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HOUSE BILL 365

57TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2025

INTRODUCED BY

Joy Garratt

AN ACT

RELATING TO PUBLIC SCHOOLS; PROVIDING STAFF TO THE PUBLIC
EDUCATION COMMISSION; TRANSFERRING THE CHARTER SCHOOLS DIVISION
FROM THE PUBLIC EDUCATION DEPARTMENT TO THE COMMISSION.

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

SECTION 1. Section 9-24-4 NMSA 1978 (being Laws 2004,
Chapter 27, Section 4, as amended) is amended to read:

"9-24-4. DEPARTMENT CREATED.--

A. The "public education department" is created in
the executive branch. The department is a cabinet department
and includes the following divisions:

- (1) the administrative services division;
- (2) the assessment and accountability

division;

~~[(3) the charter schools division;~~

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1 ~~(4)~~ (3) the educator quality division;
2 ~~(5)~~ (4) the Indian education division;
3 ~~(6)~~ (5) the information technology division;
4 ~~(7)~~ (6) the instructional support and
5 vocational education division;
6 ~~(8)~~ (7) the program support and student
7 transportation division;
8 ~~(9)~~ (8) the quality assurance and systems
9 integration division;
10 ~~(10)~~ (9) the rural education division; and
11 ~~(11)~~ (10) the vocational rehabilitation
12 division.

13 B. The secretary may organize the department and
14 divisions of the department and may transfer or merge functions
15 between divisions and bureaus in the interest of efficiency and
16 economy."

17 SECTION 2. Section 9-24-9 NMSA 1978 (being Laws 2004,
18 Chapter 27, Section 9) is amended to read:

19 "9-24-9. PUBLIC EDUCATION COMMISSION.--

20 A. The "public education commission" is created
21 pursuant to Article 12, Section 6 of the constitution of New
22 Mexico. [~~The commission shall be administratively attached to~~
23 ~~the department, with administrative staff provided by the~~
24 ~~department. Additional requests for staff services shall be~~
25 ~~made through the secretary.] The commission shall advise the~~

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1 department on policy matters and shall perform other functions
2 as provided by law.

3 B. The commission shall consist of ten members
4 elected from public education districts as provided in the
5 decennial educational redistricting act. Members shall be
6 entitled to receive per diem and mileage as provided in the Per
7 Diem and Mileage Act, but shall receive no other perquisite,
8 compensation or allowance.

9 C. The commission shall annually elect a [~~chairman~~]
10 chair, vice [~~chairman~~] chair and secretary from among its
11 membership. A majority of the members constitutes a quorum for
12 the conduct of business. The commission shall keep a record of
13 all proceedings of the commission.

14 D. The commission shall meet at the call of the
15 [~~chairman~~] chair at least quarterly. Meetings of the
16 commission shall be held in Santa Fe and at other sites within
17 the state at the direction of the commission. The [~~chairman~~]
18 chair in consultation with the secretary shall call a meeting
19 at the request of a majority of the members. Commission
20 members shall not vote by proxy.

21 E. No member of the commission shall be appointed
22 secretary or be employed by the department on either a full- or
23 part-time basis.

24 F. The "state charter schools office" is created to
25 staff the commission in carrying out its statutory duties as

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1 the state chartering authority. The commission shall appoint a
2 director of the office, and the director shall recommend to the
3 commission the employment of such technical and other staff as
4 necessary to carry out the duties of the office. The director
5 is exempt and technical and clerical staff are classified as
6 provided in the Personnel Act. The commission and office shall
7 be provided with adequate quarters by the department. The
8 office shall provide objective, nonpartisan advice to the
9 commission regarding state chartering of public schools,
10 monitor state-chartered charter schools for compliance with the
11 Public School Code and the charter schools' charter contract,
12 make periodic reports to the commission on the activities of
13 the office and perform such other duties as required by the
14 commission."

15 SECTION 3. Section 22-2-2.2 NMSA 1978 (being Laws 2004,
16 Chapter 27, Section 17) is amended to read:

17 "22-2-2.2. COMMISSION--DUTIES.--

18 A. The commission shall oversee and direct the
19 activities of the state charter schools office and shall:

20 (1) be the chartering authority for state-
21 chartered charter schools;

22 (2) cooperate with the department and enter
23 into data-sharing agreements as necessary to provide seamless
24 administration and oversight of public schools and give the
25 office access to relevant data and reports of the department;

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1 and

2 (3) make recommendations to the department.

3 ~~[A.]~~ B. The commission shall work with the
4 department to develop the five-year strategic plan for public
5 elementary and secondary education in the state. The strategic
6 plan shall be updated at least biennially. The commission
7 shall solicit the input of persons who have an interest in
8 public school policy, including local school boards, school
9 districts, charter school governing bodies and charter schools
10 and school employees; home schooling associations; parent-
11 teacher associations; educational organizations; the
12 ~~[commission on]~~ higher education department; colleges,
13 universities and vocational schools; state agencies responsible
14 for educating resident children; juvenile justice agencies;
15 ~~[work force]~~ workforce development providers; and business
16 organizations.

17 ~~[B.]~~ C. In addition to the duty provided in
18 Subsection ~~[A]~~ B of this section, the commission shall:

19 (1) solicit input from local school boards,
20 school districts and the public on policy and governance issues
21 and report its findings and recommendations to the secretary
22 and the legislature; and

23 (2) recommend to the secretary conduct and
24 process guidelines and training curricula for local school
25 boards."

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

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

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

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

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

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

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

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

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

25 ~~[H.]~~ G. "governing body training" means the

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1 training required pursuant to Section 22-8B-5.1 NMSA 1978 to
2 educate governing body members and ensure compliance with all
3 applicable laws, which training may be obtained from any
4 source, individual or entity that has been approved by the
5 department;

6 ~~[F.]~~ H. "management" means authority over the
7 hiring, termination and day-to-day direction of a school's
8 employees or contractors, whether they are licensed or not;

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

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

18 K. "office" or "division" means the state charter
19 schools office;

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

24 M. "performance target" means the specific rating
25 to which the data from a school's performance indicators shall

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1 be compared to determine whether the school exceeds, meets,
2 does not meet or falls far below that rating;

3 N. "siblings" means:

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

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

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

13 SECTION 5. Section 22-8B-13 NMSA 1978 (being Laws 1999,
14 Chapter 281, Section 13, as amended) is amended to read:

15 "22-8B-13. CHARTER SCHOOL FINANCING.--

16 A. The amount of funding allocated to a charter
17 school shall be not less than ninety-eight percent of the
18 school-generated program cost. The school district or
19 [~~division~~] office may withhold and use two percent of the
20 school-generated program cost for its administrative support of
21 a charter school.

22 B. That portion of money from state or federal
23 programs generated by students enrolled in a locally chartered
24 charter school shall be allocated to that charter school
25 serving students eligible for that aid. Any other public

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1 school program not offered by the locally chartered charter
2 school shall not be entitled to the share of money generated by
3 a charter school program.

4 C. When a state-chartered charter school is
5 designated as a board of finance pursuant to Section 22-8-38
6 NMSA 1978, it shall receive state and federal funds for which
7 it is eligible.

8 D. Charter schools may apply for all federal funds
9 for which they are eligible.

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

17 SECTION 6. Section 22-8B-17 NMSA 1978 (being Laws 2006,
18 Chapter 94, Section 30) is amended to read:

19 "22-8B-17. STATE CHARTER SCHOOLS [~~DIVISION~~] OFFICE--
20 DUTIES.--[The "~~charter schools division~~" is created in the
21 ~~department~~] The [~~division~~] office shall:

22 A. provide staff support to the commission for
23 state chartering of charter schools;

24 B. provide technical support to [~~all~~] state-
25 chartered charter schools;

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1 C. review and approve state-chartered charter
2 school budget matters; and

3 D. make recommendations to the commission regarding
4 the approval, denial, suspension or revocation of the charter
5 of a state-chartered charter school."

6 SECTION 7. Section 22-8B-17.1 NMSA 1978 (being Laws 2011,
7 Chapter 14, Section 9) is amended to read:

8 "22-8B-17.1. ~~[DIVISION]~~ OFFICE--ANNUAL REPORT.--By
9 December 1 annually, the ~~[division]~~ office, under the direction
10 of the commission, shall issue to the governor, the legislative
11 finance committee, ~~[and]~~ the legislative education study
12 committee and the legislative library a report on the state's
13 charter schools for the school year ending in the preceding
14 calendar year, drawing from the annual reports submitted by
15 every chartering authority as well as any relevant data
16 compiled by the ~~[division]~~ office. The annual report shall
17 include a comparison of the performance of charter school
18 students with the performance of academically, ethnically and
19 economically comparable groups of students in noncharter public
20 schools. The report shall also include an assessment of the
21 successes, challenges and areas for improvement in meeting the
22 purposes of the Charter Schools Act, including the ~~[division's]~~
23 office's assessment of the sufficiency of funding for charter
24 schools, the efficacy of the state formula for chartering
25 authority funding and any suggested changes to state law or

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1 policy necessary to strengthen the state's charter schools.
2 The annual report shall be published on the department's [~~web~~
3 ~~site~~] website."

4 SECTION 8. TEMPORARY PROVISION--TRANSFER OF PERSONNEL,
5 APPROPRIATIONS, MONEY, RECORDS AND OTHER PROPERTY--CONTRACTUAL
6 OBLIGATIONS--STATUTORY REFERENCES.--On the effective date of
7 this act:

8 A. all personnel, appropriations, money, records,
9 equipment, furniture, supplies and other property of the
10 charter schools division of the public education department
11 shall be transferred to the state charter schools office of the
12 public education commission;

13 B. contractual obligations of the charter schools
14 division shall be obligations of the state charter schools
15 office; and

16 C. statutory references to the charter schools
17 division of the public education department shall be deemed to
18 be references to the state charter schools office of the public
19 education commission.

20 SECTION 9. EFFECTIVE DATE.--The effective date of the
21 provisions of this act is July 1, 2026.