shall offer a  
17 conversion school the use of school district facilities,  
18 equipment and supplies that it used prior to conversion.

19 F. During negotiation and contingent upon the  
20 local school district's anticipated use of land and facilities  
21 in accordance with its master facilities plan, the school  
22 district shall offer vacant land and facilities for use by the  
23 charter school. In no event shall a charter school be  
24 required to pay rent for space that is deemed available, as  
25 negotiated by contract, in school district facilities;

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1 provided that the facilities can be made available at no cost  
2 to the school district. All costs for the operation and  
3 maintenance of the facilities used by the charter school shall  
4 be subject to negotiation between the charter school and the  
5 school district.

6 [F-] G. A charter school shall negotiate with a  
7 local school district to provide transportation to students  
8 eligible for transportation under the provisions of the Public  
9 School Code. The local school district, in conjunction with  
10 the charter school, may establish a limit for student  
11 transportation to and from the charter school site not to  
12 extend beyond the local school district boundary.

13 [G-] H. A charter school may negotiate with a  
14 local school district for capital expenditures.

15 [H-] I. A charter school shall be a nonsectarian,  
16 nonreligious and non-home-based public school that operates  
17 within a public school district.

18 [I-] J. Except as otherwise provided in the Public  
19 School Code, a charter school shall not charge tuition or have  
20 admission requirements.

21 [J-] K. A charter school shall be subject to the  
22 provisions of Sections 22-1-6 and 22-2-8 NMSA 1978.

23 [K-] L. A charter school may acquire, pledge and  
24 dispose of property; provided that, upon termination of the  
25 charter, all assets of the charter school shall revert to the

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1 local school board that authorized the charter.

2 [L-] M. A charter school may accept or reject any  
3 charitable gift, grant, devise or bequest; provided that no  
4 such gift, grant, devise or bequest shall be accepted if  
5 subject to any condition contrary to law or to the terms of  
6 the charter. The particular gift, grant, devise or bequest  
7 shall be considered an asset of the charter school to which it  
8 is given.

9 [M-] N. A charter school may contract and sue and  
10 be sued. A local school board that approves a charter school  
11 shall not be liable for any acts or omissions of the charter  
12 school.

13 [N-] O. A charter school shall comply with all  
14 state and federal health and safety requirements applicable to  
15 public schools. "

16 Section 2. Section 22-8B-12 NMSA 1978 (being Laws 1999,  
17 Chapter 281, Section 12) is amended to read:

18 "22-8B-12. CHARTER SCHOOLS--TERM-RENEWAL OF CHARTER--  
19 GROUNDS FOR NONRENEWAL OR REVOCATION.--

20 A. Unless otherwise agreed to between the charter  
21 school and the local school board, a charter school [may]  
22 shall be approved for an initial term of [five] six years,  
23 provided that the first year of the charter is used by the  
24 charter school for planning purposes. A charter may be  
25 renewed for successive periods of five years each [approval-s

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1 ~~of less than five years can be agreed to between the charter~~  
2 ~~school and the local school board].~~

3 B. No later than January 1 of the year prior to  
4 the year in which the charter expires, the governing body of a  
5 charter school may submit a renewal application to the local  
6 school board. The local school board shall rule in a public  
7 hearing on the renewal application no later than March 1 of  
8 the year in which the charter expires, or on a mutually agreed  
9 date.

10 C. A charter school renewal application submitted  
11 to the local school board shall contain:

12 (1) a report on the progress of the charter  
13 school in achieving the goals, objectives, student performance  
14 standards, state board minimum educational standards and other  
15 terms of the initial approved charter application, including  
16 the accountability requirements set forth in Section 22-1-6  
17 NMSA 1978;

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

24 (3) contents of the charter application set  
25 forth in Section ~~[8 of the 1999 Charter Schools Act]~~ 22-8B-8

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1 NMSA 1978;

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

5 (5) a petition in support of the charter  
6 school renewing its charter status signed by a majority of the  
7 households whose children are enrolled in the charter school.

8 D. A charter may be revoked or not renewed by the  
9 local school board if the board determines that the charter  
10 school did any of the following:

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

14 (2) failed to meet or make substantial  
15 progress toward achievement of the state board minimum  
16 educational standards or student performance standards  
17 identified in the charter application;

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

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

22 E. If a local school board revokes or does not  
23 renew a charter, the local school board shall state in writing  
24 its reasons for the revocation or nonrenewal.

25 F. A decision to revoke or not to renew a charter

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1 may be appealed by the governing body of the charter school  
2 pursuant to Section [~~7 of the 1999 Charter Schools Act~~]  
3 22-8B-7 NMSA 1978. "

4 Section 3. Section 22-8B-14 NMSA 1978 (being Laws 1999,  
5 Chapter 281, Section 14) is amended to read:

6 "22-8B-14. CHARTER SCHOOLS STIMULUS FUND CREATED. --

7 A. The "charter schools stimulus fund" is created  
8 in the state treasury. Money in the fund is appropriated to  
9 the department of education to provide financial support to  
10 charter schools, whether start-up or conversion, for initial  
11 start-up costs, including planning, and initial costs  
12 associated with renovating or remodeling existing buildings  
13 and structures for expenditure in fiscal year 2000 and  
14 subsequent fiscal years. Upon approval by the department of  
15 education, money in the fund may also be allocated for capital  
16 building purposes to access matching federal funds. The fund  
17 shall consist of money appropriated by the legislature and  
18 grants, gifts, devises and donations from any public or  
19 private source. The department of education shall administer  
20 the fund in accordance with rules adopted by the state board.  
21 The department of education may use up to three percent of the  
22 fund for administrative costs. Money in the fund shall not  
23 revert to the general fund at the end of a fiscal year.

24 B. If the charter school receives an initial grant  
25 and fails to begin operating a charter school within the next

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1 [eighteen] twenty-four months, the charter school shall  
2 immediately reimburse the fund."

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