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SENATE BILL 60

43RD LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 1998

INTRODUCED BY

MARK L. BOITANO

AN ACT

RELATING TO EDUCATION; CHANGING THE ESTABLISHMENT OF CHARTER SCHOOLS; DEFINING THE DUTIES AND POWERS OF CHARTER SCHOOLS; PROVIDING FOR EDUCATIONAL RETIREMENT COVERAGE FOR EMPLOYEES OF CHARTER SCHOOLS; ESTABLISHING THE CHARTER SCHOOL STIMULUS FUND; AMENDING, REPEALING AND ENACTING SECTIONS OF THE NMSA 1978; MAKING AN APPROPRIATION.

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

Section 1. Section 22-8A-2 NMSA 1978 (being Laws 1993, Chapter 227, Section 2) is amended to read:

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

A. "charter school" means an individual school within a school district, authorized by the state board or by a local school board to develop and implement an alternative

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1 educational curriculum and authorized by law to develop and  
2 utilize a school-based budget; [ and]

3 B. "governing board" means the governing structure  
4 stated in the charter of a charter school with administrative  
5 and financial authority;

6 C. "person" means an individual or legal entity;  
7 and

8 ~~[B.]~~ D. "state board" means the state board of  
9 education. "

10 Section 2. Section 22-8A-3 NMSA 1978 (being Laws 1993,  
11 Chapter 227, Section 3) is amended to read:

12 "22-8A-3. PURPOSE. -- The purpose of the Charter Schools  
13 Act is to ~~[enable individual schools to restructure their~~  
14 ~~educational curriculum to encourage the use of different and~~  
15 ~~innovative teaching methods and to enable individual schools~~  
16 ~~to be responsible for site-based budgeting and expenditures]~~  
17 increase learning opportunities for students and to improve  
18 student learning by encouraging the use of different and  
19 innovative teaching methods, provide additional academic  
20 choices for parents and students, require measurement of  
21 learning outcomes and establish new forms of accountability  
22 and professional opportunities for both schools and teachers  
23 through the use of site-based learning programs and site-based  
24 budgeting and expenditures. "

25 Section 3. A new section of the Charter Schools Act is

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1 enacted to read:

2 "[NEW MATERIAL] PROPOSAL-- AUTHORIZATION. --

3 A. A proposal for a new charter school may be made  
4 by a person, teacher or parent.

5 B. A charter school may organize as a nonprofit  
6 corporation pursuant to the Nonprofit Corporation Act.

7 C. The state board and the local school board have  
8 the authority to approve charter schools.

9 D. A charter school applicant may apply to the  
10 state board or to a local school board for a charter.

11 Applications must be filed by October 1 to be eligible for  
12 consideration for the following school year.

13 E. When the state board or a local school board  
14 receives an application for a charter school, it shall review  
15 the application for a charter school and must, by majority  
16 vote, approve or deny an application and grant the charter no  
17 later than sixty days after receipt of the application.

18 F. An application, made to a local school board,  
19 proposing to convert an existing public school into a charter  
20 school shall demonstrate the support of at least sixty-five  
21 percent of the teachers employed at the school and the support  
22 of at least sixty-five percent of the parents whose children  
23 are enrolled at the school.

24 G. Upon approval of a charter application, the  
25 initial start-up must be consistent with the beginning of the

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1 school year.

2 H. The state board may authorize the existence of  
3 no more than twenty-five charter schools per year. A local  
4 school board may authorize the existence of no more than ten  
5 charter schools per year in each school district that has  
6 fifty thousand or more students and no more than five charter  
7 schools per year in each school district that has fewer than  
8 fifty thousand students. A local school board shall have the  
9 right to request an increase in the number of charter schools  
10 located within its district from the state board. The state  
11 board, by majority vote, may approve more than twenty-five  
12 charter schools per year.

13 I. A charter school shall not exist for a term  
14 that exceeds ten years."

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

17 "[NEW MATERIAL] APPEAL OF LOCAL SCHOOL BOARD DECISIONS. --

18 A. An applicant or any other person may appeal any  
19 denial, conditional approval, nonrenewal or revocation of an  
20 application by the local school board to the state board no  
21 later than thirty days after the issuance of the local school  
22 board's decision. The appeal and review process by the state  
23 board shall be held within sixty days of receipt of the notice  
24 of appeal and, after reasonable public notice, the state  
25 board, at a public hearing that may be held in the school

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1 district in which the proposed charter school has applied for  
2 a charter, shall review the decision of the local school board  
3 and make its findings.

4 B. If the state board finds that the local school  
5 board's decision was contrary to the best interests of the  
6 students, school district or community, the state board shall  
7 approve the charter or remand the decision to the local school  
8 board with written instructions for reconsideration that shall  
9 include specific recommendations.

10 C. Within thirty days following the remand of a  
11 decision to the local school board and after reasonable public  
12 notice, the local school board, at a public hearing, shall  
13 reconsider its decision using the specific recommendations  
14 provided by the state board and decide whether to approve the  
15 charter.

16 D. If the local school board again denies, refuses  
17 to renew or revokes a charter or unilaterally imposes  
18 conditions unacceptable to the charter school or the charter  
19 applicant, a second notice of appeal may be filed with the  
20 state board within thirty days following the issuance of the  
21 local school board's final decision.

22 E. Within thirty days following receipt of the  
23 second notice of appeal and after reasonable public notice,  
24 the state board, at a public hearing, shall determine whether  
25 the final decision of the local school board was contrary to

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1 the best interests of the students, school district or  
2 community.

3 F. If the state board finds that the local school  
4 board's decision is contrary to the best interests of the  
5 students, school district or community, the state board shall  
6 approve the charter. The decision of the state board shall be  
7 final and not subject to further appeal."

8 Section 5. A new section of the Charter Schools Act is  
9 enacted to read:

10 "[NEW MATERIAL] APPEAL OF STATE BOARD DECISIONS. --

11 A. If the state board denies, conditionally  
12 approves, does not renew or revokes an application that was  
13 made directly to the state board, the state board shall  
14 provide a written explanation of the denial, conditional  
15 approval, nonrenewal or revocation and recommendations for  
16 revision of the application.

17 B. The applicant may resubmit or request  
18 reconsideration of its application or a revised application to  
19 the state board within sixty days after receipt of the denial,  
20 conditional approval, nonrenewal or revocation.

21 C. No later than thirty days after receipt of the  
22 resubmission or request for reconsideration, the state board,  
23 after reasonable public notice, shall hold a public hearing  
24 and shall approve or disapprove the charter.

25 D. If an application has not previously been

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1 submitted and considered by a local school board and the state  
2 board denies, conditionally approves, does not renew or  
3 revokes it, the applicant may submit the application to a  
4 local school board for approval."

5 Section 6. A new section of the Charter Schools Act is  
6 enacted to read:

7 "[NEW MATERIAL] ELIGIBLE STUDENTS. --

8 A. A charter school shall enroll all eligible  
9 students who are residents of New Mexico and who submit a  
10 timely application, unless the number of applications exceeds  
11 the capacity of a program, class, grade level or building. In  
12 that case, all applicants shall be admitted in the order in  
13 which their completed applications were received, unless the  
14 school district and the charter school agree otherwise and  
15 state it in the charter.

16 B. A charter school may limit the enrollment  
17 process only to target the following student populations:

18 (1) students within specific age groups or  
19 grade levels; or

20 (2) students considered at risk of academic  
21 failure, including those with scores in the lower quartiles on  
22 the reading and mathematics sections of state tests or a grade  
23 point average below 2.0 for grades nine through twelve."

24 Section 7. A new section of the Charter Schools Act is  
25 enacted to read:

1           "NEW MATERIAL] PUBLIC STATUS-- ACCREDITATION-- RULES. --

2           A. A charter school, not including a charter  
3 school that is organized as a nonprofit corporation pursuant  
4 to the Nonprofit Corporation Act, shall be a public school and  
5 is part of the state's system of public education.

6           B. A charter school shall be nonsectarian in its  
7 programs, admissions policies, employment practices and  
8 operations and shall have no religious affiliation.

9           C. A charter school that is approved by the local  
10 school board shall be accountable to the local school board  
11 for meeting the performance goals agreed upon in its charter.  
12 A charter school that is approved by the state board shall be  
13 accountable to the state board for meeting the performance  
14 goals agreed upon in its charter.

15           D. A charter school shall not charge tuition or  
16 fees, except those fees normally charged by other public  
17 schools. A charter school may accept gifts, donations or  
18 grants of any kind and spend the funds under conditions  
19 prescribed by the donor, unless the gift, donation or grant is  
20 subject to any condition contrary to law or to the terms of  
21 the contract between the charter school and the local school  
22 board.

23           E. A charter school shall comply with rules  
24 promulgated by the state department of public education and by  
25 the children, youth and families department that deal with



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1 health, safety and civil rights. A charter school shall not  
2 be required to comply with other rules that apply to other  
3 public schools, local school boards or school districts.

4 F. A charter school shall have an annual financial  
5 audit by an independent accounting firm.

6 G. A charter school shall ensure that  
7 transportation is not a barrier to equal access for all  
8 students residing within the attendance area as defined in its  
9 charter.

10 H. Transportation costs of students in grades  
11 kindergarten through twelve attending a charter school, not  
12 including a charter school that is organized as a nonprofit  
13 corporation pursuant to the Nonprofit Corporation Act, and  
14 residing in the defined attendance area for that school and of  
15 three- and four-year-old children who meet the state board  
16 approved criteria and definition of developmentally disabled  
17 shall be included in any and all reports, submissions and  
18 calculations by the charter school to the state transportation  
19 director and the state superintendent for the purpose of  
20 developing an appropriate transportation system for the  
21 charter school and receiving payments from the transportation  
22 distribution of the public school fund as provided in Sections  
23 22-8-26 through 22-8-30 NMSA 1978 and Sections 22-16-1 through  
24 22-16-11 NMSA 1978.

25 I. A charter school, including a charter school

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1 that is organized as a nonprofit corporation pursuant to the  
2 Nonprofit Corporation Act, may contract with the school  
3 district to participate in the school district transportation  
4 system.

5 J. If the local school board is providing programs  
6 or services to students funded by federal funds, an eligible  
7 student enrolled in a charter school in that school district  
8 shall be provided federal funds for the same level of service  
9 provided to a student in other public schools operated by the  
10 local school board.

11 K. Any administrative fee charged by the school  
12 district relating to a charter school shall be limited to no  
13 more than the actual cost of administering the contract  
14 between the charter school and the school district or five  
15 percent of the state equalization guarantee distribution for  
16 students attending the charter school, whichever is less.

17 L. One hundred percent of all federal funds, other  
18 state funds, gifts, donations or other funds for which the  
19 charter school or students attending the charter school are  
20 eligible shall be received and administered by the charter  
21 school, not including a charter school organized as a  
22 nonprofit corporation pursuant to the Nonprofit Corporation  
23 Act. A charter school organized as a nonprofit corporation  
24 pursuant to the Nonprofit Corporation Act shall contract with  
25 a school district to administer these funds.

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1 M A charter school may contract with a school  
2 district to provide other administrative, educational or  
3 support services, including personnel and benefits management,  
4 financial management and maintenance.

5 N. A charter school shall comply with Section  
6 22-1-6 NMSA 1978.

7 O. A charter school shall be accredited by the  
8 state board, the independent schools association of the  
9 southwest, New Mexico north central association, national  
10 association for the education of young children, Navajo north  
11 central association or any other accrediting body approved by  
12 the state board.

13 P. A school that has been in existence fewer than  
14 two academic years must apply for accreditation upon approval  
15 of its charter and acceptance of students with an anticipated  
16 date of accreditation of not later than the end of the second  
17 academic year during which the school has accepted students.

18 Q. A charter school may request a waiver of the  
19 state department of public education accreditation standards  
20 from the state board. The state board must have good cause to  
21 deny the request.

22 R. Charter schools shall not be used as a method  
23 of providing education or generating revenue for students who  
24 are being home schooled, except that parents who home school  
25 their children shall not be prohibited from participation in

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1 the formation of or enrolling their children in charter  
2 schools in accordance with the Charter Schools Act.

3 S. Academic credits earned by a student at a  
4 charter school shall be transferable to a public school.

5 T. A charter school is a legal entity and may  
6 contract, sue or be sued. "

7 Section 8. A new section of the Charter Schools Act is  
8 enacted to read:

9 "[NEW MATERIAL] CREATION OF THE CHARTER. --

10 A. The charter shall contain a list of the major  
11 issues that will face the proposed charter school.

12 B. The charter shall be signed by the governing  
13 body of the charter school and the chartering authority,  
14 following a public hearing to ensure community input.

15 C. The charter shall address the following  
16 criteria for approval:

17 (1) the charter school's mission;

18 (2) a description of the student population  
19 that will be served, including the ages and grades of the  
20 students;

21 (3) a comprehensive plan for implementing an  
22 alternative educational curriculum at the school, including a  
23 description of the charter school's educational program;  
24 mechanisms to ensure that effective school characteristics are  
25 present, promoted and improved upon; student performance

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1 standards of achievement and the method of measurement that  
2 will be used; and student assessment tools to identify  
3 educational strengths and needs;

4 (4) evidence that an adequate number of  
5 parents, teachers or pupils support the formation of a charter  
6 school; and

7 (5) a detailed description of the proposed  
8 governance structure of the charter school, including:

9 (a) whether the charter school shall be  
10 organized as a nonprofit corporation pursuant to the Nonprofit  
11 Corporation Act;

12 (b) the structure of the governing body  
13 of the charter school, which must include the direct  
14 involvement of the parents of students enrolled in the school,  
15 educational professionals employed in the school and the  
16 community at large;

17 (c) methods for resolving disputes  
18 between the governing body and the school district;

19 (d) admissions procedures and dismissal  
20 procedures;

21 (e) documentation that a charter school  
22 will provide group health insurance and other risk-related  
23 coverage pursuant to the Public School Insurance Authority Act  
24 or that a charter school organized as a nonprofit corporation  
25 pursuant to the Nonprofit Corporation Act shall provide group

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1 health insurance and other risk-related coverage;

2 (f) a detailed description of the  
3 financial and administrative management of the school;

4 (g) the term of the charter, including  
5 provisions for cancellation of the charter if insufficient  
6 progress has been made in attaining the student achievement  
7 objectives and if it is not likely that such objectives can be  
8 met before expiration of the charter or if other provisions of  
9 this act have not been met;

10 (h) a detailed description of  
11 facilities to be used and their location;

12 (i) a detailed description of the  
13 qualifications to be required of the teachers;

14 (j) a timetable for implementing the  
15 charter;

16 (k) a detailed description of the  
17 alternative arrangements for students and teachers enrolled or  
18 employed in an existing public school that is converting to a  
19 charter school if they do not choose to attend or teach in the  
20 charter school; and

21 (l) whether the charter school, not  
22 including charter schools organized as nonprofit corporations  
23 pursuant to the Nonprofit Corporations Act, chooses to  
24 participate pursuant to the Educational Retirement Act.

25 D. A charter may be renewed in increments of five,

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1 seven or ten years by mutual agreement of the parties.

2 E. A charter may be modified or amended with the  
3 approval of both parties to the agreement."

4 Section 9. A new section of the Charter Schools Act is  
5 enacted to read:

6 "[NEW MATERIAL] FINANCING. --

7 A. The amount of state support that follows the  
8 eligible student to a charter school that is not organized as  
9 a nonprofit corporation pursuant to the Nonprofit Corporation  
10 Act shall be computed by applying the equalization formula  
11 components pursuant to the Public School Finance Act,  
12 including the size adjustment for the school district and  
13 school in which the student enrolls.

14 B. Money shall be distributed through the state  
15 department of public education in the school districts to the  
16 charter schools."

17 Section 10. A new section of the Charter Schools Act is  
18 enacted to read:

19 "[NEW MATERIAL] HIRING PRACTICES--EMPLOYEES. --

20 A. A charter school shall hire its own employees.

21 B. A teacher who is employed by a charter school  
22 and who was previously an employee at a school district shall  
23 be considered to be on a one-year leave of absence from the  
24 school district. The leave of absence shall commence on the  
25 initial date of employment for the charter school. Upon

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1 request of the teacher, the one-year leave of absence shall be  
2 renewed for up to two additional one-year periods with the  
3 mutual agreement of the teacher and the school district. The  
4 agreement to grant a leave of absence shall be granted absent  
5 good cause.

6 C. During the period of time that a teacher is on  
7 a leave of absence from the school district and is actively  
8 employed by the charter school, the teacher shall not lose his  
9 certification or salary status.

10 D. During the period of time that a teacher is on  
11 a leave of absence from the school district and is actively  
12 employed by a charter school that is not organized as a  
13 nonprofit corporation pursuant to the Nonprofit Corporation  
14 Act, the teacher shall not lose retirement or other benefits  
15 previously granted to the teacher. A teacher who is on a  
16 leave of absence from the school district and is actively  
17 employed by a charter school that is organized as a nonprofit  
18 corporation pursuant to the Nonprofit Corporation Act shall  
19 lose retirement benefits for that period of time.

20 E. A leave of absence shall not be considered a  
21 break in service with the school district with which the  
22 teacher was previously employed.

23 F. A teacher who is on a leave of absence and  
24 actively teaching at a charter school and who submits an  
25 employment application to the school district where the



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1 teacher was employed immediately prior to employment in the  
2 charter school shall be given employment preference by the  
3 school district if:

4 (1) the teacher's employment application is  
5 submitted to the school district within three years after  
6 ceasing employment with the school district; and

7 (2) a suitable position is available in the  
8 school district.

9 G. An employee of a charter school who has been  
10 employed longer than three years by a charter school who  
11 receives notice of termination or intent not to reemploy may  
12 appeal the decision within five working days of service of  
13 written notice of termination or intent not to reemploy. An  
14 employee of a charter school may make a written request for an  
15 appeal to the governing board of the charter school.

16 H. The written request shall specify the grounds  
17 on which it is contended that the decision to terminate or not  
18 reemploy is without just cause and shall include a statement  
19 of the facts that the employee believes support his  
20 contention.

21 I. The governing board of the charter school shall  
22 meet to hear the employee's statement in no less than five and  
23 no more than fifteen working days after the governing board  
24 receives the statement.

25 J. The governing board shall notify the employee

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1 of its decision in writing within five working days of the  
2 conclusion of the meeting.

3 K. An employee who is still aggrieved by a  
4 decision of the governing board of the charter school may give  
5 written notice of his intent to appeal the decision to an  
6 independent arbitration board within five working days of  
7 receipt of the decision of the governing board.

8 L. Within fifteen working days of receipt of the  
9 notice of appeal to an independent arbitration board, a board  
10 shall be formed made up of one person chosen by the employee,  
11 one person chosen by the governing board of the charter school  
12 and a third person chosen by the employee and the governing  
13 board.

14 M. Not more than thirty working days from filing  
15 the written notice of intent to appeal, the employee shall  
16 submit a written statement of the facts and specify the  
17 grounds on which it is contended that the decision of the  
18 governing board was in error.

19 N. Not more than thirty working days from receipt  
20 of the written notice of intent to appeal the decision of the  
21 governing board, the governing board shall submit a written  
22 statement of the facts and the basis for its decision to the  
23 independent arbitration board.

24 O. The independent arbitration board shall meet  
25 with the employee and the governing board not more than

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1 fifteen days after having received the written statement of  
2 both parties.

3 P. The independent arbitration board shall render  
4 its decision in writing not more than five working days from  
5 the meeting with the employee and the governing board. The  
6 decision of the independent arbitration board shall be final.

7 Q. Employees of a charter school shall have the  
8 right to organize and bargain collectively with the governing  
9 board of the charter school."

10 Section 11. A new section of the Charter Schools Act is  
11 enacted to read:

12 "[NEW MATERIAL] CHARTER SCHOOL STIMULUS FUND. --

13 A. The "charter schools stimulus fund" is created  
14 in the state treasury to provide financial support to charter  
15 school applicants and charter schools that are not existing  
16 public schools, including charter schools organized as  
17 nonprofit corporations pursuant to the Nonprofit Corporation  
18 Act that contract with the state department of public  
19 education or a local school board to provide services as a  
20 charter school, for start-up costs and costs associated with  
21 renovating or remodeling existing buildings and structures.  
22 The fund shall consist of money appropriated by the  
23 legislature and grants, gifts, devises and donations from any  
24 public or private source. Money in the fund shall not revert  
25 at the end of a fiscal year. The state department of public

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1 education shall administer the fund, and money in the fund is  
2 appropriated to the department.

3 B. The state board shall adopt rules to implement  
4 the provisions of this section. Money in the fund shall be  
5 distributed to qualifying charter school applicants and  
6 charter schools as follows:

7 (1) a qualifying charter school may be  
8 awarded an initial grant of up to one hundred thousand dollars  
9 (\$100,000) during or before the first year of the charter  
10 school's operation. If the charter school or charter school  
11 applicant receives an initial grant and fails to begin  
12 operating a charter school within the next eighteen months,  
13 the charter school or charter school applicant shall  
14 immediately reimburse the state department of public education  
15 for the amount of the grant plus interest calculated at a rate  
16 of ten percent per year; and

17 (2) charter schools or applicants for charter  
18 schools that receive an initial grant may apply for an  
19 additional grant of up to fifty thousand dollars (\$50,000).  
20 If a charter school or charter school applicant receives an  
21 additional grant and fails to begin operating a charter school  
22 within the next eighteen months, the applicant shall  
23 immediately reimburse the state department of public education  
24 for the amount of the grant plus interest calculated at a rate  
25 of ten percent per year. "

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1           Section 12. A new section of the Charter Schools Act is  
2 enacted to read:

3           "[NEW MATERIAL] AVAILABLE DISTRICT SPACE. -- Charter  
4 schools may request the use of vacant or available school  
5 district facilities. Use of the facilities must be permitted  
6 by the school district at no rental cost to the charter school  
7 that is not organized as a nonprofit corporation pursuant to  
8 the Nonprofit Corporation Act, subject to any reasonable  
9 consideration for the health, safety or comfort of the  
10 students. The school district shall rent facilities to a  
11 charter school that is organized as a nonprofit corporation  
12 pursuant to the Nonprofit Corporation Act for a reasonable  
13 cost. "

14           Section 13. A new section of the Charter Schools Act is  
15 enacted to read:

16           "[NEW MATERIAL] INFORMATION. -- The state department of  
17 public education shall embark on a public awareness campaign  
18 through the school districts and the media to inform the  
19 public about how to form and operate a charter school and how  
20 to enroll in charter schools once they are created. "

21           Section 14. A new section of the Charter Schools Act is  
22 enacted to read:

23           "[NEW MATERIAL] EXEMPTION. -- Charter schools established  
24 prior to January 1, 1998 shall continue to be governed by the  
25 provisions of their charters and the law in effect at the time

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1 their charters were established unless otherwise agreed by the  
2 charter school and a chartering authority. Charters in  
3 existence prior to January 1, 1998 may be extended without  
4 modification as provided in the original charter and the law  
5 in effect at the time the charter was established."

6 Section 15. Section 13-1-99 NMSA 1978 (being Laws 1984,  
7 Chapter 65, Section 72, as amended) is amended to read:

8 "13-1-99. EXCLUDED FROM CENTRAL PURCHASING THROUGH THE  
9 STATE PURCHASING AGENT. -- Excluded from the requirement of  
10 procurement through the state purchasing agent but not from  
11 the requirements of the Procurement Code are the following:

- 12 A. procurement of professional services;
- 13 B. small purchases having a value not exceeding  
14 two hundred fifty dollars (\$250);
- 15 C. emergency procurement;
- 16 D. procurement of highway construction or  
17 reconstruction by the state highway and transportation  
18 department;
- 19 E. procurement by the judicial branch of state  
20 government;
- 21 F. procurement by the legislative branch of state  
22 government;
- 23 G. procurement by the boards of regents of state  
24 educational institutions named in Article 12, Section 11 of  
25 the constitution of New Mexico;

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1 H. procurement of information processing resources  
2 procured through the [~~commission~~] office on information and  
3 ~~communication management~~;

4 I. procurement by the state fair commission of  
5 tangible personal property, services and construction under  
6 five thousand dollars (\$5,000);

7 J. purchases from the instructional material fund;

8 K. procurement by all local public bodies;

9 L. procurement by regional education cooperatives;

10 [~~and~~]

11 M procurement by each state health care  
12 institution that provides direct patient care and that is, or  
13 a part of which is, medicaid certified and participating in  
14 the New Mexico medicaid program; and

15 N. procurement by charter schools that are not  
16 organized as nonprofit corporations pursuant to the Nonprofit  
17 Corporation Act. "

18 Section 16. Section 22-2-6.3 NMSA 1978 (being Laws 1986,  
19 Chapter 94, Section 3, as amended) is amended to read:

20 "22-2-6.3. DEFINITIONS.--As used in the Public School  
21 Insurance Authority Act:

22 A. "authority" means the public school insurance  
23 authority;

24 B. "board" means the board of directors of the  
25 public school insurance authority;

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1 C. "director" means the director of the public  
2 school insurance authority;

3 D. "educational entities" means state educational  
4 institutions as enumerated in Article 12, Section 11 of the  
5 constitution of New Mexico and other state diploma, degree-  
6 granting and certificate-granting post-secondary educational  
7 institutions and charter schools that are not organized as  
8 nonprofit corporations pursuant to the Nonprofit Corporation  
9 Act;

10 E. "fund" means the public school insurance fund;

11 F. "group health insurance" means coverage [ ~~which~~  
12 that includes but is not limited to life insurance, accidental  
13 death and dismemberment, medical care and treatment, dental  
14 care, eye care and other coverages as determined by the  
15 authority;

16 G. "risk-related coverage" means coverage [ ~~which~~  
17 that includes but is not limited to property and casualty,  
18 general liability, auto and fleet, [ ~~workmen's~~ workers'  
19 compensation and other casualty insurance; and

20 H. "school district" means a school district as  
21 defined in Subsection [ ~~J~~ K of Section 22-1-2 NMSA 1978,  
22 excluding any school district with a student enrollment in  
23 excess of sixty thousand students. "

24 Section 17. Section 22-11-2 NMSA 1978 (being Laws 1967,  
25 Chapter 16, Section 126, as amended) is amended to read:

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"22-11-2. DEFINITIONS. -- As used in the Educational Retirement Act:

A. "member" means any employee, except for a participant coming within the provisions of the Educational Retirement Act;

B. "regular member" means:

(1) a person regularly employed as a teaching, nursing or administrative employee of a state educational institution, except for:

(a) a participant; or

(b) all employees of a general hospital or outpatient clinics thereof operated by a state educational institution named in Article 12, Section 11 of the constitution of New Mexico;

(2) a person regularly employed as a teaching, nursing or administrative employee of a junior college or community college created pursuant to Chapter 21, Article 13 NMSA 1978;

(3) a person regularly employed as a teaching, nursing or administrative employee of a technical and vocational institute created pursuant to the Technical and Vocational Institute Act;

(4) a person regularly employed as a teaching, nursing or administrative employee of the New Mexico boys' school, the New Mexico girls' school, the Los Lunas

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1 medical center or a school district or as a certified school  
2 instructor of a state institution or agency providing an  
3 educational program and holding a standard or substandard  
4 certificate issued by the state board;

5 (5) a person regularly employed by the  
6 department of education or the board holding a standard or  
7 substandard certificate issued by the state board at the time  
8 of commencement of such employment;

9 (6) a member classified as a regular member  
10 in accordance with the regulations of the board;

11 (7) a person regularly employed by the New  
12 Mexico activities association holding a standard certificate  
13 issued by the state board at the time of commencement of such  
14 employment; [or]

15 (8) a person regularly employed by a regional  
16 education cooperative holding a standard certificate issued by  
17 the state board at the time of commencement of such  
18 employment; or

19 (9) a person regularly employed by a charter  
20 school that is not organized as a nonprofit corporation  
21 pursuant to the Nonprofit Corporation Act and that elects in  
22 its charter to be covered pursuant to the Educational  
23 Retirement Act;

24 C. "provisional member" means a person not  
25 eligible to be a regular member but who is employed by a local

Underscored material = new  
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1 administrative unit designated in Subsection B of this  
2 section; provided, however, that employees of a general  
3 hospital or outpatient clinics thereof operated by a state  
4 educational institution named in Article 12, Section 11 of the  
5 constitution of New Mexico are not provisional members;

6 D. "local administrative unit" means an employing  
7 agency however constituted that is directly responsible for  
8 the payment of compensation for the employment of members or  
9 participants;

10 E. "beneficiary" means a person having an  
11 insurable interest in the life of a member or a participant  
12 designated by written instrument duly executed by the member  
13 or participant and filed with the director to receive a  
14 benefit pursuant to the Educational Retirement Act that may be  
15 received by someone other than the member or participant;

16 F. "employment" means employment by a local  
17 administrative unit that qualifies a person to be a member or  
18 participant;

19 G. "service employment" means employment that  
20 qualifies a person to be a regular member;

21 H. "provisional service employment" means  
22 employment that qualifies a person to be a provisional member;

23 I. "prior employment" means employment performed  
24 prior to the effective date of the Educational Retirement Act  
25 that would be service employment or provisional service

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1 employment if performed thereafter;

2 J. "service credit" means that period of time with  
3 which a member is accredited for the purpose of determining  
4 his eligibility for and computation of retirement or  
5 disability benefits;

6 K. "earned service credit" means that period of  
7 time during which a member was engaged in employment or prior  
8 employment with which he is accredited for the purpose of  
9 determining his eligibility for retirement or disability  
10 benefits;

11 L. "allowed service credit" means that period of  
12 time during which a member has performed certain nonservice  
13 employment with which he may be accredited, as provided in the  
14 Educational Retirement Act, for the purpose of computing  
15 retirement or disability benefits;

16 M. "retirement benefit" means an annuity paid  
17 monthly to members whose employment has been terminated by  
18 reason of their age;

19 N. "disability benefit" means an annuity paid  
20 monthly to members whose employment has been terminated by  
21 reason of a disability;

22 O. "board" means the educational retirement board;

23 P. "fund" means the educational retirement fund;

24 Q. "director" means the educational retirement  
25 director;

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1                   R. "medical authority" means a medical doctor  
2 within the state or as provided in Subsection D of Section  
3 22-11-36 NMSA 1978 either designated or employed by the board  
4 to examine and report on the physical condition of applicants  
5 for or recipients of disability benefits;

6                   S. "actuary" means a person trained and regularly  
7 engaged in the occupation of calculating present and projected  
8 monetary assets and liabilities under annuity or insurance  
9 programs;

10                  T. "actuarial equivalent" means a sum paid as a  
11 current or deferred benefit that is equal in value to a  
12 regular benefit, computed upon the basis of interest rates and  
13 mortality tables;

14                  U. "contributory employment" means employment for  
15 which contributions have been made by both a member and a  
16 local administrative unit pursuant to the Educational  
17 Retirement Act;

18                  V. "qualifying state educational institution"  
19 means the university of New Mexico, New Mexico state  
20 university, New Mexico institute of mining and technology, New  
21 Mexico highlands university, eastern New Mexico university and  
22 western New Mexico university;

23                  W. "participant" means:  
24                    (1) a person regularly employed as a faculty  
25 or professional employee of a qualifying state educational

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1 institution who first becomes employed with such an  
2 educational institution on or after July 1, 1991 and who  
3 elects, pursuant to Section 22-11-47 NMSA 1978, to participate  
4 in the alternative retirement plan; and

5 (2) a person regularly employed who performs  
6 research or other services pursuant to a contract between a  
7 qualifying state educational institution and the United States  
8 government or any of its agencies who elects, pursuant to  
9 Section 22-11-47 NMSA 1978, to participate in the alternative  
10 retirement plan, provided that the research or other services  
11 are performed outside the state;

12 X. "salary" means the compensation or wages paid  
13 to a member or participant by any local administrative unit  
14 for services rendered; and

15 Y. "alternative retirement plan" means the  
16 retirement plan provided for in Sections 22-11-47 through  
17 22-11-52 NMSA 1978. "

18 Section 18. Section 22-11-19 NMSA 1978 (being Laws 1967,  
19 Chapter 16, Section 142, as amended) is amended to read:

20 "22-11-19. REGULAR OR PROVISIONAL MEMBERSHIP--OPTIONAL  
21 COVERAGE. --

22 A. Any person qualified to be a regular or  
23 provisional member covered by a retirement program established  
24 for federal civil service employees shall have six months  
25 after the commencement of employment to file a written notice

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1 with the director of his election not to be covered by the  
2 Educational Retirement Act. If the person so elects, he may  
3 withdraw any contributions made pursuant to the Educational  
4 Retirement Act.

5 B. Any person qualified to be a regular or  
6 provisional member and who was employed by a regional  
7 education cooperative on July 1, 1993 shall have the right to  
8 exempt himself from Educational Retirement Act coverage within  
9 thirty days, and such exemption shall be irrevocable as long  
10 as the person is employed by a regional cooperative.

11 C. Any person qualified to be a regular or  
12 provisional member and who was employed by a charter school  
13 that is not organized as a nonprofit corporation pursuant to  
14 the Nonprofit Corporation Act that elects to be covered  
15 pursuant to the Educational Retirement Act on and after July  
16 1, 1998 shall have the right to exempt himself from  
17 Educational Retirement Act coverage within thirty days, and  
18 such exemption shall be irrevocable as long as the person is  
19 employed by a charter school. "

20 Section 19. Section 22-11-19.2 NMSA 1978 (being Laws  
21 1993, Chapter 232, Section 9) is amended to read:

22 "22-11-19.2. REGULAR OR PROVISIONAL MEMBERSHIP--REGIONAL  
23 EDUCATION COOPERATIVES.--Any person employed by a regional  
24 education cooperative or a charter school that is not  
25 organized as a nonprofit corporation pursuant to the Nonprofit

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1 Corporation Act and that elects in its charter to participate  
2 in the Educational Retirement Act and qualified to be a  
3 regular or provisional member shall have the right to acquire  
4 earned service credit for periods of employment with the  
5 regional education cooperative or charter school when the  
6 member was neither covered nor retired under the Educational  
7 Retirement Act, under the following conditions:

8           A. both the member and the administrative unit  
9 contributions, at the rates in effect during the periods of  
10 employment and applied to earnings of the member during such  
11 periods, are paid to the fund, together with interest, at a  
12 rate equal to the board's actuarial earnings assumption rate  
13 at the time of purchase;

14           B. both member and administrative unit  
15 contributions, together with interest, are paid by the member;  
16 or

17           C. the member tenders payment of his  
18 contributions, together with interest, and the local  
19 administrative unit by which he was employed may, but shall  
20 not be obligated to, pay the administrative unit  
21 contributions, together with interest. "

22           Section 20. REPEAL. -- Sections 22-8A-4 through 22-8A-7  
23 (being Laws 1993, Chapter 227, Sections 4 through 7) are  
24 repealed.



1 FORTY-THIRD LEGISLATURE  
2 SECOND SESSION, 1998  
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6 January 23, 1998  
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8 Mr. President:  
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10 Your COMMITTEES' COMMITTEE, to whom has been referred  
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12 SENATE BILL 60  
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14 has had it under consideration and finds same to be GERMANE, in  
15 accordance with constitutional provisions, and thence referred to the  
16 EDUCATION COMMITTEE.  
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19 Respectfully submitted,  
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Manny M. Aragon, Chairman

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Adopted \_\_\_\_\_ Not Adopted \_\_\_\_\_

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S0060CC1

1 FORTY-THIRD LEGISLATURE

2 SECOND SESSION, 1998

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6 February 7, 1998

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8 Mr. President:

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10 Your EDUCATION COMMITTEE, to whom has been referred

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12 SENATE BILL 60

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14 has had it under consideration and reports same with recommendation  
15 that it DO NOT PASS, but that

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18 SENATE EDUCATION COMMITTEE SUBSTITUTE FOR

19 SENATE BILL 60

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21 is reported WITHOUT RECOMMENDATION, and thence referred to  
22 the FINANCE COMMITTEE.

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24 Respectfully submitted,

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Cynthia Nava, Chairman

Adopted \_\_\_\_\_ Not Adopted \_\_\_\_\_  
(Chief Clerk) (Chief Clerk)

Date \_\_\_\_\_

The roll call vote was 8 For 0 Against

Yes: 8

No: 0

Excused: Garcia, Maloof

Absent: None

S0060ED1

SENATE EDUCATION COMMITTEE SUBSTITUTE FOR  
SENATE BILL 60

43RD LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 1998

AN ACT

RELATING TO EDUCATION; CHANGING THE ESTABLISHMENT OF CHARTER  
SCHOOLS; DEFINING THE DUTIES AND POWERS OF CHARTER SCHOOLS;  
PROVIDING FOR EDUCATIONAL RETIREMENT COVERAGE FOR EMPLOYEES OF  
CHARTER SCHOOLS; ESTABLISHING THE CHARTER SCHOOLS STIMULUS  
FUND; AMENDING, REPEALING AND ENACTING SECTIONS OF THE NMSA  
1978; MAKING AN APPROPRIATION.

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

Section 1. Section 22-8A-1 NMSA 1978 (being Laws 1993,  
Chapter 227, Section 1) is amended to read:

"22-8A-1. SHORT TITLE. -- [~~Sections 1 through 7 of this  
act~~] Chapter 22, Article 8A NMSA 1978 may be cited as the  
"Charter Schools Act". "

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

. 122793. 3

SEC/SB 60

1 "22-8A-2. DEFINITIONS. -- As used in the Charter Schools  
2 Act:

3 A. "charter school" means an individual school  
4 within a school district, authorized by the state board or by  
5 a local school board to develop and implement an alternative  
6 educational curriculum and authorized by law to develop and  
7 utilize a school-based budget; [ and]

8 B. "governing board" means the governing structure  
9 stated in the charter of a charter school with administrative  
10 and financial authority;

11 C. "person" means an individual; and

12 [B.] D. "state board" means the state board of  
13 education. "

14 Section 3. Section 22-8A-3 NMSA 1978 (being Laws 1993,  
15 Chapter 227, Section 3) is amended to read:

16 "22-8A-3. PURPOSE. -- The purpose of the Charter Schools  
17 Act is to [~~enable individual schools to restructure their~~  
18 ~~educational curriculum to encourage the use of different and~~  
19 ~~innovative teaching methods and to enable individual schools~~  
20 ~~to be responsible for site-based budgeting and expenditures]~~  
21 employ innovative strategies and proven methods for student  
22 learning, teaching and school management that are based on  
23 reliable research and effective practices; have been  
24 replicated successfully in schools with diverse  
25 characteristics; and have a comprehensive design for effective

. 122793. 3

1 school functioning, including instruction, assessment, classroom  
2 management, professional development, parental involvement and  
3 school management. "

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

6 "[NEW MATERIAL] PROPOSAL-- AUTHORIZATION. --

7 A. A proposal for a new charter school may be made by a  
8 person, teacher or parent.

9 B. The state board and the local school board have the  
10 authority to approve charter schools.

11 C. A charter school applicant may apply to the state  
12 board or to a local school board for a charter. Applications  
13 must be filed by October 1 to be eligible for consideration for  
14 the following school year.

15 D. When the state board or a local school board  
16 receives an application for a charter school, it shall review the  
17 application for a charter school and must, by majority vote,  
18 approve or deny an application and grant the charter no later  
19 than sixty days after receipt of the application.

20 E. An application, made to a local school board,  
21 proposing to convert an existing public school into a charter  
22 school shall demonstrate the support of at least sixty-five  
23 percent of the teachers employed at the school and the support of  
24 at least sixty-five percent of the parents whose children are  
25 enrolled at the school.

. 122793. 3

1 F. Upon approval of a charter application, the initial  
2 start-up must be consistent with the beginning of the school  
3 year.

4 G. The state board may authorize the existence of no  
5 more than ten charter schools per year in addition to those  
6 approved on appeal from a local school board. The state board by  
7 majority vote may authorize the existence of more than ten  
8 charter schools per year.

9 H. A charter school may be terminated for failure to  
10 meet its performance objectives before the expiration of its  
11 term.

12 I. The state board and a local school board shall not  
13 authorize additional charter schools on or after June 30, 2008.  
14 Charter schools authorized before June 30, 2008 may have their  
15 charters extended by agreement between the charter schools and  
16 the state board or a local school board. "

17 Section 5. A new section of the Charter Schools Act is  
18 enacted to read:

19 "[NEW MATERIAL] APPEAL OF LOCAL SCHOOL BOARD DECISIONS. --

20 A. An applicant or any other person may appeal any  
21 denial, conditional approval, nonrenewal or revocation of an  
22 application by the local school board to the state board no later  
23 than thirty days after the issuance of the local school board's  
24 decision. The appeal and review process by the state board shall  
25 be held within sixty days of receipt of the notice of appeal and,



1 after reasonable public notice, the state board, at a public  
2 hearing that may be held in the school district in which the  
3 proposed charter school has applied for a charter, shall review  
4 the decision of the local school board and make its findings.

5 B. If the state board finds that the local school  
6 board's decision was contrary to the best interests of the  
7 students, school district or community, the state board shall  
8 approve the charter or remand the decision to the local school  
9 board with written instructions for reconsideration that shall  
10 include specific recommendations.

11 C. Within thirty days following the remand of a  
12 decision to the local school board and after reasonable public  
13 notice, the local school board, at a public hearing, shall  
14 reconsider its decision using the specific recommendations  
15 provided by the state board and decide whether to approve the  
16 charter.

17 D. If the local school board again denies, refuses to  
18 renew or revokes a charter or unilaterally imposes conditions  
19 unacceptable to the charter school or the charter applicant, a  
20 second notice of appeal may be filed with the state board within  
21 thirty days following the issuance of the local school board's  
22 final decision.

23 E. Within thirty days following receipt of the second  
24 notice of appeal and after reasonable public notice, the state  
25 board, at a public hearing, shall determine whether the final

1 decision of the local school board was contrary to the best  
2 interests of the students, school district or community.

3 F. If the state board finds that the local school  
4 board's decision is contrary to the best interests of the  
5 students, school district or community, the state board shall  
6 approve the charter. The decision of the state board shall be  
7 final and not subject to further appeal. "

8 Section 6. A new section of the Charter Schools Act is  
9 enacted to read:

10 "[NEW MATERIAL] APPEAL OF STATE BOARD DECISIONS. --

11 A. If the state board denies, conditionally approves,  
12 does not renew or revokes an application that was made directly  
13 to the state board, the state board shall provide a written  
14 explanation of the denial, conditional approval, nonrenewal or  
15 revocation and recommendations for revision of the application.

16 B. The applicant may resubmit or request  
17 reconsideration of its application or a revised application to  
18 the state board within sixty days after receipt of the denial,  
19 conditional approval, nonrenewal or revocation.

20 C. No later than thirty days after receipt of the  
21 resubmission or request for reconsideration, the state board,  
22 after reasonable public notice, shall hold a public hearing and  
23 shall approve or disapprove the charter.

24 D. If an application has not previously been submitted  
25 and considered by a local school board and the state board

1 denies, conditionally approves, does not renew or revokes it, the  
 2 applicant may submit the application to a local school board for  
 3 approval. "

4 Section 7. A new section of the Charter Schools Act is  
 5 enacted to read:

6 "[NEW MATERIAL] ELIGIBLE STUDENTS. --

7 A. A charter school shall enroll all eligible students  
 8 who are residents of New Mexico and who submit a timely  
 9 application, unless the number of applications exceeds the  
 10 capacity of a program, class, grade level or building. In that  
 11 case, all applicants shall be admitted in the order in which  
 12 their completed applications were received, unless the school  
 13 district and the charter school agree otherwise and state it in  
 14 the charter.

15 B. A charter school may limit the enrollment process  
 16 only to target the following student populations:

17 (1) students within specific age groups or grade  
 18 levels; or

19 (2) students considered at risk of academic  
 20 failure, including those with scores in the lower quartiles on  
 21 the reading and mathematics sections of state tests or a grade  
 22 point average below 2.0 for grades nine through twelve. "

23 Section 8. A new section of the Charter Schools Act is  
 24 enacted to read:

25 "[NEW MATERIAL] PUBLIC STATUS-- ACCREDITATION-- RULES. --

. 122793. 3

SEC/SB 60

1           A. A charter school shall be a public school and is  
2 part of the state's system of public education.

3           B. A charter school shall be nonsectarian in its  
4 programs, admissions policies, employment practices and  
5 operations and shall have no religious affiliation.

6           C. A charter school that is approved by the local  
7 school board shall be accountable to the local school board for  
8 meeting the performance goals agreed upon in its charter. A  
9 charter school that is approved by the state board shall be  
10 accountable to the state board for meeting the performance goals  
11 agreed upon in its charter.

12           D. A charter school shall not charge tuition or fees,  
13 except those fees normally charged by other public schools. A  
14 charter school may accept gifts, donations or grants of any kind  
15 and spend the funds under conditions prescribed by the donor,  
16 unless the gift, donation or grant is subject to any condition  
17 contrary to law or to the terms of the contract between the  
18 charter school and the local school board.

19           E. A charter school shall comply with rules promulgated  
20 by the state department of public education and by the children,  
21 youth and families department that deal with health, safety and  
22 civil rights. A charter school shall not be required to comply  
23 with other rules that apply to other public schools, local school  
24 boards or school districts.

25           F. A charter school shall have an annual financial

1 audit by an independent accounting firm, which shall be conducted  
2 in accordance with generally accepted accounting principles.

3 G. A charter school shall ensure that  
4 transportation is not a barrier to equal access for all students  
5 residing within the attendance area as defined in its charter.

6 H. Transportation costs of students in grades  
7 kindergarten through twelve attending a charter school and  
8 residing in the defined attendance area for that school and of  
9 three- and four-year-old children who meet the state board  
10 approved criteria and definition of developmentally disabled  
11 shall be included in any and all reports, submissions and  
12 calculations by the charter school to the state transportation  
13 director and the superintendent of public instruction for the  
14 purpose of developing an appropriate transportation system for  
15 the charter school and receiving payments from the transportation  
16 distribution of the public school fund as provided in Sections  
17 22-8-26 through 22-8-30 NMSA 1978 and Sections 22-16-1 through  
18 22-16-11 NMSA 1978.

19 I. A charter school may contract with the school  
20 district to participate in the school district transportation  
21 system.

22 J. If the local school board is providing programs or  
23 services to students funded by federal funds, an eligible student  
24 enrolled in a charter school in that school district shall be  
25 provided federal funds for the same level of service provided to

. 122793. 3

1 a student in other public schools operated by the local school  
2 board.

3 K. Any administrative fee charged by the school  
4 district relating to a charter school shall be limited to no more  
5 than the actual cost of administering the contract between the  
6 charter school and the school district or five percent of the  
7 state equalization guarantee distribution for students attending  
8 the charter school, whichever is less.

9 L. One hundred percent of all federal funds, other  
10 state funds, gifts, donations or other funds for which the  
11 charter school or students attending the charter school are  
12 eligible shall be received and administered by the charter  
13 school, which may contract with a school district to administer  
14 these funds.

15 M A charter school may contract with a school district  
16 to provide other administrative, educational or support services,  
17 including personnel and benefits management, financial management  
18 and maintenance.

19 N. A charter school shall comply with the provisions of  
20 Section 22-1-6 NMSA 1978.

21 O. A charter school shall be accredited by the state  
22 board.

23 P. A charter school that has been in existence fewer  
24 than two academic years must apply for accreditation upon  
25 approval of its charter and acceptance of students with an

1 anticipated date of accreditation of not later than the end of  
2 the second academic year during which the school has accepted  
3 students.

4 Q. A charter school may request a waiver of the state  
5 department of public education accreditation standards from the  
6 state board. The state board must have good cause to deny the  
7 request.

8 R. Charter schools shall not be used as a method of  
9 providing education or generating revenue for students who are  
10 being home schooled, except that parents who home school their  
11 children shall not be prohibited from participation in the  
12 formation of or enrolling their children in charter schools in  
13 accordance with the Charter Schools Act.

14 S. Academic credits earned by a student at a charter  
15 school shall be transferable to a public school.

16 T. A charter school is a legal entity and may contract,  
17 sue or be sued.

18 U. A charter school shall comply with the provisions of  
19 Section 22-10-3.3 NMSA 1978. "

20 Section 9. A new section of the Charter Schools Act is  
21 enacted to read:

22 "[NEW MATERIAL] CREATION OF THE CHARTER. --

23 A. The charter shall contain a list of the major issues  
24 that will face the proposed charter school.

25 B. The charter shall be signed by the governing body of

. 122793. 3

1 the charter school and the chartering authority, following a  
2 public hearing to ensure community input.

3 C. The charter shall address the following criteria for  
4 approval:

5 (1) the charter school's mission;

6 (2) a description of the student population that  
7 will be served, including the ages and grades of the students;

8 (3) a comprehensive plan for implementing an  
9 alternative educational curriculum at the school, including a  
10 description of the charter school's educational program;  
11 mechanisms to ensure that effective school characteristics are  
12 present, promoted and improved upon; student performance  
13 standards of achievement and the method of measurement that will  
14 be used; and student assessment tools to identify educational  
15 strengths and needs;

16 (4) evidence that an adequate number of parents,  
17 teachers or pupils support the formation of a charter school; and

18 (5) a detailed description of the proposed  
19 governance structure of the charter school, including:

20 (a) the structure of the governing body of the  
21 charter school, which must include the direct involvement of the  
22 parents of students enrolled in the school, educational  
23 professionals employed in the school and the community at large;

24 (b) methods for resolving disputes between the  
25 governing body and the school district;



1 (c) admissions procedures and dismissal  
2 procedures;

3 (d) documentation that a charter school will  
4 provide group health insurance and other risk-related coverage  
5 pursuant to the Public School Insurance Authority Act;

6 (e) a detailed description of the financial  
7 and administrative management of the school;

8 (f) the term of the charter, including  
9 provisions for cancellation of the charter if insufficient  
10 progress has been made in attaining the student achievement  
11 objectives and if it is not likely that such objectives can be  
12 met before expiration of the charter or if other provisions of  
13 the Charter Schools Act have not been met;

14 (g) a description of facilities intended to be  
15 used and their location;

16 (h) a detailed description of the  
17 qualifications to be required of the teachers;

18 (i) a timetable for implementing the charter;  
19 and

20 (j) a detailed description of the alternative  
21 arrangements for students and teachers enrolled or employed in an  
22 existing public school that is converting to a charter school if  
23 they do not choose to attend or teach in the charter school.

24 D. A charter may be renewed in increments of five,  
25 seven or ten years by mutual agreement of the parties.

. 122793. 3

1 E. A charter may be modified or amended with the  
2 approval of both parties to the agreement."

3 Section 10. A new section of the Charter Schools Act is  
4 enacted to read:

5 "[NEW MATERIAL] FINANCING. --

6 A. The amount of state support that follows the  
7 eligible student to a charter school shall be computed by  
8 applying the equalization formula components pursuant to the  
9 Public School Finance Act, including the size adjustment for the  
10 school district and school in which the student enrolls.

11 B. Money shall be distributed through the state  
12 department of public education in the school districts to the  
13 charter schools."

14 Section 11. A new section of the Charter Schools Act is  
15 enacted to read:

16 "[NEW MATERIAL] HIRING PRACTICES--EMPLOYEES. --

17 A. A charter school shall hire its own employees.

18 B. A person who is employed by a charter school and who  
19 was previously an employee at a school within a district that  
20 becomes a charter school shall be considered to be on a leave of  
21 absence from the school district. The leave of absence shall  
22 commence on the initial date of employment for the charter  
23 school. The agreement to grant a leave of absence shall be  
24 granted absent good cause.

25 C. During the period of time that an employee is on a

1 leave of absence from the school district and is actively  
2 employed by the charter school, the employee shall retain with  
3 the school district all benefits accrued on the basis of years of  
4 service. Upon return to active service with the school district,  
5 the employee shall be placed on the salary schedule as if there  
6 was no break in service.

7 D. A leave of absence shall not be considered a break  
8 in service with the school district with which the employee was  
9 previously employed.

10 E. An employee who is on a leave of absence and  
11 actively employed at a charter school and who submits an  
12 employment application to the school district where the employee  
13 was employed immediately prior to employment in the charter  
14 school shall be given employment preference by the school  
15 district if:

16 (1) the employee's notice of intent to return is  
17 submitted to the school district; and

18 (2) a suitable position is available in the school  
19 district.

20 F. A charter school may decline to re-employ a teacher  
21 with less than three years of consecutive service in the same  
22 classification for any reason it deems sufficient. Upon the  
23 request of the teacher, the charter school shall provide written  
24 reasons for the decision to terminate. The reasons shall be  
25 provided within ten working days of the request. The reasons

. 122793. 3

1 shall not be publicly disclosed by the charter school. The  
2 reasons shall not provide the basis for contesting the decision  
3 pursuant to the Charter Schools Act.

4 G. An employee of a charter school who has been  
5 employed longer than three consecutive years by a charter school  
6 who receives notice of termination or intent not to reemploy may  
7 appeal the decision within five working days of service of  
8 written notice of termination or intent not to reemploy. An  
9 employee of a charter school may make a written request for an  
10 appeal to the governing board of the charter school.

11 H. The written request shall specify the grounds on  
12 which it is contended that the decision to terminate or not  
13 reemploy is without just cause and shall include a statement of  
14 the facts that the employee believes support his contention.

15 I. The governing board of the charter school shall meet  
16 to hear the employee's statement in no less than five and no more  
17 than fifteen working days after the governing board receives the  
18 statement.

19 J. The governing board shall notify the employee of its  
20 decision in writing within five working days of the conclusion of  
21 the meeting.

22 K. An employee who is still aggrieved by a decision of  
23 the governing board of the charter school may give written notice  
24 of his intent to appeal the decision to an independent  
25 arbitration board within five working days of receipt of the

1 decision of the governing board.

2 L. Within fifteen working days of receipt of the notice  
3 of appeal to an independent arbitration board, a board shall be  
4 formed made up of one person chosen by the employee, one person  
5 chosen by the governing board of the charter school and a third  
6 person chosen by the employee and the governing board.

7 M. Not more than fifteen working days from filing the  
8 written notice of intent to appeal, the employee shall submit a  
9 written statement of the facts and specify the grounds on which  
10 it is contended that the decision of the governing board was in  
11 error.

12 N. Not more than fifteen working days from receipt of  
13 the written notice of intent to appeal the decision of the  
14 governing board, the governing board shall submit a written  
15 statement of the facts and the basis for its decision to the  
16 independent arbitration board.

17 O. The independent arbitration board shall meet with  
18 the employee and the governing board not more than fifteen days  
19 after having received the written statement of both parties.

20 P. The independent arbitration board shall render its  
21 decision in writing not more than five working days from the  
22 meeting with the employee and the governing board. The decision  
23 of the independent arbitration board shall be final.

24 Q. Employees of a charter school shall have the  
25 right to organize and bargain collectively with the governing

. 122793. 3

1 board of the charter school. The governing board and the  
2 employees' exclusive representative shall bargain in good faith."

3 Section 12. A new section of the Charter Schools Act is  
4 enacted to read:

5 "[NEW MATERIAL] CHARTER SCHOOLS STIMULUS FUND. --

6 A. The "charter schools stimulus fund" is created in  
7 the state treasury to provide financial support to charter school  
8 applicants and charter schools that are not existing public  
9 schools for start-up costs and costs associated with renovating  
10 or remodeling existing buildings and structures. The fund shall  
11 consist of money appropriated by the legislature and grants,  
12 gifts, devises and donations from any public or private source.  
13 Money in the fund shall not revert at the end of a fiscal year.  
14 The state department of public education shall administer the  
15 fund, and money in the fund is appropriated to the department.

16 B. The state board shall adopt rules to implement the  
17 provisions of this section. Money in the fund shall be  
18 distributed to qualifying charter school applicants and charter  
19 schools as follows:

20 (1) a qualifying charter school may be awarded an  
21 initial grant of up to one hundred thousand dollars (\$100,000)  
22 during or before the first year of the charter school's  
23 operation. If the charter school or charter school applicant  
24 receives an initial grant and fails to begin operating a charter  
25 school within the next eighteen months, the charter school or

1 charter school applicant shall immediately reimburse the state  
 2 department of public education for the amount of the grant plus  
 3 interest calculated at a rate of ten percent per year; and

4 (2) charter schools or applicants for charter  
 5 schools that receive an initial grant may apply for an additional  
 6 grant of up to fifty thousand dollars (\$50,000) during or after  
 7 the first year of the charter school's operation. If a charter  
 8 school or charter school applicant receives an additional grant  
 9 and fails to begin operating a charter school within the next  
 10 eighteen months, the applicant shall immediately reimburse the  
 11 state department of public education for the amount of the grant  
 12 plus interest calculated at a rate of ten percent per year. "

13 Section 13. A new section of the Charter Schools Act is  
 14 enacted to read:

15 "[NEW MATERIAL] AVAILABLE DISTRICT SPACE. -- Charter schools  
 16 may request the use of vacant or available school district  
 17 facilities. Use of the facilities must be permitted by the  
 18 school district at no rental cost to the charter school, subject  
 19 to any reasonable consideration for the health, safety or comfort  
 20 of the students. "

21 Section 14. A new section of the Charter Schools Act is  
 22 enacted to read:

23 "[NEW MATERIAL] INFORMATION. -- The state department of public  
 24 education shall embark on a public awareness campaign through the  
 25 school districts and the media to inform the public about how to

SEC/SB 60

1 form and operate a charter school and how to enroll in charter  
2 schools once they are created. "

3 Section 15. A new section of the Charter Schools Act is  
4 enacted to read:

5 "[NEW MATERIAL] EXEMPTION. --Charter schools established  
6 prior to January 1, 1998 shall continue to be governed by the  
7 provisions of their charters and the law in effect at the time  
8 their charters were established unless otherwise agreed by the  
9 charter school and a chartering authority. Charters in existence  
10 prior to January 1, 1998 may be extended without modification as  
11 provided in the original charter and the law in effect at the  
12 time the charter was established. "

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

15 "[NEW MATERIAL] EVALUATION. --The state department of public  
16 education shall evaluate the implementation of the Charter  
17 Schools Act and make a comprehensive report to the legislative  
18 education study committee on charter schools in New Mexico not  
19 later than November 1, 2001. This report shall include  
20 information on the types of students served, parent satisfaction  
21 at charter schools, student achievement, dropout rates,  
22 attendance rates and descriptions of the sizes, types and  
23 educational programs provided at the charter schools. "

24 Section 17. Section 13-1-99 NMSA 1978 (being Laws 1984,  
25 Chapter 65, Section 72, as amended) is amended to read:

. 122793. 3



1           "13-1-99. EXCLUDED FROM CENTRAL PURCHASING THROUGH THE  
2 STATE PURCHASING AGENT. -- Excluded from the requirement of  
3 procurement through the state purchasing agent but not from the  
4 requirements of the Procurement Code are the following:

- 5           A. procurement of professional services;
- 6           B. small purchases having a value not exceeding two  
7 hundred fifty dollars (\$250);
- 8           C. emergency procurement;
- 9           D. procurement of highway construction or  
10 reconstruction by the state highway and transportation  
11 department;
- 12           E. procurement by the judicial branch of state  
13 government;
- 14           F. procurement by the legislative branch of state  
15 government;
- 16           G. procurement by the boards of regents of state  
17 educational institutions named in Article 12, Section 11 of the  
18 constitution of New Mexico;
- 19           H. procurement of information processing resources  
20 procured through the [~~commission~~] office on information and  
21 ~~communication management~~;
- 22           I. procurement by the state fair commission of tangible  
23 personal property, services and construction under five thousand  
24 dollars (\$5,000);
- 25           J. purchases from the instructional material fund;

. 122793. 3

SEC/SB 60

- 1           K. procurement by all local public bodies;
- 2           L. procurement by regional education cooperatives;
- 3    [and]
- 4           M. procurement by each state health care institution
- 5    that provides direct patient care and that is, or a part of which
- 6    is, medicaid certified and participating in the New Mexico
- 7    medicaid program; and
- 8           N. procurement by charter schools. "

9           Section 18. Section 22-2-6.3 NMSA 1978 (being Laws 1986,  
10   Chapter 94, Section 3, as amended) is amended to read:

11           "22-2-6.3. DEFINITIONS.--As used in the Public School  
12   Insurance Authority Act:

13           A. "authority" means the public school insurance  
14   authority;

15           B. "board" means the board of directors of the public  
16   school insurance authority;

17           C. "director" means the director of the public school  
18   insurance authority;

19           D. "educational entities" means state educational  
20   institutions as enumerated in Article 12, Section 11 of the  
21   constitution of New Mexico and other state diploma, degree-  
22   granting and certificate-granting post-secondary educational  
23   institutions and charter schools;

24           E. "fund" means the public school insurance fund;

25           F. "group health insurance" means coverage [ ~~which~~ ] that

. 122793. 3

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1 includes but is not limited to life insurance, accidental death  
 2 and dismemberment, medical care and treatment, dental care, eye  
 3 care and other coverages as determined by the authority;

4 G. "risk-related coverage" means coverage [~~which~~] that  
 5 includes but is not limited to property and casualty, general  
 6 liability, auto and fleet, [~~workmen's~~] workers' compensation and  
 7 other casualty insurance; and

8 H. "school district" means a school district as defined  
 9 in Subsection [~~J~~] K of Section 22-1-2 NMSA 1978, excluding any  
 10 school district with a student enrollment in excess of sixty  
 11 thousand students. "

12 Section 19. Section 22-11-2 NMSA 1978 (being Laws 1967,  
 13 Chapter 16, Section 126, as amended) is amended to read:

14 "22-11-2. DEFINITIONS. --As used in the Educational  
 15 Retirement Act:

16 A. "member" means any employee, except for a  
 17 participant coming within the provisions of the Educational  
 18 Retirement Act;

19 B. "regular member" means:

20 (1) a person regularly employed as a teaching,  
 21 nursing or administrative employee of a state educational  
 22 institution, except for:

23 (a) a participant; or

24 (b) all employees of a general hospital or  
 25 outpatient clinics thereof operated by a state educational

SEC/SB 60

1 institution named in Article 12, Section 11 of the constitution  
2 of New Mexico;

3 (2) a person regularly employed as a teaching,  
4 nursing or administrative employee of a junior college or  
5 community college created pursuant to Chapter 21, Article 13 NMSA  
6 1978;

7 (3) a person regularly employed as a teaching,  
8 nursing or administrative employee of a technical and vocational  
9 institute created pursuant to the Technical and Vocational  
10 Institute Act;

11 (4) a person regularly employed as a teaching,  
12 nursing or administrative employee of the New Mexico boys'  
13 school, the New Mexico girls' school, the Los Lunas medical  
14 center or a school district or as a certified school instructor  
15 of a state institution or agency providing an educational program  
16 and holding a standard or substandard certificate issued by the  
17 state board;

18 (5) a person regularly employed by the department  
19 of education or the board holding a standard or substandard  
20 certificate issued by the state board at the time of commencement  
21 of such employment;

22 (6) a member classified as a regular member in  
23 accordance with the regulations of the board;

24 (7) a person regularly employed by the New Mexico  
25 activities association holding a standard certificate issued by

1 the state board at the time of commencement of such employment;

2 [~~or~~]

3 (8) a person regularly employed by a regional  
4 education cooperative holding a standard certificate issued by  
5 the state board at the time of commencement of such employment;

6 or

7 (9) a person regularly employed by a charter  
8 school;

9 C. "provisional member" means a person not eligible to  
10 be a regular member but who is employed by a local administrative  
11 unit designated in Subsection B of this section; provided,  
12 however, that employees of a general hospital or outpatient  
13 clinics thereof operated by a state educational institution named  
14 in Article 12, Section 11 of the constitution of New Mexico are  
15 not provisional members;

16 D. "local administrative unit" means an employing  
17 agency however constituted that is directly responsible for the  
18 payment of compensation for the employment of members or  
19 participants;

20 E. "beneficiary" means a person having an insurable  
21 interest in the life of a member or a participant designated by  
22 written instrument duly executed by the member or participant and  
23 filed with the director to receive a benefit pursuant to the  
24 Educational Retirement Act that may be received by someone other  
25 than the member or participant;

. 122793. 3

1           F. "employment" means employment by a local  
2 administrative unit that qualifies a person to be a member or  
3 participant;

4           G. "service employment" means employment that qualifies  
5 a person to be a regular member;

6           H. "provisional service employment" means employment  
7 that qualifies a person to be a provisional member;

8           I. "prior employment" means employment performed prior  
9 to the effective date of the Educational Retirement Act that  
10 would be service employment or provisional service employment if  
11 performed thereafter;

12           J. "service credit" means that period of time with  
13 which a member is accredited for the purpose of determining his  
14 eligibility for and computation of retirement or disability  
15 benefits;

16           K. "earned service credit" means that period of time  
17 during which a member was engaged in employment or prior  
18 employment with which he is accredited for the purpose of  
19 determining his eligibility for retirement or disability  
20 benefits;

21           L. "allowed service credit" means that period of time  
22 during which a member has performed certain nonservice employment  
23 with which he may be accredited, as provided in the Educational  
24 Retirement Act, for the purpose of computing retirement or  
25 disability benefits;

1           M. "retirement benefit" means an annuity paid monthly  
2 to members whose employment has been terminated by reason of  
3 their age;

4           N. "disability benefit" means an annuity paid monthly  
5 to members whose employment has been terminated by reason of a  
6 disability;

7           O. "board" means the educational retirement board;

8           P. "fund" means the educational retirement fund;

9           Q. "director" means the educational retirement  
10 director;

11           R. "medical authority" means a medical doctor within  
12 the state or as provided in Subsection D of Section 22-11-36 NMSA  
13 1978 either designated or employed by the board to examine and  
14 report on the physical condition of applicants for or recipients  
15 of disability benefits;

16           S. "actuary" means a person trained and regularly  
17 engaged in the occupation of calculating present and projected  
18 monetary assets and liabilities under annuity or insurance  
19 programs;

20           T. "actuarial equivalent" means a sum paid as a  
21 current or deferred benefit that is equal in value to a regular  
22 benefit, computed upon the basis of interest rates and mortality  
23 tables;

24           U. "contributory employment" means employment for which  
25 contributions have been made by both a member and a local

1 administrative unit pursuant to the Educational Retirement Act;

2 V. "qualifying state educational institution" means the  
3 university of New Mexico, New Mexico state university, New Mexico  
4 institute of mining and technology, New Mexico highlands  
5 university, eastern New Mexico university and western New Mexico  
6 university;

7 W. "participant" means:

8 (1) a person regularly employed as a faculty or  
9 professional employee of a qualifying state educational  
10 institution who first becomes employed with such an educational  
11 institution on or after July 1, 1991 and who elects, pursuant to  
12 Section 22-11-47 NMSA 1978, to participate in the alternative  
13 retirement plan; and

14 (2) a person regularly employed who performs  
15 research or other services pursuant to a contract between a  
16 qualifying state educational institution and the United States  
17 government or any of its agencies who elects, pursuant to Section  
18 22-11-47 NMSA 1978, to participate in the alternative retirement  
19 plan, provided that the research or other services are performed  
20 outside the state;

21 X. "salary" means the compensation or wages paid to a  
22 member or participant by any local administrative unit for  
23 services rendered; and

24 Y. "alternative retirement plan" means the retirement  
25 plan provided for in Sections 22-11-47 through 22-11-52 NMSA



1 1978. "

2 Section 20. Section 22-11-19 NMSA 1978 (being Laws 1967,  
3 Chapter 16, Section 142, as amended) is amended to read:

4 "22-11-19. REGULAR OR PROVISIONAL MEMBERSHIP-- OPTIONAL  
5 COVERAGE. --

6 A. Any person qualified to be a regular or provisional  
7 member covered by a retirement program established for federal  
8 civil service employees shall have six months after the  
9 commencement of employment to file a written notice with the  
10 director of his election not to be covered by the Educational  
11 Retirement Act. If the person so elects, he may withdraw any  
12 contributions made pursuant to the Educational Retirement Act.

13 B. Any person qualified to be a regular or provisional  
14 member and who was employed by a regional education cooperative  
15 on July 1, 1993 shall have the right to exempt himself from  
16 Educational Retirement Act coverage within thirty days, and such  
17 exemption shall be irrevocable as long as the person is employed  
18 by a regional cooperative.

19 C. Any person qualified to be a regular or provisional  
20 member and who was employed by a charter school shall have the  
21 right to exempt himself from Educational Retirement Act coverage  
22 within thirty days of hire, and such exemption shall be  
23 irrevocable as long as the person is employed by a charter  
24 school. "

25 Section 21. Section 22-11-19.2 NMSA 1978 (being Laws 1993,  
. 122793. 3

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[bracketed material] = delete

Chapter 232, Section 9) is amended to read:

"22-11-19.2. REGULAR OR PROVISIONAL MEMBERSHIP--REGIONAL EDUCATION COOPERATIVES AND CHARTER SCHOOLS.--Any person employed by a regional education cooperative and qualified to be a regular or provisional member shall have the right to acquire earned service credit for periods of employment with the regional education cooperative or charter school when the member was neither covered nor retired under the Educational Retirement Act, under the following conditions:

A. both the member and the administrative unit contributions, at the rates in effect during the periods of employment and applied to earnings of the member during such periods, are paid to the fund, together with interest, at a rate equal to the board's actuarial earnings assumption rate at the time of purchase;

B. both member and administrative unit contributions, together with interest, are paid by the member; or

C. the member tenders payment of his contributions, together with interest, and the local administrative unit by which he was employed may, but shall not be obligated to, pay the administrative unit contributions, together with interest."

Section 22. REPEAL.--Sections 22-8A-4 through 22-8A-7 NMSA 1978 (being Laws 1993, Chapter 227, Sections 4 through 7) are repealed.

Underscored material = new  
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SENATE EDUCATION COMMITTEE SUBSTITUTE FOR  
SENATE BILL 60

43RD LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 1998

AN ACT

RELATING TO EDUCATION; CHANGING THE ESTABLISHMENT OF CHARTER  
SCHOOLS; DEFINING THE DUTIES AND POWERS OF CHARTER SCHOOLS;  
PROVIDING FOR EDUCATIONAL RETIREMENT COVERAGE FOR EMPLOYEES OF  
CHARTER SCHOOLS; ESTABLISHING THE CHARTER SCHOOLS STIMULUS  
FUND; AMENDING, REPEALING AND ENACTING SECTIONS OF THE NMSA  
1978; MAKING AN APPROPRIATION.

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

Section 1. Section 22-8A-1 NMSA 1978 (being Laws 1993,  
Chapter 227, Section 1) is amended to read:

"22-8A-1. SHORT TITLE. -- [~~Sections 1 through 7 of this  
act~~] Chapter 22, Article 8A NMSA 1978 may be cited as the  
"Charter Schools Act". "

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

SEC/SB 60

1 "22-8A-2. DEFINITIONS. -- As used in the Charter Schools  
2 Act:

3 A. "charter school" means an individual school  
4 within a school district, authorized by the state board or by  
5 a local school board to develop and implement an alternative  
6 educational curriculum and authorized by law to develop and  
7 utilize a school-based budget; [ and]

8 B. "governing board" means the governing structure  
9 stated in the charter of a charter school with administrative  
10 and financial authority;

11 C. "person" means an individual; and

12 [B.] D. "state board" means the state board of  
13 education. "

14 Section 3. Section 22-8A-3 NMSA 1978 (being Laws 1993,  
15 Chapter 227, Section 3) is amended to read:

16 "22-8A-3. PURPOSE. -- The purpose of the Charter Schools  
17 Act is to [~~enable individual schools to restructure their~~  
18 ~~educational curriculum to encourage the use of different and~~  
19 ~~innovative teaching methods and to enable individual schools~~  
20 ~~to be responsible for site-based budgeting and expenditures]~~  
21 employ innovative strategies and proven methods for student  
22 learning, teaching and school management that are based on  
23 reliable research and effective practices; have been  
24 replicated successfully in schools with diverse  
25 characteristics; and have a comprehensive design for effective

. 122793. 3

1 school functioning, including instruction, assessment, classroom  
2 management, professional development, parental involvement and  
3 school management. "

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

6 "[NEW MATERIAL] PROPOSAL-- AUTHORIZATION. --

7 A. A proposal for a new charter school may be made by a  
8 person, teacher or parent.

9 B. The state board and the local school board have the  
10 authority to approve charter schools.

11 C. A charter school applicant may apply to the state  
12 board or to a local school board for a charter. Applications  
13 must be filed by October 1 to be eligible for consideration for  
14 the following school year.

15 D. When the state board or a local school board  
16 receives an application for a charter school, it shall review the  
17 application for a charter school and must, by majority vote,  
18 approve or deny an application and grant the charter no later  
19 than sixty days after receipt of the application.

20 E. An application, made to a local school board,  
21 proposing to convert an existing public school into a charter  
22 school shall demonstrate the support of at least sixty-five  
23 percent of the teachers employed at the school and the support of  
24 at least sixty-five percent of the parents whose children are  
25 enrolled at the school.

. 122793. 3

1 F. Upon approval of a charter application, the initial  
2 start-up must be consistent with the beginning of the school  
3 year.

4 G. The state board may authorize the existence of no  
5 more than ten charter schools per year in addition to those  
6 approved on appeal from a local school board. The state board by  
7 majority vote may authorize the existence of more than ten  
8 charter schools per year.

9 H. A charter school may be terminated for failure to  
10 meet its performance objectives before the expiration of its  
11 term.

12 I. The state board and a local school board shall not  
13 authorize additional charter schools on or after June 30, 2008.  
14 Charter schools authorized before June 30, 2008 may have their  
15 charters extended by agreement between the charter schools and  
16 the state board or a local school board. "

17 Section 5. A new section of the Charter Schools Act is  
18 enacted to read:

19 "[NEW MATERIAL] APPEAL OF LOCAL SCHOOL BOARD DECISIONS. --

20 A. An applicant or any other person may appeal any  
21 denial, conditional approval, nonrenewal or revocation of an  
22 application by the local school board to the state board no later  
23 than thirty days after the issuance of the local school board's  
24 decision. The appeal and review process by the state board shall  
25 be held within sixty days of receipt of the notice of appeal and,

1 after reasonable public notice, the state board, at a public  
2 hearing that may be held in the school district in which the  
3 proposed charter school has applied for a charter, shall review  
4 the decision of the local school board and make its findings.

5 B. If the state board finds that the local school  
6 board's decision was contrary to the best interests of the  
7 students, school district or community, the state board shall  
8 approve the charter or remand the decision to the local school  
9 board with written instructions for reconsideration that shall  
10 include specific recommendations.

11 C. Within thirty days following the remand of a  
12 decision to the local school board and after reasonable public  
13 notice, the local school board, at a public hearing, shall  
14 reconsider its decision using the specific recommendations  
15 provided by the state board and decide whether to approve the  
16 charter.

17 D. If the local school board again denies, refuses to  
18 renew or revokes a charter or unilaterally imposes conditions  
19 unacceptable to the charter school or the charter applicant, a  
20 second notice of appeal may be filed with the state board within  
21 thirty days following the issuance of the local school board's  
22 final decision.

23 E. Within thirty days following receipt of the second  
24 notice of appeal and after reasonable public notice, the state  
25 board, at a public hearing, shall determine whether the final

1 decision of the local school board was contrary to the best  
2 interests of the students, school district or community.

3 F. If the state board finds that the local school  
4 board's decision is contrary to the best interests of the  
5 students, school district or community, the state board shall  
6 approve the charter. The decision of the state board shall be  
7 final and not subject to further appeal. "

8 Section 6. A new section of the Charter Schools Act is  
9 enacted to read:

10 "[NEW MATERIAL] APPEAL OF STATE BOARD DECISIONS. --

11 A. If the state board denies, conditionally approves,  
12 does not renew or revokes an application that was made directly  
13 to the state board, the state board shall provide a written  
14 explanation of the denial, conditional approval, nonrenewal or  
15 revocation and recommendations for revision of the application.

16 B. The applicant may resubmit or request  
17 reconsideration of its application or a revised application to  
18 the state board within sixty days after receipt of the denial,  
19 conditional approval, nonrenewal or revocation.

20 C. No later than thirty days after receipt of the  
21 resubmission or request for reconsideration, the state board,  
22 after reasonable public notice, shall hold a public hearing and  
23 shall approve or disapprove the charter.

24 D. If an application has not previously been submitted  
25 and considered by a local school board and the state board



1 denies, conditionally approves, does not renew or revokes it, the  
2 applicant may submit the application to a local school board for  
3 approval. "

4 Section 7. A new section of the Charter Schools Act is  
5 enacted to read:

6 "[NEW MATERIAL] ELIGIBLE STUDENTS. --

7 A. A charter school shall enroll all eligible students  
8 who are residents of New Mexico and who submit a timely  
9 application, unless the number of applications exceeds the  
10 capacity of a program, class, grade level or building. In that  
11 case, all applicants shall be admitted in the order in which  
12 their completed applications were received, unless the school  
13 district and the charter school agree otherwise and state it in  
14 the charter.

15 B. A charter school may limit the enrollment process  
16 only to target the following student populations:

17 (1) students within specific age groups or grade  
18 levels; or

19 (2) students considered at risk of academic  
20 failure, including those with scores in the lower quartiles on  
21 the reading and mathematics sections of state tests or a grade  
22 point average below 2.0 for grades nine through twelve. "

23 Section 8. A new section of the Charter Schools Act is  
24 enacted to read:

25 "[NEW MATERIAL] PUBLIC STATUS-- ACCREDITATION-- RULES. --

SEC/SB 60

1           A. A charter school shall be a public school and is  
2 part of the state's system of public education.

3           B. A charter school shall be nonsectarian in its  
4 programs, admissions policies, employment practices and  
5 operations and shall have no religious affiliation.

6           C. A charter school that is approved by the local  
7 school board shall be accountable to the local school board for  
8 meeting the performance goals agreed upon in its charter. A  
9 charter school that is approved by the state board shall be  
10 accountable to the state board for meeting the performance goals  
11 agreed upon in its charter.

12           D. A charter school shall not charge tuition or fees,  
13 except those fees normally charged by other public schools. A  
14 charter school may accept gifts, donations or grants of any kind  
15 and spend the funds under conditions prescribed by the donor,  
16 unless the gift, donation or grant is subject to any condition  
17 contrary to law or to the terms of the contract between the  
18 charter school and the local school board.

19           E. A charter school shall comply with rules promulgated  
20 by the state department of public education and by the children,  
21 youth and families department that deal with health, safety and  
22 civil rights. A charter school shall not be required to comply  
23 with other rules that apply to other public schools, local school  
24 boards or school districts.

25           F. A charter school shall have an annual financial

1 audit by an independent accounting firm, which shall be conducted  
2 in accordance with generally accepted accounting principles.

3 G. A charter school shall ensure that  
4 transportation is not a barrier to equal access for all students  
5 residing within the attendance area as defined in its charter.

6 H. Transportation costs of students in grades  
7 kindergarten through twelve attending a charter school and  
8 residing in the defined attendance area for that school and of  
9 three- and four-year-old children who meet the state board  
10 approved criteria and definition of developmentally disabled  
11 shall be included in any and all reports, submissions and  
12 calculations by the charter school to the state transportation  
13 director and the superintendent of public instruction for the  
14 purpose of developing an appropriate transportation system for  
15 the charter school and receiving payments from the transportation  
16 distribution of the public school fund as provided in Sections  
17 22-8-26 through 22-8-30 NMSA 1978 and Sections 22-16-1 through  
18 22-16-11 NMSA 1978.

19 I. A charter school may contract with the school  
20 district to participate in the school district transportation  
21 system.

22 J. If the local school board is providing programs or  
23 services to students funded by federal funds, an eligible student  
24 enrolled in a charter school in that school district shall be  
25 provided federal funds for the same level of service provided to

. 122793. 3

1 a student in other public schools operated by the local school  
2 board.

3 K. Any administrative fee charged by the school  
4 district relating to a charter school shall be limited to no more  
5 than the actual cost of administering the contract between the  
6 charter school and the school district or five percent of the  
7 state equalization guarantee distribution for students attending  
8 the charter school, whichever is less.

9 L. One hundred percent of all federal funds, other  
10 state funds, gifts, donations or other funds for which the  
11 charter school or students attending the charter school are  
12 eligible shall be received and administered by the charter  
13 school, which may contract with a school district to administer  
14 these funds.

15 M A charter school may contract with a school district  
16 to provide other administrative, educational or support services,  
17 including personnel and benefits management, financial management  
18 and maintenance.

19 N. A charter school shall comply with the provisions of  
20 Section 22-1-6 NMSA 1978.

21 O. A charter school shall be accredited by the state  
22 board.

23 P. A charter school that has been in existence fewer  
24 than two academic years must apply for accreditation upon  
25 approval of its charter and acceptance of students with an

1 anticipated date of accreditation of not later than the end of  
2 the second academic year during which the school has accepted  
3 students.

4 Q. A charter school may request a waiver of the state  
5 department of public education accreditation standards from the  
6 state board. The state board must have good cause to deny the  
7 request.

8 R. Charter schools shall not be used as a method of  
9 providing education or generating revenue for students who are  
10 being home schooled, except that parents who home school their  
11 children shall not be prohibited from participation in the  
12 formation of or enrolling their children in charter schools in  
13 accordance with the Charter Schools Act.

14 S. Academic credits earned by a student at a charter  
15 school shall be transferable to a public school.

16 T. A charter school is a legal entity and may contract,  
17 sue or be sued.

18 U. A charter school shall comply with the provisions of  
19 Section 22-10-3.3 NMSA 1978. "

20 Section 9. A new section of the Charter Schools Act is  
21 enacted to read:

22 "[NEW MATERIAL] CREATION OF THE CHARTER. --

23 A. The charter shall contain a list of the major issues  
24 that will face the proposed charter school.

25 B. The charter shall be signed by the governing body of

. 122793. 3

1 the charter school and the chartering authority, following a  
2 public hearing to ensure community input.

3 C. The charter shall address the following criteria for  
4 approval:

5 (1) the charter school's mission;

6 (2) a description of the student population that  
7 will be served, including the ages and grades of the students;

8 (3) a comprehensive plan for implementing an  
9 alternative educational curriculum at the school, including a  
10 description of the charter school's educational program;  
11 mechanisms to ensure that effective school characteristics are  
12 present, promoted and improved upon; student performance  
13 standards of achievement and the method of measurement that will  
14 be used; and student assessment tools to identify educational  
15 strengths and needs;

16 (4) evidence that an adequate number of parents,  
17 teachers or pupils support the formation of a charter school; and

18 (5) a detailed description of the proposed  
19 governance structure of the charter school, including:

20 (a) the structure of the governing body of the  
21 charter school, which must include the direct involvement of the  
22 parents of students enrolled in the school, educational  
23 professionals employed in the school and the community at large;

24 (b) methods for resolving disputes between the  
25 governing body and the school district;

1 (c) admissions procedures and dismissal  
2 procedures;

3 (d) documentation that a charter school will  
4 provide group health insurance and other risk-related coverage  
5 pursuant to the Public School Insurance Authority Act;

6 (e) a detailed description of the financial  
7 and administrative management of the school;

8 (f) the term of the charter, including  
9 provisions for cancellation of the charter if insufficient  
10 progress has been made in attaining the student achievement  
11 objectives and if it is not likely that such objectives can be  
12 met before expiration of the charter or if other provisions of  
13 the Charter Schools Act have not been met;

14 (g) a description of facilities intended to be  
15 used and their location;

16 (h) a detailed description of the  
17 qualifications to be required of the teachers;

18 (i) a timetable for implementing the charter;  
19 and

20 (j) a detailed description of the alternative  
21 arrangements for students and teachers enrolled or employed in an  
22 existing public school that is converting to a charter school if  
23 they do not choose to attend or teach in the charter school.

24 D. A charter may be renewed in increments of five,  
25 seven or ten years by mutual agreement of the parties.

. 122793. 3

1 E. A charter may be modified or amended with the  
2 approval of both parties to the agreement."

3 Section 10. A new section of the Charter Schools Act is  
4 enacted to read:

5 "[NEW MATERIAL] FINANCING. --

6 A. The amount of state support that follows the  
7 eligible student to a charter school shall be computed by  
8 applying the equalization formula components pursuant to the  
9 Public School Finance Act, including the size adjustment for the  
10 school district and school in which the student enrolls.

11 B. Money shall be distributed through the state  
12 department of public education in the school districts to the  
13 charter schools."

14 Section 11. A new section of the Charter Schools Act is  
15 enacted to read:

16 "[NEW MATERIAL] HIRING PRACTICES--EMPLOYEES. --

17 A. A charter school shall hire its own employees.

18 B. A person who is employed by a charter school and who  
19 was previously an employee at a school within a district that  
20 becomes a charter school shall be considered to be on a leave of  
21 absence from the school district. The leave of absence shall  
22 commence on the initial date of employment for the charter  
23 school. The agreement to grant a leave of absence shall be  
24 granted absent good cause.

25 C. During the period of time that an employee is on a

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1 leave of absence from the school district and is actively  
 2 employed by the charter school, the employee shall retain with  
 3 the school district all benefits accrued on the basis of years of  
 4 service. Upon return to active service with the school district,  
 5 the employee shall be placed on the salary schedule as if there  
 6 was no break in service.

7 D. A leave of absence shall not be considered a break  
 8 in service with the school district with which the employee was  
 9 previously employed.

10 E. An employee who is on a leave of absence and  
 11 actively employed at a charter school and who submits an  
 12 employment application to the school district where the employee  
 13 was employed immediately prior to employment in the charter  
 14 school shall be given employment preference by the school  
 15 district if:

16 (1) the employee's notice of intent to return is  
 17 submitted to the school district; and

18 (2) a suitable position is available in the school  
 19 district.

20 F. A charter school may decline to re-employ a teacher  
 21 with less than three years of consecutive service in the same  
 22 classification for any reason it deems sufficient. Upon the  
 23 request of the teacher, the charter school shall provide written  
 24 reasons for the decision to terminate. The reasons shall be  
 25 provided within ten working days of the request. The reasons

1 shall not be publicly disclosed by the charter school. The  
2 reasons shall not provide the basis for contesting the decision  
3 pursuant to the Charter Schools Act.

4 G. An employee of a charter school who has been  
5 employed longer than three consecutive years by a charter school  
6 who receives notice of termination or intent not to reemploy may  
7 appeal the decision within five working days of service of  
8 written notice of termination or intent not to reemploy. An  
9 employee of a charter school may make a written request for an  
10 appeal to the governing board of the charter school.

11 H. The written request shall specify the grounds on  
12 which it is contended that the decision to terminate or not  
13 reemploy is without just cause and shall include a statement of  
14 the facts that the employee believes support his contention.

15 I. The governing board of the charter school shall meet  
16 to hear the employee's statement in no less than five and no more  
17 than fifteen working days after the governing board receives the  
18 statement.

19 J. The governing board shall notify the employee of its  
20 decision in writing within five working days of the conclusion of  
21 the meeting.

22 K. An employee who is still aggrieved by a decision of  
23 the governing board of the charter school may give written notice  
24 of his intent to appeal the decision to an independent  
25 arbitration board within five working days of receipt of the

1 decision of the governing board.

2 L. Within fifteen working days of receipt of the notice  
3 of appeal to an independent arbitration board, a board shall be  
4 formed made up of one person chosen by the employee, one person  
5 chosen by the governing board of the charter school and a third  
6 person chosen by the employee and the governing board.

7 M. Not more than fifteen working days from filing the  
8 written notice of intent to appeal, the employee shall submit a  
9 written statement of the facts and specify the grounds on which  
10 it is contended that the decision of the governing board was in  
11 error.

12 N. Not more than fifteen working days from receipt of  
13 the written notice of intent to appeal the decision of the  
14 governing board, the governing board shall submit a written  
15 statement of the facts and the basis for its decision to the  
16 independent arbitration board.

17 O. The independent arbitration board shall meet with  
18 the employee and the governing board not more than fifteen days  
19 after having received the written statement of both parties.

20 P. The independent arbitration board shall render its  
21 decision in writing not more than five working days from the  
22 meeting with the employee and the governing board. The decision  
23 of the independent arbitration board shall be final.

24 Q. Employees of a charter school shall have the  
25 right to organize and bargain collectively with the governing

. 122793. 3

1 board of the charter school. The governing board and the  
2 employees' exclusive representative shall bargain in good faith."

3 Section 12. A new section of the Charter Schools Act is  
4 enacted to read:

5 "[NEW MATERIAL] CHARTER SCHOOLS STIMULUS FUND. --

6 A. The "charter schools stimulus fund" is created in  
7 the state treasury to provide financial support to charter school  
8 applicants and charter schools that are not existing public  
9 schools for start-up costs and costs associated with renovating  
10 or remodeling existing buildings and structures. The fund shall  
11 consist of money appropriated by the legislature and grants,  
12 gifts, devises and donations from any public or private source.  
13 Money in the fund shall not revert at the end of a fiscal year.  
14 The state department of public education shall administer the  
15 fund, and money in the fund is appropriated to the department.

16 B. The state board shall adopt rules to implement the  
17 provisions of this section. Money in the fund shall be  
18 distributed to qualifying charter school applicants and charter  
19 schools as follows:

20 (1) a qualifying charter school may be awarded an  
21 initial grant of up to one hundred thousand dollars (\$100,000)  
22 during or before the first year of the charter school's  
23 operation. If the charter school or charter school applicant  
24 receives an initial grant and fails to begin operating a charter  
25 school within the next eighteen months, the charter school or

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1 charter school applicant shall immediately reimburse the state  
 2 department of public education for the amount of the grant plus  
 3 interest calculated at a rate of ten percent per year; and

4 (2) charter schools or applicants for charter  
 5 schools that receive an initial grant may apply for an additional  
 6 grant of up to fifty thousand dollars (\$50,000) during or after  
 7 the first year of the charter school's operation. If a charter  
 8 school or charter school applicant receives an additional grant  
 9 and fails to begin operating a charter school within the next  
 10 eighteen months, the applicant shall immediately reimburse the  
 11 state department of public education for the amount of the grant  
 12 plus interest calculated at a rate of ten percent per year. "

13 Section 13. A new section of the Charter Schools Act is  
 14 enacted to read:

15 "[NEW MATERIAL] AVAILABLE DISTRICT SPACE. -- Charter schools  
 16 may request the use of vacant or available school district  
 17 facilities. Use of the facilities must be permitted by the  
 18 school district at no rental cost to the charter school, subject  
 19 to any reasonable consideration for the health, safety or comfort  
 20 of the students. "

21 Section 14. A new section of the Charter Schools Act is  
 22 enacted to read:

23 "[NEW MATERIAL] INFORMATION. -- The state department of public  
 24 education shall embark on a public awareness campaign through the  
 25 school districts and the media to inform the public about how to

SEC/SB 60

1 form and operate a charter school and how to enroll in charter  
2 schools once they are created. "

3 Section 15. A new section of the Charter Schools Act is  
4 enacted to read:

5 "[NEW MATERIAL] EXEMPTION. --Charter schools established  
6 prior to January 1, 1998 shall continue to be governed by the  
7 provisions of their charters and the law in effect at the time  
8 their charters were established unless otherwise agreed by the  
9 charter school and a chartering authority. Charters in existence  
10 prior to January 1, 1998 may be extended without modification as  
11 provided in the original charter and the law in effect at the  
12 time the charter was established. "

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

15 "[NEW MATERIAL] EVALUATION. --The state department of public  
16 education shall evaluate the implementation of the Charter  
17 Schools Act and make a comprehensive report to the legislative  
18 education study committee on charter schools in New Mexico not  
19 later than November 1, 2001. This report shall include  
20 information on the types of students served, parent satisfaction  
21 at charter schools, student achievement, dropout rates,  
22 attendance rates and descriptions of the sizes, types and  
23 educational programs provided at the charter schools. "

24 Section 17. Section 13-1-99 NMSA 1978 (being Laws 1984,  
25 Chapter 65, Section 72, as amended) is amended to read:

. 122793. 3

1           "13-1-99. EXCLUDED FROM CENTRAL PURCHASING THROUGH THE  
2 STATE PURCHASING AGENT. -- Excluded from the requirement of  
3 procurement through the state purchasing agent but not from the  
4 requirements of the Procurement Code are the following:

- 5           A. procurement of professional services;
- 6           B. small purchases having a value not exceeding two  
7 hundred fifty dollars (\$250);
- 8           C. emergency procurement;
- 9           D. procurement of highway construction or  
10 reconstruction by the state highway and transportation  
11 department;
- 12           E. procurement by the judicial branch of state  
13 government;
- 14           F. procurement by the legislative branch of state  
15 government;
- 16           G. procurement by the boards of regents of state  
17 educational institutions named in Article 12, Section 11 of the  
18 constitution of New Mexico;
- 19           H. procurement of information processing resources  
20 procured through the [~~commission~~] office on information and  
21 ~~communication management~~;
- 22           I. procurement by the state fair commission of tangible  
23 personal property, services and construction under five thousand  
24 dollars (\$5,000);
- 25           J. purchases from the instructional material fund;

. 122793. 3

SEC/SB 60

- 1 K. procurement by all local public bodies;
- 2 L. procurement by regional education cooperatives;
- 3 [~~and~~]
- 4 M procurement by each state health care institution
- 5 that provides direct patient care and that is, or a part of which
- 6 is, medicaid certified and participating in the New Mexico
- 7 medicaid program; and
- 8 N. procurement by charter schools. "

9 Section 18. Section 22-2-6.3 NMSA 1978 (being Laws 1986,  
10 Chapter 94, Section 3, as amended) is amended to read:

11 "22-2-6.3. DEFINITIONS.--As used in the Public School  
12 Insurance Authority Act:

13 A. "authority" means the public school insurance  
14 authority;

15 B. "board" means the board of directors of the public  
16 school insurance authority;

17 C. "director" means the director of the public school  
18 insurance authority;

19 D. "educational entities" means state educational  
20 institutions as enumerated in Article 12, Section 11 of the  
21 constitution of New Mexico and other state diploma, degree-  
22 granting and certificate-granting post-secondary educational  
23 institutions and charter schools;

24 E. "fund" means the public school insurance fund;

25 F. "group health insurance" means coverage [~~which~~] that

. 122793. 3

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1 includes but is not limited to life insurance, accidental death  
2 and dismemberment, medical care and treatment, dental care, eye  
3 care and other coverages as determined by the authority;

4 G. "risk-related coverage" means coverage [~~which~~] that  
5 includes but is not limited to property and casualty, general  
6 liability, auto and fleet, [~~workmen's~~] workers' compensation and  
7 other casualty insurance; and

8 H. "school district" means a school district as defined  
9 in Subsection [~~J~~] K of Section 22-1-2 NMSA 1978, excluding any  
10 school district with a student enrollment in excess of sixty  
11 thousand students. "

12 Section 19. Section 22-11-2 NMSA 1978 (being Laws 1967,  
13 Chapter 16, Section 126, as amended) is amended to read:

14 "22-11-2. DEFINITIONS.--As used in the Educational  
15 Retirement Act:

16 A. "member" means any employee, except for a  
17 participant coming within the provisions of the Educational  
18 Retirement Act;

19 B. "regular member" means:

20 (1) a person regularly employed as a teaching,  
21 nursing or administrative employee of a state educational  
22 institution, except for:

23 (a) a participant; or

24 (b) all employees of a general hospital or  
25 outpatient clinics thereof operated by a state educational

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SEC/SB 60

1 institution named in Article 12, Section 11 of the constitution  
2 of New Mexico;

3 (2) a person regularly employed as a teaching,  
4 nursing or administrative employee of a junior college or  
5 community college created pursuant to Chapter 21, Article 13 NMSA  
6 1978;

7 (3) a person regularly employed as a teaching,  
8 nursing or administrative employee of a technical and vocational  
9 institute created pursuant to the Technical and Vocational  
10 Institute Act;

11 (4) a person regularly employed as a teaching,  
12 nursing or administrative employee of the New Mexico boys'  
13 school, the New Mexico girls' school, the Los Lunas medical  
14 center or a school district or as a certified school instructor  
15 of a state institution or agency providing an educational program  
16 and holding a standard or substandard certificate issued by the  
17 state board;

18 (5) a person regularly employed by the department  
19 of education or the board holding a standard or substandard  
20 certificate issued by the state board at the time of commencement  
21 of such employment;

22 (6) a member classified as a regular member in  
23 accordance with the regulations of the board;

24 (7) a person regularly employed by the New Mexico  
25 activities association holding a standard certificate issued by

1 the state board at the time of commencement of such employment;

2 [~~or~~]

3 (8) a person regularly employed by a regional  
4 education cooperative holding a standard certificate issued by  
5 the state board at the time of commencement of such employment;

6 or

7 (9) a person regularly employed by a charter  
8 school;

9 C. "provisional member" means a person not eligible to  
10 be a regular member but who is employed by a local administrative  
11 unit designated in Subsection B of this section; provided,  
12 however, that employees of a general hospital or outpatient  
13 clinics thereof operated by a state educational institution named  
14 in Article 12, Section 11 of the constitution of New Mexico are  
15 not provisional members;

16 D. "local administrative unit" means an employing  
17 agency however constituted that is directly responsible for the  
18 payment of compensation for the employment of members or  
19 participants;

20 E. "beneficiary" means a person having an insurable  
21 interest in the life of a member or a participant designated by  
22 written instrument duly executed by the member or participant and  
23 filed with the director to receive a benefit pursuant to the  
24 Educational Retirement Act that may be received by someone other  
25 than the member or participant;

. 122793. 3

1           F. "employment" means employment by a local  
2 administrative unit that qualifies a person to be a member or  
3 participant;

4           G. "service employment" means employment that qualifies  
5 a person to be a regular member;

6           H. "provisional service employment" means employment  
7 that qualifies a person to be a provisional member;

8           I. "prior employment" means employment performed prior  
9 to the effective date of the Educational Retirement Act that  
10 would be service employment or provisional service employment if  
11 performed thereafter;

12           J. "service credit" means that period of time with  
13 which a member is accredited for the purpose of determining his  
14 eligibility for and computation of retirement or disability  
15 benefits;

16           K. "earned service credit" means that period of time  
17 during which a member was engaged in employment or prior  
18 employment with which he is accredited for the purpose of  
19 determining his eligibility for retirement or disability  
20 benefits;

21           L. "allowed service credit" means that period of time  
22 during which a member has performed certain nonservice employment  
23 with which he may be accredited, as provided in the Educational  
24 Retirement Act, for the purpose of computing retirement or  
25 disability benefits;

1 M "retirement benefit" means an annuity paid monthly  
2 to members whose employment has been terminated by reason of  
3 their age;

4 N. "disability benefit" means an annuity paid monthly  
5 to members whose employment has been terminated by reason of a  
6 disability;

7 O. "board" means the educational retirement board;

8 P. "fund" means the educational retirement fund;

9 Q. "director" means the educational retirement  
10 director;

11 R. "medical authority" means a medical doctor within  
12 the state or as provided in Subsection D of Section 22-11-36 NMSA  
13 1978 either designated or employed by the board to examine and  
14 report on the physical condition of applicants for or recipients  
15 of disability benefits;

16 S. "actuary" means a person trained and regularly  
17 engaged in the occupation of calculating present and projected  
18 monetary assets and liabilities under annuity or insurance  
19 programs;

20 T. "actuarial equivalent" means a sum paid as a  
21 current or deferred benefit that is equal in value to a regular  
22 benefit, computed upon the basis of interest rates and mortality  
23 tables;

24 U. "contributory employment" means employment for which  
25 contributions have been made by both a member and a local

1 administrative unit pursuant to the Educational Retirement Act;

2 V. "qualifying state educational institution" means the  
3 university of New Mexico, New Mexico state university, New Mexico  
4 institute of mining and technology, New Mexico highlands  
5 university, eastern New Mexico university and western New Mexico  
6 university;

7 W. "participant" means:

8 (1) a person regularly employed as a faculty or  
9 professional employee of a qualifying state educational  
10 institution who first becomes employed with such an educational  
11 institution on or after July 1, 1991 and who elects, pursuant to  
12 Section 22-11-47 NMSA 1978, to participate in the alternative  
13 retirement plan; and

14 (2) a person regularly employed who performs  
15 research or other services pursuant to a contract between a  
16 qualifying state educational institution and the United States  
17 government or any of its agencies who elects, pursuant to Section  
18 22-11-47 NMSA 1978, to participate in the alternative retirement  
19 plan, provided that the research or other services are performed  
20 outside the state;

21 X. "salary" means the compensation or wages paid to a  
22 member or participant by any local administrative unit for  
23 services rendered; and

24 Y. "alternative retirement plan" means the retirement  
25 plan provided for in Sections 22-11-47 through 22-11-52 NMSA

1 1978. "

2 Section 20. Section 22-11-19 NMSA 1978 (being Laws 1967,  
3 Chapter 16, Section 142, as amended) is amended to read:

4 "22-11-19. REGULAR OR PROVISIONAL MEMBERSHIP-- OPTIONAL  
5 COVERAGE. --

6 A. Any person qualified to be a regular or provisional  
7 member covered by a retirement program established for federal  
8 civil service employees shall have six months after the  
9 commencement of employment to file a written notice with the  
10 director of his election not to be covered by the Educational  
11 Retirement Act. If the person so elects, he may withdraw any  
12 contributions made pursuant to the Educational Retirement Act.

13 B. Any person qualified to be a regular or provisional  
14 member and who was employed by a regional education cooperative  
15 on July 1, 1993 shall have the right to exempt himself from  
16 Educational Retirement Act coverage within thirty days, and such  
17 exemption shall be irrevocable as long as the person is employed  
18 by a regional cooperative.

19 C. Any person qualified to be a regular or provisional  
20 member and who was employed by a charter school shall have the  
21 right to exempt himself from Educational Retirement Act coverage  
22 within thirty days of hire, and such exemption shall be  
23 irrevocable as long as the person is employed by a charter  
24 school. "

25 Section 21. Section 22-11-19.2 NMSA 1978 (being Laws 1993,  
. 122793. 3

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Chapter 232, Section 9) is amended to read:

"22-11-19.2. REGULAR OR PROVISIONAL MEMBERSHIP-- REGIONAL EDUCATION COOPERATIVES AND CHARTER SCHOOLS. -- Any person employed by a regional education cooperative and qualified to be a regular or provisional member shall have the right to acquire earned service credit for periods of employment with the regional education cooperative or charter school when the member was neither covered nor retired under the Educational Retirement Act, under the following conditions:

A. both the member and the administrative unit contributions, at the rates in effect during the periods of employment and applied to earnings of the member during such periods, are paid to the fund, together with interest, at a rate equal to the board's actuarial earnings assumption rate at the time of purchase;

B. both member and administrative unit contributions, together with interest, are paid by the member; or

C. the member tenders payment of his contributions, together with interest, and the local administrative unit by which he was employed may, but shall not be obligated to, pay the administrative unit contributions, together with interest."

Section 22. REPEAL. -- Sections 22-8A-4 through 22-8A-7 NMSA 1978 (being Laws 1993, Chapter 227, Sections 4 through 7) are repealed.

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FORTY-THIRD LEGISLATURE  
SECOND SESSION, 1998

February 13, 1998

Mr. President:

Your FINANCE COMMITTEE, to whom has been referred

SENATE EDUCATION COMMITTEE SUBSTITUTE FOR  
SENATE BILL 60

has had it under consideration and reports same WITHOUT  
RECOMMENDATION.

Respectfully submitted,

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SEC/SB 60

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Ben D. Altami rano, Chair man

Adopted \_\_\_\_\_ Not Adopted \_\_\_\_\_  
(Chi ef Clerk) (Chi ef Clerk)

Date \_\_\_\_\_

The roll call vote was 6 For 1 Against

Yes: 6

No: Eisenstadt

Excused: Aragon, Campos, Carraro, Ingle

Absent: None

S0060FC1

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