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HOUSE BILL 453

**51ST LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2013**

INTRODUCED BY

Nathan "Nate" Cote

AN ACT

RELATING TO CHARTER SCHOOLS; PROVIDING FOR THE TRANSFER OF  
CHARTERING AUTHORITY TO THE STATE UNDER CERTAIN CIRCUMSTANCES.

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

SECTION 1. 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--TRANSFER OF CHARTER.--

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

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1 authority.

2 B. During the planning year, the charter school  
3 shall file a minimum of three status reports with the  
4 chartering authority and the department for the purpose of  
5 demonstrating that the charter school's implementation progress  
6 is consistent with the conditions, standards and procedures of  
7 its approved charter. The report content, format and schedule  
8 for submission shall be agreed to by the chartering authority  
9 and the charter school and become part of the charter contract.

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

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

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

7           F. If, based on the performance review conducted by  
8 the chartering authority pursuant to Subsection D of this  
9 section, a charter school's fiscal, overall governance or  
10 student performance or legal compliance appears unsatisfactory,  
11 the chartering authority shall promptly notify the governing  
12 body of the charter school of the unsatisfactory review and  
13 provide reasonable opportunity for the governing body to remedy  
14 the problem; provided that if the unsatisfactory review  
15 warrants revocation, the revocation procedures set forth in  
16 this section shall apply. A chartering authority may take  
17 appropriate corrective actions or exercise sanctions, as long  
18 as such sanctions do not constitute revocation, in response to  
19 the unsatisfactory review. Such actions or sanctions by the  
20 chartering authority may include requiring a governing body to  
21 develop and execute a corrective action plan with the  
22 chartering authority that sets forth time frames for  
23 compliance.

24           G. If a charter school does not correct significant  
25 audit findings from an annual or special audit before the next

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1 annual audit or does not comply with a corrective action plan  
2 developed as a result of local school board sanctions, but the  
3 local school board finds that revocation is not the appropriate  
4 action for the students, staff and community, it may transfer  
5 the chartering authority for the charter school to the  
6 commission. The decision of the local school board to transfer  
7 the charter is not appealable if the school district's annual  
8 audit has been affected by audit findings or a qualified audit  
9 of a charter school. The charter shall be transferred within  
10 thirty days of the decision by the local school board to  
11 transfer. Upon transfer of the chartering authority, the  
12 school district shall forgo the remainder of the two-percent  
13 administrative fee received that fiscal year for being the  
14 chartering authority, which amount shall be transferred to the  
15 division. Within ninety days of the commission becoming the  
16 chartering authority, the governing body of the charter school  
17 must qualify as a board of finance or the governing board shall  
18 be replaced or the charter revoked by the commission. A local  
19 school board and a charter school may jointly petition the  
20 commission to have the charter school remain a locally  
21 chartered charter school. The petition shall include a plan to  
22 correct audit findings, ensure proper financial controls and  
23 provide greater oversight by the local school board.

24 ~~[G.]~~ H. Every chartering authority shall submit an  
25 annual report to the division, including a performance report

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1 for each charter school that it oversees, in accordance with  
2 the performance framework set forth in the charter contract.

3 ~~[H.]~~ I. The department shall review the annual  
4 report received from the chartering authority to determine if  
5 the department or local school board rules and policies from  
6 which the charter school was released pursuant to the  
7 provisions of Section 22-8B-5 NMSA 1978 assisted or impeded the  
8 charter school in meeting its stated goals and objectives. The  
9 department shall use the annual reports received from the  
10 chartering authorities as part of its report to the governor,  
11 the legislative finance committee and the legislative education  
12 study committee as required by the Charter Schools Act.

13 ~~[I.]~~ J. No later than two hundred seventy days  
14 prior to the date in which the charter expires, the governing  
15 body may submit a renewal application to the chartering  
16 authority. A charter school may apply to a different  
17 chartering authority for renewal. The chartering authority  
18 shall rule in a public hearing on the renewal application no  
19 later than one hundred eighty days prior to the expiration of  
20 the charter.

21 ~~[J.]~~ K. A charter school renewal application  
22 submitted to the chartering authority shall contain:

23 (1) a report on the progress of meeting the  
24 academic performance, financial compliance and governance  
25 responsibilities of the charter school, including achieving the

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1 goals, objectives, student performance outcomes, state minimum  
2 educational standards and other terms of the charter contract,  
3 including the accountability requirements set forth in the  
4 Assessment and Accountability Act;

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

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

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

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

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

23 ~~[K-]~~ L. In addition to the provisions of Subsection  
24 G of this section, a charter may be suspended, revoked or not  
25 renewed by the chartering authority if the chartering authority

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1 determines that the charter school did any of the following:

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

5 (2) failed to meet or make substantial  
6 progress toward achievement of the department's minimum  
7 educational standards or student performance standards  
8 identified in the charter contract;

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

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

13 [~~M.~~] M. The chartering authority shall develop  
14 processes for suspension, revocation or nonrenewal of a charter  
15 that:

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

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

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

24 [~~M.~~] N. If a chartering authority suspends, revokes  
25 or does not renew a charter, the chartering authority shall

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1 state in writing its reasons for the suspension, revocation or  
2 nonrenewal.

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