

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

AN ACT

RELATING TO PUBLIC EDUCATION; AMENDING THE PUBLIC SCHOOL CODE TO DEFINE CERTAIN CHARTER SCHOOL TERMS AND TO CLARIFY CERTAIN RESPONSIBILITIES OF CHARTER SCHOOL AUTHORIZERS, CHARTER SCHOOL GOVERNING BODIES AND CHARTER SCHOOLS.

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

SECTION 1. Section 22-1-2 NMSA 1978 (being Laws 2003, Chapter 153, Section 3, as amended) is amended to read:

"22-1-2. DEFINITIONS.--As used in the Public School Code:

A. "academic proficiency" means mastery of the subject-matter knowledge and skills specified in state academic content and performance standards for a student's grade level;

B. "adequate yearly progress" means the measure adopted by the department based on federal requirements to assess the progress that a public school or school district or the state makes toward improving student achievement;

C. "charter school" means a school authorized by a chartering authority to operate as a public school;

D. "commission" means the public education commission;

E. "department" means the public education department;

1 F. "home school" means the operation by the parent  
2 of a school-age person of a home study program of instruction  
3 that provides a basic academic educational program, including  
4 reading, language arts, mathematics, social studies and  
5 science;

6 G. "instructional support provider" means a person  
7 who is employed to support the instructional program of a  
8 school district, including educational assistant, school  
9 counselor, social worker, school nurse, speech-language  
10 pathologist, psychologist, physical therapist, occupational  
11 therapist, recreational therapist, marriage and family  
12 therapist, interpreter for the deaf and diagnostician;

13 H. "licensed school employee" means teachers,  
14 school administrators and instructional support providers;

15 I. "local school board" means the policy-setting  
16 body of a school district;

17 J. "local superintendent" means the chief  
18 executive officer of a school district;

19 K. "parent" includes a guardian or other person  
20 having custody and control of a school-age person;

21 L. "private school" means a school, other than a  
22 home school, that offers on-site programs of instruction and  
23 that is not under the control, supervision or management of a  
24 local school board;

25 M. "public school" means that part of a school

1 district that is a single attendance center in which  
2 instruction is offered by one or more teachers and is  
3 discernible as a building or group of buildings generally  
4 recognized as either an elementary, middle, junior high or  
5 high school or any combination of those and includes a  
6 charter school;

7 N. "school" means a supervised program of  
8 instruction designed to educate a student in a particular  
9 place, manner and subject area;

10 O. "school administrator" means a person licensed  
11 to administer in a school district and includes school  
12 principals, central district administrators and charter  
13 school head administrators;

14 P. "school-age person" means a person who is at  
15 least five years of age prior to 12:01 a.m. on September 1 of  
16 the school year and who has not received a high school  
17 diploma or its equivalent. A maximum age of twenty-one shall  
18 be used for a person who is classified as special education  
19 membership as defined in Section 22-8-21 NMSA 1978 or as a  
20 resident of a state institution;

21 Q. "school building" means a public school, an  
22 administration building and related school structures or  
23 facilities, including teacher housing, that is owned,  
24 acquired or constructed by the school district as necessary  
25 to carry out the functions of the school district;

1           R. "school bus private owner" means a person,  
2 other than a school district, the department, the state or  
3 any other political subdivision of the state, that owns a  
4 school bus;

5           S. "school district" means an area of land  
6 established as a political subdivision of the state for the  
7 administration of public schools and segregated  
8 geographically for taxation and bonding purposes;

9           T. "school employee" includes licensed and  
10 nonlicensed employees of a school district;

11           U. "school principal" means the chief  
12 instructional leader and administrative head of a public  
13 school;

14           V. "school year" means the total number of  
15 contract days offered by public schools in a school district  
16 during a period of twelve consecutive months;

17           W. "secretary" means the secretary of public  
18 education;

19           X. "state agency" or "state institution" means the  
20 New Mexico military institute, New Mexico school for the  
21 blind and visually impaired, New Mexico school for the deaf,  
22 New Mexico boys' school, girls' welfare home, New Mexico  
23 youth diagnostic and development center, Sequoyah adolescent  
24 treatment center, Carrie Tingley crippled children's  
25 hospital, New Mexico behavioral health institute at Las Vegas

1 and any other state agency responsible for educating resident  
2 children;

3 Y. "state educational institution" means an  
4 institution enumerated in Article 12, Section 11 of the  
5 constitution of New Mexico;

6 Z. "substitute teacher" means a person who holds a  
7 certificate to substitute for a teacher in the classroom;

8 AA. "teacher" means a person who holds a level  
9 one, two or three-A license and whose primary duty is  
10 classroom instruction or the supervision, below the school  
11 principal level, of an instructional program or whose duties  
12 include curriculum development, peer intervention, peer  
13 coaching or mentoring or serving as a resource teacher for  
14 other teachers;

15 BB. "certified school instructor" means a teacher  
16 or instructional support provider; and

17 CC. "certified school employee" or "certified  
18 school personnel" means a licensed school employee."

19 SECTION 2. Section 22-2-21 NMSA 1978 (being Laws 2011,  
20 Chapter 50, Section 1, as amended) is amended to read:

21 "22-2-21. BULLYING AND CYBERBULLYING PREVENTION  
22 PROGRAMS.--

23 A. The department shall establish guidelines for  
24 bullying prevention policies to be promulgated by local  
25 school boards. Every local school board and governing body

1 of a charter school shall promulgate a bullying prevention  
2 policy by August 2011. Every public school shall implement a  
3 bullying prevention program by August 2012.

4 B. Every local school board and governing body of  
5 a charter school shall promulgate a specific cyberbullying  
6 prevention policy by August 2013. Cyberbullying prevention  
7 policies shall require that:

8 (1) all licensed school employees complete  
9 training on how to recognize signs that a person is being  
10 cyberbullied;

11 (2) any licensed school employee who has  
12 information about or a reasonable suspicion that a person is  
13 being cyberbullied report the matter immediately to the  
14 school principal or the local superintendent or both;

15 (3) any school administrator or local  
16 superintendent who receives a report of cyberbullying take  
17 immediate steps to ensure prompt investigation of the report;  
18 and

19 (4) school administrators take prompt  
20 disciplinary action in response to cyberbullying confirmed  
21 through investigation. Disciplinary action taken pursuant to  
22 this subsection must be by the least restrictive means  
23 necessary to address a hostile environment on the school  
24 campus resulting from the confirmed cyberbullying and may  
25 include counseling, mediation and appropriate disciplinary

1 action that is consistent with the legal rights of the  
2 involved students.

3 C. Each local school board and governing body of a  
4 charter school shall make any necessary revisions to its  
5 disciplinary policies to ensure compliance with the  
6 provisions of this section.

7 D. As used in this section, "cyberbullying" means  
8 electronic communication that:

9 (1) targets a specific student;

10 (2) is published with the intention that the  
11 communication be seen by or disclosed to the targeted  
12 student;

13 (3) is in fact seen by or disclosed to the  
14 targeted student; and

15 (4) creates or is certain to create a  
16 hostile environment on the school campus that is so severe or  
17 pervasive as to substantially interfere with the targeted  
18 student's educational benefits, opportunities or  
19 performance."

20 SECTION 3. Section 22-2E-4 NMSA 1978 (being Laws 2011,  
21 Chapter 10, Section 4, as amended) is amended to read:

22 "22-2E-4. ANNUAL RATINGS--LETTER GRADES--RATINGS BASED  
23 ON STANDARDS-BASED ASSESSMENTS--RIGHT TO SCHOOL CHOICE--  
24 DISTANCE LEARNING--RESPONSIBILITY FOR COST--USE OF FUNDS--  
25 ADDITIONAL REMEDY.--

1           A. All public schools shall be graded annually by  
2 the department.

3           B. The department shall assign a letter grade of  
4 A, B, C, D or F to each public school pursuant to criteria  
5 established by department rules, after input from the  
6 secretary's superintendents' council, that include as a  
7 minimum a combination of the following factors in a public  
8 school's grade:

9                   (1) for elementary and middle schools:

10                           (a) student proficiency, including  
11 achievement on the New Mexico standards-based assessments;

12                           (b) student growth in reading and  
13 mathematics; and

14                           (c) growth of the lowest twenty-fifth  
15 percentile of students in the public school in reading and  
16 mathematics; and

17                   (2) for high schools:

18                           (a) student proficiency, including  
19 achievement on the New Mexico standards-based assessments;

20                           (b) student growth in reading and  
21 mathematics;

22                           (c) growth of the lowest twenty-fifth  
23 percentile of students in the high school in reading and  
24 mathematics; and

25                           (d) additional academic indicators such



1 as high school graduation rates, growth in high school  
2 graduation rates, advanced placement and international  
3 baccalaureate courses, dual enrollment courses and SAT and  
4 ACT scores.

5 C. The New Mexico standards-based assessments used  
6 for rating a school are those administered annually to  
7 students in grades three, four, five, six, seven, eight, nine  
8 and eleven pursuant to Section 22-2C-4 NMSA 1978.

9 D. In addition to any rights a parent may have  
10 pursuant to federal law, the parent of a student enrolled in  
11 a public school rated F for two of the last four years has  
12 the right to transfer the student in the same grade to any  
13 public school in the state not rated F or the right to have  
14 the student continue schooling by means of distance learning  
15 offered through the statewide or a local cyber academy. The  
16 school district or charter school in which the student is  
17 enrolled is responsible for the cost of distance learning.

18 E. The department shall ensure that a local school  
19 board or, for a charter school, the governing body of the  
20 charter school is prioritizing resources of a public school  
21 rated D or F toward proven programs and methods linked to  
22 improved student achievement until the public school earns a  
23 grade of C or better for two consecutive years.

24 F. The school options available pursuant to the  
25 A-B-C-D-F Schools Rating Act are in addition to any remedies

1 provided for in the Assessment and Accountability Act for  
2 students in schools in need of improvement or any other  
3 interventions prescribed by the federal No Child Left Behind  
4 Act of 2001.

5 G. When reporting a school's grade, the department  
6 shall include student data disaggregated by ethnicity, race,  
7 limited English proficiency, students with disabilities,  
8 poverty and gender; provided that ethnicity and race shall be  
9 reported using the following categories:

- 10 (1) Caucasian, non-Hispanic;
- 11 (2) Hispanic;
- 12 (3) African American;
- 13 (4) American Indian or Alaska Native;
- 14 (5) Native Hawaiian or other Pacific  
15 Islander;
- 16 (6) Asian;
- 17 (7) two or more races; and
- 18 (8) other; provided that if the sample of  
19 students in any category enumerated in Paragraphs (1) through  
20 (7) of this subsection is so small that a student in the  
21 sample may be personally identifiable in violation of the  
22 federal Family Educational Rights and Privacy Act of 1974,  
23 the report may combine that sample into the "other"  
24 category."

25 SECTION 4. Section 22-8-6.1 NMSA 1978 (being Laws 1993,

1 Chapter 227, Section 8, as amended) is amended to read:

2 "22-8-6.1. CHARTER SCHOOL BUDGETS.--

3 A. Each state-chartered charter school shall  
4 submit to the charter schools division of the department a  
5 school-based budget. For the first year of operation, the  
6 budget of every state-chartered charter school shall be based  
7 on the projected number of program units generated by that  
8 charter school and its students, using the at-risk index and  
9 the instructional staff training and experience index of the  
10 school district in which it is geographically located. For  
11 second and subsequent fiscal years of operation, the budgets  
12 of state-chartered charter schools shall be based on the  
13 number of program units generated using the average of the  
14 MEM on the second and third reporting dates of the prior year  
15 and its own instructional staff training and experience index  
16 and the at-risk index of the school district in which the  
17 state-chartered charter school is geographically located.  
18 The budget shall be submitted to the division for approval or  
19 amendment pursuant to the Public School Finance Act and the  
20 Charter Schools Act. Thereafter, the budget shall be  
21 submitted to the public education commission for review.

22 B. Each locally chartered charter school shall  
23 submit to the local school board a school-based budget. For  
24 the first year of operation, the budget of every locally  
25 chartered charter school shall be based on the projected

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

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

13 SECTION 5. Section 22-8-7 NMSA 1978 (being Laws 1967,  
14 Chapter 16, Section 61, as amended) is amended to read:

15 "22-8-7. MANNER OF BUDGET SUBMISSION.--All budgets  
16 submitted by a school district, locally chartered charter  
17 school or state-chartered charter school shall be in a manner  
18 specified by the department."

19 SECTION 6. Section 22-8-11 NMSA 1978 (being Laws 1967,  
20 Chapter 16, Section 66, as amended) is amended to read:

21 "22-8-11. BUDGETS--APPROVAL OF OPERATING BUDGET.--

22 A. The department shall:

23 (1) on or before July 1 of each year,  
24 approve and certify to each local school board and governing  
25 body of a charter school an operating budget for use by the

1 school district or charter school;

2 (2) make corrections, revisions and  
3 amendments to the operating budgets fixed by the local school  
4 boards or governing bodies of charter schools and the  
5 secretary to conform the budgets to the requirements of law  
6 and to the department's rules and procedures; and

7 (3) ensure that a local school board or, for  
8 a charter school, the governing body of the charter school is  
9 prioritizing resources of a public school rated D or F toward  
10 proven programs and methods that are linked to improved  
11 student achievement until the public school earns a grade of  
12 C or better for two consecutive years.

13 B. No school district or charter school or officer  
14 or employee of a school district or charter school shall make  
15 any expenditure or incur any obligation for the expenditure  
16 of public funds unless that expenditure or obligation is made  
17 in accordance with an operating budget approved by the  
18 department. This prohibition does not prohibit the transfer  
19 of funds pursuant to the department's rules and procedures.

20 C. The department shall not approve and certify an  
21 operating budget of any school district or charter school  
22 that fails to demonstrate that parental involvement in the  
23 budget process was solicited."

24 SECTION 7. Section 22-8-18 NMSA 1978 (being Laws 1974,  
25 Chapter 8, Section 8, as amended) is amended to read:

1 "22-8-18. PROGRAM COST CALCULATION--LOCAL  
2 RESPONSIBILITY.--

3 A. The total program units for the purpose of  
4 computing the program cost shall be calculated by multiplying  
5 the sum of the program units itemized as Paragraphs (1)  
6 through (6) in this subsection by the instructional staff  
7 training and experience index and adding the program units  
8 itemized as Paragraphs (7) through (14) in this subsection.  
9 The itemized program units are as follows:

10 (1) early childhood education;  
11 (2) basic education;  
12 (3) special education, adjusted by  
13 subtracting the units derived from membership in class D  
14 special education programs in private, nonsectarian,  
15 nonprofit training centers;

16 (4) bilingual multicultural education;  
17 (5) fine arts education;  
18 (6) elementary physical education;  
19 (7) size adjustment;  
20 (8) at-risk program;  
21 (9) enrollment growth or new district  
22 adjustment;

23 (10) special education units derived from  
24 membership in class D special education programs in private,  
25 nonsectarian, nonprofit training centers;

1                   (11) national board for professional  
2 teaching standards certification;

3                   (12) home school student program unit;

4                   (13) home school student activities; and

5                   (14) charter school student activities.

6                   B. The total program cost calculated as prescribed  
7 in Subsection A of this section includes the cost of early  
8 childhood, special, bilingual multicultural, fine arts and  
9 vocational education and other remedial or enrichment  
10 programs. It is the responsibility of the local school board  
11 or, for a charter school, the governing body of the charter  
12 school to determine its priorities in terms of the needs of  
13 the community served by that board. Except as otherwise  
14 provided in this section, funds generated under the Public  
15 School Finance Act are discretionary to local school boards  
16 and governing bodies of charter schools; provided that the  
17 special program needs as enumerated in this section are met;  
18 and provided further that if a public school has been rated  
19 D or F for two consecutive years, the department shall ensure  
20 that the local school board or, for a charter school, the  
21 governing body of the charter school is prioritizing  
22 resources for the public school toward proven programs and  
23 methods linked to improved student achievement until the  
24 public school earns a C or better for two consecutive years."

25                   SECTION 8. Section 22-8B-2 NMSA 1978 (being Laws 1999,



1 Chapter 281, Section 2, as amended) is amended to read:

2 "22-8B-2. DEFINITIONS.--As used in the Charter Schools  
3 Act:

4 A. "charter school" means a conversion school or  
5 start-up school authorized by the chartering authority to  
6 operate as a public school;

7 B. "chartering authority" means either a local  
8 school board or the commission;

9 C. "commission" means the public education  
10 commission;

11 D. "conversion school" means an existing public  
12 school within a school district that was authorized by a  
13 local school board to become a charter school prior to July  
14 1, 2007;

15 E. "division" means the charter schools division  
16 of the department;

17 F. "enrollment preference" means filling a charter  
18 school's openings with students, or siblings of students, who  
19 have already been admitted to the school through an  
20 appropriate admission process or are continuing through  
21 subsequent grades;

22 G. "governing body" means the governing structure  
23 of a charter school as set forth in the school's charter;

24 H. "governing body training" means the training  
25 required pursuant to Section 22-8B-5.1 NMSA 1978 to educate

1 governing body members and ensure compliance with all  
2 applicable laws, which training may be obtained from any  
3 source, individual or entity that has been approved by the  
4 department;

5 I. "management" means authority over the hiring,  
6 termination and day-to-day direction of a school's employees  
7 or contractors, whether they are licensed or not;

8 J. "material violation" means the act of failing  
9 to accomplish a requirement of a law, rule or contract or a  
10 charter school's bylaws that substantially affects the  
11 charter school's employees' or students' rights or  
12 privileges;

13 K. "nondiscretionary waiver" means a waiver of  
14 requirements or rules and the provisions of the Public School  
15 Code that the department shall grant pursuant to Section  
16 22-8B-5 NMSA 1978 and for which a charter school shall not  
17 require separate approval by the department;

18 L. "performance indicator" means a measurement  
19 tool that enables selected issues or conditions to be  
20 monitored over time for the purposes of evaluating progress  
21 toward or away from a desired direction;

22 M. "performance target" means the specific rating  
23 to which the data from a school's performance indicators  
24 shall be compared to determine whether the school exceeds,  
25 meets, does not meet or falls far below that rating;

1 N. "siblings" means:

2 (1) students living in the same residence at  
3 least fifty percent of the time in a permanent or  
4 semipermanent situation, such as long-term foster care  
5 placements; or

6 (2) students related to each other by blood,  
7 marriage or cohabitation; and

8 O. "start-up school" means a public school  
9 developed by one or more parents, teachers or community  
10 members authorized by the chartering authority to become a  
11 charter school."

12 SECTION 9. Section 22-8B-6 NMSA 1978 (being Laws 1999,  
13 Chapter 281, Section 6, as amended) is amended to read:

14 "22-8B-6. CHARTER SCHOOL REQUIREMENTS--APPLICATION  
15 PROCESS--AUTHORIZATION--STATE BOARD OF FINANCE DESIGNATION  
16 REQUIRED--PUBLIC HEARINGS--SUBCOMMITTEES.--

17 A. A local school board has the authority to  
18 approve the establishment of a locally chartered charter  
19 school within that local school board's district.

20 B. No later than the second Tuesday of January of  
21 the year in which an application will be filed, the  
22 organizers of a proposed charter school shall provide written  
23 notification to the commission and the school district in  
24 which the charter school is proposed to be located of their  
25 intent to establish a charter school. Failure to notify may

1 result in an application not being accepted.

2 C. A charter school applicant shall apply to  
3 either a local school board or the commission for a charter.  
4 If an application is submitted to a chartering authority, it  
5 must process the application. Applications for initial  
6 charters shall be submitted by June 1 to be eligible for  
7 consideration for the following fiscal year; provided that  
8 the June 1 deadline may be waived upon agreement of the  
9 applicant and the chartering authority.

10 D. An application shall include the total number  
11 of grades the charter school proposes to provide, either  
12 immediately or phased. A charter school may decrease the  
13 number of grades it eventually offers, but it shall not  
14 increase the number of grades or the total number of students  
15 proposed to be served in each grade.

16 E. An application shall include a detailed  
17 description of the charter school's projected facility needs,  
18 including projected requests for capital outlay assistance  
19 that have been approved by the director of the public school  
20 facilities authority or the director's designee. The  
21 director shall respond to a written request for review from a  
22 charter applicant within forty-five days of the request.

23 F. An application may be made by one or more  
24 teachers, parents or community members or by a public  
25 post-secondary educational institution or nonprofit

1 organization. Municipalities, counties, private  
2 post-secondary educational institutions and for-profit  
3 business entities are not eligible to apply for or receive a  
4 charter.

5 G. An initial application for a charter school  
6 shall not be made after June 30, 2007 if the proposed charter  
7 school's proposed enrollment for all grades or the proposed  
8 charter school's proposed enrollment for all grades in  
9 combination with any other charter school's enrollment for  
10 all grades would equal or exceed ten percent of the total MEM  
11 of the school district in which the charter school will be  
12 geographically located and that school district has a total  
13 enrollment of not more than one thousand three hundred  
14 students.

15 H. A state-chartered charter school shall not be  
16 approved for operation unless its governing body has  
17 qualified to be a board of finance.

18 I. The chartering authority shall receive and  
19 review all applications for charter schools submitted to it.  
20 The chartering authority shall not charge application fees.

21 J. The chartering authority shall hold at least  
22 one public hearing in the school district in which the  
23 charter school is proposed to be located to obtain  
24 information and community input to assist it in its decision  
25 whether to grant a charter school application. The

1 chartering authority may designate a subcommittee of no fewer  
2 than three members to hold the public hearing, and, if so,  
3 the hearing shall be transcribed for later review by other  
4 members of the chartering authority. Community input may  
5 include written or oral comments in favor of or in opposition  
6 to the application from the applicant, the local community  
7 and, for state-chartered charter schools, the local school  
8 board and school district in whose geographical boundaries  
9 the charter school is proposed to be located.

10 K. The chartering authority shall rule on the  
11 application for a charter school in a public meeting by  
12 September 1 of the year the application was received;  
13 provided, however, that prior to ruling on the application  
14 for which a designated subcommittee was used, any member of  
15 the chartering authority who was not present at the public  
16 hearing shall receive the transcript of the public hearing  
17 together with documents submitted for the public hearing. If  
18 not ruled upon by that date, the charter application shall be  
19 automatically reviewed by the secretary in accordance with  
20 the provisions of Section 22-8B-7 NMSA 1978. The charter  
21 school applicant and the chartering authority may, however,  
22 jointly waive the deadlines set forth in this section.

23 L. A chartering authority may approve, approve  
24 with conditions or deny an application. A chartering  
25 authority may deny an application if:

1 (1) the application is incomplete or  
2 inadequate;

3 (2) the application does not propose to  
4 offer an educational program consistent with the requirements  
5 and purposes of the Charter Schools Act;

6 (3) the proposed head administrator or other  
7 administrative or fiscal staff was involved with another  
8 charter school whose charter was denied or revoked for fiscal  
9 mismanagement or the proposed head administrator or other  
10 administrative or fiscal staff was discharged from a public  
11 school for fiscal mismanagement;

12 (4) for a proposed state-chartered charter  
13 school, it does not request to have the governing body of the  
14 charter school designated as a board of finance or the  
15 governing body does not qualify as a board of finance; or

16 (5) the application is otherwise contrary to  
17 the best interests of the charter school's projected  
18 students, the local community or the school district in whose  
19 geographic boundaries the charter school applies to operate.

20 M. If the chartering authority denies a charter  
21 school application or approves the application with  
22 conditions, it shall state its reasons for the denial or  
23 conditions in writing within fourteen days of the meeting.  
24 If the chartering authority grants a charter, the approved  
25 charter shall be provided to the applicant together with any

1 imposed conditions.

2 N. A charter school that has received a notice  
3 from the chartering authority denying approval of the charter  
4 shall have a right to a hearing by the secretary as provided  
5 in Section 22-8B-7 NMSA 1978."

6 SECTION 10. Section 22-8B-9 NMSA 1978 (being Laws 1999,  
7 Chapter 281, Section 9, as amended) is amended to read:

8 "22-8B-9. CHARTER SCHOOL CONTRACT--CONTENTS--RULES.--

9 A. The chartering authority shall enter into a  
10 contract with the governing body of the applicant charter  
11 school within thirty days of approval of the charter  
12 application. The charter contract shall be the final  
13 authorization for the charter school and shall be part of the  
14 charter. If the chartering authority and the applicant  
15 charter school fail to agree upon the terms of or enter into  
16 a contract within thirty days of the approval of the charter  
17 application, either party may appeal to the secretary to  
18 finalize the terms of the contract; provided that such appeal  
19 must be provided in writing to the secretary within  
20 forty-five days of the approval of the charter application.  
21 Failure to enter into a charter contract or appeal to the  
22 secretary pursuant to this section precludes the chartering  
23 authority from chartering the school.

24 B. The charter contract shall include:

25 (1) all agreements regarding the release of



1 the charter school from department and local school board  
2 rules and policies, including discretionary waivers provided  
3 for in Section 22-8B-5 NMSA 1978;

4 (2) any material term of the charter  
5 application as determined by the parties to the contract;

6 (3) the mission statement of the charter  
7 school and how the charter school will report on  
8 implementation of its mission;

9 (4) the chartering authority's duties to the  
10 charter school and liabilities of the chartering authority as  
11 provided in Section 22-8B-5.3 NMSA 1978;

12 (5) a statement of admission policies and  
13 procedures;

14 (6) signed assurances from the charter  
15 school's governing body members regarding compliance with all  
16 federal and state laws governing organizational, programmatic  
17 and financial requirements applicable to charter schools;

18 (7) the criteria, processes and procedures  
19 that the chartering authority will use for ongoing oversight  
20 of operational, financial and academic performance of the  
21 charter school;

22 (8) a detailed description of how the  
23 chartering authority will use the withheld two percent of the  
24 school-generated program cost as provided in Section 22-8B-13  
25 NMSA 1978;

1 (9) the types and amounts of insurance  
2 liability coverage to be obtained by the charter school;

3 (10) the term of the contract;

4 (11) the process and criteria that the  
5 chartering authority intends to use to annually monitor and  
6 evaluate the fiscal, overall governance and student  
7 performance of the charter school, including the method that  
8 the chartering authority intends to use to conduct the  
9 evaluation as required by Section 22-8B-12 NMSA 1978;

10 (12) the dispute resolution processes agreed  
11 upon by the chartering authority and the charter school,  
12 provided that the processes shall, at a minimum, include:

13 (a) written notice of the intent to  
14 invoke the dispute resolution process, which notice shall  
15 include a description of the matter in dispute;

16 (b) a time limit for response to the  
17 notice and cure of the matter in dispute;

18 (c) a procedure for selection of a  
19 neutral third party to assist in resolving the dispute;

20 (d) a process for apportionment of all  
21 costs related to the dispute resolution process; and

22 (e) a process for final resolution of  
23 the issue reviewed under the dispute resolution process;

24 (13) the criteria, procedures and time  
25 lines, agreed upon by the charter school and the chartering

1 authority, addressing charter revocation and deficiencies  
2 found in the annual status report pursuant to the provisions  
3 of Section 22-8B-12 NMSA 1978;

4 (14) if the charter school contracts with a  
5 third-party provider, the criteria and procedures for the  
6 chartering authority to review the provider's contract and  
7 the charter school's financial independence from the  
8 provider;

9 (15) all requests for release of the charter  
10 school from department rules or the Public School Code.  
11 Within ten days after the contract is approved by the local  
12 school board, any request for release from department rules  
13 or the Public School Code shall be delivered by the local  
14 school board to the department. If the department grants the  
15 request, it shall notify the local school board and the  
16 charter school of its decision. If the department denies the  
17 request, it shall notify the local school board and the  
18 charter school that the request is denied and specify the  
19 reasons for denial;

20 (16) an agreement that the charter school  
21 will participate in the public school insurance authority;

22 (17) if the charter school is a  
23 state-chartered charter school, a process for qualification  
24 of and review of the school as a qualified board of finance  
25 and provisions for assurance that the school has satisfied

1 any conditions imposed by the commission;

2 (18) a listing of the charter school's  
3 nondiscretionary waivers; and

4 (19) any other information reasonably  
5 required by either party to the contract.

6 C. The process for revision or amendment to the  
7 terms of the charter contract shall be made only with the  
8 approval of the chartering authority and the governing body  
9 of the charter school. If they cannot agree, either party  
10 may appeal to the secretary as provided in Subsection A of  
11 this section."

12 SECTION 11. Section 22-8B-9.1 NMSA 1978 (being Laws  
13 2011, Chapter 14, Section 4) is amended to read:

14 "22-8B-9.1. PERFORMANCE FRAMEWORK.--

15 A. The performance provisions in the charter  
16 contract shall be based on a framework that clearly sets  
17 forth the academic and operations performance indicators and  
18 performance targets that will guide the chartering  
19 authority's evaluation of each charter school. The  
20 performance framework shall be a material term of the charter  
21 school contract and shall include performance indicators and  
22 performance targets for, at a minimum:

23 (1) student academic performance;

24 (2) student academic growth;

25 (3) achievement gaps in both proficiency and

1 growth between student subgroups;

2 (4) attendance;

3 (5) recurrent enrollment from year to year;

4 (6) if the charter school is a high school,  
5 post-secondary readiness;

6 (7) if the charter school is a high school,  
7 graduation rate;

8 (8) financial performance and  
9 sustainability; and

10 (9) governing body performance, including  
11 compliance with all applicable laws, rules and terms of the  
12 charter contract.

13 B. Annual performance targets shall be set by each  
14 chartering authority in consultation with its charter schools  
15 and shall be designed to help each charter school meet  
16 applicable federal, state and chartering authority  
17 expectations as set forth in the charter contracts to which  
18 the authority is a party.

19 C. The performance framework shall allow for the  
20 inclusion of additional rigorous, valid and reliable  
21 indicators proposed by a charter school to augment external  
22 evaluations of its performance, provided that the chartering  
23 authority shall approve the quality and rigor of such  
24 proposed indicators and the indicators are consistent with  
25 the purposes of the Charter Schools Act.

1           D. The performance framework shall require the  
2 disaggregation of all student performance data collected in  
3 compliance with this section by student subgroup, including  
4 gender, race, poverty status, special education or gifted  
5 status and English language learner.

6           E. The chartering authority shall collect, analyze  
7 and report all data from state assessment tests in accordance  
8 with the performance framework set forth in the charter  
9 contract for each charter school overseen by that chartering  
10 authority."

11           SECTION 12. Section 22-8B-12 NMSA 1978 (being  
12 Laws 1999, Chapter 281, Section 12, as amended) is amended to  
13 read:

14           "22-8B-12. CHARTER SCHOOLS--TERM--OVERSIGHT AND  
15 CORRECTIVE ACTIONS--SITE VISITS--RENEWAL OF CHARTER--GROUNDS  
16 FOR NONRENEWAL OR REVOCATION.--

17           A. A charter school may be approved for an initial  
18 term of six years; provided that the first year shall be used  
19 exclusively for planning and not for completing the  
20 application. A charter may be renewed for successive periods  
21 of five years each. Approvals of less than five years may be  
22 agreed to between the charter school and the chartering  
23 authority.

24           B. During the planning year, the charter school  
25 shall file a minimum of three status reports with the

1 chartering authority and the department for the purpose of  
2 demonstrating that the charter school's implementation  
3 progress is consistent with the conditions, standards and  
4 procedures of its approved charter. The report content,  
5 format and schedule for submission shall be agreed to by the  
6 chartering authority and the charter school and become part  
7 of the charter contract.

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

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

24 E. As part of its performance review of a charter  
25 school, a chartering authority shall visit a charter school

1 under its authority at least once annually to provide  
2 technical assistance to the charter school and to determine  
3 the status of the charter school and the progress of the  
4 charter school toward the performance framework goals in its  
5 charter contract.

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

23 G. Every chartering authority shall submit an  
24 annual report to the division, including a performance report  
25 for each charter school that it oversees, in accordance with



1 the performance framework set forth in the charter contract.

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

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

20 J. A charter school renewal application submitted  
21 to the chartering authority shall contain:

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

1 standards of excellence and other terms of the charter  
2 contract, including the accountability requirements set forth  
3 in the Assessment and Accountability Act;

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

10 (3) a copy of the charter contract executed  
11 in compliance with the provisions of Section 22-8B-9 NMSA  
12 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  
18 seventy-five percent of the households whose children are  
19 enrolled in the charter school; and

20 (6) a description of the charter school  
21 facilities and assurances that the facilities are in  
22 compliance with the requirements of Section 22-8B-4.2 NMSA  
23 1978.

24 K. A charter may be suspended, revoked or not  
25 renewed by the chartering authority if the chartering

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

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

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

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

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

14 L. The chartering authority shall develop  
15 processes for suspension, revocation or nonrenewal of a  
16 charter that:

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

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

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

25 M. If a chartering authority suspends, revokes or

1 does not renew a charter, the chartering authority shall  
2 state in writing its reasons for the suspension, revocation  
3 or nonrenewal.

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

7 SECTION 13. Section 22-15D-5 NMSA 1978 (being  
8 Laws 2003, Chapter 152, Section 5, as amended) is amended to  
9 read:

10 "22-15D-5. PROGRAM PLAN AND EVALUATION.--

11 A. A school district or charter school may prepare  
12 and submit to the department a fine arts education program  
13 plan in accordance with guidelines issued by the department.

14 B. At a minimum, the plan shall include the fine  
15 arts education programs being taught, the ways in which the  
16 fine arts are being integrated into the curriculum and an  
17 evaluation component.

18 C. At yearly intervals, the school district or  
19 charter school, the department and a parent advisory  
20 committee from the school district or charter school shall  
21 review the goals and priorities of the plan and make  
22 appropriate recommendations to the secretary."

23 SECTION 14. Section 22-23-2 NMSA 1978 (being Laws 1973,  
24 Chapter 285, Section 2, as amended) is amended to read:

25 "22-23-2. DEFINITIONS.--As used in the Bilingual

1 Multicultural Education Act:

2 A. "bilingual multicultural education program"  
3 means a program using two languages, including English and  
4 the home or heritage language, as a medium of instruction in  
5 the teaching and learning process;

6 B. "culturally and linguistically different" means  
7 students who are of a different cultural background than  
8 mainstream United States culture and whose home or heritage  
9 language, inherited from the student's family, tribe or  
10 country of origin, is a language other than English;

11 C. "district" means a public school or any  
12 combination of public schools in a district;

13 D. "English language learner" means a student  
14 whose first or heritage language is not English and who is  
15 unable to read, write, speak or understand English at a level  
16 comparable to grade level English proficient peers and native  
17 English speakers;

18 E. "heritage language" means a language other than  
19 English that is inherited from a family, tribe, community or  
20 country of origin;

21 F. "home language" means a language other than  
22 English that is the primary or heritage language spoken at  
23 home or in the community; and

24 G. "standardized curriculum" means a district  
25 curriculum that is aligned with the state academic content

1 standards, benchmarks and performance standards."

2 SECTION 15. Section 22-23-5 NMSA 1978 (being Laws 1973,  
3 Chapter 285, Section 5, as amended) is amended to read:

4 "22-23-5. BILINGUAL MULTICULTURAL EDUCATION PROGRAM  
5 PLAN--EVALUATION.--

6 A. A school board or, for charter schools, a  
7 governing body of a charter school may prepare and submit to  
8 the department a bilingual multicultural education program  
9 plan in accordance with rules issued by the department.

10 B. At regular intervals, the school board or  
11 governing body of a charter school and a parent advisory  
12 committee from the district or charter school shall review  
13 the goals and priorities of the plan and make appropriate  
14 recommendations to the department.

15 C. Bilingual multicultural education programs  
16 shall be delivered as part of the regular academic program.  
17 Involvement of students in a bilingual multicultural  
18 education program shall not have the effect of segregating  
19 students by ethnic group, color or national origin.

20 D. Each district or charter school shall maintain  
21 academic achievement and language proficiency data and update  
22 the data annually to evaluate bilingual multicultural  
23 education program effectiveness and use of funds. The  
24 department shall annually compile and report these data to  
25 the appropriate interim legislative committee.

1           E. Districts and charter schools shall provide  
2 professional development to employees, including teachers,  
3 teacher assistants, principals, bilingual directors or  
4 coordinators, associate superintendents, superintendents and  
5 financial officers in the areas of:

6                   (1) research-based bilingual multicultural  
7 education programs and implications for instruction;

8                   (2) best practices of English as a second  
9 language, English language development and bilingual  
10 multicultural education programs; and

11                   (3) classroom assessments that support  
12 academic and language development.

13           F. Bilingual multicultural education programs  
14 shall be part of the district's or charter school's  
15 professional development plan. Bilingual educators,  
16 including teachers, teacher assistants, instructional support  
17 personnel, principals and program administrators, shall  
18 participate in professional development and training."

19           SECTION 16. EFFECTIVE DATE.--The effective date of the  
20 provisions of this act is July 1, 2015. \_\_\_\_\_