

1 SENATE BILL 358

2 **51ST LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2013**

3 INTRODUCED BY

4 John Arthur Smith

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10 AN ACT

11 RELATING TO PUBLIC EDUCATION; REQUIRING A LOCAL SCHOOL BOARD TO
12 BE THE GOVERNING BODY OF ALL CHARTER SCHOOLS LOCATED WITHIN THE
13 GEOGRAPHIC BOUNDARIES OF THE SCHOOL DISTRICT IF IT HAS TEN OR
14 MORE CHARTER SCHOOLS LOCATED WITHIN ITS GEOGRAPHIC BOUNDARIES.

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

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

19 "22-8B-4. CHARTER SCHOOLS' RIGHTS AND RESPONSIBILITIES--
20 OPERATION.--

21 A. A charter school shall be subject to all federal
22 and state laws and constitutional provisions prohibiting
23 discrimination on the basis of disability, physical or mental
24 handicap, serious medical condition, race, creed, color, sex,
25 gender identity, sexual orientation, spousal affiliation,

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1 national origin, religion, ancestry or need for special
2 education services.

3 B. A charter school shall be governed by a
4 governing body in the manner set forth in the charter contract
5 ~~[provided that a governing body]~~ and shall have at least five
6 members; ~~[and]~~ provided ~~[further]~~ that ~~[no member of a~~
7 ~~governing body for a charter school that is initially approved~~
8 ~~on or after July 1, 2005 or whose charter is renewed on or~~
9 ~~after July 1, 2005]~~ the local school board shall be the
10 governing body of all charter schools located within the
11 geographic boundaries of the school district if the school
12 district has ten or more charter schools located within its
13 boundaries; and provided further that no member of the
14 governing body of a charter school shall serve on the governing
15 body of another charter school.

16 C. No member of a local school board shall be a
17 member of ~~[a]~~ the governing body ~~[for]~~ of a charter school,
18 unless that charter school is located within the geographic
19 boundaries of a school district that has ten or more charter
20 schools located within its boundaries pursuant to Subsection B
21 of this section, or be employed in any capacity by a locally
22 chartered charter school located within the local school
23 board's school district during the term of office for which the
24 member was elected or appointed.

25 ~~[G-]~~ D. A charter school shall be responsible for:

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1 (1) its own operation, including preparation
2 of a budget, subject to audits pursuant to the Audit Act; and

3 (2) contracting for services and personnel
4 matters.

5 ~~[D-]~~ E. A charter school may contract with a school
6 district, a university or college, the state, another political
7 subdivision of the state, the federal government or one of its
8 agencies, a tribal government or any other third party for the
9 use of a facility, its operation and maintenance and the
10 provision of any service or activity that the charter school is
11 required to perform in order to carry out the educational
12 program described in its charter contract. Facilities used by
13 a charter school shall meet the standards required pursuant to
14 Section 22-8B-4.2 NMSA 1978.

15 ~~[E-]~~ F. A conversion school chartered before July
16 1, 2007 may choose to continue using the school district
17 facilities and equipment it had been using prior to conversion,
18 subject to the provisions of Subsection ~~[F]~~ G of this section.

19 ~~[F-]~~ G. The school district in which a charter
20 school is geographically located shall provide a charter school
21 with available facilities for the school's operations unless
22 the facilities are currently used for other educational
23 purposes. An agreement for the use of school district
24 facilities by a charter school may provide for reasonable lease
25 payments; provided that the payments do not exceed the sum of

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1 the lease reimbursement rate provided in Subparagraph (b) of
2 Paragraph (1) of Subsection I of Section 22-24-4 NMSA 1978 plus
3 any reimbursement for actual direct costs incurred by the
4 school district in providing the facilities; and provided
5 further that any lease payments received by a school district
6 may be retained by the school district and shall not be
7 considered to be cash balances in any calculation pursuant to
8 Section 22-8-41 NMSA 1978. The available facilities provided
9 by a school district to a charter school shall meet all
10 occupancy standards as specified by the public school capital
11 outlay council. As used in this subsection, "other educational
12 purposes" includes health clinics, daycare centers, teacher
13 training centers, school district administration functions and
14 other ancillary services related to a school district's
15 functions and operations.

16 [~~G.~~] H. A locally chartered charter school may pay
17 the costs of operation and maintenance of its facilities or may
18 contract with the school district to provide facility operation
19 and maintenance services.

20 [~~H.~~] I. Locally chartered charter school facilities
21 are eligible for state and local capital outlay funds and shall
22 be included in the school district's five-year facilities plan.

23 [~~I.~~] J. A locally chartered charter school shall
24 negotiate with a school district to provide transportation to
25 students eligible for transportation under the provisions of

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1 the Public School Code. The school district, in conjunction
2 with the charter school, may establish a limit for student
3 transportation to and from the charter school site not to
4 extend beyond the school district boundary.

5 ~~[J.]~~ K. A charter school shall be a nonsectarian,
6 nonreligious and non-home-based public school.

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

10 ~~[L.]~~ M. With the approval of the chartering
11 authority, a single charter school may maintain separate
12 facilities at two or more locations within the same school
13 district; but, for purposes of calculating program units
14 pursuant to the Public School Finance Act, the separate
15 facilities shall be treated together as one school.

16 ~~[M.]~~ N. A charter school shall be subject to the
17 provisions of Section 22-2-8 NMSA 1978 and the Assessment and
18 Accountability Act.

19 ~~[N.]~~ O. Within constitutional and statutory limits,
20 a charter school may acquire and dispose of property; provided
21 that, upon termination of the charter, all assets of the
22 locally chartered charter school shall revert to the local
23 school board and all assets of the state-chartered charter
24 school shall revert to the state, except that, if all or any
25 portion of a state-chartered charter school facility is

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1 financed with the proceeds of general obligation bonds issued
2 by a local school board, the facility shall revert to the local
3 school board.

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

11 ~~[P-]~~ Q. The governing body may contract and sue and
12 be sued. A local school board shall not be liable for any acts
13 or omissions of the charter school.

14 ~~[Q-]~~ R. A charter school shall comply with all
15 state and federal health and safety requirements applicable to
16 public schools, including those health and safety codes
17 relating to educational building occupancy.

18 ~~[R-]~~ S. A charter school is a public school that may
19 contract with a school district or other party for provision of
20 financial management, food services, transportation, facilities,
21 education-related services or other services. The governing
22 body shall not contract with a for-profit entity for the
23 management of the charter school.

24 ~~[S-]~~ T. To enable state-chartered charter schools
25 to submit required data to the department, an accountability

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