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HOUSE BILL 7

**49TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SPECIAL SESSION, 2010**

INTRODUCED BY

William "Bill" R. Rehm

AN ACT

RELATING TO PUBLIC SCHOOLS; REQUIRING ALL CHARTER SCHOOLS TO  
SUBMIT THEIR BUDGETS AND AUDITS DIRECTLY TO THE PUBLIC  
EDUCATION DEPARTMENT; REQUIRING ALL CHARTER SCHOOLS TO BE  
STATE-CHARTERED UPON ORIGINAL CHARTERING OR RENEWAL AFTER JULY  
1, 2010; RECONCILING MULTIPLE AMENDMENTS TO THE SAME SECTION OF  
LAW IN LAWS 1999.

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

Section 1. Section 22-8-6 NMSA 1978 (being Laws 1967,  
Chapter 16, Section 60, as amended by Laws 1999, Chapter 281,  
Section 21 and by Laws 1999, Chapter 291, Section 2) is amended  
to read:

"22-8-6. BUDGETS--SUBMISSION--FAILURE TO SUBMIT.--

A. Prior to April 15 of each year, each local  
school board shall submit to the department an operating budget

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1 for the school district [~~and any charter schools in the~~  
2 ~~district~~] for the ensuing fiscal year. Upon written approval  
3 of the [~~state superintendent~~] secretary, the date for the  
4 submission of the operating budget as required by this section  
5 may be extended to a later date fixed by the [~~state~~  
6 ~~superintendent~~] secretary.

7 B. The operating budget required by this section  
8 may include:

9 (1) estimates of the cost of insurance  
10 policies for periods up to five years if a lower rate may be  
11 obtained by purchasing insurance for the longer term; or

12 (2) estimates of the cost of contracts for the  
13 transportation of students for terms extending up to four  
14 years.

15 [~~C. The operating budget required by this section~~  
16 ~~shall include a budget for each charter school of the~~  
17 ~~membership projected for each charter school, the total program~~  
18 ~~units generated at that charter school and approximate~~  
19 ~~anticipated disbursements and expenditures at each charter~~  
20 ~~school.~~

21 ~~D.]~~ C. If a local school board fails to submit a  
22 budget pursuant to this section, the department shall prepare  
23 the operating budget for the school district for the ensuing  
24 fiscal year. A local school board shall be considered as  
25 failing to submit a budget pursuant to this section if the

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1 budget submitted exceeds the total projected resources of the  
2 school district or if the budget submitted does not comply with  
3 the law or with rules and procedures of the department."

4 Section 2. Section 22-8-6.1 NMSA 1978 (being Laws 1993,  
5 Chapter 227, Section 8, as amended) is amended to read:

6 "22-8-6.1. CHARTER SCHOOL BUDGETS.--

7 A. Each [~~state-chartered~~] charter school shall  
8 submit to the charter schools division of the department a  
9 school-based budget. For the first year of operation, the  
10 budget of [~~every state-chartered~~] a charter school shall be  
11 based on the projected number of program units generated by  
12 that charter school and its students, using the at-risk index  
13 and the instructional staff training and experience index of  
14 the school district in which it is geographically located. For  
15 the second and subsequent fiscal years of operation, the  
16 [~~budgets of state-chartered charter schools~~] budget of a  
17 charter school shall be based on the number of program units  
18 generated using the average of the eightieth and one hundred  
19 twentieth day MEM of the prior year and its own instructional  
20 staff training and experience index and the at-risk index of  
21 the school district in which the [~~state-chartered~~] charter  
22 school is geographically located. The budget shall be  
23 submitted to the division for approval or amendment pursuant to  
24 the Public School Finance Act and the Charter Schools Act.

25 [~~B. Each locally chartered charter school shall~~

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1 ~~submit to the local school board a school-based budget. For~~  
2 ~~the first year of operation, the budget of every locally~~  
3 ~~chartered charter school shall be based on the projected number~~  
4 ~~of program units generated by the charter school and its~~  
5 ~~students, using the at-risk index and the instructional staff~~  
6 ~~training and experience index of the school district in which~~  
7 ~~it is geographically located. For second and subsequent fiscal~~  
8 ~~years of operation, the budgets of locally chartered charter~~  
9 ~~schools shall be based on the number of program units generated~~  
10 ~~using the average of the eightieth and one hundred twentieth~~  
11 ~~day MEM, of the prior year and its own instructional staff~~  
12 ~~training and experience index and the at-risk index of the~~  
13 ~~school district in which the locally chartered charter school~~  
14 ~~is geographically located. The budget shall be submitted to~~  
15 ~~the local school board for approval or amendment. The approval~~  
16 ~~or amendment authority of the local school board relative to~~  
17 ~~the charter school budget is limited to ensuring that sound~~  
18 ~~fiscal practices are followed in the development of the budget~~  
19 ~~and that the charter school budget is within the allotted~~  
20 ~~resources. The local school board shall have no veto authority~~  
21 ~~over individual line items within the charter school's proposed~~  
22 ~~budget, but shall approve or disapprove the budget in its~~  
23 ~~entirety. Upon final approval of the local budget by the local~~  
24 ~~school board, the individual charter school budget shall be~~  
25 ~~included separately in the budget submission to the department~~

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1 ~~required pursuant to the Public School Finance Act and the~~  
2 ~~Charter Schools Act.~~

3 ~~C. For the first year of operation after a locally~~  
4 ~~chartered charter school converts to a state-chartered charter~~  
5 ~~school or a state-chartered charter school converts to a~~  
6 ~~locally chartered charter school, the charter school's budget~~  
7 ~~shall be based on the number of program units generated using~~  
8 ~~the average of the eightieth and one hundred twentieth day MEM~~  
9 ~~of the prior year and the instructional staff training and~~  
10 ~~experience index and the at-risk index of the school district~~  
11 ~~in which it is geographically located. For second and~~  
12 ~~subsequent fiscal years of operation, the charter school shall~~  
13 ~~follow the provisions of Subsection A or B of this section, as~~  
14 ~~applicable.~~

15 ~~D.]~~ B. Notwithstanding the provisions of  
16 [~~Subsections~~] Subsection A [~~through C~~] of this section, each  
17 charter school that was in existence in fiscal year 2009 shall  
18 be held harmless in the calculation of its instructional staff  
19 training and experience index for two fiscal years. For fiscal  
20 years 2010 and 2011, the department shall use the greater of  
21 the charter school's 2008-2009 funded instructional staff  
22 training and experience index or the charter school's own  
23 instructional staff training and experience index. Beginning  
24 in fiscal year 2012, each charter school shall use its own  
25 instructional staff training and experience index."

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1           Section 3. Section 22-8-13.1 NMSA 1978 (being Laws 2009,  
2 Chapter 273, Section 2) is amended to read:

3           "22-8-13.1. SCHOOL DISTRICT AND CHARTER SCHOOL AUDITS--  
4 SANCTIONS FOR NOT SUBMITTING TIMELY AUDIT REPORTS.--

5           A. Each school district and charter school shall  
6 have an annual audit as required by the Audit Act and rules of  
7 the state auditor that shall be completed and submitted to the  
8 state auditor by the date specified in rules of the state  
9 auditor. At the completion of the annual or any special audit,  
10 the school district or charter school shall submit a copy of  
11 the audit report to the department.

12           B. School districts and charter schools shall  
13 comply with due dates for annual audits specified by rule of  
14 the state auditor. Failure to submit a timely audit report  
15 shall subject a school district or charter school to  
16 progressive sanctions. A school district or charter school  
17 that does not submit an annual audit report:

18                   (1) within ninety days from the due date,  
19 shall be required to submit monthly financial reports to the  
20 department until the department is satisfied that the school  
21 district or charter school is in compliance with all financial  
22 and audit requirements;

23                   (2) after ninety days but within one hundred  
24 eighty days from the due date, may be withheld temporarily in  
25 an amount up to five percent of its current-year state

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1 equalization guarantee distribution;

2 (3) after one hundred eighty days but within  
3 two hundred seventy days, may be withheld temporarily in an  
4 amount up to seven percent of its current-year state  
5 equalization guarantee distribution and may be required to  
6 submit a corrective action plan to the secretary; and

7 (4) after two hundred seventy days, may be  
8 withheld temporarily in an amount up to seven percent of its  
9 current-year state equalization guarantee distribution and may  
10 be subject to the secretary's suspension of the local school  
11 board or governing body acting as a board of finance.

12 C. A school district is not responsible for the  
13 audit of a charter school located within the school district's  
14 boundaries, whether the charter school is locally chartered or  
15 state-chartered."

16 Section 4. A new section of the Charter Schools Act is  
17 enacted to read:

18 "[NEW MATERIAL] CHARTER SCHOOLS REQUIRED TO BE STATE-  
19 CHARTERED.--

20 A. All charter schools chartered after July 1, 2010  
21 shall be chartered by the state.

22 B. Notwithstanding the provisions of Section  
23 22-8B-12 NMSA 1978, after July 1, 2010, a locally chartered  
24 charter school that wishes to renew its charter must submit its  
25 renewal application to the commission. The charter school must

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1 meet all the requirements of a state charter to have its  
2 charter renewed by the commission."

3 Section 5. EFFECTIVE DATE.--The effective date of the  
4 provisions of this act is July 1, 2010.

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