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SENATE BILL 67

**44TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION,
2000**

INTRODUCED BY

Mark L. Boitano

FOR THE LEGISLATIVE EDUCATION STUDY COMMITTEE

AN ACT

AMENDING THE ENROLLMENT PROCEDURES FOR STUDENTS IN CHARTER
SCHOOLS; DECLARING AN EMERGENCY.

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

Section 1. Section 22-1-4 NMSA 1978 (being Laws 1975,
Chapter 338, Section 1, as amended) is amended to read:

"22-1-4. FREE PUBLIC SCHOOLS--EXCEPTIONS--WITHDRAWING
AND ENROLLING--OPEN ENROLLMENT.--

A. Except as provided by Section 24-5-2 NMSA 1978,
a free public school education shall be available to any
school-age person who is a resident of this state and has not
received a high school diploma or its equivalent.

B. A free public school education in those courses
already offered to persons pursuant to the provisions of
Subsection A of this section shall be available to any person
who is a resident of this state and has received a high

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1 school diploma or its equivalent if there is available space
2 in such courses.

3 C. Any person entitled to a free public school
4 education pursuant to the provisions of this section may
5 enroll or re-enroll in a public school at any time and,
6 unless required to attend school pursuant to the Compulsory
7 School Attendance Law, may withdraw from a public school at
8 any time.

9 D. In adopting and promulgating [~~regulations~~]
10 rules concerning the enrollment of students transferring from
11 a home school or private school to the public schools, the
12 local school board shall provide that the grade level at
13 which the transferring student is placed is appropriate to
14 the age of the student or to the student's score on a student
15 achievement test administered according to the statewide and
16 local school district testing programs as determined by the
17 state superintendent or both.

18 E. A local school board shall adopt and promulgate
19 [~~regulations~~] rules governing enrollment and re-enrollment at
20 public schools other than charter schools within the
21 district. These [~~regulations~~] rules shall include:

22 (1) definition of the district boundary and
23 the boundaries of attendance areas for each public school;

24 (2) for each public school, definition of
25 the boundaries of areas outside the district boundary or
within the district but outside the public school's
attendance area and within a distance of the public school

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1 that would not be served by a school bus route as determined
2 pursuant to Section 22-16-4 NMSA 1978 if enrolled, which
3 areas shall be designated as "walk zones";

4 (3) priorities for enrollment of students as
5 follows:

6 (a) first, persons residing within the
7 district and within the attendance area of a public school;

8 (b) second, persons who previously
9 attended the public school; and

10 (c) third, all other applicants; and

11 (4) establishment of maximum allowable class
12 size if smaller than that permitted by law [~~and ratification~~
13 ~~and description of the maximum class size in the charter of~~
14 ~~all charter schools within the district~~].

15 F. As long as the maximum allowable class size
16 established by law or by [~~regulation~~] rule of a local school
17 board [~~or in the charter of a charter school~~], whichever is
18 lower, is not met or exceeded in a public school by
19 enrollment of first-priority persons, the public school shall
20 enroll other persons applying in the priorities stated in the
21 district [~~regulations~~] rules adopted pursuant to Subsection E
22 of this section. If the maximum would be exceeded by
23 enrollment of an applicant in the second or third priority,
24 the school shall establish a waiting list. As classroom
25 space becomes available, persons highest on the waiting list
within the highest priority on the list shall be notified and
given the opportunity to enroll."

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1 Section 2. Section 22-8B-4 NMSA 1978 (being Laws 1999,
2 Chapter 281, Section 4) is amended to read:

3 "22-8B-4. CHARTER SCHOOLS' RIGHTS AND
4 RESPONSIBILITIES--OPERATION.--

5 A. A charter school shall be subject to all
6 federal and state laws and constitutional provisions
7 prohibiting discrimination on the basis of disability, race,
8 creed, color, gender, national origin, religion, ancestry or
9 need for special education services.

10 ~~[B. Notwithstanding the provisions of Section~~
11 ~~22-1-4 NMSA 1978, a start-up school shall enroll students on~~
12 ~~a first-come, first-served basis; thereafter, a start-up~~
13 ~~school shall establish a waiting list starting with~~
14 ~~priorities on a first-come, first-served basis. As classroom~~
15 ~~space becomes available, persons highest on the waiting list~~
16 ~~shall be notified and given the opportunity to enroll.~~

17 ~~E.]~~ B. A charter school shall be administered and
18 governed by a governing body in the manner set forth in the
19 charter.

20 ~~[D.]~~ C. A charter school shall be responsible for
21 its own operation, including preparation of a budget,
22 contracting for services and personnel matters.

23 ~~[E.]~~ D. A charter school may negotiate or contract
24 with a local school district, a university or college or any
25 third party for the use of a facility, its operation and
maintenance and the provision of any service or activity that
the charter school is required to perform in order to carry

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1 out the educational program described in its charter.

2 [F.] E. In no event shall a charter school be
3 required to pay rent for space that is deemed available, as
4 negotiated by contract, in school district facilities;
5 provided that the facilities can be made available at no cost
6 to the district. All costs for the operation and maintenance
7 of the facilities used by the charter school shall be subject
8 to negotiation between the charter school and the district.

9 [G.] F. A charter school may negotiate with a
10 local school district to provide transportation to students
11 eligible for transportation under the provisions of the
12 Public School Code.

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

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

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

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

23 [L.] K. 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
local school board that authorized the charter.

[M.] L. A charter school may accept or reject any

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1 charitable gift, grant, devise or bequest; provided that no
2 such gift, grant, devise or bequest shall be accepted if
3 subject to any condition contrary to law or to the terms of
4 the charter. The particular gift, grant, devise or bequest
5 shall be considered an asset of the charter school to which
6 it is given.

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

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

14 Section 3. A new section of the 1999 Charter Schools
15 Act, Section 22-8B-4.1 NMSA 1978, is enacted to read:

16 "22-8B-4.1. [NEW MATERIAL] CHARTER SCHOOLS' ENROLLMENT
17 PROCEDURES.--

18 A. Start-up schools and conversion schools are
19 subject to the following enrollment procedures:

20 (1) a start-up school may either enroll
21 students on a first-come, first-served basis or through a
22 lottery selection process if the total number of applicants
23 exceeds the number of spaces available at the start-up
24 school; and

25 (2) a conversion school shall give
enrollment preference to students who are enrolled in the
public school at the time it is converted into a charter

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1 school and to siblings of students admitted to or attending
2 the charter school. The conversion school may either enroll
3 all other students on a first-come, first-served basis or
4 through a lottery selection process if the total number of
5 applicants exceeds the number of spaces available at the
6 conversion school.

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

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

12 (2) siblings of students already admitted to
13 or attending the same charter school."

14 Section 4. EMERGENCY.--It is necessary for the public
15 peace, health and safety that this act take effect immediately.