

HOUSE BILL 365

57TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2025

INTRODUCED BY

Joy Garratt

This document may incorporate amendments proposed by a committee, but not yet adopted, as well as amendments that have been adopted during the current legislative session. The document is a tool to show amendments in context and cannot be used for the purpose of adding amendments to legislation.

AN ACT

RELATING TO PUBLIC SCHOOLS; PROVIDING STAFF TO THE PUBLIC EDUCATION COMMISSION; TRANSFERRING THE CHARTER SCHOOLS DIVISION FROM THE PUBLIC EDUCATION DEPARTMENT TO THE COMMISSION.

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

SECTION 1. Section 9-24-4 NMSA 1978 (being Laws 2004, Chapter 27, Section 4, as amended) is amended to read:

"9-24-4. DEPARTMENT CREATED.--

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A. The "public education department" is created in the executive branch. The department is a cabinet department and includes the following divisions:

(1) the administrative services division;

(2) the assessment and accountability

division;

~~[(3) the charter schools division;~~

~~[(4)]~~ (3) the educator quality division;

~~[(5)]~~ (4) the Indian education division;

~~[(6)]~~ (5) the information technology division;

~~[(7)]~~ (6) the instructional support and

vocational education division;

~~[(8)]~~ (7) the program support and student

transportation division;

~~[(9)]~~ (8) the quality assurance and systems

integration division;

~~[(10)]~~ (9) the rural education division; and

~~[(11)]~~ (10) the vocational rehabilitation

division.

B. The secretary may organize the department and divisions of the department and may transfer or merge functions between divisions and bureaus in the interest of efficiency and economy."

SECTION 2. Section 9-24-9 NMSA 1978 (being Laws 2004, Chapter 27, Section 9) is amended to read:

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"9-24-9. PUBLIC EDUCATION COMMISSION.--

A. The "public education commission" is created pursuant to Article 12, Section 6 of the constitution of New Mexico. [~~The commission shall be administratively attached to the department, with administrative staff provided by the department. Additional requests for staff services shall be made through the secretary.~~] The commission shall advise the department on policy matters and shall perform other functions as provided by law.

B. The commission shall consist of ten members elected from public education districts as provided in the decennial educational redistricting act. Members shall be entitled to receive per diem and mileage as provided in the Per Diem and Mileage Act, but shall receive no other perquisite, compensation or allowance.

C. The commission shall annually elect a [~~chairman~~] chair, vice [~~chairman~~] chair and secretary from among its membership. A majority of the members constitutes a quorum for the conduct of business. The commission shall keep a record of all proceedings of the commission.

D. The commission shall meet at the call of the [~~chairman~~] chair at least quarterly. Meetings of the commission shall be held in Santa Fe and at other sites within the state at the direction of the commission. The [~~chairman~~] chair in consultation with the secretary shall call a meeting

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at the request of a majority of the members. Commission members shall not vote by proxy.

E. No member of the commission shall be appointed secretary or be employed by the department on either a full- or part-time basis.

F. The "state charter schools office" is created to staff the commission in carrying out its statutory duties as the state chartering authority. The commission shall appoint a director of the office, and the director shall recommend to the commission the employment of such technical and other staff as necessary to carry out the duties of the office. The director is exempt and technical and clerical staff are classified as provided in the Personnel Act. Hf11→~~The commission and office shall be provided with adequate quarters by the department.~~←Hf11 The office shall provide objective, nonpartisan advice to the commission regarding state chartering of public schools, monitor state-chartered charter schools for compliance with the Public School Code and the charter schools' charter contract, make periodic reports to the commission on the activities of the office and perform such other duties as required by the commission."

SECTION 3. Section 22-2-2.2 NMSA 1978 (being Laws 2004, Chapter 27, Section 17) is amended to read:

"22-2-2.2. COMMISSION--DUTIES.--

A. The commission shall oversee and direct the

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activities of the state charter schools office and shall:

(1) be the chartering authority for state-chartered charter schools;

(2) cooperate with the department and enter into data-sharing agreements as necessary to provide seamless administration and oversight of public schools and give the office access to relevant data and reports of the department;
and

(3) make recommendations to the department.

[A-] B. The commission shall work with the department to develop the five-year strategic plan for public elementary and secondary education in the state. The strategic plan shall be updated at least biennially. The commission shall solicit the input of persons who have an interest in public school policy, including local school boards, school districts, charter school governing bodies and charter schools and school employees; home schooling associations; parent-teacher associations; educational organizations; the [commission on] higher education department; colleges, universities and vocational schools; state agencies responsible for educating resident children; juvenile justice agencies; [work force] workforce development providers; and business organizations.

[B-] C. In addition to the duty provided in Subsection [A] B of this section, the commission shall:

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(1) solicit input from local school boards, school districts and the public on policy and governance issues and report its findings and recommendations to the secretary and the legislature; and

(2) recommend to the secretary conduct and process guidelines and training curricula for local school boards."

SECTION 4. Section 22-8B-2 NMSA 1978 (being Laws 1999, 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.]~~ E. "enrollment preference" means filling a charter school's openings with students, or siblings of

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students, who have already been admitted to the school through an appropriate admission process or are continuing through subsequent grades;

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

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

[J.] I. "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.] J. "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;

K. "office" or "division" means the state charter

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schools office;

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

O. "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 5. Section 22-8B-13 NMSA 1978 (being Laws 1999, Chapter 281, Section 13, as amended) is amended to read:

"22-8B-13. CHARTER SCHOOL FINANCING.--

A. The amount of funding allocated to a charter school shall be not less than ninety-eight percent of the school-generated program cost. The school district or

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[~~division~~] office may withhold and use two percent of the school-generated program cost for its administrative support of a charter school.

B. That portion of money from state or federal programs generated by students enrolled in a locally chartered charter school shall be allocated to that charter school serving students eligible for that aid. Any other public school program not offered by the locally chartered charter school shall not be entitled to the share of money generated by a charter school program.

C. When a state-chartered charter school is designated as a board of finance pursuant to Section 22-8-38 NMSA 1978, it shall receive state and federal funds for which it is eligible.

D. Charter schools may apply for all federal funds for which they are eligible.

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

SECTION 6. Section 22-8B-17 NMSA 1978 (being Laws 2006, Chapter 94, Section 30) is amended to read:

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"22-8B-17. STATE CHARTER SCHOOLS [DIVISION] OFFICE--
DUTIES.--[The "~~charter schools division~~" is created in the
~~department~~] The [division] office shall:

- A. provide staff support to the commission for state chartering of charter schools;
- B. provide technical support to Hf11→~~[all]~~←Hf11
Hf11→all←Hf11 Hf11→~~state-chartered~~←Hf11 charter schools;
- C. review and approve state-chartered charter school budget matters; and
- D. make recommendations to the commission regarding the approval, denial, suspension or revocation of the charter of a state-chartered charter school."

SECTION 7. Section 22-8B-17.1 NMSA 1978 (being Laws 2011, Chapter 14, Section 9) is amended to read:

"22-8B-17.1. [DIVISION] OFFICE--ANNUAL REPORT.--By December 1 annually, the [division] office, under the direction of the commission, shall issue to the governor, the legislative finance committee, ~~and~~ the legislative education study committee and the legislative library a report on the state's charter schools for the school year ending in the preceding calendar year, drawing from the annual reports submitted by every chartering authority as well as any relevant data compiled by the [division] office. The annual report shall include a comparison of the performance of charter school students with the performance of academically, ethnically and

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economically comparable groups of students in noncharter public schools. The report shall also include an assessment of the successes, challenges and areas for improvement in meeting the purposes of the Charter Schools Act, including the ~~[division's]~~ office's assessment of the sufficiency of funding for charter schools, the efficacy of the state formula for chartering authority funding and any suggested changes to state law or policy necessary to strengthen the state's charter schools. The annual report shall be published on the department's ~~[web site]~~ website."

SECTION 8. TEMPORARY PROVISION--TRANSFER OF PERSONNEL, APPROPRIATIONS, MONEY, RECORDS AND OTHER PROPERTY--CONTRACTUAL OBLIGATIONS--STATUTORY REFERENCES.--On the effective date of this act:

A. all personnel, appropriations, money, records, equipment, furniture, supplies and other property of the charter schools division of the public education department shall be transferred to the state charter schools office of the public education commission;

B. contractual obligations of the charter schools division shall be obligations of the state charter schools office; and

C. statutory references to the charter schools division of the public education department shall be deemed to be references to the state charter schools office of the public

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education commission.

SECTION 9. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2026.

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