

AN ACT  
RELATING TO EDUCATION; ENACTING THE 1999 CHARTER SCHOOLS  
ACT; PROVIDING FOR THE ESTABLISHMENT AND OPERATION OF  
CHARTER SCHOOLS; AMENDING, REPEALING AND ENACTING SECTIONS  
OF THE NMSA 1978.

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

Section 1. A new section of the Public School Code is enacted to read:

"SHORT TITLE.--Sections 1 through 15 of this act may be cited as the "1999 Charter Schools Act"."

Section 2. A new section of the Public School Code is enacted to read:

"DEFINITIONS.--As used in the 1999 Charter Schools Act:

A. "charter school" means a conversion school or start-up school within a school district authorized by the local school board to operate as a charter school;

B. "conversion school" means an existing public school within a school district authorized by the local school board to become a charter school;

C. "governing body" means the governing structure of a charter school as set forth in the school's charter;  
and

D. "start-up school" means a public school developed by one or more parents, teachers or community members authorized by the local school board of the school district in which the school is located to become a charter school."

Section 3. A new section of the Public School Code is enacted to read:

"PURPOSE.--The 1999 Charter Schools Act is enacted to enable individual schools to restructure their educational curriculum to encourage the use of different and innovative teaching methods that are based on reliable research and effective practices or have been replicated successfully in schools with diverse characteristics; to allow the development of different and innovative forms of measuring student learning and achievement; to address the needs of all students, including those determined to be at risk; to create new professional opportunities for teachers, including the opportunity to be responsible for the learning program at the school site; to improve student achievement; to provide parents and students with an educational alternative to create new, innovative and more flexible ways of educating children within the public school system; to encourage parental and community involvement in the public school system; to develop and use site-based budgeting; and to hold charter schools accountable for meeting state board minimum educational standards and fiscal requirements."

Section 4. A new section of the Public School Code is enacted to read:

"CHARTER SCHOOLS' RIGHTS AND RESPONSIBILITIES--  
OPERATION.--

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

B. Notwithstanding the provisions of Section 22-1-4 NMSA 1978, a start-up school shall enroll students on

a first-come, first-served basis; thereafter, a start-up school shall establish a waiting list starting with priorities on a first-come, first-served basis. As classroom space becomes available, persons highest on the waiting list shall be notified and given the opportunity to enroll.

C. A charter school shall be administered and governed by a governing body in the manner set forth in the charter.

D. A charter school shall be responsible for its own operation, including preparation of a budget, contracting for services and personnel matters.

E. A charter school may negotiate or contract with a local school district, a university or college or any third party for the use of a facility, its operation and maintenance, and the provision of any service or activity that the charter school is required to perform in order to carry out the educational program described in its charter.

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

G. A charter school may negotiate with a local school district to provide transportation to students eligible for transportation under the provisions of the Public School Code.

H. A charter school may negotiate with a local school district for capital expenditures.

I. A charter school shall be a nonsectarian, nonreligious and non-home-based public school that operates within a public school district.

J. Except as otherwise provided in the Public School Code, a charter school shall not charge tuition or have admission requirements.

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

L. A charter school may acquire, pledge and dispose of property; provided that upon termination of the charter, all assets of the charter school shall revert to the local school board that authorized the charter.

M. A charter school may accept or reject any charitable gift, grant, devise or bequest; provided that no such gift, grant, devise or bequest shall be accepted if subject to any condition contrary to law or to the terms of the charter. The particular gift, grant, devise or bequest shall be considered an asset of the charter school to which it is given.

N. A charter school may contract, sue or be sued. A local school board that approves a charter school shall not be liable for any acts or omissions of the charter school.

O. A charter school shall comply with all state and federal health and safety requirements applicable to public schools."

Section 5. A new section of the Public School Code is enacted to read:

"CHARTER SCHOOLS--LOCAL SCHOOL BOARD AUTHORITY--STATE BOARD AUTHORITY.--

A. The local school board may waive only locally imposed school district requirements.

B. The state board shall waive requirements relating to individual class load and teaching load, length of the school day, staffing patterns, subject areas and the purchase of instructional material. The state board may waive state board requirements or rules and provisions of the Public School Code pertaining to graduation requirements, evaluation standards for school personnel, school principal duties and driver education. Any waivers granted pursuant to this section shall be for the term of the charter granted.

C. A charter school shall be a public school, accredited by the state board and shall be accountable to the school district's local school board for purposes of ensuring compliance with applicable laws, rules and charter provisions.

D. No local school board shall require any employee of the school district to be employed in a charter school.

E. No local school board shall require any student residing within the geographic boundary of its district to enroll in a charter school.

F. A student who is suspended or expelled from a charter school shall be deemed to be suspended or expelled from the school district in which the student resides."

Section 6. A new section of the Public School Code is enacted to read:

"CHARTER SCHOOL REQUIREMENTS--APPLICATION PROCESS--  
AUTHORIZATION.--

A. The local school board shall have the authority to approve the establishment of a charter school within the local school district in which it is located.

B. A charter school applicant shall apply to a local school board for a charter. An applicant shall only submit an application in the district in which the school is located. Applications shall be submitted by October 1 to be eligible for consideration for the following school year. The October 1 deadline may be waived upon agreement of the applicant and the local school board.

C. An application for a start-up school may be made by one or more teachers, parents or community members.

D. An application for a conversion school shall include a petition of support signed by not less than sixty-five percent of the employees in the school. Additionally, a petition in support of the charter school signed by a majority of the households whose children are enrolled in a proposed conversion school must accompany the application.

E. The local school board shall receive and review all applications for charter schools. The local school board shall not charge application fees. If the board finds the charter school application is incomplete, the board shall request the necessary information from the charter applicant.

F. The local school board shall hold at least one meeting to obtain information and community input to assist the local school board in its decision whether to grant a charter school application. The local school board shall

rule on the application for a charter school in a public meeting within sixty days after receiving the application. If not ruled upon within sixty days, the charter application will be automatically reviewed by the state board in accordance with the provisions of Section 7 of the 1999 Charter Schools Act. The charter applicant and the local school board may, however, jointly waive the deadlines set forth in this section.

G. If the local school board denies a charter school application or imposes conditions that are unacceptable to the charter applicant, the charter applicant may appeal the decision to the state board pursuant to Section 7 of the 1999 Charter Schools Act.

H. If a local school board denies a charter school application, it shall state its reasons for the denial. If a local school board grants a charter, it shall send a copy of the approved charter to the department of education within fifteen days after granting the charter."

Section 7. A new section of the Public School Code is enacted to read:

"CHARTER SCHOOL APPLICATION APPEAL--PROCEDURES.--

A. The state board, upon receipt of a notice of appeal or upon its own motion, shall review decisions of any local school board concerning charter schools in accordance with the provisions of this section.

B. A charter applicant or governing body of a charter school that wishes to appeal a decision of a local school board concerning the denial, nonrenewal or revocation of a charter school or the imposition of conditions that are unacceptable to the charter school or charter school

applicant shall provide the state board with a notice of appeal within thirty days after the local school board's decision. The charter school applicant or governing body of the charter school bringing the appeal shall limit the grounds of the appeal to the grounds for denial, nonrenewal or revocation specified by the local school board. The notice shall include a brief statement of the reasons the charter school applicant contends the local school board's decision was in error. The appeal and review process shall be as follows:

(1) within sixty days after receipt of the notice of appeal, the state board, at a public hearing that may be held in the school district in which the proposed charter school has applied for a charter, shall review the decision of the local school board and make its findings. If the state board finds that the local school board's decision was contrary to the best interests of the students, school district or community, the state board shall remand the decision to the local school board with written instructions for approval of the charter. The instructions shall include specific recommendations concerning approval of the charter. The decision of the state board shall be final and not subject to appeal; and

(2) within thirty days following the remand of a decision by the state board, the local school board, at a public hearing, shall approve the charter.

C. The state board, on its own motion, may review a local school board's decision to grant a charter. Within sixty days after the making of a motion to review by the state board, the board, at a public hearing that may be held



in the district in which the proposed charter school has applied for a charter, shall review the decision of the local school board and determine whether the decision was arbitrary and capricious or whether the establishment or operation of the proposed charter school would:

- (1) violate any federal or state laws concerning civil rights;
- (2) violate any court order;
- (3) threaten the health and safety of students within the school district; or
- (4) violate the provisions of Section 11 of the 1999 Charter Schools Act, prescribing the permissible number of charter schools.

D. If the state board determines that the charter would violate the provisions set forth in Subsection C of this section, the state board shall remand the decision to the local school board with instructions to deny the charter application. The state board may extend the time lines established in this section for good cause. The decision of the state board shall be final and not subject to appeal."

Section 8. A new section of the Public School Code is enacted to read:

"CHARTER APPLICATION--CONTENTS.--The charter school application, whether for a start-up school or a conversion school, shall be a proposed agreement between the local school board and the charter school and shall include:

- A. the mission statement of the charter school;
- B. the goals, objectives and student performance standards to be achieved by the charter school;
- C. a description of the charter school's

educational program, student performance standards and curriculum that must meet or exceed the state board of education's educational standards and must be designed to enable each student to achieve those standards;

D. a description of the way a charter school's educational program will meet the individual needs of the students, including those students determined to be at risk;

E. a description of the charter school's plan for evaluating student performance, the types of assessments that will be used to measure student progress toward achievement of the state's standards and the school's student performance standards, the time line for achievement of the standards and the procedures for taking corrective action in the event that student performance falls below the standards;

F. evidence that the plan for the charter school is economically sound, including a proposed budget for the term of the charter and a description of the manner in which the annual audit of the financial and administrative operations of the charter school is to be conducted;

G. evidence that the fiscal management of the charter school complies with all applicable federal and state laws and regulations relative to fiscal procedures;

H. evidence of a plan for the displacement of students, teachers and other employees who will not attend or be employed in the conversion school;

I. a description of the governing body and operation of the charter school, including how the governing body will be selected, the nature and extent of parental, professional educator and community involvement in the

governance and operation of the school and the relationship between the governing body and the local school board;

J. an explanation of the relationship that will exist between the proposed charter school and its employees, including evidence that the terms and conditions of employment will be addressed with affected employees and their recognized representatives, if any;

K. the employment and student discipline policies of the proposed charter school;

L. an agreement between the charter school and the local school board regarding their respective legal liability and applicable insurance coverage;

M. a description of how the charter school plans to meet the transportation and food service needs of its students;

N. a description of the waivers that the charter school is requesting from the local school board and the state board and the charter school's plan for addressing these waiver requests;

O. a description of the facilities the charter school plans to use; and

P. any other information reasonably required by the local school board."

Section 9. A new section of the Public School Code is enacted to read:

"CHARTER SCHOOL--CONTRACT CONTENTS--RULES.--

A. An approved charter application shall be a contract between the charter school and the local school board.

B. The contract between the charter school and

the local school board shall reflect all agreements regarding the release of the charter school from school district policies.

C. The contract between the charter school and the local school board shall reflect all requests for release of the charter school from state board rules or the Public School Code. Within ten days after the contract is approved by the local school board, any request for release from state board rules or the Public School Code shall be delivered by the local school board to the state board. If the state board grants the request, it shall notify the local school board and the charter school of its decision. If the state board denies the request, it shall notify the local school board and the charter school that the request is denied and specify the reasons for denial.

D. Upon approval of the charter by the local school board, the charter school shall be waived from the Public School Code provisions relating to individual class load and teaching load requirements, length of school day, staffing patterns, subject areas and purchase of instructional materials.

E. The charter school shall participate in the public school insurance authority.

F. Any revision or amendment to the terms of the contract may be made only with the approval of the local school board and the governing body of the charter school.

G. The charter shall include procedures agreed upon by the charter school and the local school board for the resolution of disputes between the charter school and the local school board.

H. The charter shall include procedures that shall be agreed upon by the charter school and the local school board in the event that such board determines that the charter shall be revoked pursuant to the provisions of Section 12 of the 1999 Charter Schools Act."

Section 10. A new section of the Public School Code is enacted to read:

"CHARTER SCHOOLS--EMPLOYEE OPTIONS--HIRING AND FIRING.-

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A. Notwithstanding the provisions of Section 22-5-4 NMSA 1978, a charter school shall hire its own employees. The provisions of the School Personnel Act shall otherwise apply to such employees.

B. An employee of a conversion school who was previously an employee of the school district in which the conversion school is located shall be considered to be on a one-year leave of absence from the school district. The leave of absence shall commence on the initial date of employment for the charter school. Upon request of the employee, the one-year leave of absence shall be renewed for up to two additional one-year periods, absent good cause.

C. The time during which an employee is on a leave of absence shall be counted for longevity credit on the school district's salary schedule.

D. During the period of time that an employee is on a leave of absence from the school district and is actively employed by the charter school, the charter school shall continue the retirement or other benefits previously granted to the employee.

E. A leave of absence shall not be considered a

break in service with the school district with which an employee was previously employed.

F. An employee who is on a leave of absence and actively teaching at a charter school and who submits a notice of intent to return to the school district in which the employee was employed immediately prior to employment in the charter school shall be given employment preference by the school district if:

(1) the employee's notice of intent to return is submitted to the school district within three years after ceasing employment with the school district; and

(2) if the employee is a teacher, a position for which the teacher is certified or is qualified to become certified is available. If the employee is not a teacher, a position for which the employee is qualified is available.

G. An employee who is on leave of absence and employed by a charter school and is discharged or terminated for just cause by the charter school shall be considered discharged or terminated by the school district."

Section 11. A new section of the Public School Code is enacted to read:

"CHARTER SCHOOLS--MAXIMUM NUMBER ESTABLISHED.--

A. Local school boards shall authorize the approval of both conversion and start-up charter schools within their school districts.

B. No more than fifteen start-up schools and five conversion schools may be established per year statewide. The number of charter school slots remaining in that year shall be transferred to succeeding years up to a maximum of

seventy-five start-up schools and twenty-five conversion schools in any five-year period. The state board shall promptly notify the local school board of each school district when the limits set forth in this section have been reached."

Section 12. A new section of the Public School Code is enacted to read:

"CHARTER SCHOOLS--TERM--RENEWAL OF CHARTER--GROUNDS FOR NONRENEWAL OR REVOCATION.--

A. A charter school may be approved for an initial term of five years. A charter may be renewed for successive periods of five years each. Approvals of less than five years can be agreed to between the charter school and the local school board.

B. No later than January 1 of the year prior to the year in which the charter expires, the governing body of a charter school may submit a renewal application to the local school board. The local school board shall rule in a public hearing on the renewal application no later than March 1 of the year in which the charter expires, or on a mutually agreed date.

C. A charter school renewal application submitted to the local school board shall contain:

(1) a report on the progress of the charter school in achieving the goals, objectives, student performance standards, state board minimum educational standards and other terms of the initial approved charter application, including the accountability requirements set forth in Section 22-1-6 NMSA 1978;

(2) a financial statement that discloses

the costs of administration, instruction and other spending categories for the charter school that is understandable to the general public, that will allow comparison of costs to other schools or comparable organizations and that is in a format required by the state board;

(3) contents of the charter application set forth in Section 8 of the 1999 Charter Schools Act;

(4) a petition in support of the charter school renewing its charter status signed by not less than sixty-five percent of the employees in the charter school; and

(5) a petition in support of the charter school renewing its charter status signed by a majority of the households whose children are enrolled in the charter school.

D. A charter may be revoked or not renewed by the local school board if the board determines that the charter school did any of the following:

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

(2) failed to meet or make substantial progress toward achievement of the state board minimum educational standards or student performance standards identified in the charter application;

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

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

E. If a local school board revokes or does not



renew a charter, the local school board shall state in writing its reasons for the revocation or nonrenewal.

F. A decision to revoke or not to renew a charter may be appealed by the governing body of the charter school pursuant to Section 7 of the 1999 Charter Schools Act."

Section 13. A new section of the Public School Code is enacted to read:

"CHARTER SCHOOL FINANCING.--

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

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

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

Section 14. A new section of the Public School Code is enacted to read:

"CHARTER SCHOOLS STIMULUS FUND CREATED.--

A. The "charter schools stimulus fund" is created in the state treasury. Money in the fund is appropriated to the department of education to provide financial support to

charter schools, whether start-up or conversion, for initial start-up costs and initial costs associated with renovating or remodeling existing buildings and structures for expenditure in fiscal year 2000 and subsequent fiscal years. The fund shall consist of money appropriated by the legislature and grants, gifts, devises and donations from any public or private source. The department of education shall administer the fund in accordance with rules adopted by the state board. The department of education may use up to three percent of the fund for administrative costs. Money in the fund shall not revert to the general fund at the end of a fiscal year.

B. If the charter school receives an initial grant and fails to begin operating a charter school within the next eighteen months, the charter school shall immediately reimburse the fund."

Section 15. A new section of the Public School Code is enacted to read:

"CHARTER SCHOOLS--SAVINGS CLAUSE.--The state board may extend for a period of two years the charter of any school for which the state board has granted a charter prior to the effective date of this act. Any further extensions of the charter shall be governed by the provisions of the 1999 Charter Schools Act."

Section 16. Section 13-1-99 NMSA 1978 (being Laws 1984, Chapter 65, Section 72, as amended) is amended to read:

"13-1-99. EXCLUDED FROM CENTRAL PURCHASING THROUGH THE STATE PURCHASING AGENT.--Excluded from the requirement of procurement through the state purchasing agent but not from

the requirements of the Procurement Code are the following:

- A. procurement of professional services;
- B. small purchases having a value not exceeding two hundred fifty dollars (\$250);
- C. emergency procurement;
- D. procurement of highway construction or reconstruction by the state highway and transportation department;
- E. procurement by the judicial branch of state government;
- F. procurement by the legislative branch of state government;
- G. procurement by the boards of regents of state educational institutions named in Article 12, Section 11 of the constitution of New Mexico;
- H. procurement by the state fair commission of tangible personal property, services and construction under five thousand dollars (\$5,000);
- I. purchases from the instructional material fund;
- J. procurement by all local public bodies;
- K. procurement by regional education cooperatives;
- L. procurement by charter schools; and
- M. procurement by each state health care institution that provides direct patient care and that is, or a part of which is, medicaid certified and participating in the New Mexico medicaid program."

Section 17. Section 22-2-6.3 NMSA 1978 (being Laws 1986, Chapter 94, Section 3, as amended) is amended to read:

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

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

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

C. "charter school" means a school organized as a charter school pursuant to the provisions of the 1999 Charter Schools Act;

D. "director" means the director of the public school insurance authority;

E. "educational entities" means state educational institutions as enumerated in Article 12, Section 11 of the constitution of New Mexico and other state diploma, degree-granting and certificate-granting post-secondary educational institutions;

F. "fund" means the public school insurance fund;

G. "group health insurance" means coverage which includes but is not limited to life insurance, accidental death and dismemberment, medical care and treatment, dental care, eye care and other coverages as determined by the authority;

H. "risk-related coverage" means coverage which includes but is not limited to property and casualty, general liability, auto and fleet, workers' compensation and other casualty insurance; and

I. "school district" means a school district as defined in Subsection K of Section 22-1-2 NMSA 1978, excluding any school district with a student enrollment in excess of sixty thousand students."

Section 18. Section 22-2-6.6 NMSA 1978 (being Laws 1986, Chapter 94, Section 6, as amended) is amended to read:

"22-2-6.6. FUND CREATED--BUDGET REVIEW--PREMIUMS.--

A. There is created the "public school insurance fund". All income earned on the fund shall be credited to the fund. The fund is appropriated to the authority to carry out the provisions of the Public School Insurance Authority Act. Any money remaining in the fund at the end of each fiscal year shall not revert to the general fund.

B. The board shall determine which money in the fund constitutes the long-term reserves of the authority. The state investment officer shall invest the long-term reserves of the authority in accordance with the provisions of Sections 6-8-1 through 6-8-16 NMSA 1978. The state treasurer shall invest the money in the fund that does not constitute the long-term reserves of the fund in accordance with the applicable provisions of Chapter 6, Article 10 NMSA 1978.

C. All appropriations shall be subject to budget review through the department of education, the state budget division of the department of finance and administration and the legislative finance committee.

D. The authority shall provide that premiums are collected from school districts and charter schools participating in the authority sufficient to provide the required insurance coverage and to pay the expenses of the authority. All premiums shall be credited to the fund.

E. Any reserves remaining at the termination of an insurance contract shall be disbursed to the individual school districts, charter schools and other participating

entities on a pro rata basis.

F. Disbursements from the fund for purposes other than procuring and paying for insurance or insurance-related services, including but not limited to third-party administration, premiums, claims and cost containment activities, shall be made only upon warrant drawn by the secretary of finance and administration pursuant to vouchers signed by the director or his designee; provided that the chairman of the board may sign vouchers if the position of director is vacant."

Section 19. Section 22-2-6.9 NMSA 1978 (being Laws 1986, Chapter 94, Section 9, as amended) is amended to read:

"22-2-6.9. PARTICIPATION--WAIVERS.--

A. School districts and charter schools shall participate in the authority, unless the school district or charter school is granted a waiver by the board.

B. In determining whether a waiver should be granted, the board shall establish minimum benefit and financial standards for the desired line of coverage. These minimum benefit and financial standards and the proposed time schedule for responsive offers shall be sent to all school districts and charter schools at the time the request for proposals for the desired line of coverage is issued. Any school district or charter school seeking a waiver of coverage shall match the minimum benefit and financial standards set forth in the request for proposals for the desired line of coverage. School districts and charter schools shall submit documentation of their proposals matching the board's minimum benefit and financial requirements prior to the deadline established by the board.

The authority has the power to approve or disapprove a waiver of participation based on the documentation submitted by the school district or charter school regarding the benefit and financial standards established by the board. The board shall grant a waiver to a school district or charter school that requests a waiver and that has met the minimum benefit and financial standards within the time schedule established by the board. Once the board awards the insurance contract, no school district or charter school shall be granted a waiver for the entire term of the contract.

C. Any school district or charter school granted a waiver of participation for health insurance shall be required to petition for participation in other kinds of group insurance coverage and shall be required to meet the requirements established by the authority prior to participation in other kinds of group insurance coverage. A school district or charter school which has been granted a waiver shall be prohibited from participating in the coverage for which a waiver was granted for the entire term of the authority's insurance contract. Provided, however, that if the authority contracts for a line or lines of coverage for a period of eight years, the board may establish procedures and preconditions for authorizing a school district or charter school which has been granted a waiver to again participate in the coverage after the expiration of the first four years of coverage.

D. Any school district or charter school granted a waiver of participation for workers' compensation shall be required to petition for participation in other risk-related

coverages and shall be required to meet the requirements established by the authority prior to participation in other kinds of risk-related coverages. A school district or charter school which has been granted a waiver shall be prohibited from participating in the coverage for which a waiver was granted for the entire term of the authority's insurance contract.

E. Educational entities may petition the authority for permission to participate in the insurance coverage provided by the authority. To protect the stability of the fund, the authority shall establish reasonable terms and conditions for participation by educational entities.

F. A participating school district or charter school may separately provide for coverage additional to that offered by the authority.

G. The local school districts, charter schools or the authority, as appropriate, may provide for marketing and servicing to be done by licensed insurance agents or brokers who should receive reasonable compensation for their services."

Section 20. Section 22-2-6.10 NMSA 1978 (being Laws 1989, Chapter 373, Section 5) is amended to read:

"22-2-6.10. GROUP INSURANCE CONTRIBUTIONS.--

A. Group insurance contributions for school districts, charter schools and participating entities in the authority shall be made as follows:

(1) seventy-five percent of the cost of the insurance of an employee whose annual salary is less than fifteen thousand dollars (\$15,000);



(2) seventy percent of the cost of the insurance of an employee whose annual salary is fifteen thousand dollars (\$15,000) or more but less than twenty thousand dollars (\$20,000);

(3) sixty-five percent of the cost of the insurance of an employee whose annual salary is twenty thousand dollars (\$20,000) or more but less than twenty-five thousand dollars (\$25,000); or

(4) sixty percent of the cost of the insurance of an employee whose annual salary is twenty-five thousand dollars (\$25,000) or more.

B. Whenever a school district, charter school or participating entity in the authority offers to its employees alternative health plan benefit options, including but not limited to health maintenance organizations, preferred provider organizations or panel doctor plans, the school district, charter school or participating entity may pay an amount on behalf of the employee and family member for the indemnity health insurance plan sufficient to result in equal employee monthly costs to the cost of the health maintenance organization plans, preferred provider organizations plans or panel doctor plans, regardless of the percentage limitations in the Public School Insurance Authority Act. School districts, charter schools and participating entities in the authority may pay up to one hundred percent of the first fifty thousand dollars (\$50,000) of term life insurance."

Section 21. Section 22-8-6 NMSA 1978 (being Laws 1967, Chapter 16, Section 60, as amended by Laws 1993, Chapter 224, Section 2 and also by Laws 1993, Chapter 227, Section

9) is amended to read:

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

A. Prior to April 15 of each year, each local school board shall submit to the department an estimated budget for the school district and any charter schools in the district for the ensuing fiscal year. Upon written approval of the state superintendent, the date for the submission of the estimated budget as required by this section may be extended to a later date fixed by the state superintendent.

B. The estimated budget required by this section may include:

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

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

C. The estimated budget required by this section shall include a budget for each charter school of the membership projected for each charter school, the total program units generated at that charter school and approximate anticipated disbursements and expenditures at each charter school.

D. If a local school board fails to submit a budget pursuant to this section, the department shall prepare the estimated budget for the school district for the ensuing fiscal year. A local school board shall be considered as failing to submit a budget pursuant to this section if the budget submitted exceeds the total projected

resources of the school district or if the budget submitted does not comply with the law or the manual of accounting and budgeting of the department."

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

"22-8-6.1. CERTAIN SCHOOL DISTRICT BUDGETS.--Each charter school shall submit to the local school board a school-based budget. The budget shall be based upon the projected number of program units generated by that charter school and its students, using the at-risk index and the training and experience index of the district. The budget shall be submitted to the local school board for approval or amendment. The approval or amendment authority of the local school board relative to the charter school budget is limited to ensuring that sound fiscal practices are followed in the development of the budget and that the charter school budget is within the allotted resources. The local school board shall have no veto authority over individual line items within the charter school's proposed budget, but shall approve or disapprove the budget in its entirety. Upon final approval of the local budget by the local school board, the individual charter school budget shall be included separately in the budget submission to the department of education required pursuant to the Public School Finance Act and the 1999 Charter Schools Act."

Section 23. Section 22-8-15 NMSA 1978 (being Laws 1967, Chapter 16, Section 70, as amended by Laws 1993, Chapter 224, Section 3 and also by Laws 1993, Chapter 227, Section 10) is amended to read:

"22-8-15. ALLOCATION LIMITATION.--

A. The department shall determine the allocations to each school district from each of the distributions of the public school fund, subject to the limits established by law.

B. The local school board in each school district with authorized charter schools shall allocate the appropriate distributions of the public school fund to individual charter schools pursuant to each charter school's school-based budget approved by the local school board and the department. The appropriate distribution of the public school fund shall flow to the charter school within five days after the school district's receipt of the state equalization guarantee for that month."

Section 24. Section 22-10-3.3 NMSA 1978 (being Laws 1997, Chapter 238, Section 1, as amended) is amended to read:

"22-10-3.3. BACKGROUND CHECKS.--

A. An applicant for initial certification shall be fingerprinted and shall provide two fingerprint cards or the equivalent electronic fingerprints to the department of education to obtain the applicant's federal bureau of investigation record. Convictions of felonies or misdemeanors contained in the federal bureau of investigation record shall be used in accordance with the Criminal Offender Employment Act. Other information contained in the federal bureau of investigation record, if supported by independent evidence, may form the basis for the denial, suspension or revocation of a certificate for good and just cause. Records and any related information shall be privileged and shall not be disclosed to a person

not directly involved in the certification or employment decisions affecting the specific applicant. The applicant for initial certification shall pay for the cost of obtaining the federal bureau of investigation record.

B. Local school boards shall develop policies and procedures to require background checks on an applicant who has been offered employment, a contractor or a contractor's employee with unsupervised access to students at a public school, including a charter school. An applicant for employment who has been initially certified within twelve months of applying for employment with a local school board or a charter school shall not be required to submit to another background check if the department of education has copies of his federal bureau of investigation records on file. An applicant who has been offered employment, a contractor or a contractor's employee with unsupervised access to students at a public school, including a charter school, shall provide two fingerprint cards or the equivalent electronic fingerprints to the local school board to obtain his federal bureau of investigation record. The applicant who has been offered employment, contractor or contractor's employee at a public school, including a charter school, may be required to pay for the cost of obtaining a background check. At the request of a local school board or charter school, the department of education is authorized to release copies of federal bureau of investigation records that are on file with the department of education and that are not more than twelve months old. Convictions of felonies or misdemeanors contained in the federal bureau of investigation record shall be used in

accordance with the Criminal Offender Employment Act; provided that other information contained in the federal bureau of investigation record, if supported by independent evidence, may form the basis for the employment decisions for good and just cause. Records and any related information shall be privileged and shall not be disclosed to a person not directly involved in the employment decision affecting the specific applicant who has been offered employment, contractor or contractor's employee with unsupervised access to students at a public school, including a charter school.

C. The department of education shall implement the provisions of Subsection A of this section on or before July 1, 1998."

Section 25. REPEAL.--Sections 22-8A-1 through 22-8A-7 (being Laws 1993, Chapter 227, Sections 1 through 7) are repealed.

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